

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1143 Session of 1991

INTRODUCED BY EVANS, STUBAN, NAHILL, HAGARTY, JOSEPHS,
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KOSINSKI, PETRARCA, CAPPABIANCA, STISH, FREEMAN, TIGUE,
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WILLIAMS, LaGROTTA, HUGHES, MARKOSEK, HALUSKA, STETLER,
RICHARDSON, S. H. SMITH AND SCRIMENTI, APRIL 16, 1991

REFERRED TO COMMITTEE ON AGING AND YOUTH, APRIL 16, 1991

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," providing for training for
4 family day-care providers; providing for an annual State plan
5 for child-care services; further providing for powers and
6 duties of the Department of Public Welfare; and making
7 repeals.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The heading of Article VI of the act of June 13,
11 1967 (P.L.31, No.21), known as the Public Welfare Code, is
12 amended and the article is amended by adding subarticles to
13 read:

ARTICLE VI

[THE AGED] CHILD CARE SERVICES

(a) General Provisions

1 Section 601. Definitions.--As used in this article--

2 "Child care" means care in lieu of parental care given for
3 part of the twenty-four hour day to children under sixteen years
4 of age, away from their own homes, but does not include child
5 care furnished in places of worship during religious services.

6 (b) Annual Plan and Demonstration Projects

7 Section 611. Annual State Plan for Child Care Services.--(a)
8 Through an annual State plan on child care services, the
9 department shall establish goals and objectives and review and
10 assess the State's child care and early childhood development
11 service delivery system, including State efforts to assure the
12 provision of accessible, available and affordable quality child
13 care services. The plan shall be developed in relation to
14 Statewide and local needs for child care services.

15 (b) No later than the first full week in February of each
16 year, except in the case where a Governor has been elected for
17 his first term of office and then no later than the first full
18 week in March, the department shall submit to the Aging and
19 Youth Committee and the Appropriations Committee of the Senate,
20 and the Aging and Youth Committee and the Appropriations
21 Committee of the House of Representatives, a preliminary State
22 plan on child care services. A final State plan shall be
23 submitted by the first week of September of each year.

24 (c) In the development and implementation of an annual State
25 plan on child care services, the department shall promote common
26 policies and practices in all child care programs to the fullest
27 extent possible and develop mechanisms for interagency
28 collaboration to create a coordinated State child care and early
29 childhood development delivery system. This shall include
30 consistency in the application process, reimbursement rates,

1 income eligibility criteria and parent fee scales.

2 (d) To prepare the preliminary State plan, the department
3 shall hold at least four public hearings in different geographic
4 locations in this Commonwealth to seek input and recommendations
5 from parents, child development professionals, child care
6 providers, child advocates, educators, representatives of local
7 government, health and human service organizations, health
8 professionals, labor organizations, businesses, school officials
9 and any other individuals or agencies interested in child care
10 issues.

11 (e) The preliminary and final State plan shall include, but
12 not be limited to, the following information:

13 (1) The amount of Federal, State and local funds expended
14 for child care services and early childhood development programs
15 and the allocation of these funds. Funding shall include, but
16 not be limited to, funding through the Social Services Block
17 Grant Act (Public Law 97-35, 42 U.S.C. § 1397 et seq.), Title IV
18 of the Social Security Act (Public Law 74-271, 42 U.S.C. § 601
19 et seq.) and the Child Care and Development Block Grant Act of
20 1990 at section 5082 of the Omnibus Budget Reconciliation Act of
21 1990 (Public Law 101-508, 104 Stat. 1388).

22 (2) The number of child care slots; the type of care by age
23 utilized by children assisted with Federal, State and local
24 funds, including Headstart and school-age child care programs;
25 the unduplicated number of children who fill these slots; the
26 funding source for the slots; and the child care capacity of
27 regulated providers.

28 (3) Income eligibility guidelines for Federally and State
29 funded child care services, sliding fee scales, and the extent
30 to which the income guidelines and fee scales are adjusted to

1 reflect the most recent available State income data.

2 (4) The State's practices regarding the monitoring of child
3 care programs to ensure the health, safety and welfare of
4 children. In describing the monitoring system, the department
5 shall identify the extent of announced and unannounced
6 inspections of child care providers, the level of compliance
7 with State standards and the staff-to-provider ratio to
8 accomplish this task. Recommendations on ways to improve both
9 the enforcement and monitoring of standards and compliance with
10 standards shall also be included.

11 (5) The department's coordination, identification or
12 arrangement of training for child care providers in specific
13 program areas that are designed to improve the quality of child
14 care. The department shall identify any Federal, State, local or
15 private funding allocated for training, the objectives of the
16 training, the way in which training will be accomplished and an
17 evaluation of the previous year's training programs.

18 (6) An analysis of any recent demonstration projects
19 established by the department using Federal or State funds, or
20 both, along with a summary of the cost of the projects and the
21 department's findings and recommendations.

22 (7) A summary of any recent reports, data or surveys
23 concerning the compensation of child care workers, the State's
24 reimbursement rates and any changes in rates recommended by the
25 department.

26 (8) Efforts by the private sector and State and local
27 government to encourage employer-sponsored child care services
28 and policies aimed at addressing child care needs of working
29 parents.

30 (9) Identification of the responsibilities or programs of

various State departments with respect to child care services and the extent to which coordination between agencies is addressed. The department will describe its responsibilities, under various program offices, as well as those of the Department of Aging, the Department of Commerce, the Department of Community Affairs, the Department of Education, the Department of Health, and the Department of Labor and Industry.

(10) Standards developed for child care providers who are not required to be regulated by State law and who are eligible to receive payment through a Federal or State program. These standards shall relate to the health, safety and developmental needs of children.

(11) Identification of gaps in child care services, unmet needs, administrative barriers that serve as obstacles to obtaining child care and recommendations on how the State can address these issues.

Section 612. Contracting with Providers of Child Care Services.--(a) It shall be the goal of the department in its administration of Federal and State dollars allocated for subsidized child care services to establish a child care delivery system that is designed to meet the needs of eligible children and families. In furtherance of that goal, it shall be the department's responsibility in the development of a child care service delivery system and in its policies and procedures to support, to the fullest extent possible, a stable, diverse source of child care providers from which parents can choose quality child care that is affordable and accessible.

(b) To avoid the disruption of services to children and families, the department shall have the right to enter into contracts with child care providers for a specific number of

1 slots and shall not require competitive bidding for the child
2 care contracts if any of the following conditions exist:

3 (1) The provider primarily serves low-income families.

4 (2) The facility is located in the low-income community
5 where the children and their families reside.

6 (3) Transportation from the community to alternative child
7 care facilities would impose hardships on parents.

8 (4) The providers meet special needs of parents and
9 children, including, but not limited to, children with
10 developmental disabilities and foreign speaking populations.

11 (5) The loss of service will have an adverse impact on
12 parents in need of child care in that community.

13 Section 613. Demonstration Projects and Evaluation.--(a)
14 The department shall have the authority to develop demonstration
15 projects to test new concepts and methods in delivering child
16 care services on a trial basis.

17 (b) The evaluation of a demonstration project shall be
18 required if Federal or State funds are used to finance the
19 project. An evaluation shall set forth the department's goals
20 and objectives for the project, a detailed description of it,
21 pertinent information and data collected, the costs associated
22 with the demonstration and findings and recommendations. The
23 evaluation shall include an explanation regarding the extent to
24 which the department's original goals and objectives were
25 achieved and what modifications were required during the
26 project.

27 (c) The evaluation of a demonstration project of twelve
28 months or less in duration, shall be submitted to the Aging and
29 Youth Committee and the Appropriations Committee of the Senate,
30 and the Aging and Youth Committee and the Appropriations

Committee of the House of Representatives within eighteen months of the project's inception. In the event that a demonstration project is in operation for more than twelve months, an interim evaluation shall be submitted to the same committees within eighteen months of the project's inception, and a final evaluation shall be submitted within six months of the completion of the project. No demonstration project can be funded as a demonstration for more than three years.

Section 614. Establishment of Child Care Resource and Referral Demonstration Projects.--(a) The department shall establish four demonstration projects in this Commonwealth to evaluate the development, maintenance and expansion of quality child care through child care resource and referral programs. In addition, these demonstration projects shall assess the role of a child care resource and referral agency in furthering the department's goal to improve access to child care, quality of child care, monitoring of child care and planning for child care services. The administration of public funding for subsidized child care programs shall not be a required function of a demonstration project.

(b) The projects established under subsection (a) shall operate for at least two years. They may be continued if funding is available.

Section 615. Eligibility.--A child care resource and referral agency is eligible to provide a demonstration project under section 614 if it can demonstrate, through past performance or current service, ability to effectively perform the functions under section 616 and if it can provide evidence that it has served low-income families.

Section 616. Function.--A child care resource and referral

1 agency must provide, at a minimum, the following services:

2 (1) Identification of all regulated child care services in a
3 defined geographical and service-delivery area.

4 (2) Maintenance of a regularly updated resource file of
5 services and vacancies.

6 (3) Public education about the availability, cost, standards
7 and types of child care programs in a defined geographical and
8 service-delivery area.

9 (4) Assistance to parents in evaluating child care needs and
10 appropriateness of types of care.

11 (5) Referrals to child care services near the home, work
12 area, or facility where the parent is attending school or
13 receiving job training.

14 (6) Providing caregivers with training workshops, assistance
15 in filling vacancies, advocacy for attaining professional
16 status, opportunities for sharing information and experiences
17 and access to ongoing educational certification programs.

18 (7) Provision of start-up information for potential child
19 care providers to stimulate the supply of child care resources.

20 (8) Ability to respond to requests from businesses for
21 information or services designed to meet the child care needs of
22 their employees.

23 (9) Documentation and tabulation of data pertaining to
24 parent requests, consumer complaints and employer-sponsored
25 child care services that will assist in community and State
26 planning and identification of needs.

27 (10) Procedures for handling complaints related to child day
28 care programs and referral of day care programs under
29 investigation by the department.

30 (11) Establishment of fees, where necessary, to defray the

1 cost of child care resource and referral services.

2 (12) Establishment of procedures that ensure the
3 confidentiality of children and parents who utilize the agency's
4 services.

5 Section 617. Reports.--Within eighteen months of the
6 inception of a demonstration project under section 614, the
7 department shall submit to the Aging and Youth Committee of the
8 Senate and the Appropriations Committee of the Senate and the
9 Aging and Youth Committee of the House of Representatives and
10 the Appropriations Committee of the House of Representatives an
11 interim report that describes the demonstration projects
12 selected by the department. A final report shall be submitted to
13 the same committees within six months of a project's completion.
14 The report shall include, along with recommendations, the
15 department's findings relating to numbers of parents and
16 children served; extent of assistance given to caregivers,
17 parents and employes; cost of child care resource and referral
18 services; the availability of private, corporate and government
19 funding for the development and maintenance of resource and
20 referral agencies; and the project's impact on quality and
21 availability of child care in a geographically defined area.

22 (c) Training

23 Section 631. Training for Family Day Care Providers.--(a)
24 The department shall arrange for training for prospective and
25 current family day care providers. The training shall cover, at
26 a minimum, the following areas, as they relate to child care:

27 (1) First aid and basic safety, resulting in certification
28 in standard first aid and community cardiopulmonary
29 resuscitation.

30 (2) Child development, including information on

characteristics of infants and preschool and school-age children that can assist caregivers in nurturing the physical, social, emotional and intellectual growth of each child.

(3) Nutrition, including the Child Care Food Program sponsored by the United States Department of Agriculture.

(4) Health care and hygiene, including washing hands before handling food, care of diapers and toilet areas.

(5) Small business management skills, including budgets and recordkeeping.

(6) Discipline and guidance of children.

(7) Creative programming and development of proper learning environments for children.

(8) Utilization of community resources.

(9) Development of communication skills of caregivers with parents and families.

(b) The department shall encourage but not require family day care providers to participate in the training made available under this section.

Section 2. The definition of "children's institutions" in section 901 of the act, amended December 5, 1980 (P.L.1112, No.193), is amended to read:

Section 901. Definitions.--As used in this article--

"Children's institutions" means any incorporated or unincorporated organization, society, corporation or agency, public or private, which may receive or care for children, or place them in foster family homes, either at board, wages or free; or any individual who, for hire, gain or reward, receives for care a child, unless he is related to such child by blood or marriage within the second degree; or any individual, not in the regular employ of the court or of an organization, society,

1 association or agency, duly certified by the department, who in
2 any manner becomes a party to the placing of children in foster
3 homes, unless he is related to such children by blood or
4 marriage within the second degree, or is the duly appointed
5 guardian thereof. [The term shall not include a family day care
6 home in which care is provided in lieu of parental care to six
7 or less children for part of a twenty-four hour day.] The term
8 shall include a nonprofit family day care agency that is
9 operated by or under the authority of a bona fide church or
10 other religious organization and that administers any family day
11 care home in which care is provided at any one time to four
12 through six children who are not relatives of the caregiver.

13 * * *

14 Section 3. The definition of "facility" in section 1001 of
15 the act, amended December 21, 1988 (P.L.1883, No.185), is
16 amended and the section is amended by adding definitions to
17 read:

18 Section 1001. Definitions.--As used in this article--

19 * * *

20 "Agency-affiliated family day care home" means a family day
21 care home which operates under the auspices of a family day care
22 agency through a contractual arrangement with a family day care
23 home and which provides family day care only to children
24 referred by the family day care agency.

25 * * *

26 "Facility" means an adult day care center, agency-affiliated
27 family day care home, child day care center, family day care
28 agency, family day care home, boarding home for children, mental
29 health establishment, personal care home, nursing home, hospital
30 or maternity home, as defined herein, and shall not include

those operated by the State or Federal governments or those supervised by the department.

"Family day care agency" means a social service agency which administers family day care programs, including the recruitment, screening and selection of family day care homes, and which, through contractual arrangements with family caregivers, performs administrative functions that include, but are not limited to, training of caregivers; technical assistance; intake and referral of children to family day care homes; monitoring and inspection of the agency's family day care homes; evaluation of children's development, the family caregiver's daily program and the family caregiver; consultation and assistance to parents and children; referral of children and parents to health, social services and food and nutrition programs when appropriate; and furnishing child care equipment to family day care homes. The term shall not include a nonprofit agency which is operated by or under the authority of a bona fide church or other religious organization and which is supervised by the department under Article IX.

"Family day care home" means any home in which child day care is provided at any one time to four through six children who are not relatives of the caregiver. The term shall not include a home operated under the auspices of a nonprofit agency which is operated by a bona fide church or other religious organization and which is supervised by the department under Article IX.

* * *

Section 4. The act is amended by adding sections to read:

Section 1010. Additional Requirements for Family Day Care Homes.--(a) In a family day care home, all of the following apply:

1 (1) There may be no more than two children under eighteen
2 months of age in care. This clause includes foster children and
3 relatives of the caregiver.

4 (2) Each floor level used by children in a family day care
5 home must have at least two exits, one of which may be a window.
6 At least one exit from each floor level must provide a direct
7 means of unobstructed travel to the outside at street or ground
8 level.

9 (3) A window of a type which may be readily opened and of
10 proper size and design to allow for evacuation must be provided
11 as a second exit.

12 (4) A room or space, including an attic, which is accessible
13 only by a ladder, folding stairway or through a trap door may
14 not be used by children.

15 (5) A family day care home caregiver shall have an initial
16 health assessment structured to identify health conditions which
17 would adversely affect the caregiver's ability to provide child
18 care. The same health requirements shall apply to other members
19 of the caregiver's household who have direct contact with any
20 child in care. The caregiver shall be required to report to the
21 department any significant changes in health status that would
22 adversely affect the caregiver's ability to provide child care.

23 (6) A family day care home caregiver must be at least
24 twenty-one years of age.

25 (b) Family day care homes shall comply with regulations
26 promulgated by the department.

27 (c) An agency-affiliated family day care home is not
28 required to apply for a separate license as a family day care
29 home. Under the supervision of a family day care agency, an
30 agency-affiliated family day care home shall comply with this

1 section and regulations promulgated under section 1011.

2 Section 1011. Regulations.--(a) The department has the
3 power and duty to promulgate regulations to implement this
4 article.

5 (b) In the development of regulations, the department shall
6 consider standards and recommendations relating to family day
7 care and family day care home providers that have been developed
8 by the Child Welfare League of America and the National
9 Association for the Education of Young Children.

10 Section 5. Section 1016 of the act, amended July 15, 1976
11 (P.L.993, No.202), is amended to read:

12 Section 1016. Right to Enter and Inspect.--For the purpose
13 of determining the suitability of the applicants and of the
14 premises or whether or not any premises in fact qualifies as a
15 facility as defined in section 1001 of this act or the
16 continuing conformity of the licensees to this act and to the
17 applicable regulations of the department, any authorized agent
18 of the department shall have the right to enter, visit and
19 inspect any facility licensed or requiring a license under this
20 act and shall have full and free access to the records of the
21 facility and to the individuals therein and full opportunity to
22 interview, inspect or examine such individuals.

23 An authorized agent of the department shall also confer with
24 the operators of facilities regarding the minimum standards of
25 the department, encourage the adoption of higher standards and
26 recommend methods of improving care and services.

27 If an authorized agent of the department is refused access
28 for an investigation under this section, the department may
29 apply to a court of competent jurisdiction for an administrative
30 inspection warrant. For purposes of a warrant under this

section, probable cause that this article has been violated
consists of a statement by the authorized agent of the
department that access for an inspection under this section has
been sought and refused. An administrative inspection warrant is
enforceable as any other warrant issued by a court.

Section 6. Section 1031 of the act is amended to read:

Section 1031. Violation; Penalty.--(a) Any person operating
a facility within this Commonwealth without a license required
by this act, shall upon conviction thereof in a summary
proceeding be sentenced to pay a fine of not less than twenty-
five dollars (\$25) nor more than three hundred dollars (\$300),
and costs of prosecution, and in default of the payment thereof
to undergo imprisonment for not less than ten days nor more than
thirty days. Each day of operating a facility without a license
required by this act shall constitute a separate offense.

(b) In addition to the criminal penalty in subsection (a),
the department may assess a civil penalty of five hundred
dollars (\$500) against a person found to be operating a facility
within this Commonwealth without a license required by this act.
Penalty assessment under this subsection shall conform to 2
Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial
review of Commonwealth agency action).

Section 7. Sections 1070, 1071, 1072, 1073, 1074, 1075,
1076, 1077, 1078, 1079 and 1080 of the act are repealed.

Section 8. The Department of Public Welfare shall comply
with the following time schedules:

(1) Within 90 days of the effective date of this
section, the department shall submit proposed rulemaking
under section 1011 of the act to the Legislative Reference

1 Bureau for publication in the Pennsylvania Bulletin.

2 (2) Within 180 days of the effective date of this
3 section, the department shall submit final rulemaking on the
4 proposal under paragraph (1) to the Legislative Reference
5 Bureau for publication in the Pennsylvania Bulletin. The
6 regulations shall take effect within one year of the
7 effective date of this section.

8 Section 9. This act shall take effect as follows:

9 (1) The following provisions shall take effect
10 immediately:

11 (i) The addition of section 1011 of the act.

12 (ii) The amendment of sections 1016 and 1031 of the
13 act.

14 (iii) Section 8 of this act.

15 (iv) This section.

16 (2) The repeal of sections 1070 through 1080 of the act
17 shall take effect upon the effective date of the regulations
18 promulgated under section 8 of this act.

19 (3) The amendment or addition of sections 901, 1001 and
20 1010 of this act shall take effect in one year.

21 (4) The remainder of this act shall take effect in 60
22 days.