

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 125 Session of  
2005

INTRODUCED BY GODSHALL, ARGALL, BASTIAN, BEBKO-JONES,  
BENNINGHOFF, BLACKWELL, BLAUM, BOYD, BUNT, CORNELL, COSTA,  
CRAHALLA, CURRY, DALLY, DENLINGER, DeWEESE, FICHTER, FRANKEL,  
GEORGE, GERGELY, GINGRICH, GOODMAN, GRUITZA, HARPER, HARRIS,  
HENNESSEY, HERMAN, HERSHEY, HUTCHINSON, KAUFFMAN, KILLION,  
LaGROTTA, LEACH, LEH, MANDERINO, MANN, MCGILL, MELIO,  
S. MILLER, MUNDY, NAILOR, NICKOL, O'NEILL, PETRI, PISTELLA,  
PRESTON, PYLE, REICHLEY, ROHRER, ROSS, RUBLEY, SAINATO,  
SANTONI, SATHER, SAYLOR, SCHRODER, SOLOBAY, STERN, STURLA,  
E. Z. TAYLOR, THOMAS, TIGUE, TRUE, VEON, WALKO, WASHINGTON,  
WATSON, WHEATLEY, WILT AND YUDICHAK, FEBRUARY 1, 2005

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,  
FEBRUARY 1, 2005

AN ACT

1 Providing for a Statewide Child Day-Care Resource and Referral  
2 System, for unannounced inspections of and liability  
3 insurance for certain facilities and persons that provide  
4 child day care; requiring criminal history record and child  
5 abuse record information for certain persons who reside in  
6 family day-care homes; conferring powers and duties on the  
7 Department of Public Welfare and law enforcement agencies;  
8 and providing for information on prospective child-care  
9 personnel.

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

12 CHAPTER 1

13 PRELIMINARY PROVISIONS

14 Section 101. Short title.

15 This act shall be known and may be cited as the Unannounced  
16 Inspection of Child Day-Care Facilities and Resource and

1 Referral Act.

2 Section 102. Legislative findings.

3 The General Assembly finds and declares as follows:

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

8 (2) According to the United States Census, in the decade  
9 from 1990 to 2000, the rate of families in which all parents  
10 in the household work rose to 62%, a 10% increase over the  
11 decade. In this Commonwealth, about two-thirds of mothers  
12 with children under the age of six are in the work force,  
13 compared to 25% in 1970.

14 (3) There are more than 884,000 children under the age  
15 of six living in this Commonwealth, and a majority of these  
16 children spend on average 27 hours a week in some form of  
17 child day care.

18 (4) As of January 2001, close to 300,000 children were  
19 served in regulated child care settings in this Commonwealth.

20 (5) A comprehensive, coordinated effort is needed to  
21 ensure that accurate, up-to-date child day-care information  
22 is readily available and easy to access.

23 (6) Local child day-care resource and referral services  
24 are beneficial to:

25 (i) working parents of all economic means by  
26 enabling them to make informed choices in selecting and  
27 purchasing the child day care that best meets their  
28 family's unique needs;

29 (ii) existing and prospective child day-care  
30 providers in their efforts to develop and maintain safe,

high-quality child day-care services;

(iii) businesses by providing them with information to use in responding to child day-care needs of their employees; and

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

#### Section 103. Definitions.

The following words and phrases when used in this act 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 a 24-hour day to a child under 16 years of age away from the child's home. The term does not include care in lieu of parental care given to a child under 16 years of age in a place 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 provider, regardless of which article of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, applies to it.

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

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

- (1) The provision of updated information to the parents, employers and individuals in a community regarding the availability, cost and quality of child day-care services in

1 a defined geographic area.

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

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

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

9 "Department." The Department of Public Welfare of the  
10 Commonwealth.

11 "Facility." Any of the following:

12 (1) Child day-care center.

13 (2) Family day-care home.

14 "Family day-care home." A home in which child day care is  
15 provided at any one time to four, five or six children who are  
16 not relatives of the provider of the child day care and which is  
17 required to be registered under the act of June 13, 1967  
18 (P.L.31, No.21), known as the Public Welfare Code.

19 "Founded report." As defined in 23 Pa.C.S. § 6303(a)  
20 (relating to definitions).

21 "Founded report for school employee." As defined in 23  
22 Pa.C.S. § 6303(a) (relating to definitions).

23 "Indicated report." As defined in 23 Pa.C.S. § 6303(a)  
24 (relating to definitions).

25 "Indicated report for school employee." As defined in 23  
26 Pa.C.S. § 6303(a) (relating to definitions).

## 27 CHAPTER 3

### 28 RESOURCE AND REFERRAL

29 Section 301. Resource and referral services.

30 The department shall arrange for child day-care resource and

1 referral services across this Commonwealth through contracts  
2 with public or private entities that can fulfill the  
3 responsibility of a child day-care resource and referral agency,  
4 which shall provide, at a minimum, the following services:

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

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

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

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

21       (5) Provision of information and technical assistance to  
22 providers and prospective providers, as requested. Types of  
23 information to be made available shall include, but not be  
24 limited to, information regarding career opportunities in the  
25 field, continuing education, training opportunities,  
26 accreditation programs, regulatory requirements, food  
27 programs and demographic information to determine the  
28 existence of markets for services and to help stimulate the  
29 supply of child day-care services needed in the area.

30       (6) Provision of information to employers who are trying

1 to meet the child day-care needs of their employees.

2 (7) Collection and maintenance of data, as may be useful  
3 in State and local planning efforts, on the number and usage  
4 of different child day-care providers, the type, availability  
5 and cost of child day care in a particular geographic area  
6 and demographic information to determine whether the supply  
7 meets the demand for child day-care services in a given area.

8 (8) Provision of information to parents about child day-  
9 care services for which they may be eligible and referral to  
10 a local entity responsible for administering Federal and  
11 State child day-care funds. The child day-care resource and  
12 referral agency shall also provide to parents receiving  
13 public assistance information about child day-care services  
14 for which they may be eligible, and how they can access those  
15 funds. The child day-care resource and referral agency shall  
16 avoid duplicating services and shall develop procedures to  
17 streamline services for all low-income parents needing child  
18 day-care services.

19 Section 302. Standard operating procedures.

20 Child day-care resource and referral agencies shall:

21 (1) Conduct business during hours convenient to working  
22 parents, including some evening and weekend hours, if deemed  
23 necessary.

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

26 (3) Advertise their services. All recipients of services  
27 shall be informed of applicable fees prior to the provision  
28 of such services, as designated in this chapter.

29 (4) Tailor services provided for in this chapter to the  
30 geographically defined area in which they are located.

1           (5) Seek opportunities to provide educational and  
2 consumer awareness programs.

3           (6) Utilize, to the maximum extent, the most cost-  
4 effective means of providing child day-care resource and  
5 referral services in accordance with this chapter, including,  
6 but not limited to, public-private partnerships, where deemed  
7 appropriate, and contractual arrangements with existing  
8 providers of resource and referral services.

9           (7) Maintain confidentiality of records. Information  
10 contained in the records shall not be publicly disclosed in  
11 such a manner so as to identify individuals. Certain  
12 nonidentifying information may, however, be collected in  
13 aggregate form for the purposes of data collection.

14           (8) Report to the department on a regular basis  
15 information regarding:

16               (i) The number of parents and children served.

17               (ii) The extent of assistance given to providers,  
18 parents, businesses and others.

19               (iii) Fees charged for resource and referral  
20 services provided for in this chapter.

21               (iv) The impact of the resource and referral  
22 services on quality and availability of child day care in  
23 their particular geographically defined area.

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

27 Section 303. Annual report.

28       The department shall submit an annual report to the General  
29 Assembly which shall reflect the information collected by the  
30 child day-care resource and referral agencies designated by the

1 department. The report shall describe how the child day-care  
2 resource and referral agencies further the department's goal to  
3 improve the quality, availability and affordability of child  
4 day-care services. This report shall also include any  
5 recommendations of the department for improvements to the  
6 Statewide resource and referral system, as well as the  
7 availability of private, corporate and government funding for  
8 resource and referral services.

9 Section 304. Regulations.

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

14 Section 305. Resource and referral services implementation.

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

18 Section 306. Liability insurance.

19 (a) Requirement.--In order to continue operation, a family  
20 day-care home must have a comprehensive general liability  
21 insurance policy to cover all persons on the premises in a  
22 minimum amount to be determined by regulation of the department.  
23 A copy of the insurance policy under this subsection shall be  
24 kept on the premises.

25 (b) Regulations.--the department shall promulgate  
26 regulations to implement subsection (a).

27 CHAPTER 5

28 UNANNOUNCED INSPECTIONS

29 Section 501. Inspections.

30 (a) Authority.--The department may enter and inspect a



1 facility with or without prior notice.

2 (b) Access.--The department shall have free and full access  
3 to the facility and the facility grounds, the children in the  
4 facility, the records of the facility and the facility staff.  
5 The department shall be given the opportunity to privately  
6 interview children and staff.

7 (c) Frequency of Inspections.--

8 (1) For a child day-care center, in accordance with  
9 current requirements for an annual inspection under the act  
10 of June 13, 1967 (P.L.31, No.21), known as the Public Welfare  
11 Code, the department shall annually conduct at least one  
12 onsite, unannounced inspection of each facility. This  
13 unannounced inspection shall be sufficient to meet any  
14 existing regulatory requirement for an annual announced or  
15 unannounced inspection. The department shall conduct  
16 additional inspections as required to verify corrections of  
17 regulatory violations.

18 (2) For a family day-care home, unannounced inspections  
19 shall be conducted at such times as the department deems  
20 appropriate. The department shall annually inspect at least  
21 15% of all registered family day-care homes. Each family day-  
22 care home shall be inspected at least once every four years.  
23 A newly registered family day-care home shall be inspected at  
24 least once during the first year of operation. The department  
25 shall submit on an annual basis a report to the Aging and  
26 Youth Committee of the Senate and the Children and Youth  
27 Committee of the House of Representatives regarding the  
28 findings of the inspections required under this section.

29 (d) Inspections in response to complaints.--

30 (1) Within 24 hours, excluding days that the department

1 has determined the facility is not in operation, of the  
2 receipt of a complaint from any person alleging an immediate  
3 and serious risk to the health or safety of a child receiving  
4 child day care at a facility, the department shall conduct an  
5 onsite unannounced inspection of the facility. Complaints  
6 prompting an inspection pursuant to this subsection shall  
7 include severe injury or death of a child receiving care at  
8 the facility, allegations of child abuse or conditions or  
9 practices that create an immediate and serious risk to a  
10 child.

11 (2) Except for those complaints under paragraph (1), the  
12 department shall determine the acceptable time frame in which  
13 complaints shall be investigated based upon the seriousness  
14 of the complaint.

15 (3) This subsection applies to all facilities, including  
16 those that are required to be licensed, supervised or  
17 registered under the act of June 13, 1967 (P.L.31, No.21),  
18 known as the Public Welfare Code, but which are not so  
19 licensed, supervised or registered.

20 (e) Report to General Assembly.--The department shall submit  
21 on an annual basis a report to the Aging and Youth Committee of  
22 the Senate and the Children and Youth Committee of the House of  
23 Representatives regarding the findings of the inspections  
24 required by this section.

## 25 CHAPTER 7

### 26 CRIMINAL AND CHILD ABUSE HISTORY

27 Section 701. Criminal and child abuse history information.

28 In addition to the requirements of 23 Pa.C.S. § 6344  
29 (relating to information relating to prospective child-care  
30 personnel), an individual who applies to the department for a

1 registration certificate to operate a family day-care home shall  
2 submit criminal history record and child abuse record  
3 information required under 23 Pa.C.S. § 6344(b) for any  
4 individual over 18 years of age residing in the home.

5 Section 702. Required information.

6 Child abuse record information required under section 701  
7 (relating to criminal and child abuse history information) shall  
8 include certification by the department as to whether the  
9 applicant is named in the central register as the perpetrator of  
10 a founded report of child abuse, indicated report of child  
11 abuse, founded report for school employee or indicated report  
12 for school employee as defined in 23 Pa.C.S. § 6303 (relating to  
13 definitions).

14 Section 703. Effect on registration.

15 The department shall refuse to issue or renew a registration  
16 certificate or shall revoke a registration certificate if the  
17 family day-care home provider or individual 18 years of age or  
18 older residing in the home:

19 (1) is named in the central register on child abuse  
20 established under 23 Pa.C.S. Ch. 63 (relating to child  
21 protective services) as the perpetrator of a founded report  
22 of child abuse, indicated report of child abuse, founded  
23 report for school employee or indicated report for school  
24 employee as defined in 23 Pa.C.S. § 6303 (relating to  
25 definitions); or

26 (2) has been convicted of an offense enumerated in 23  
27 Pa.C.S. § 6344(c) (relating to information relating to  
28 prospective child-care personnel).

29 Section 704. Criminal and child abuse history relating to  
30 prospective child-care personnel.

1       (a) Individuals.--An individual who is not a grandparent of  
2 the child who directly provides child-care services which are  
3 subsidized by Federal or State funds but who is not otherwise  
4 subject to approval or licensure under Article IX or X of the  
5 act of June 13, 1967 (P.L.31, No.21), known as the Public  
6 Welfare Code, and any individual over 18 years of age residing  
7 in the home shall submit to the department criminal and child  
8 abuse history information under 23 Pa.C.S. § 6344(b) (relating  
9 to information relating to prospective child-care personnel).  
10 The department shall refuse to authorize the use of Federal or  
11 State funds for child care if the department verifies that any  
12 of the following apply to an individual providing the child care  
13 or any individual over 18 years of age residing in the home:

14           (1) The individual is named in the Statewide central  
15 register of child abuse as the perpetrator of a founded  
16 report, a founded report for school employee, an indicated  
17 report or an indicated report for school employee.

18           (2) The individual has been convicted of an offense  
19 under 23 Pa.C.S. § 6344.

20       (b) Use of funds.--The department may authorize the use of  
21 Federal or State funds for child care under this subsection on a  
22 provisional basis for a single period not to exceed 30 days if  
23 all of the following conditions are met:

24           (1) The individual who is subject to the requirements of  
25 this section has applied for the information required under  
26 this section and provides a copy of the appropriate request  
27 forms to the department or its designated agent.

28           (2) The individual who is subject to the requirements of  
29 this section swears or affirms in writing that the  
30 individual:

(i) is not named in the Statewide central register of child abuse as the perpetrator of a founded report, a founded report for school employee, an indicated report or an indicated report for school employee; and

(ii) has not been convicted of an offense under 23 Pa.C.S. § 6344(c).

Section 705. Fee.

All individuals required to obtain a criminal history record by this chapter shall pay a fee of \$10 to the department prior to the release of the record. No other fee shall be required of the individual for either the criminal history record or child abuse record.

Section 706. Regulations.

The Department shall promulgate regulations to administer this chapter.

## CHAPTER 30

### MISCELLANEOUS PROVISIONS

Section 3001. Effective date.

This act shall take effect as follows:

(1) Except as otherwise provided in paragraph (2), Chapter 3 shall take effect July 1, 2005, or immediately, whichever is later.

(2) Section 306(a) shall take effect on the effective date of regulations promulgated under section 306(b).

(3) Chapter 5 and section 704 shall take effect in one year.

(4) This chapter shall take effect immediately.

(5) The remainder of this act shall take effect in 60 days.