

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 452 Session of
2003

INTRODUCED BY BLAUM, GEIST, THOMAS, GRUCELA, COY, BUNT, MUNDY,
WALKO, DeWEESE, LEDERER, HASAY, HERMAN, MANN, GEORGE, WEBER,
TRUE, STURLA, WANSACZ, BELARDI, SURRA, FRANKEL, SANTONI,
J. WILLIAMS, KELLER, BROWNE, SOLOBAY, KIRKLAND, RUBLEY,
SCRIMENTI, LaGROTTA, LAUGHLIN, SATHER, HARHAI, BISHOP, TIGUE,
BELFANTI, DeLUCA, GOODMAN, CRAHALLA, JOSEPHS, ROSS,
WASHINGTON, CIVERA AND LEACH, FEBRUARY 25, 2003

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 25, 2003

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 within two
18 hours of the conclusion of 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.