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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1535 Session of  
2005

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INTRODUCED BY BLAUM, DeWEESE, E. Z. TAYLOR, BEBKO-JONES,  
CALTAGIRONE, CAPPELLI, CORNELL, CRAHALLA, CRUZ, FABRIZIO,  
GEORGE, GINGRICH, GOOD, GRUCELA, HARHAI, HENNESSEY, JAMES,  
JOSEPHS, LaGROTTA, LEACH, MANN, MUNDY, PISTELLA, PRESTON,  
READSHAW, REICHLEY, SCHRODER, SOLOBAY, STABACK, J. TAYLOR,  
THOMAS, TIGUE, TRUE, WALKO, WHEATLEY AND YOUNGBLOOD,  
MAY 5, 2005

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REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, MAY 5, 2005

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AN ACT

1 Providing for dangerous child day-care facilities; and  
2 conferring powers and duties on the Department of Public  
3 Welfare and law enforcement agencies.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Dangerous  
8 Child Day-Care Facilities Act.

9 Section 2. Definitions.

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

13 "Child day care." Care in lieu of parental care given for  
14 part of a 24-hour day to a child under 16 years of age, away  
15 from the child's home. The term does not include care in lieu of  
16 parental care given to a child under 16 years of age in a place

1 of worship during religious services.

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

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

7 "Facility." Any of the following:

8 (1) Child day-care center.

9 (2) Family day-care home.

10 "Family day-care home." A home in which child day care is  
11 provided at any one time to four, five or six children who are  
12 not relatives of the operator.

13 Section 3. Dangerous facilities.

14 (a) Department responsibility.--If the department finds that  
15 conditions exist which pose an immediate and serious threat to  
16 health, safety or well-being of children being cared for in a  
17 facility, the department shall immediately issue a temporary  
18 order to the facility pending the outcome of a hearing under  
19 subsection (d) and, if necessary, ensure the removal of the  
20 children from the facility.

21 (1) The temporary order shall specify that the facility  
22 shall be closed or that specific conditions must be remedied  
23 as a condition of continued operation.

24 (2) The temporary order shall specify all conditions  
25 that shall be immediately remedied by the facility.

26 (3) The temporary order shall specify the date and time  
27 of any required action or closure of the facility.

28 (4) The temporary order shall specify the appeal rights  
29 of the facility.

30 (b) Corrective action.--Immediately following the issuance

1 of a temporary order under subsection (a) and until the hearing  
2 under subsection (d), the department shall monitor the  
3 facility's compliance with the temporary order.

4 (c) Law enforcement assistance.--The department may request  
5 and shall receive assistance from law enforcement officials  
6 whenever necessary to implement an order issued under this  
7 section.

8 (d) Hearings.--Within seven business days of the issuance of  
9 a temporary order under subsection (a), the department shall  
10 schedule an administrative hearing. If the hearing examiner  
11 rules that there was a violation of a statute or regulation  
12 which posed an immediate and serious threat to health, safety or  
13 well-being of the children being cared for in the facility, the  
14 hearing examiner shall order continued compliance with the  
15 temporary order, issue a new order or order the facility closed  
16 until the conclusion of a certificate revocation procedure. The  
17 decision of the hearing examiner shall be rendered the next  
18 business day after the hearing.

19 (e) Certificate revocation.--Within three business days of  
20 an order of closure under subsection (d), the department may  
21 initiate certificate revocation proceedings under the act of  
22 June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code,  
23 against the licensee or holder of a certificate of the facility.

24 (f) Supersedeas.--The appeal of an emergency order issued  
25 under this section shall be deemed an application for a  
26 supersedeas which shall be granted only if all of the following  
27 apply:

28 (1) There is substantial likelihood of success on  
29 appeal.

30 (2) Continued operation of the facility pending appeal

1       will not jeopardize the life, health or safety of children  
2       being cared for in a facility.

3       (g) Other entities.--Nothing in this section shall preclude  
4       the department from closing or taking other emergency action  
5       with regard to an entity supervised or licensed by the  
6       department.

7       Section 4. Regulations.

8       The department shall promulgate regulations to administer  
9       this act.

10      Section 20. Effective date.

11      This act shall take effect in 60 days.