
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1805 Session of 1997

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SEYFERT, BENNINGHOFF, FLICK AND TRUE, SEPTEMBER 25, 1997

REFERRED TO COMMITTEE ON AGING AND YOUTH, SEPTEMBER 25, 1997

AN ACT

1 Providing for health and safety requirements for religious
2 child-care facilities; requiring registration with the
3 Department of Public Welfare; providing for powers and duties
4 of the department; and prescribing penalties.

5 The General Assembly finds and declares as follows:

6 (1) A significant number of parents choose to obtain
7 child care from religious child-care facilities where
8 training, values and guidance that are consistent with the
9 religious views and beliefs of the parents will be imparted
10 to the child.

11 (2) It is the policy of the Commonwealth to preserve the
12 primary right of parents to choose the education, training
13 and care of their children.

14 (3) Nonprofit religious child-care facilities believe
15 that the provision of child care at a reasonable cost to
16 parents is part of the facilities' religious mission to
17 assist parents in the care and upbringing of their children.

18 (4) Because of the religious nature of these facilities,

1 it is the policy of the Commonwealth to refrain from
2 subjecting them to unnecessary regulation and undue
3 governmental intrusion, particularly in religiously sensitive
4 areas relating to the selection of employees, program content
5 and guidance.

6 (5) At the same time, the Commonwealth has a duty to
7 protect the health and safety of children whose parents
8 choose to utilize religious child-care services by assuring
9 that religious child-care providers comply with minimum
10 health and safety requirements.

11 (6) Accordingly, it is the intent of the General
12 Assembly to balance these interests in protecting parental
13 choice, religious freedom and child safety at religious
14 child-care facilities by enacting the following provisions to
15 govern the operation of religious child-care facilities.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Short title.

19 This act shall be known and may be cited as the Religious
20 Child-Care Facilities Act.

21 Section 2. Definitions.

22 The following words and phrases when used in this act shall
23 have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Aide." An individual who assists in the provision of care
26 for children at a facility, is 16 years of age or older, has at
27 least an 8th grade education and has had at least six hours of
28 in-service child-care training, including first aid and fire
29 safety training.

30 "Caregiver." An individual who provides child-care services

1 to children at a facility.

2 "Child care" or "care." Care in lieu of parental care given
3 for part of a 24-hour day to children 13 years of age or younger
4 away from their own homes.

5 "Department." The Department of Public Welfare of the
6 Commonwealth.

7 "Director." An individual in charge of a facility who has
8 received at least an associate degree, including 30 credit hours
9 in early childhood education, child development, special
10 education, elementary education or a human services field.

11 "Primary caregiver." An individual responsible for the daily
12 care of children at a facility who is at least 18 years of age,
13 has attained a high school diploma or holds a general
14 educational development certificate and has had at least 12
15 hours of in-service child-care training, including first-aid and
16 fire safety training, or has at least three months' experience
17 in teaching or working with children.

18 "Registered facility" or "facility." A religious child-care
19 facility which is registered in accordance with this act.

20 "Religious child-care facility." A premises that is operated
21 or controlled or supervised by a bona fide church, association
22 of churches or other religious order, which is exempt from
23 taxation under §501(c)(3) of the Internal Revenue Code of 1986
24 (Public Law 99-514, 26 U.S.C. §1 et seq.) and in which child
25 care is provided.

26 "Staff person." An individual who may be counted for
27 purposes of compliance with the staff-to-child ratios required
28 by this act. The term includes the director, primary caregivers
29 and aides and may also include individuals who meet those
30 qualifications but do not receive pay for their services.

1 "Unregistered facility." A religious child-care facility
2 which provides child care:

3 (1) during regular hours of instruction for school-age
4 children in kindergarten and above who are enrolled in
5 schools which are licensed or registered with the Department
6 of Education;

7 (2) for school-age children in before-school or after-
8 school programs or summer school programs offered by schools
9 which are licensed by or registered with the Department of
10 Education;

11 (3) to fewer than four children;

12 (4) to children while their parents are on the premises,
13 or during religious education programs or other church-
14 sponsored youth activities; or

15 (5) free of charge.

16 Section 3. Registration required.

17 Any religious child-care facility which is operating on the
18 effective date of this act and which does not qualify as an
19 unregistered facility shall register within 90 days of the date
20 when registration forms become available from the department.

21 Any other religious child-care facility which is required to
22 register under this act shall register at least five days before
23 starting to operate or, if registration forms from the
24 department are not yet available, then within 90 days of the
25 date when such forms become available.

26 Section 4. Duties of registered facilities.

27 (a) Compliance with law.--A registered facility shall comply
28 with:

29 (1) applicable State and local fire safety requirements;

30 (2) applicable State and local requirements pertaining

1 to the prevention and control of infectious or contagious
2 diseases, building and physical premises safety and minimum
3 health and safety training appropriate to the facility;

4 (3) applicable provisions of 23 Pa.C.S. Ch. 63 (relating
5 to child protective services), including requirements for
6 obtaining background checks for employees and for reporting
7 of child abuse; and

8 (4) applicable Federal and State civil rights laws.

9 (b) Parental access.--A registered facility shall allow a
10 parent or guardian of a child for whom it is providing child
11 care to have access, without prior notice, to the facility
12 during normal hours of operation or whenever the child is in the
13 care of a provider, unless a court of competent jurisdiction has
14 limited the parental right of access to the child and a copy of
15 the order is on file at the facility.

16 (c) Staff-to-child ratios.--

17 (1) A registered facility that provides child care for
18 infants who are from birth to 12 months of age shall maintain
19 a staff-to-child ratio of one staff person per every four
20 infants in care.

21 (2) A facility that provides care for toddlers who are
22 12 months to 36 months of age shall maintain a staff-to-child
23 ratio of one staff person per every five toddlers in care.

24 (3) A facility that provides care for preschool children
25 who are 36 months of age to kindergarten age shall maintain a
26 staff-to-child ratio of one staff person per every 15
27 preschool children in care.

28 (d) Supervision.---A registered facility shall insure that
29 an aide is supervised at all times by a primary caregiver.

30 (e) Registration.--A registered facility shall register

1 annually with the department on forms provided by the
2 department. The facility shall provide the following
3 information:

4 (1) The name, address and telephone number of the
5 facility.

6 (2) The name and address of the religious organization
7 or religious organizations that control, operate or supervise
8 the facility.

9 (3) The name of the director or chief administrator of
10 the facility.

11 (4) The average number of children served, their age
12 range and the number of caregivers on staff.

13 (5) A statement verifying that the facility has complied
14 with fire and health and safety inspection requirements and
15 that it maintains staff-to-child ratios as required by
16 subsection (c).

17 (6) A statement that the facility is in compliance with
18 applicable Federal and State civil rights laws.

19 (f) Written plans.--

20 (1) A registered facility shall develop and maintain a
21 written plan that outlines the following:

22 (i) Procedures for notice in case of emergencies.

23 (ii) Program of daily activities.

24 (iii) Health and safety precautions.

25 (iv) Procedures for food handling.

26 (v) Fee schedules.

27 (2) The written plan shall be provided to parents prior
28 to enrollment of their child in the facility.

29 (g) Display of documents.--A registered facility shall
30 display, in a readily visible and easily accessible location,

1 the most recent on-site inspection report issued by the
2 department and its certificate of registration.

3 Section 5. Powers and duties of department.

4 (a) Annual inspections.--The department shall annually visit
5 and inspect each registered facility in which child care is
6 provided to seven or more children during normal operating hours
7 or at other times when children are being cared for at the
8 facility to determine whether the facility is in compliance with
9 the requirements of this act. The department may annually visit
10 and inspect a registered facility in which care is provided to
11 fewer than seven children as deemed appropriate by the
12 department. The visitations and inspections under this
13 subsection may be announced or unannounced.

14 (b) Notice for noncompliance.--Whenever, upon visitation and
15 inspection by the department or upon complaint by a parent whose
16 child is or has been in the child care of a registered facility,
17 the department finds that the facility is in substantial
18 noncompliance with the provisions of this act, the department
19 shall give written notice to the facility concerning the nature
20 of the alleged noncompliance and direct the director or officers
21 of the facility to comply with this act within 30 days.

22 (c) Proceedings to compel compliance.--If substantial
23 compliance does not occur within 30 days, the department may
24 thereafter notify the district attorney of the county wherein
25 the facility is located concerning the alleged noncompliance and
26 may request that the attorney initiate legal proceedings to
27 enforce compliance. If the attorney refuses to act or fails to
28 act within 30 days, the department may notify the attorney
29 general concerning the alleged noncompliance and the attorney
30 general may institute appropriate legal proceedings to enforce

1 substantial compliance.

2 (d) Immediate injunctive relief.--Where necessary to prevent
3 serious physical or mental harm to children receiving child care
4 from a registered facility, the department may apply to the
5 court of common pleas of the county in which the facility is
6 located for immediate injunctive relief, which may include
7 removing the children from the facility or closing the facility.

8 (e) Registration forms.--The department shall develop the
9 registration forms required by section 4(e) and shall establish
10 procedural rules for the filing and renewal thereof within 60
11 days of the date of enactment of this act.

12 (f) Registration fees prohibited.--The department may not
13 impose a registration fee on a religious child-care facility.

14 Section 6. Additional provisions.

15 (a) Other certification or license by department.--Nothing
16 in this act shall be construed to prevent a religious child-care
17 facility from voluntarily obtaining a certificate of compliance
18 or license pursuant to Article IX or X of the act of June 13,
19 1967 (P.L.31, No.21), known as the Public Welfare Code, in lieu
20 of registration pursuant to the provisions of this act.

21 (b) Interference prohibited.--

22 (1) Neither the department nor any other governmental
23 agency or entity shall interfere with the program,
24 curriculum, ministry, teaching or instruction offered in a
25 religious child-care facility.

26 (2) Neither the department nor any other governmental
27 agency or entity shall interfere with the selection,
28 qualifications, supervision or terms of employment of the
29 personnel at a religious child-care facility and shall not
30 interfere with the selection of children to enroll at the

1 facility.

2 (c) Nonpublic school requirements.--Any religious child-care
3 facility which also qualifies as a nonpublic kindergarten,
4 elementary school or secondary school in which compulsory
5 attendance requirements can be met shall be required to comply
6 only with the requirements imposed upon it by the Department of
7 Education, but nothing in this act shall be construed to prevent
8 the facility from also voluntarily registering pursuant to this
9 act.

10 (d) Limitation on authority.--Notwithstanding any other
11 provisions of law, the department shall not have the authority
12 to license, regulate or approve religious child-care facilities,
13 except as specifically provided for in this act.

14 Section 7. Penalties.

15 Any person who intentionally violates any provision of this
16 act or who intentionally makes a materially false statement in
17 the registration required by section 4(e) shall upon conviction
18 thereof pay a fine of not less than \$25 nor more than \$300.

19 Section 8. Eligibility for governmental assistance.

20 Any religious child-care facility which is registered
21 pursuant to this act and is in substantial compliance with the
22 provisions of this act shall be deemed an eligible provider of
23 child-care services for which Federal, State or local assistance
24 is available to parents. The department shall not submit any
25 State plan to the Federal Government for funding of child-care
26 services which would limit the ability of registered religious
27 child-care facilities to accept certificates, vouchers or other
28 forms of disbursement provided to parents for child-care
29 services unless such limits are expressly required by Federal
30 law.

1 Section 9. Effective date.

2 This act shall take effect in 90 days.