

1 AN ACT relating to children.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 199.640 is amended to read as follows:

- 4 (1) Any facility or agency seeking to conduct, operate, or maintain any child-caring
5 facility or child-placing agency shall first obtain a license to conduct, operate, or
6 maintain the facility or agency from the cabinet.
- 7 (2) The cabinet shall:
- 8 (a) Develop standards, as provided in subsection (5) of this section, which must
9 be met by any facility or agency seeking to be licensed to conduct, operate, or
10 maintain a child-caring facility or child-placing agency;
- 11 (b) Issue licenses to any facility or agency found to meet established standards
12 and revoke or suspend a license after a hearing in any case that a facility or
13 agency holding a license is determined to have substantially failed to conform
14 to the requirements of the standards; ***and***
- 15 (c) Establish and follow procedures designed to ensure that any facility or agency
16 licensed to conduct, operate, or maintain a child-caring facility or child-
17 placing agency complies with the requirements of the standards on an ongoing
18 basis.
- 19 (3) Licenses shall be issued for a period of one (1) year from date of issue unless
20 revoked by the cabinet. Each licensed facility or agency shall be visited and
21 inspected at least one (1) time each year by a person authorized by the cabinet and
22 meeting specific qualifications established by the secretary of the cabinet in an
23 administrative regulation. A complete report of the visit and inspection shall be
24 filed with the cabinet.
- 25 (4) Each license issued shall specify the type of care or service the licensee is
26 authorized to perform. The cabinet may promulgate administrative regulations to
27 establish fees that shall not exceed costs of the program to the cabinet, for the

1 proper administration of licensure. The fees collected by the secretary shall be
2 deposited in the State Treasury and credited to a revolving fund account for the
3 purpose of carrying out the provisions of this section. The balance of said account
4 shall lapse to the general fund at the end of each biennium.

5 (5) (a) The secretary shall promulgate administrative regulations establishing basic
6 standards of care and service for child-caring facilities and child-placing
7 agencies relating to the health and safety of all children in the care of the
8 facility or agency, the basic components for a quality program, as referenced
9 below, and any other factors as may be necessary to promote the welfare of
10 children cared for or placed by the agencies and facilities. Standards
11 established may vary depending on the capacity of the agency or facility
12 seeking licensure. These administrative regulations shall establish standards
13 that ensure that:

- 14 1. The treatment program offered by the facility or agency is directed
15 toward child safety, improved child functioning, improved family
16 functioning, and continuity and permanence for the child;
- 17 2. The facility or agency has on staff, or has contracted with, individuals
18 who are qualified to meet the treatment needs of the children being
19 served, including their psychological and psychiatric needs;
- 20 3. The facility or agency has procedures in place to ensure that its staff
21 receives ongoing training and that all staff members who are required to
22 do so meet all regional and national standards;
- 23 4. The facility or agency develops an integrated, outcomes-based treatment
24 plan that meets the health, mental health, education, safety, and security
25 needs of each child in its care;
- 26 5. The facility or agency has procedures in place to include parents, family,
27 and other caregivers in a child's treatment program;

- 1 6. The facility or agency has procedures in place whereby it evaluates its
2 programs on a quarterly basis and documents changes in the program if
3 the results of the review indicate a change is needed;
- 4 7. The facility or agency makes available quality programs for substance
5 abuse prevention and treatment with providers licensed under KRS
6 Chapter 222 as part of its treatment services;
- 7 8. The facility or agency initiates discharge planning at admission and
8 provides sufficient aftercare;~~and~~
- 9 9. The facility or agency has written policies and procedures in place that
10 outline the structure and objectives of cooperative relationships with the
11 community within which it is located and the local school district,
12 including outreach activities to be undertaken by the facility or agency to
13 both develop and maintain those cooperative relationships; and
- 14 **10. The facility or agency has procedures in place to ensure the proper**
15 **staff-to-child ratio is maintained with allowances for emergencies,**
16 **sickness, or other unexpected circumstances.**
- 17 (b) The secretary shall promulgate administrative regulations establishing
18 recordkeeping and reporting requirements and standards for licensed agencies
19 and facilities that recognize the electronic storage and retrieval of information
20 for those facilities that possess the necessary technology and that include, at a
21 minimum, the following information relating to children in the care of the
22 agency or facility:
- 23 1. The name, age, social security number, county of origin, and all former
24 residences of the child;
- 25 2. The names, residences, and occupations, if available, of the child's
26 parents;
- 27 3. The date on which the child was received by the agency or facility; the

- 1 date on which the child was placed in a foster home or made available
2 for adoption; and the name, occupation, and residence of any person
3 with whom a child is placed; and
- 4 4. A brief and continuing written narrative history of each child covering
5 the period during which the child is in the care of the agency or facility.
- 6 (c) The secretary may promulgate administrative regulations creating separate
7 licensure standards for different types of facilities.
- 8 (d) The secretary shall promulgate administrative regulations to establish
9 practices and procedures for the inspection of child-caring facilities and child-
10 placing agencies. These administrative regulations shall establish a uniform
11 reporting mechanism that includes guidelines for:
- 12 1. Enforcement;
13 2. Allowances and a warning system before deficiencies are cited;
14 3. Allowances for corrections to be made at the time of the inspection;
15 and
16 4. Procedures for licensees to submit a written response to warnings and
17 deficiencies and requirements that all written responses by licensees
18 be retained in their entirety.
- 19 (e) The secretary shall promulgate administrative regulations to establish
20 practices and procedures that:
- 21 1. Require any individual who inspects a child-caring facility or a child-
22 placing agency to ensure that all of his or her inspections and reports
23 are done in a proper legal manner;
24 2. Subject an individual to discipline by the cabinet, including
25 suspension or dismissal of the individual from employment by the
26 cabinet, if an inspection or report is improperly done; and
27 3. Require any individual who inspects a child-caring facility or a child-

1 *placing agency to ensure that all of his or her inspections and reports*
 2 *are completed onsite and provided to the facility before the inspector*
 3 *leaves the premises.*

4 (6) Any administrative regulations promulgated pursuant to KRS Chapter 13A to
 5 govern services provided by church-related privately operated child-caring agencies
 6 or facilities shall not prohibit the use of reasonable corporal physical discipline
 7 which complies with the provisions of KRS 503.110(1), including the use of
 8 spanking or paddling, as a means of punishment, discipline, or behavior
 9 modification and shall prohibit the employment of persons convicted of any sexual
 10 offense with any child-caring facility or child-placing agency.

11 (7) All records regarding children or facts learned about children and their parents and
 12 relatives by any licensed agency or facility shall be deemed confidential in the same
 13 manner and subject to the same provisions as similar records of the cabinet. The
 14 information thus obtained shall not be published or be open for public inspection,
 15 except to authorized employees of:

16 (a) The cabinet or of such licensed agency or facility in performance of their
 17 duties; and

18 (b) A school or local school district in which a child is enrolling or currently
 19 enrolled, in order to identify and serve the educational needs of the child, in
 20 accordance with KRS 199.802.

21 ➔Section 2. KRS 199.896 is amended to read as follows:

22 (1) No person, association, or organization shall conduct, operate, maintain, or
 23 advertise any child-care center without obtaining a license as provided in KRS
 24 199.892 to 199.896.

25 (2) The cabinet may promulgate administrative regulations pursuant to KRS Chapter
 26 13A relating to license fees and may, in the administrative regulations, establish
 27 standards of care and service for a child-care center, criteria for the denial of a

1 license if criminal records indicate convictions that may impact the safety and
2 security of children in care, and procedures for enforcement of penalties which are
3 not in contravention of this section.

4 (3) Each initial application for a license shall be made to the cabinet and shall be
5 accompanied by a fee that shall not exceed administrative costs of the program to
6 the cabinet and shall be renewable annually upon expiration and reapplication when
7 accompanied by a renewal fee that shall not exceed administrative costs of the
8 program to the cabinet. Regular licenses and renewals thereof shall expire one (1)
9 year from their effective date.

10 (4) No child-care center shall be refused a license or have its license revoked for failure
11 to meet standards set by the secretary until after the expiration of a period not to
12 exceed six (6) months from the date of the first official notice that the standards
13 have not been met. If, however, the cabinet has probable cause to believe that an
14 immediate threat to the public health, safety, or welfare exists, the cabinet may take
15 emergency action pursuant to KRS 13B.125. All administrative hearings conducted
16 under authority of KRS 199.892 to 199.896 shall be conducted in accordance with
17 KRS Chapter 13B.

18 (5) If, upon inspection or investigation, the inspector general finds that a child-care
19 center licensed under this section has violated the administrative regulations,
20 standards, or requirements of the cabinet, the inspector general shall issue a
21 statement of deficiency to the center containing:

22 (a) A statement of fact;

23 (b) A statement of how an administrative regulation, standard, or requirement of
24 the cabinet was violated; and

25 (c) The timeframe, negotiated with the child-care center, within which a violation
26 is to be corrected, except that a violation that poses an immediate threat to the
27 health, safety, or welfare of children in the center shall be corrected in no

1 event later than five (5) working days from the date of the statement of
2 deficiency.

3 (6) The Cabinet for Health and Family Services, in consultation with the Office of the
4 Inspector General, shall establish by administrative regulations promulgated in
5 accordance with KRS Chapter 13A an informal dispute resolution process through
6 which a child-care provider may dispute licensure deficiencies that have an adverse
7 effect on the child-care provider's license.

8 (7) A child-care center shall have the right to appeal to the Cabinet for Health and
9 Family Services under KRS Chapter 13B any action adverse to its license or the
10 assessment of a civil penalty issued by the inspector general as the result of a
11 violation contained in a statement of deficiency within twenty (20) days of the
12 issuance of the action or assessment of the civil penalty. An appeal shall not act to
13 stay the correction of a violation.

14 (8) In assessing the civil penalty to be levied against a child-care center for a violation
15 contained in a statement of deficiency issued under this section, the inspector
16 general or the inspector general's designee shall take into consideration the
17 following factors:

18 (a) The gravity of the threat to the health, safety, or welfare of children posed by
19 the violation;

20 (b) The number and type of previous violations of the child-care center;

21 (c) The reasonable diligence exercised by the child-care center and efforts to
22 correct the violation; and

23 (d) The amount of assessment necessary to assure immediate and continued
24 compliance.

25 (9) Upon a child-care center's failure to take action to correct a violation of the
26 administrative regulations, standards, or requirements of the cabinet contained in a
27 statement of deficiency, or at any time when the operation of a child-care center

- 1 poses an immediate threat to the health, safety, or welfare of children in the center,
2 and the child-care center continues to operate after the cabinet has taken emergency
3 action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee
4 shall take at least one (1) of the following actions against the center:
- 5 (a) Institute proceedings to obtain an order compelling compliance with the
6 administrative regulations, standards, and requirements of the cabinet;
 - 7 (b) Institute injunctive proceedings in Circuit Court to terminate the operation of
8 the center;
 - 9 (c) Institute action to discontinue payment of child-care subsidies; or
 - 10 (d) Suspend or revoke the license or impose other penalties provided by law.
- 11 (10) Upon request of any person, the cabinet shall provide information regarding the
12 denial, revocation, suspension, or violation of any type of child-care center license
13 of the operator. Identifying information regarding children and their families shall
14 remain confidential.
- 15 (11) The cabinet shall provide, upon request, public information regarding the
16 inspections of and the plans of correction for the child-care center within the past
17 year. All information distributed by the cabinet under this subsection shall include a
18 statement indicating that the reports as provided under this subsection from the past
19 five (5) years are available from the child-care center upon the parent's, custodian's,
20 guardian's, or other interested person's request.
- 21 (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and
22 certification applications shall be paid into the State Treasury and credited to a
23 special fund for the purpose of administering KRS 199.892 to 199.896 including the
24 payment of expenses of and to the participants in child-care workshops. The funds
25 collected are hereby appropriated for the use of the cabinet. The balance of the
26 special fund shall lapse to the general fund at the end of each biennium.
- 27 (13) Any advertisement for child-care services shall include the address of where the

1 service is being provided.

2 (14) All inspections of licensed and unlicensed child-care centers by the Cabinet for
3 Health and Family Services shall be unannounced.

4 (15) All employees and owners of a child-care center who provide care to children shall
5 demonstrate within the first three (3) months of employment completion of at least
6 a total of six (6) hours of orientation in the following areas:

7 (a) Basic health, safety, and sanitation;

8 (b) Recognizing and reporting child abuse; and

9 (c) Developmentally appropriate child-care practice.

10 (16) All employees and owners of a child-care center who provide care to children shall
11 annually demonstrate to the department completion of at least six (6) hours of
12 training in child development. These hours shall include but are not limited to one
13 and one-half (1.5) hours one (1) time every five (5) years of continuing education in
14 the recognition and prevention of pediatric abusive head trauma, as defined in KRS
15 620.020. Training in recognizing pediatric abusive head trauma may be designed in
16 collaboration with organizations and agencies that specialize in the prevention and
17 recognition of pediatric head trauma approved by the secretary of the Cabinet for
18 Health and Family Services The one and one-half (1.5) hours required under this
19 section shall be included in the current number of required continuing education
20 hours.

21 (17) The Cabinet for Health and Family Services shall make available either through the
22 development or approval of a model training curriculum and training materials,
23 including video instructional materials, to cover the areas specified in subsection
24 (15) of this section. The cabinet shall develop or approve the model training
25 curriculum and training materials to cover the areas specified in subsection (15) of
26 this section.

27 (18) Child-care centers licensed pursuant to this section and family child-care homes

1 certified pursuant to KRS 199.8982 shall not use corporal physical discipline,
2 including the use of spanking, shaking, or paddling, as a means of punishment,
3 discipline, behavior modification, or for any other reason. For the purposes of this
4 section, "corporal physical discipline" means the deliberate infliction of physical
5 pain and does not include spontaneous physical contact that is intended to protect a
6 child from immediate danger.

7 (19) Child-care centers that provide instructional and educational programs for
8 preschool-aged children that operate for a maximum of twenty (20) hours per week
9 and that a child attends for no more than fifteen (15) hours per week shall:

10 (a) Notify the cabinet in writing that the center is operating;

11 (b) Meet all child-care center licensure requirements and administrative
12 regulations related to employee background checks;

13 (c) Meet all child-care center licensure requirements and administrative
14 regulations related to tuberculosis screenings; and

15 (d) Be exempt from all other child-care center licensure requirements and
16 administrative regulations.

17 (20) Child-care centers that provide instructional and educational programs for
18 preschool-aged children that operate for a maximum of twenty (20) hours per week
19 and that a child attends for no more than ten (10) hours per week shall be exempt
20 from all child-care licensure requirements and administrative regulations.

21 (21) Instructional programs for school-age children shall be exempt from all child-care
22 licensure administrative regulations if the following criteria are met:

23 (a) The program provides direct instruction in a single skill, talent, ability,
24 expertise, or proficiency;

25 (b) The program does not provide services or offerings that are not directly related
26 to the single talent, ability, expertise, or proficiency;

27 (c) The program operates outside the time period when school is in session,

- 1 including before or after school hours, holidays, school breaks, teaching
2 planning days, or summer vacation;
- 3 (d) The program does not advertise or otherwise represent that the program is a
4 licensed child-care center or that the program offers child-care services;
- 5 (e) The program informs the parent or guardian:
- 6 1. That the program is not licensed by the cabinet; and
7 2. About the physical risks a child may face while participating in the
8 program; and
- 9 (f) The program conducts the following background checks for all program
10 employees and volunteers who work with children:
- 11 1. Check of the child abuse and neglect records maintained by the cabinet;
12 and
13 2. In-state criminal background information check from the Justice and
14 Public Safety Cabinet or Administrative Office of the Courts.
- 15 (22) Directors and employees of child-care centers in a position that involves
16 supervisory or disciplinary power over a minor, or direct contact with a minor, shall
17 submit to a criminal record check in accordance with KRS 199.8965.
- 18 (23) A director or employee of a child-care center may be employed on a probationary
19 status pending receipt of the criminal background check. Application for the
20 criminal record of a probationary employee shall be made no later than the date
21 probationary employment begins.
- 22 (24) *A director or employee of a child-care center may continue to be actively*
23 *employed following an allegation of abuse, neglect, or dependency unless the*
24 *cabinet has substantiated the allegation.*
- 25 (25) The cabinet shall promulgate administrative regulations to identify emergency care
26 providers who provide essential child-care services during an identified state of
27 emergency.

1 ~~(26)~~~~(25)~~ Notwithstanding any state law, administrative regulation, executive order, or
2 executive directive to the contrary, during the 2020 or 2021 state of emergency
3 declared by the Governor in response to COVID-19, including but not limited to
4 any mutated strain of the COVID-19 virus, the cabinet shall not establish any
5 restrictions on capacity for class or group size or the ability to combine classes and
6 groups for capacity limits in the morning or afternoon that is below the number that
7 was in effect on February 1, 2020.