

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2191 Session of
1995

INTRODUCED BY GODSHALL, GRUPPO, BARD, DENT, FARMER, PETTIT,
J. TAYLOR, O'BRIEN, HARHART, NYCE, KING, TRUE, BROWNE AND
WASHINGTON, OCTOBER 31, 1995

SENATOR HECKLER, AGING AND YOUTH, IN SENATE, AS AMENDED,
NOVEMBER 19, 1996

AN ACT

1 ~~Providing for the inspection and registration of child care~~ <—
2 ~~facilities, for the creation of a Statewide Child Day Care~~
3 ~~Resource and Referral System, for child day care services and~~
4 ~~early childhood development services, for dangerous~~
5 ~~facilities, for a toll free telephone number and for a child~~
6 ~~day care consumer guide; and imposing additional~~
7 ~~responsibilities upon the Department of Public Welfare.~~
8 PROVIDING FOR SUPERVISION OF CHILD-CARE FACILITIES; AND <—
9 CONFERRING POWERS AND DUTIES ON THE DEPARTMENT OF PUBLIC
10 WELFARE.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 ~~CHAPTER 1~~ <—

14 ~~GENERAL PROVISIONS~~

15 ~~Section 101. Short title.~~

16 ~~This act shall be known and may be cited as the Child Care~~
17 ~~Facilities Inspection and Resource and Referral Act.~~

18 ~~Section 102. Definitions.~~

19 ~~The following words and phrases when used in this act shall~~
20 ~~have the meanings given to them in this section unless the~~

~~context clearly indicates otherwise:~~

~~"Department." The Department of Public Welfare of the
Commonwealth.~~

~~CHAPTER 3~~

~~INSPECTION OF CHILD DAY CARE FACILITIES~~

~~Section 301. Definitions.~~

~~The following words and phrases when used in this chapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:~~

~~"Child day care." Care in lieu of parental care given for
part of the 24 hour day to children under 16 years of age, away
from their own homes, but does not include child day care
furnished in places of worship during religious services.~~

~~"Child day care center." Any premises in which child day
care is provided simultaneously for seven or more children who
are not relatives of the operator.~~

~~"Early childhood development services." Services which are
intended to provide an environment that enhances the
educational, social, cultural, emotional and recreational
development of children from birth through eight years of age,
but which are not intended to serve as a substitute for academic
programs.~~

~~"Family child day care home." A home other than the child's
own home, operated for profit or not for profit, in which child
day care is provided at any one time to four, five or six
children unrelated to the operator.~~

~~"Provider profile." Information specific to each regulated
child day care provider contained in a simple and easily
understandable information sheet which shall include, but not be
limited to, the following:~~

~~(1) Name, address and telephone number of the provider of child day care services.~~

~~(2) Type of child day care provider.~~

~~(3) The expiration date of the provider's certification of compliance or registration certificate.~~

~~(4) Hours of operation.~~

~~(5) Typical enrollment by age level.~~

~~(6) A brief list or description of services provided or available.~~

~~Section 302. Inspections of child day care centers without prior notice.~~

~~The department shall have the power, and its duty shall be to inspect child day care centers during operational hours, without prior notice, to determine the standard of care being administered to the children for whom child day care is provided. The authorized agent shall have the right to enter, visit and inspect the child day care center during operational hours without prior notice.~~

~~Section 303. Unannounced inspection.~~

~~The department annually shall conduct at least one inspection of every child day care center without prior notice. The inspection shall focus on those regulations which, when not complied with, pose a serious threat to the health, safety and well being of the children in care. This inspection shall be in addition to any other inspection required by statute or regulation.~~

~~Section 304. Inspection of family child day care homes.~~

~~The department or authorized agent of the department shall have the right to enter, visit and inspect during operational hours, without prior notice, any family child day care home and~~

~~shall have free and full access to the premises where children are cared for, all records of the premises which relate to the children's care and to the children cared for therein and full opportunity to speak with or observe the children to determine the standard of child day care being administered.~~

~~Section 305. Dangerous facilities.~~

~~(a) Procedure. Whenever the department, upon inspection or investigation, shall learn of a violation of this act or of regulations adopted by the department under this act which poses an immediate and serious threat to life, health or safety of the children being cared for in a child day care center, the following shall apply:~~

~~(1) An agent of the department shall take immediate corrective action to eliminate the threat. This paragraph includes securing emergency services and contacting law enforcement authorities. An agent of the department shall remain at the facility when the facility is open for business until the conclusion of the hearing under paragraph (2).~~

~~(2) On the next business day after the agent takes corrective action under paragraph (1), the department shall schedule an administrative hearing before a hearing examiner of the department. If the hearing examiner determines that there is a violation of this act or of regulations adopted by the department under this act which poses an immediate and serious threat to life, health or safety of the children being cared for in a child day care center, the hearing examiner shall order the facility closed until the conclusion of the license revocation proceeding under paragraph (3). The hearing examiner shall make a determination within 30 minutes of conclusion of the presentation of evidence.~~

~~(3) Within three business days of taking corrective action under paragraph (1), the agent shall initiate license revocation proceedings under section 1026 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, against the licensee of the facility.~~

~~(b) Supersedeas. The following shall apply:~~

~~(1) An appeal to the department of an order under subsection (a)(2) shall not act as an automatic supersedeas of the decision of the hearing examiner; but, upon cause shown, the department may grant a supersedeas.~~

~~(2) An appeal to Commonwealth Court of a decision under paragraph (1) shall not act as an automatic supersedeas of the decision of the department; but, upon cause shown, the court may grant a supersedeas.~~

~~(c) Effect of violation of license. The department shall refuse to issue a license to or shall revoke the license of a facility found to be in violation of the Public Welfare Code in a manner which poses an immediate and serious threat to life, health or safety of the children being cared for in the facility.~~

~~Section 306. Annual comprehensive State plan for child day care services and early childhood development services.~~

~~(a) Comprehensive plan. Through an annual State plan on child day care and early childhood development services, the department, in coordination with the Department of Health and the Department of Education, shall establish goals and objectives and review and assess the Commonwealth's child day care and early childhood development service delivery system, including State efforts to assure the provision of accessible,~~

1 ~~available and affordable quality child day care and early~~
2 ~~childhood development services to the general public. The plan~~
3 ~~shall be developed in relation to Statewide and local needs and~~
4 ~~shall take into consideration available demographic studies. It~~
5 ~~shall reflect the needs of families in different social,~~
6 ~~economic and cultural circumstances and the needs of children of~~
7 ~~different ages and stages of development and of children with~~
8 ~~special needs.~~

9 ~~(b) Preliminary plan. No later than May 1 of each year, the~~
10 ~~department shall submit to the Aging and Youth Committee, the~~
11 ~~Appropriations Committee, the Education Committee and the Public~~
12 ~~Health and Welfare Committee of the Senate and the Aging and~~
13 ~~Youth Committee, the Appropriations Committee, the Education~~
14 ~~Committee and the Health and Human Services Committee of the~~
15 ~~House of Representatives a preliminary State plan on child day~~
16 ~~care and early childhood development services. A final State~~
17 ~~plan shall be submitted by the first week of September of each~~
18 ~~year.~~

19 ~~(c) Purpose of plan. In the development and implementation~~
20 ~~of an annual State plan, the department shall promote common~~
21 ~~policies and practices in programs to the fullest extent~~
22 ~~possible and develop mechanisms for interagency collaboration to~~
23 ~~create a coordinated State child day care and early childhood~~
24 ~~development delivery system. This shall include simplification~~
25 ~~and coordination of the application process for families needing~~
26 ~~services.~~

27 ~~(d) Public hearings. To prepare the preliminary State plan,~~
28 ~~the department shall hold at least four public hearings in~~
29 ~~different geographic locations in this Commonwealth to seek~~
30 ~~input and recommendations from parents, early childhood~~

~~development professionals, child day care providers, child advocates, educators, representatives of local government, health and human service organizations, health care professionals, labor organizations, businesses, school officials and any other individuals or agencies interested in issues affecting children and families.~~

~~(c) Information in plans. The preliminary and final State plan shall include the following information:~~

~~(1) A summary of recommendations submitted to the department pursuant to Statewide public hearings held in preparation of the preliminary and final State plan and the department's response to the recommendations.~~

~~(2) The amount of Federal, State and local funds expended for child day care and early childhood development services and the allocation of these funds, by the type of care and by administrative costs. Funding shall include, but not be limited to, funding through the Social Services Block Grant Act (Public Law 97-35, 42 U.S.C. § 1397 et seq.); Title IV of the Federal Social Security Act; the Child Care and Development Block Grant Act of 1990 at section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, 104 Stat. 1388); the Head Start Act (Public Law 97-35, 42 U.S.C. § 9831 et seq.); the act of December 19, 1990 (P.L.1372, No.212), known as the Early Intervention Services System Act; the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.); and any pertinent appropriation.~~

~~(3) A description of child day care and early childhood development programs in this Commonwealth, including child day care centers, group child day care homes, family child~~

1 ~~day care homes, school age child day care programs, child day~~
2 ~~care for teen parents, early intervention programs and Head~~
3 ~~Start programs.~~

4 ~~(4) The unduplicated number of children served and~~
5 ~~assisted with Federal, State and local funds, by type of care~~
6 ~~and age, the funding source for the services, the average~~
7 ~~duration of the child care service and the child capacity of~~
8 ~~regulated providers.~~

9 ~~(5) Income eligibility guidelines for federally funded~~
10 ~~and State funded child day care and early childhood~~
11 ~~development services, sliding fee scales and the extent to~~
12 ~~which the income guidelines and fee scales are adjusted to~~
13 ~~reflect the most recent available State income data.~~

14 ~~(6) The Commonwealth's practices regarding the~~
15 ~~monitoring of child day care and early childhood development~~
16 ~~programs to ensure the health, safety and welfare of~~
17 ~~children. In describing the monitoring system, the department~~
18 ~~shall identify the extent of announced and unannounced~~
19 ~~inspections of regulated providers, the level of compliance~~
20 ~~with State standards and the staff to provider ratio to~~
21 ~~accomplish this task. Recommendations on ways to improve both~~
22 ~~the enforcement and monitoring of standards and compliance~~
23 ~~with standards shall also be included.~~

24 ~~(7) The department's coordination, identification or~~
25 ~~arrangement of training for providers in specific program~~
26 ~~areas that are designed to improve the quality of child day~~
27 ~~care and early childhood development services. The department~~
28 ~~shall identify any Federal, State, local or private funding~~
29 ~~allocated for training, the objectives of the training, the~~
30 ~~way in which training will be accomplished and an evaluation~~

1 ~~of the previous year's training programs.~~

2 ~~(8) An analysis of any recent demonstration projects~~
3 ~~related to child day care or early childhood development~~
4 ~~established by the Department of Public Welfare, the~~
5 ~~Department of Health or the Department of Education using~~
6 ~~Federal or State funds, along with a summary of the cost of~~
7 ~~the projects and the findings and recommendations of the~~
8 ~~Department of Public Welfare.~~

9 ~~(9) A summary of any recent reports, data or surveys~~
10 ~~concerning the compensation of child day care and early~~
11 ~~childhood development professionals, loan forgiveness~~
12 ~~programs, the Commonwealth's reimbursement rates and any~~
13 ~~changes in rates recommended by the department.~~

14 ~~(10) A summary of the most recent available demographic~~
15 ~~information related to the need for child day care and early~~
16 ~~childhood development programs in this Commonwealth.~~

17 ~~(11) Efforts by the private sector and State and local~~
18 ~~government to encourage employer sponsored child day care~~
19 ~~services and policies aimed at addressing the child day care~~
20 ~~needs of working parents.~~

21 ~~(12) A description of the responsibilities and programs~~
22 ~~of various State departments with respect to child day care~~
23 ~~and early childhood development services and how coordination~~
24 ~~between agencies is addressed. The department shall describe~~
25 ~~its responsibilities and programs under various program~~
26 ~~offices as well as any related programs or services available~~
27 ~~through the Department of Aging, the Department of Commerce,~~
28 ~~the Department of Community Affairs, the Department of~~
29 ~~Education, the Department of Health and the Department of~~
30 ~~Labor and Industry.~~

~~(13) Standards and training for child day care providers who receive payment through Federal or State child day care or early childhood development programs. The standards and training shall promote the health, safety and developmental needs of children.~~

~~(14) Identification of gaps in child day care and early childhood development services, unmet needs and administrative barriers that serve as obstacles to obtaining services and recommendations on how the Commonwealth can address these issues.~~

~~(15) Statutory and regulatory changes recommended by the department to address the quality, affordability and availability of child day care and early childhood development services.~~

~~Section 307. Application for registration certificate.~~

~~In addition to complying with the requirements set forth in 23 Pa.C.S. § 6344 (relating to information relating to prospective child care personnel), an individual who applies to the department for a registration certificate to operate a family child day care home shall include in the application a report of criminal history information and child abuse history record information, as described in 23 Pa.C.S. § 6344, regarding every individual 14 years of age or older who resides in the home for at least 30 days in a calendar year.~~

~~Section 308. Denial, nonrenewal or revocation of registration.~~

~~The department shall refuse to issue or renew a registration certificate or shall revoke a registration certificate if the family day care home provider, an employee of the provider, or an individual 14 years of age or older who has resided in the home of the provider for 30 days in a calendar year.~~

~~(1) is named in the central register on child abuse established under 23 Pa.C.S. Ch. 63 (relating to child protective services) as the perpetrator of a founded report of child abuse; or~~

~~(2) has been found guilty of or adjudicated delinquent for an offense enumerated in 23 Pa.C.S. § 6344(c) (relating to information relating to prospective child care personnel).~~

~~Section 309. Toll free telephone number.~~

~~The department shall establish and advertise the availability of a toll free telephone number by which consumers may inquire and receive prompt information on the history and nature of violations committed by any provider of child day care services.~~

~~Section 310. Child day care consumer guide.~~

~~(a) General rule. The department, or the entity with which it contracts to perform child day care resource and referral services, shall develop, distribute and annually update a child day care consumer guide for each county or other defined geographical area of this Commonwealth.~~

~~(b) Contents. The child day care consumer guide shall be a consumer oriented compilation of the following:~~

~~(1) A brief description of the types of regulated child day care in this Commonwealth.~~

~~(2) A compilation of provider profiles for that specific area.~~

~~(3) A general checklist of recommended questions and issues for parents to consider in choosing child day care services.~~

~~(4) A telephone number by which consumers may inquire and receive prompt provider specific information on the history and nature of violations committed by any provider of~~

~~child day care services.~~

~~(5) Any other useful consumer oriented information.~~

~~(c) Regulations. The department shall promulgate rules and regulations to implement the provisions of this section.~~

~~Section 311. Staff.~~

~~The department shall have a staff complement of at least 59 child day care inspectors for the purpose of inspecting child day care centers. The department shall not reduce this number without the approval of the General Assembly.~~

~~CHAPTER 5~~

~~CHILD DAY CARE RESOURCE AND~~

~~REFERRAL SYSTEM~~

~~Section 501. Short title.~~

~~This chapter shall be known and may be cited as the Child Day Care Resource and Referral Law.~~

~~Section 502. Legislative findings.~~

~~The General Assembly finds and declares as follows:~~

~~(1) The demand for high quality, affordable, accessible child day care has increased dramatically in the last decade in correlation with a dramatic increase in the labor force participation rate of parents with young children.~~

~~(2) Approximately 190,000 children are currently in care through a variety of child day care programs in this Commonwealth.~~

~~(3) A comprehensive, coordinated effort is needed to ensure that accurate, up to date child day care information is readily available and easy to access.~~

~~(4) Local child day care resource and referral services are beneficial to:~~

~~(i) working parents of all economic means by~~

1 ~~enabling them to make informed choices in selecting and~~
2 ~~purchasing the child day care that best meets their~~
3 ~~family's unique needs;~~

4 ~~(ii) existing and prospective child day care~~
5 ~~providers in their efforts to develop and maintain safe,~~
6 ~~high quality child day care services;~~

7 ~~(iii) businesses by providing a comprehensive~~
8 ~~resource for them to use in responding to child day care~~
9 ~~needs of their employees; and~~

10 ~~(iv) the community at large by contributing directly~~
11 ~~to the health, safety and well being of this~~
12 ~~Commonwealth's children and their families.~~

13 ~~Section 503. Definitions.~~

14 ~~The following words and phrases when used in this chapter~~
15 ~~shall have the meanings given to them in this section unless the~~
16 ~~context clearly indicates otherwise:~~

17 ~~"Child day care." Care in lieu of parental care, given for~~
18 ~~part of the 24 hour day to children under 16 years of age, away~~
19 ~~from their own homes. The term does not include child day care~~
20 ~~furnished in places of worship during religious services.~~

21 ~~"Child day care resource and referral agency." A public or~~
22 ~~private nonprofit entity that performs functions related to~~
23 ~~child day care resource and referral services. The term includes~~
24 ~~an association or a corporation.~~

25 ~~"Child day care resource and referral services." The term~~
26 ~~includes, but is not limited to, the following:~~

27 ~~(1) The provision of updated information to the parents,~~
28 ~~employers and individuals in a community regarding the~~
29 ~~availability, cost and quality of child day care services in~~
30 ~~a defined geographic area.~~

~~(2) Assistance to parents so they can make informed decisions regarding appropriate, affordable child day care services for their children.~~

~~(3) Information to employers on programs designed to meet the child day care needs of employees.~~

~~(4) Provision of start up information to potential child day care providers to increase the supply of providers.~~

~~Section 504. Provision of child day care resource and referral services.~~

~~The department shall arrange for the availability of child day care resource and referral services across this Commonwealth through contractual agreements with public or private entities that can fulfill the responsibilities of a child day care resource and referral agency.~~

~~Section 505. Establishment of central child day care data base.~~

~~The department shall provide for the establishment and maintenance of a central child day care data base. The department shall compile all information from child day care resource and referral agencies with which it has a contractual agreement under section 504 and establish comprehensive, accurate and up to date reference base on child day care in this Commonwealth shall be created. In accordance with the Executive Order 1988-8 and any subsequent orders issued pursuant thereto, the central child day care data base shall be created by utilizing applied demographic analyses, creation of statistical maps and graphics and census geographic reference maps, as well as any other resources the department may have available. The department shall determine the nature and scope of all centralized child day care data to be maintained pursuant to this act. Child day care resource and referral agencies under~~

~~contract with the department shall be provided at least annually and at no charge with information developed regarding child day care in their specific geographic areas. Each child day care resource and referral agency under contract with the department shall maintain a comprehensive data base on child day care supply and demand in the geographic area served by the agency.~~
~~Section 506. Resource and referral services offered.~~

~~The department shall arrange for child day care resource and referral services across this Commonwealth through contracts with child day care resource and referral agencies, which shall provide, at a minimum, the following services:~~

~~(1) Identification of all State approved child day care providers in their specific geographic area and a profile of each provider to indicate the types of services they provide and the costs of such services.~~

~~(2) Maintenance of a regularly updated resource file that demonstrates supply and demand of services.~~

~~(3) Maintenance of a resource and referral service for child day care users and assistance, if requested, in evaluating child day care needs and appropriateness of types of child day care.~~

~~(4) Establishment of a public education program to inform consumers and provide referral counseling about child day care options, including information on types of child day care, availability, cost and standards, through such means as printed materials, telephone contacts, education sessions or workshops and resource libraries.~~

~~(5) Provision of information and technical assistance to providers and prospective providers, as requested. Types of information to be made available shall include, but not be~~

1 ~~limited to, information regarding career opportunities in the~~
2 ~~field, continuing education, training opportunities,~~
3 ~~accreditation programs, regulatory requirements, food~~
4 ~~programs and demographic information to determine the~~
5 ~~existence of markets for services and to help stimulate the~~
6 ~~supply of child day care services needed in the area.~~

7 ~~(6) Serve as a resource to employers who are trying to~~
8 ~~meet the child day care needs of their employees.~~

9 ~~(7) Collection and maintenance of data, as may be useful~~
10 ~~in State and local planning efforts, on the number and usage~~
11 ~~of different child day care providers, the type, availability~~
12 ~~and cost of child day care in a particular geographic area~~
13 ~~and demographic information to determine whether the supply~~
14 ~~meets the demand for child day care services in a given area.~~

15 ~~(8) Provision of information to low income parents about~~
16 ~~subsidized child day care services receiving Federal and~~
17 ~~State funding and referral to a local entity responsible for~~
18 ~~administering the subsidized child day care funds. The child~~
19 ~~day care resource and referral agency shall also provide to~~
20 ~~parents receiving public assistance information about child~~
21 ~~day care services that may be available through the county~~
22 ~~assistance office pursuant to Title IV of the Social Security~~
23 ~~Act (Public Law 74 271, 42 U.S.C. § 601 et seq.). The child~~
24 ~~day care resource and referral agency shall avoid duplicating~~
25 ~~services and shall develop procedures to streamline services~~
26 ~~for low income parents needing child day care services.~~

27 ~~Section 507. Standard operating procedures.~~

28 ~~Local management agencies, as providers of child day care~~
29 ~~resource and referral services shall:~~

30 ~~(1) Conduct business during hours convenient to working~~

1 ~~parents, including some evening and weekend hours, if deemed~~
2 ~~necessary.~~

3 ~~(2) Have the authority to establish a reasonable range~~
4 ~~of fees for services, with the approval of the department.~~

5 ~~(3) Advertise their services. All recipients of services~~
6 ~~shall be informed of applicable fees prior to the provision~~
7 ~~of such services, as designated in this act.~~

8 ~~(4) Tailor services provided for in this act to the~~
9 ~~geographically defined area in which they are located.~~

10 ~~(5) Seek opportunities to provide educational and~~
11 ~~consumer awareness programs.~~

12 ~~(6) Utilize, to the maximum extent, the most cost-~~
13 ~~effective means of providing child day care resource and~~
14 ~~referral services in accordance with this act, including, but~~
15 ~~not limited to, public private partnerships, where deemed~~
16 ~~appropriate, and contractual arrangements with existing~~
17 ~~providers of resource and referral services.~~

18 ~~(7) Maintain confidentiality of records. Information~~
19 ~~contained in the records shall not be publicly disclosed in~~
20 ~~such a manner so as to identify individuals. Certain~~
21 ~~nonidentifying information may, however, be collected in~~
22 ~~aggregate form for the purposes of data collection.~~

23 ~~(8) Report to the department on a regular basis~~
24 ~~information regarding:~~

25 ~~(i) The number of parents and children served.~~

26 ~~(ii) The extent of assistance given to providers,~~
27 ~~parents, businesses and others.~~

28 ~~(iii) Fees charged for resource and referral~~
29 ~~services provided for in this act.~~

30 ~~(iv) The impact of the resource and referral~~

~~services on quality and availability of child day care in
their particular geographically defined area.~~

~~(v) Any recommendations that may contribute to the
improvement of the provision of child day care resource
and referral services.~~

~~Section 508. Annual report.~~

~~The department shall submit an annual report to the General
Assembly which shall reflect the information collected by the
child day care resource and referral agencies designated by the
department. The report shall describe how the child day care
resource and referral agencies further the department's goal to
improve the quality, availability and affordability of child
day care services. This report shall also include any
recommendations of the department for improvements to the
Statewide resource and referral system, as well as the
availability of private, corporate and government funding for
resource and referral services.~~

~~Section 509. Regulations.~~

~~The department shall, in the manner provided by law,
promulgate the rules and regulations necessary to establish
child day care resource and referral services to be offered in
accordance with this chapter.~~

~~Section 510. Resource and referral services implementation.~~

~~The department shall establish a three year implementation
schedule for phasing in child day care resource and referral
services throughout this Commonwealth.~~

~~CHAPTER 7~~

~~MISCELLANEOUS PROVISIONS~~

~~Section 701. Applicability.~~

~~Section 311 shall apply after June 30, 1996.~~

1 ~~Section 702. Effective date.~~

2 ~~This act shall take effect as follows:~~

3 ~~(1) Section 306 shall take effect in 180 days.~~

4 ~~(2) Chapter 5 shall take effect in six months.~~

5 ~~(3) This section shall take effect immediately.~~

6 ~~(4) The remainder of this act shall take effect in 60~~
7 ~~days.~~

8 CHAPTER 1

<—

9 GENERAL PROVISIONS

10 SECTION 101. SHORT TITLE.

11 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE CHILD-CARE
12 FACILITIES SUPERVISION ACT.

13 SECTION 102. DEFINITIONS.

14 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
15 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
16 CONTEXT CLEARLY INDICATES OTHERWISE:

17 "CHILD DAY CARE CENTER." ANY PREMISES IN WHICH CHILD DAY
18 CARE IS PROVIDED SIMULTANEOUSLY FOR SEVEN OR MORE CHILDREN WHO
19 ARE NOT RELATIVES OF THE OPERATOR.

20 "CHILD DAY CARE." CARE IN LIEU OF PARENTAL CARE GIVEN FOR
21 PART OF A 24-HOUR DAY TO A CHILD UNDER 16 YEARS OF AGE, AWAY
22 FROM THE CHILD'S HOME. THE TERM DOES NOT INCLUDE CARE IN LIEU OF
23 PARENTAL CARE GIVEN TO A CHILD UNDER 16 YEARS OF AGE IN A PLACE
24 OF WORSHIP DURING RELIGIOUS SERVICES.

25 "DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE
26 COMMONWEALTH.

27 "FACILITY." ANY OF THE FOLLOWING:

28 (1) CHILD DAY-CARE CENTER.

29 (2) FAMILY DAY-CARE HOME.

30 "FAMILY DAY-CARE HOME." A HOME IN WHICH CHILD DAY CARE IS

1 PROVIDED AT ANY ONE TIME TO FOUR, FIVE OR SIX CHILDREN WHO ARE
2 NOT RELATIVES OF THE OPERATOR.

3 CHAPTER 3
4 ADMINISTRATION

5 SECTION 301. INSPECTIONS.

6 (A) AUTHORITY.--THE DEPARTMENT HAS THE POWER TO ENTER AND
7 INSPECT A FACILITY THAT IS REGULATED BY THE DEPARTMENT. PRIOR
8 NOTICE IS NOT REQUIRED.

9 (B) ACCESS.--THE DEPARTMENT SHALL HAVE FREE AND FULL ACCESS
10 TO THE FACILITY AND THE FACILITY GROUNDS, THE CHILDREN IN THE
11 FACILITY, THE RECORDS OF THE FACILITY AND FACILITY STAFF. THE
12 DEPARTMENT SHALL BE GIVEN THE OPPORTUNITY TO PRIVATELY INTERVIEW
13 CHILDREN AND STAFF.

14 (C) INSPECTIONS.--THE DEPARTMENT SHALL ANNUALLY CONDUCT THE
15 FOLLOWING:

16 (1) FOR A CHILD DAY-CARE CENTER, AT LEAST ONE ONSITE,
17 UNANNOUNCED INSPECTION OF EACH FACILITY. THE INSPECTION UNDER
18 THIS PARAGRAPH SHALL CONSTITUTE THE INSPECTION REQUIRED BY
19 THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC
20 WELFARE CODE, AND RELATED REGULATIONS.

21 (2) FOR A FAMILY DAY-CARE HOME, INSPECTIONS SHALL BE
22 CONDUCTED AS PROVIDED OR AS DEEMED APPROPRIATE BY THE
23 DEPARTMENT.

24 (D) ADDITIONAL INSPECTIONS.--THE DEPARTMENT SHALL CONDUCT
25 ADDITIONAL INSPECTIONS OF FACILITIES IF ANY OF THE FOLLOWING
26 CONDITIONS EXIST:

27 (1) A HISTORY OF SUBSTANTIAL VIOLATIONS OF DEPARTMENT
28 REGULATIONS.

29 (2) A REASONABLE SUSPICION OF VIOLATIONS OF ANY STATUTE
30 OR REGULATION.

(3) INDICATIONS OF POTENTIAL RISK TO THE HEALTH, SAFETY
OR WELL-BEING OF A CHILD.

(4) ANY OTHER CIRCUMSTANCES PROVIDED BY REGULATION.

SECTION 302. DANGEROUS FACILITIES.

(A) DEPARTMENT RESPONSIBILITY.--IF THE DEPARTMENT FINDS THAT
CONDITIONS EXIST WHICH POSE AN IMMEDIATE OR SERIOUS THREAT TO
HEALTH, SAFETY OR WELL-BEING OF CHILDREN BEING CARED FOR IN A
FACILITY, THE DEPARTMENT SHALL IMMEDIATELY ISSUE A TEMPORARY
ORDER TO THE FACILITY PENDING THE OUTCOME OF A HEARING UNDER
SUBSECTION (D) AND, IF NECESSARY, ENSURE THE REMOVAL OF THE
CHILDREN FROM THE FACILITY.

(1) THE TEMPORARY ORDER SHALL SPECIFY THAT THE FACILITY
SHALL BE CLOSED OR THAT SPECIFIC CONDITIONS MUST BE REMEDIED
AS A CONDITION OF CONTINUED OPERATION.

(2) THE TEMPORARY ORDER SHALL SPECIFY ALL CONDITIONS
THAT SHALL BE IMMEDIATELY REMEDIED BY THE FACILITY.

(3) THE TEMPORARY ORDER SHALL SPECIFY THE DATE AND TIME
OF ANY REQUIRED ACTION OR CLOSURE OF THE FACILITY.

(4) THE TEMPORARY ORDER SHALL SPECIFY THE APPEAL RIGHTS
OF THE FACILITY.

(B) CORRECTIVE ACTION.--IMMEDIATELY FOLLOWING THE ISSUANCE
OF A TEMPORARY ORDER UNDER SUBSECTION (A) AND UNTIL THE HEARING
UNDER SUBSECTION (D), THE DEPARTMENT SHALL MONITOR THE
FACILITY'S COMPLIANCE WITH THE TEMPORARY ORDER.

(C) LAW ENFORCEMENT ASSISTANCE.--THE DEPARTMENT MAY REQUEST
AND SHALL RECEIVE ASSISTANCE FROM LAW ENFORCEMENT OFFICIALS
WHENEVER NECESSARY TO IMPLEMENT AN ORDER ISSUED UNDER THIS
SECTION.

(D) HEARINGS.--WITHIN SEVEN BUSINESS DAYS OF THE ISSUANCE OF
A TEMPORARY ORDER UNDER SUBSECTION (A), THE DEPARTMENT SHALL

1 SCHEDULE AN ADMINISTRATIVE HEARING. IF THE HEARING EXAMINER
2 RULES THAT THERE WAS A VIOLATION OF A STATUTE OR REGULATION
3 WHICH POSED AN IMMEDIATE AND SERIOUS THREAT TO HEALTH, SAFETY OR
4 WELL-BEING OF THE CHILDREN BEING CARED FOR IN THE FACILITY, THE
5 HEARING EXAMINER SHALL ORDER CONTINUED COMPLIANCE WITH THE
6 TEMPORARY ORDER, ISSUE A NEW ORDER OR ORDER THE FACILITY CLOSED
7 UNTIL THE CONCLUSION OF A CERTIFICATE REVOCATION PROCEDURE. THE
8 DECISION OF THE HEARING EXAMINER SHALL BE RENDERED WITHIN TWO
9 HOURS OF THE CONCLUSION OF THE HEARING.

10 (E) CERTIFICATE REVOCATION.--WITHIN THREE BUSINESS DAYS OF
11 AN ORDER OF CLOSURE UNDER SUBSECTION (D), THE DEPARTMENT MAY
12 INITIATE CERTIFICATE REVOCATION PROCEEDINGS UNDER THE ACT OF
13 JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE,
14 AGAINST THE LICENSEE OR HOLDER OF A CERTIFICATE OF THE FACILITY.

15 (F) SUPERSEDEAS.--THE APPEAL OF AN EMERGENCY ORDER ISSUED
16 UNDER THIS SECTION SHALL BE DEEMED AN APPLICATION FOR A
17 SUPERSEDEAS WHICH SHALL BE GRANTED ONLY IF ALL OF THE FOLLOWING
18 APPLY:

19 (1) THERE IS SUBSTANTIAL LIKELIHOOD OF SUCCESS ON
20 APPEAL.

21 (2) CONTINUED OPERATION OF THE FACILITY PENDING APPEAL
22 WILL NOT JEOPARDIZE THE LIFE, HEALTH OR SAFETY OF CHILDREN
23 BEING CARED FOR IN A FACILITY.

24 (G) OTHER ENTITIES.--NOTHING IN THIS SECTION SHALL PRECLUDE
25 THE DEPARTMENT FROM CLOSING OR TAKING OTHER EMERGENCY ACTION
26 WITH REGARD TO AN ENTITY SUPERVISED OR LICENSED BY THE
27 DEPARTMENT.

28 SECTION 303. FAMILY DAY-CARE HOMES.

29 (A) CRIMINAL HISTORY.--IN ADDITION TO THE REQUIREMENTS OF 23
30 PA.C.S. § 6344 (RELATING TO INFORMATION RELATING TO PROSPECTIVE

1 CHILD-CARE PERSONNEL), AN INDIVIDUAL WHO APPLIES TO THE
2 DEPARTMENT FOR A REGISTRATION CERTIFICATE TO OPERATE A FAMILY
3 DAY-CARE HOME SHALL INCLUDE A REPORT OF CRIMINAL HISTORY RECORD
4 INFORMATION FROM THE PENNSYLVANIA STATE POLICE AND A
5 CERTIFICATION FROM THE DEPARTMENT REGARDING FOUNDED REPORTS AS
6 DEFINED IN 23 PA.C.S. § 6303 (RELATING TO DEFINITIONS) FOR EVERY
7 INDIVIDUAL 18 YEARS OF AGE OR OLDER WHO RESIDES IN THE HOME FOR
8 AT LEAST 30 DAYS IN A CALENDAR YEAR.

9 (B) EFFECT.--THE DEPARTMENT SHALL REFUSE TO ISSUE OR RENEW A
10 REGISTRATION CERTIFICATE OR SHALL REVOKE A REGISTRATION
11 CERTIFICATE IF THE FAMILY DAY-CARE HOME PROVIDER, AN EMPLOYEE OF
12 THE PROVIDER OR INDIVIDUAL 18 YEARS OF AGE OR OLDER WHO HAS
13 RESIDED IN THE HOME FOR 30 DAYS IN A CALENDAR YEAR:

14 (1) IS NAMED IN THE CENTRAL REGISTER ON CHILD ABUSE
15 ESTABLISHED UNDER 23 PA.C.S. CH. 63 (RELATING TO CHILD
16 PROTECTIVE SERVICES) AS THE PERPETRATOR OF A FOUNDED REPORT
17 OF CHILD ABUSE COMMITTED WITHIN THE FIVE-YEAR PERIOD
18 IMMEDIATELY PRECEDING THE VERIFICATION PURSUANT TO THIS
19 SECTION; OR

20 (2) HAS BEEN CONVICTED OF AN OFFENSE ENUMERATED IN 23
21 PA.C.S. § 6344(C).

22 SECTION 304. REGULATIONS.

23 THE DEPARTMENT MAY PROMULGATE REGULATIONS TO ADMINISTER THIS
24 ACT.

25 CHAPTER 51

26 MISCELLANEOUS PROVISIONS

27 SECTION 5101. EFFECTIVE DATE.

28 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.