

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on February 9, 1994.

Approved: 2-18-94
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 9, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
William Wolff, Legislative Research Department
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Christine Ross-Baze, Director of Child Care Licensing and Registration, Bureau of Adult and Child Care
Kansas Department of Health and Environment

Janet Schalansky, Director, Workforce Development Division, SRS

Others attending: See attached list

Action on Minutes

The Chair called for consideration of the minutes of February 1, 2, and 3, 1994. Senator Salisbury made a motion the minutes be approved as written, seconded by Senator Walker. The motion carried.

The Chair welcomed six nurse anesthetics from Wichita, Topeka, Pratt and Paola who were in attendance at the meeting.

Hearing on SB 615 - Regulation of child care establishments

Christine Ross-Baze, KDHE, appeared before the Committee and presented a comprehensive review of the maternity care and child care statutes designed to reflect the current evolution of child care and child placement practices that are contained in **SB 615**. A balloon of the bill was submitted to the Committee with recommendations incorporating the provisions of **SB 451** which was recommended by the Joint Committee on Children and Families during the interim. (Attachment 1)

It was noted that the maximum revenue that could be realized from the proposed fee structure is \$476,000, and all of the fees are raised to the maximum level. The cost is estimated to be \$200,000. Ms. Ross-Baze commented that if KDHE did increase all of the fees to the maximum, it would have a negative program impact. Local health departments would absorb the fiscal impact, and they would need to restructure their program to accommodate the growth as well as receive the fees proposed in the bill.

Janet Schalansky, SRS, addressed the Committee and pointed out that there are two major programs within SRS that are effected by **SB 615**: foster care and child care. A detailed outline of the bill was presented to the Committee with recommended changes as shown in Ms. Schalansky's written testimony. (Attachment 2)

Opponents of the bill will be heard at the Committee meeting on February 17, 1994.

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 10, 1994.

GUEST LIST

COMMITTEE: SENATE PUBLIC HEALTH & WELFARE

DATE: 2-9-94

NAME	ADDRESS	COMPANY/ORGANIZATION
LINDA MCGILL	TOPEKA	PETE M. GILL & ASSOC
MARSHA COTNER ^{NURSE ANESTHETIST} CRNA	PRATT	Ks ASSN of NURSE ANESTHETISTS
Nancy MORRISON	W-Miami County Hospital R-Overland Park KS	"
JOSEPH P. CONROY	EMAPORIA	KS ASSOC NURSE ANESTHETISTS
Nancy Whitaker	Valley Center, KS 67147	Ks Assoc of Nurse Anesthetists
Victoria DeRoe, CRNA	Derby, KS 67037	K.A.N.A.
Joe Furjanic	Topeka	KCA
Bob Williams	Topeka	Ks Pharmacists Assoc
Shirley Norris	Topeka	KAEYC
Chris Ross Bze	Topeka	KDHE
Josh Keene	Topeka	KDHE
Eugene Jueger	Topeka	KDHE
Robert Hardey	LSOB	KDHE
Janet Schalewsky	SRS/Topeka	SRS
ARTHUR LANDIS	TOPEKA	CHRISTIAN SCIENCE GLEANINGS PUBLICATION FOR KS
Leslie R. Allen	Wichita	Active Age Newspaper
Janice Lee	Topeka	Senate Staff
CARY Robbins	Topeka	KS OPT ASSN
Thomas R. Egan	PAEK	KAOA
Steve Clifton	Topeka	KANA

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

TESTIMONY PRESENTED TO
THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
BY
THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
SENATE BILL 615

Senate Bill 615 pertains to the provisions found in Article 5 of chapter 65 relating to the regulation of maternity hospital or homes and homes for children. These statutes were first enacted in 1919 to provide safeguards for children who were cared for in institutions, orphanages and day nurseries and for pregnant girls and women, many of whom were poor and unwed, and in need of protection from exploitation, illegal adoption practices and unsafe care.

Senate Bill 615 is a comprehensive review of the maternity care and child care statutes and is designed to reflect the current evolution of child care and child placement practices. The intent is to remove archaic language and duplication, to define regulatory authority more clearly and to define and use terms consistently throughout the section. In addition to the technical changes, the proposed amendments contain some policy issues that are consistent with the mission of the child care licensing and registration section which is to provide safeguards so that children in out of home care are being cared for in environments that are healthy, safe and developmentally appropriate.

The nature of child care has evolved considerably over the years. With both parents in the work force, children are being cared for by non relatives in day care homes or in a preschool or child care center environment. In fact, child care is the fastest growing cottage industry today. Along with the increased demand for child care, parents are having a difficult time finding child care. Licensed child care referral agencies have evolved out of this need and are available to provide this service in various communities.

For many years now Kansas has moved away from institutional care of children. Residential care located in community settings now provide a variety of traditional and non-traditional services such as respite care, family foster care, therapeutic foster care, emergency shelter care, residential treatment and residential alternatives to the placement of juvenile offenders into adult jails.

The placement practices of child placement agencies has also evolved considerably over the years. While the placement of newborns is still a part of agency adoptions, the placement

*Senate PH & W
Attachment #1*

2-9-94

of older children and children with special needs are a significant part of the practice of adoption. Many private agencies also place children into foster care. The reasons for placement vary considerably due to the specific needs of the family and the child. Senate Bill 615 is designed to address needed changes in the statute to reflect current practice in the field and changes needed to facilitate the Department's ability to manage the growth in the regulatory program efficiently and effectively.

The following is a summary of the proposed changes:

NEW SECTION 1. Proposed legislation defines the act as the Kansas act for the regulation of child care establishments.

NEW SECTION 2. Defines the purpose of the act which is to protect the health, safety and welfare of adults and children who are affected by or use the services provided by the child care establishments.

NEW SECTION 3. This section updates archaic language and puts into the statute definitions that are currently found in regulation. A "pink sheet" titled LICENSING AND REGISTRATION OF CHILD CARE IN KANSAS is included as supplemental testimony and describes what is currently regulated under KSA 65-501 et seq. Of particular note are the following definitions:

"Child Care Facility" replaces the current language of "boarding home" or "home for children". This definition encompasses the categories of child care that are currently regulated (child placement agencies and day care referral agencies are defined separately) and maintains the Secretary's authority to define new programs needing regulation. Family child care homes (currently referred to as family day care homes) are included in the definition of child care facility.

"Child care referral agency" replaces "day care referral agency" and more precisely defines what is regulated. The purpose of the proposed language is to reduce the ambiguity in the current definition and to more accurately reflect the activities of these agencies. Child care resource and referral services are an integral part of the total child care system. The licensing of these programs has enabled the Department to standardize and formalize this system so that parents, and other agencies such as SRS, can easily access referral services. In fact, the usage rate of Kansas resource and referral agencies is 11th nationwide, in part, due to the visibility of these agencies. The regulation of child care resource and referral agencies is to insure that parents are being referred to legally operating child care providers and to insure that referrals are not made to illegal providers or providers that are not qualified to care for children.

"Child placement agency" has been redefined to reflect the current practice of adoption and foster care placement. It removes archaic terms and ambiguity in the existing definition. Kansas currently allows agency adoptions and independent adoptions under the Adoption and Relinquishment Act. The proposed definition does not change what is already legally permitted under the Adoption and Relinquishment Act. The current child placement agency definition refers only to the placement of children who are orphans, deprived or children in need of care and these terms do not accurately reflect the current adoption practices of child placement agencies regulated by the Department. Many birth parents relinquish their rights to a child placement agency so that the agency can place the child for adoption.

The evolving practice of child placement agencies is to place children not only for adoption but also to place children into foster care. Some children in foster care are adjudicated a child in need of care, but many children are placed into emergency foster care without an

adjudication or are juvenile offenders. The Department currently regulates these agencies. The language recommended in this definition is to reflect the full range of current practice. There are currently 16 child placement agencies providing foster care services. These agencies supervise over 500 family foster homes with the capacity to serve over 1100 children at any one time.

Family child care home" is a redefinition of a registered family day care home. The balloon reduces the number of children allowed to be in care from 6 children to 4 children. Further, it only counts the provider's own children if they are under 12 years of age. Currently the provider's own children are counted up to 16 years of age. The balloon was added from Senate Bill 451. Smaller group size allows for more one-to-one interaction, intimate knowledge of individual children and consistent caregiving. Smaller numbers of children are easier to supervise and the public health risks associated with communicable diseases and intentional and unintentional injury is also lessened. This policy shift will reduce the number of children allowed to be cared for in the self-assessment program. If a registered child care home wishes to care for more than 4 children they will need to become licensed. Conducting annual inspections on additional homes will increase the Department's ability to assess compliance with minimum standards for the healthy, safe and developmentally appropriate care of children. With the increase in regulatory oversight and the consumer education provided to parents detailed in another section of this bill, overall compliance with baseline quality should increase.

Prior to 1980, all day care homes were licensed and inspected by the Department. In 1980 the statutes were amended to allow for the registration of family day care homes based on the registrant's self assessment that the home was safe for child care. The registration program continues to be a self assessment program. The Department does not provide routine regulatory oversight to ensure that minimum requirements are being met. The Department only conducts visits to registered family day care homes if there has been a complaint. When the Department has conducted complaint inspections, the registered home is rarely in compliance with rules and regulations even though the registrant has attested to being in compliance. The surrounding states, Colorado, Nebraska, Missouri and Oklahoma do not have self assessment programs. These states conduct inspections on all day care homes required to be regulated.

"Maternity home" is redefined as child care facility that provides cares for pregnant females under 18 years of age. Currently the Department regulates maternity homes caring for pregnant women of all ages including adults. The proposed language will require regulation only for those maternity homes that plan to care for at least one pregnant female under 18 years of age. In 1919, it was thought that all pregnant women, many of whom were poor and unmarried, were vulnerable because of their pregnant condition and needed protection from exploitation. Today, pregnant teenagers and young adults are most frequently in care in maternity homes. Under the proposed language, the Department will continue to regulate maternity homes that care for this younger age group and not continue to regulate under this statute maternity homes that only serve adults.

NEW SECTION 4. This section is a restatement of KSA 65-501 and does not represent a change in current law.

SECTION 5. This section amends KSA 65-504 by updating archaic language regarding the conditions under which a license can be granted. The requirements in this section reflect current practice and clarify requirements.

SECTION 6. amends KSA 65-505 by increasing the maximum licensing fees that may be charged by the Department, by removing the maximum amount of \$75.00, authorizing the Department to charge a maximum fee for a family foster home license, authorizing the Department to assess to assess a fee equal to the annual fee but not to exceed \$35.00 for a licensing amendment or for a penalty for late renewal. The actual amount of the fee is set by regulation. The Department will increase fees by promulgating regulations for the fee in the amounts needed to offset expenditures authorized through the budget process. The penalty fee for late renewal is to encourage timely submission of the fee. The fee for amended licenses is designed to decrease frequent requests for licensing amendments which often take additional staff time to approve.

SECTION 7. amends KSA 65-506 updates existing notification language and adds a new provision under (c) prohibiting SRS or any other person from using the services of a child placement agency that is operating illegally.

SECTION 8. amends KSA 65-507 by defining what records need to be kept by regulated facilities and agencies and what records are confidential.

SECTION 9. amends KSA 65-508 by updating existing language regarding the Secretary's authority to write rules and regulations.

SECTION 10. amends KSA 65-510 by updating existing language.

SECTION 11. amends KSA 65-512 by defining which agency is responsible for inspecting and causing to be inspected child care facilities, child placement agencies, and child care referral agencies. The inspection responsibilities reflect current practice between SRS and KDHE by giving statutory authority for inspecting family foster homes and child placement agencies to SRS.

SECTION 12. amends KSA 65-514 by replacing existing language with a "class C" misdemeanor instead of an unspecified misdemeanor. It further deletes the language that mandates a fine of \$5 to \$50. The provisions under this section have been used by the Department to suppress illegal care operations when other administrative methods have failed. The class C provision allows for greater discretion by the district court in determining an appropriate disposition. A class C misdemeanor carries with it the possibility of diversion, monetary fine, probation and incarceration. All these options have been used by the courts in prosecuting illegal care operations.

The criminal penalty also applies to violations of rules and regulations. The Department has used this statute in reference to illegal care and has not applied it to violations of rules and regulations although the existing language is ambiguous. The possibility of a criminal sanction provides additional support for the enforcement of regulations when administrative sanctions have failed.

SECTION 13. amends KSA 65-515 by authorizing the Secretary to petition the court for an injunction to enjoin a person from continued violation of the act or rules and regulations under the act. This not only pertains to enjoining an illegal care operation but also a person who willfully violates regulations. Injunctive relief, used currently to suppress illegal operations, has been successful in achieving the goal of the program which is compliance with minimum requirements. The majority of providers against whom the Department has requested injunctive relief, have applied to become regulated, met the requirements and received a license or certificate. This authority is meant to be another interim sanction available to the Department when administrative sanctions have not been successful in getting

compliance. For example, if the husband of a provider is a prohibited person, and he is found on the premise while children are in care, the Department could file an injunction instead of filing a proceeding to revoke or suspend the license. If a larger facility adds additional units without approval or without meeting requirements and administrative sanctions do not achieve compliance, the Department could request an injunction to close the additional units instead of revoking the entire license.

SECTION 14. amends KSA 65-516 by defining more specifically crimes that are prohibited. All felony and misdemeanor convictions of crimes against persons are still prohibited. The amendment adds convictions of conspiracy and solicitation under article 33 of chapter 21 if linked with a crime that is already prohibited. The most frequent example is that someone is convicted of conspiracy to distribute cocaine. A felony conviction for distributing cocaine is already a prohibited offense. This amendment would also make the conspiracy conviction a prohibited offense.

Proposed changes affecting adjudications reflect the proposed changes to the conviction section by adding adjudications under article 33 of chapter 21.

Other amendments in this section are technical changes.

SECTION 15. amends KSA 65-518 by updating language. It still authorizes registration as an option to licensure.

SECTION 16. amends KSA 65-519 by proposing an increase in the registration fee to \$15.00 from the current amount of \$5.00. The fee increase is to partially fund the anticipated fiscal note created by this bill.

The requirement for a registered family child care home provider to notify parents of what is required for registration and to keep signed documentation on file is a positive step in building parental awareness of what constitutes basic requirements for the care of children. It will increase parental and community awareness of what appropriate expectations are for the care of children. The balloon was taken from Senate Bill 451.

SECTION 17. amends KSA 65-520 by clarify the authority of the secretary to assess compliance following a complaint and specifies that compliance with rules and regulations can be assessed. It further requires that the registrant notify the secretary within two weeks when the home is closed.

SECTION 18. amends KSA 65-522 by authorizing the secretary, with the cooperation of SRS, to write rules and regulations for the registration program in areas consistent with the health, safety and welfare of children. The Department already has general unspecified authority to write regulations to "implement the registration provisions" but the parameters of this authority are not defined. The proposed language is intended to make the Secretary's authority clear and specific.

SECTION 19. KSA 65-523 The proposed changes to this statute define enforcement authority and consolidate the current enforcement authority in license and registration statutes. The Secretary is given additional authority to put conditions and limitations on a license, temporary permit or on a certificate. An example of this could involve outbreaks of communicable diseases. In the past, the Department has worked with providers on a voluntary basis to limit licenses instead of revoking or suspending licenses. One example is limiting enrollment of new children into a child care center when there is an outbreak of a communicable disease or unexplained illness. While the Department has been successful so

far in achieving voluntary compliance, having the enforcement authority would allow the Department to limit the license when voluntary compliance cannot be achieved. Suspending a license in this example would result in the children going to other care providers and would make it more difficult to control the outbreak. The Department has also worked with day care home providers to voluntarily limit the number of younger children allowed to be cared for when the provider cannot medically care for that younger age range. Limiting the license has allowed the provider to continue caring for children.

Falsification and deliberate misrepresentation on official records has been a growing problem. The Doctors' signatures on medical records have been forged, the KBI/SRS child abuse registry has been filled out by the provider indicating no convictions or validations of child abuse and the checks have come back showing a history which includes prohibited offenses. Proposed changes subject this behavior to possible enforcement action. Falsification of the application is currently grounds for revocation in the registration statutes.

Proposed changes also extend the Secretary's authority to issue an enforcement action based on noncompliance with an agency order. For example, consent agreements are being used more frequently by the Department to achieve compliance instead of revoking a license or certificate. This authority would allow the Department to issue an intent to revoke order or other sanction for failure to comply with the consent agreement.

SECTION 20. amends KSA 65-524 by updating existing language. No substantive changes are being proposed.

SECTION 21. amends KSA 65-525 by adding SRS under the confidentiality requirements and by clearly stating that complainant's names are confidential.

SECTION 22. amends KSA 65-526 and authorizes the Secretary to assess a civil fine for up to \$500 per violation. Existing language authorizes \$500 but does not give specific direction in this matter. Existing practice is to assess a fine based on the findings in the incident no matter how many violations are cited. In some instances this is simply inadequate for the degree of noncompliance that is cited especially when the facility is cited for ongoing excessive over enrollment. The use of civil fines has been successful as an interim sanction to achieve compliance and the Department would like to have more flexibility in the use of this sanction.

SECTION 23. amends KSA 65-527 by defining terms consistently with other parts of the statute. No substantive changes are being proposed.

NEW SECTION 24. This section was added in case a provision of the act is found to be unconstitutional, only that provision is affected and not the entire act.

SECTION 25. This section repeals KSA 65-501 to 65-508 inclusive and 65-510 to 65-527 inclusive.

SECTION 26. This section authorizes the effective date of this act.

NEW SECTION ____ This balloon is exact language from the New Section One in Senate Bill 451 which defines the desired outcome and guidelines for the child care policy for the State of Kansas.

The remaining ballooned sections update archaic language related to "boarding homes for children" in related statutes to be consistent with the new definitions proposed in this bill. One significant change is noted in K.S.A 59-2123 (Adoption Code). "Maternity hospital" is redefined as a "specialized hospital which provides delivery services for normal, uncomplicated pregnancies". The redefinition of maternity hospital will allow the regulation of maternity centers to move to the hospital statutes. There is one maternity center in the state and the facility is aware of this proposed change.

FISCAL IMPACT

- 1) The reduction in the capacity of a registered family day care home from 6 children to 4 children will likely result in registered providers becoming licensed to care for children. The registration program is a self assessment program. The licensing programs require inspections by the local health departments. It is estimated that this will increase the routine workload for the local health departments by 8 hours for every registered home that becomes licensed as a result of this change. If 50% of the current registered providers become licensed this will result in 2,250 homes X 8 hours = 18,000 hours. If the average wage for a licensing surveyor is \$11.00/hour the impact will be \$198,000. (It is estimated that the cost to license a home instead of registering a home is a difference of \$88 per home)

Fiscal Impact \$198,000

This change will also have a long term fiscal impact as the licensing programs continue to grow. In the last two fiscal years the licensed day care home program grew 23%. This percentage will likely increase with the movement of registered homes to the licensed day care home category. Currently registered homes move to the licensed home category at a rate of 7% per year.

- 2) The requirement to give a list of requirements to parents and to keep a signed copy on file at the registered home will increase KDHE printing costs. Estimates are based on a two page front and back form ordered in batches of 10,000. A more detailed parent booklet will have a greater fiscal impact.

Fiscal Impact \$2,500

- 3) Total fiscal impact to the Department based on the above is \$200,500*

*Figures used in this estimate are based on projected FY 95 growth figures.

- 4) Maximum revenue that can be generated by implementing the proposed fee structure is estimated to be \$476,308. However, if all the fees were raised to the maximum, there would be a negative program impact especially in the licensed child care home category and group child care home category due to the financial hardship that would be created. Fees were last increased by the Department in 1987.

Presented by: Christine J. Ross-Baze, Director
Child Care Licensing and Registration
Bureau of Adult and Child Care
Kansas Department of Health and Environment

Date: February 9, 1994

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
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LICENSING AND REGISTRATION
OF CHILD CARE IN KANSAS
(Authorized by K.S.A. 65-501 through K.S.A. 65-527)

I. INTRODUCTION

The original licensing law which was passed in 1919 placed the licensing authority with the Kansas Department of Health and Environment. The Department administers the licensing law as a preventive program to assure that out-of-home care for children and maternity patients will not be exploitive, unsafe or unhealthy. The main purpose of the law is to protect the health, safety and welfare of children receiving care away from their parents and home. It is also a consumer protection law assuring parents that the care they are paying for meets minimum standards of good care.

Registration or Licensure (depending on the number of children in care) is required regardless of the motivation for providing care, and whether or not there is advertisement of or payment for services. The essential fact is that a child or children receive care away from their own homes.

Registration or licensing is not required as follows:

- 1) When child care is provided for not more than two children for not more than two children unrelated to the provider for 20 hours a week or less and the home has not been closed as a result of enforcement action.** Total time is determined by adding the hours each child is cared for weekly.
- 2) When irregular child care is arranged between friends and neighbors on an exchange basis.
- 3) When child care is provided in the child's own home.
- 4) When child care is provided in the home of the child's relative.

II. CATEGORIES OF CHILD CARE

A. DAY CARE (less than 24 hours per day)

1. Licensed Day Care Home (K.A.R. 28-4-113 et seq.)

"Licensed day care home" means a home in which care is provided for a maximum of **TEN** (10) children under 16 years of age with limited number of children under kindergarten age. This total includes children under **ELEVEN** (11) years of age related to the provider.

2. Group Day Care Home (K.A.R. 28-4-113 et seq.)

"Group day care home" means a home in which care is provided for a maximum of **TWELVE** (12) children under 16 years of age with a limited number of children under kindergarten age. This total includes children under **ELEVEN** (11) years of age related to the provider.

3. Registered Family Day Care Home (K.S.A 65-517 et seq. and K.A.R. 28-4-120, 122 through 131.)

"Registered family day care home" means the family's own residence in which care is provided by the applicant for not more than six children from birth to 16 years of age with not more than three children under 18 months of age. All children under 16 years of age related to the provider are included in the total (Legislation effective 7-1-80).

4. Child Care Centers/Preschools (K.A.R. 28-4-420 et seq.)

a. "Child care center" means a facility in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care, or which provides before and after school care for school-age children. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations.

b. "Preschool" means a facility which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 72-1107(c) and any amendments thereto, and who are 30 months of age or older; which conducts sessions not exceeding three hours per session; which does not enroll any child more than one session per day; and which does not serve a meal. The term "preschool" shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and

cooperatives. A preschool may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations. In lieu of being licensed, preschools operated in the same building as private schools providing kindergarten through grade six shall be governed by Kansas statutes applicable to private schools.

B. RESIDENTIAL CARE

1. Family Foster Home (K.A.R. 28-4-311 et seq.) -- Twenty-four hour family care for one to four children.
2. Group Boarding Home (K.A.R. 28-4-268 et seq.) -- Twenty-four hour nonsecure care for five to ten children.
3. Residential Center (K.A.R. 28-4-268 et seq.) -- Twenty-four hour nonsecure care for over ten children.
4. Attendant Care Facility (K.A.R. 28-4-285 et seq.) -- Non secure care not to exceed 24 hours excluding weekends and holidays for juveniles taken into custody.
5. Detention Center (K.A.R. 28-4-350 et seq.) -- A secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders pending court disposition or placement in an appropriate program and which, if in a city or county jail, must be in quarters separate from adult prisoners.
6. Secure Care Center (K.A.R. 28-4-350 et seq.) -- A secure youth residential facility, other than a juvenile detention facility, used to provide care and treatment for alleged or adjudicated children in need of care pursuant to the Kansas code for the care of children.

The State Department of Health and Environment does not place children in residential care. Children are placed by parents, by a public agency such as Social and Rehabilitation Services, or by a private child placing agency licensed to perform a placement service.

C. SPECIAL CATEGORIES OF SERVICE REQUIRING A LICENSE

1. Child Placing Agency (K.A.R. 28-4-170 et seq.) -- A social service agency which receives children for services including placement in institutions or in foster family homes, or for adoption.
2. Maternity Care (K.A.R. 28-4-268 et seq.) -- Residential care which includes services to females during pregnancy.
3. Maternity Center or Hospital (K.A.R. 28-4-370 et seq.) -- A facility not licensed as a medical hospital, which provides delivery services for normal, uncomplicated pregnancies.
4. Day Care Referral Agency (K.A.R. 28-4-185 et seq.) -- An association, organization, individual or corporation receiving, caring for, and finding homes for children under 16 years of age who need day care.

D. FURTHER INFORMATION:

1. Health certificates are required for all persons **SIXTEEN** (16) years of age and older in contact with children.
2. Medical records on all children and youth in care must be on file at the child care facility.
- **3. The Secretary of the Kansas Department of Health and Environment (KDHE) may levy a fine, suspend, deny or revoke a license or a certificate of registration for violation of regulations of the child care licensing statutes.

Information about licensing procedures and copies of regulations may be obtained from the county health departments (address under county government) or by writing Child Care Licensing & Registration Section, Bureau of Adult and Child Care, Kansas Department of Health and Environment, Suite 400-C, Mills Bldg., 109 SW 9th Street, Topeka, Kansas 66612-2217, Telephone number (913) 296-1270.

INFORMATION COMPARING REGISTERED FAMILY DAY CARE HOMES
WITH LICENSED DAY CARE HOMES OR GROUP DAY CARE HOMES

REGISTERED FAMILY DAY CARE HOMES

LICENSED DAY CARE HOMES OR GROUP DAY CARE HOMES

RESPONSIBILITY

The child care provider must evaluate safety and health standards within her own home. Signed statements attesting to these conditions must be submitted for registration. (K.S.A. 65-518)

Compliance with safety and health standards within the home is determined: 1) by a self-evaluation form filled in by the provider; and 2) evaluation of safety and health standards by a child care facility surveyor.

NUMBER OF CHILDREN

Maximum of 6 children in the home at any one time was established by law. This total, from birth to 16 years of age includes the provider's own children. Three of the 6 children may be under 18 months of age. (K.S.A. 65-517)

Licensed Day Care Home: Maximum of 10 children, infancy through 16 years of age with a limited number of children under kindergarten age. This number includes the provider's own children under 11 years of age. (See "Regulations for Licensing Day Care Homes and Group Day Care Homes" for specific groupings.)

OR

Group Day Care Home: Maximum of 12 children under 16 years of age. Two adults may be required. (See "Regulations for Licensing Day Care Homes and Group Day Care Homes.")

CHECKLIST

Safety Evaluation Form is to accompany registration application. All applicable items must be in compliance before a certificate can be issued by KDHE. (K.S.A. 65-519)

Provider Checklist is to be forwarded to the county health department together with the application or application renewal.

KBI/SRS FORM

Complete information regarding name, date of birth, and address of each person over 10 years of age living, working, substituting, and/or regularly volunteering in the home is to be submitted at the time of application, and application renewal. Same information is to be submitted within one week to KDHE for any new person in the home. Screening is done by KBI for criminal history and by SRS for child abuse and/or neglect.

HOME VISITS

No registration inspection is made by a child care facility surveyor acting on behalf of the state, prior to issuance of a Certificate of Registration, unless there is a request by the applicant or there is a complaint. KDHE has right of entry to check compliance after receiving either an oral or written complaint. (K.S.A. 65-520)

A licensing inspection is conducted at least one time a year.

NOTE: Counties or cities may have codes or ordinances requiring an inspection and approval for legal operation of the registered home.

HEALTH REQUIREMENTS

Effective July 1, 1986, any first time applicant must sign a statement certifying health assessments conducted within the past year are on file at the home for self and for all persons over 16 years of age living or working in the home and helping with the children in care. (K.A.R. 28-4-126) Documentation of negative TB test is needed on file for substitute(s). Renewal applicant must sign a statement annually that everyone living, working, volunteering, and/or substituting in the home is free from contagious and infectious diseases.

Health assessments conducted within the past year are to be on file for day care providers 16 years of age and older. A negative TB test obtained no more than two years prior to application or employment must be submitted for persons 16 years of age and older at the time of application or initial employment.

Health assessments are required at the time the child is enrolled but not thereafter. Current immunizations are required for all children in care.

Immunization report for children in care, including own children, is to be provided on the Safety Evaluation Form.

FEE

\$5.00 is to be paid at the time of application or application renewal.

\$15.00 is to be paid at the time of application or application renewal.

REGISTERED FAMILY DAY CARE HOMES

LICENSED DAY CARE HOMES OR GROUP DAY CARE HOMES

GENERAL REQUIREMENTS

Kansas Administrative Regulations 28-4-122 through 132 are minimum requirements applicable to all categories of child care and cover parental access to the day care home, parental permission to go off the premises, information for criminal and child abuse histories, health of persons 16 years of age and older, emergency preparations and procedures, safety procedures, swimming and wading requirements, transportation requirements, pet policies, and child care practices in regard to supervision, appropriate discipline, prohibited punishment, and diapering and toileting procedures.

ENFORCEMENT

The certificate of Registration may be revoked, denied, or suspended, or the registrant may be fined if false information is given or if the home is found on complaint not to be in compliance. (K.S.A. 65-521, 523, 524)

The license may be revoked, denied, suspended or the licensee fined if regulations are not met.

Enforcement procedures are spelled out in the Kansas Statute 65-514 and 65-515 and apply to unregulated care as follows: A fine of \$5.00 to \$50.00 may be assessed by the court for each day that unregulated care is provided.

FEDERAL REIMBURSEMENT (Title XX)

SRS will purchase care from registered homes after an SRS worker visits to check compliance with purchase-of-service requirements.

SRS will purchase care from Licensed homes.

CHILD CARE FOOD PROGRAM

The State Department of Education has ruled that Registered Homes are eligible to receive food reimbursement after they have been issued a certificate of registration. Four yearly visits are required by Federal Guidelines.

The State Department of Education has ruled that all Licensed Day Care Homes are eligible to receive food reimbursement after receiving a Temporary Permit or license. A minimum of 4 yearly visits are required by Federal Guidelines.

INSURANCE

Accident and liability insurance are required on any vehicle used for transporting children. Other insurance is optional, but recommended.

SPECIFIC SPACE REQUIREMENT

None required by state law.

25 square feet of available play space is required per child.

Any applicant may choose to be licensed, even though six or fewer children are in care. For help in deciding whether registration or licensing is best for you, you may contact your local health department, or you may contact the State office directly. The address and telephone number are given below.

Kansas Department of Health and Environment
Bureau of Adult and Child Care
Child Care Licensing and Registration
Mills Building, 109 SW 9th, Suite 400-C
Topeka, Kansas 66612-2217 Phone: (913) 296-1270

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
CHILD CARE LICENSING AND REGISTRATION PROGRAM
JUNE 30, 1993

ENFORCEMENT ACTIONS INITIATED	FY 91	FY 92	FY 93
NOTICES OF NONCOMPLIANCE	293	347	567
CIVIL FINES	58	53	28
EMERGENCY SUSPENSIONS	11	6	16
INTENT TO DENY	34	45	34
INTENT TO REVOKE	27	36	39
INTENT TO SUSPEND	0	0	2
INJUNCTION	0	0	6
TOTAL ACTIONS	423	487	692

TOTAL NUMBER OF FACILITIES/AGENCIES	FY 91 ACTUAL	FY 92 ESTIMATED	FY 93 ACTUAL
REGISTERED DAY CARE HOMES	4023	4124	4277
LICENSED DAY CARE HOMES	3633	3960	4480
GROUP DAY CARE HOMES	385	418	478
CHILD CARE CENTERS	683	765	863
PRESCHOOLS	373	369	364
DAY CARE REFERRAL AGENCIES	14	17	19
ILLEGAL CARE FILES	UNKNOWN	210	61
TOTAL OF DAY CARE FACILITIES AND AGENCIES (ILLEGAL CARE NOT INCLUDED)	9,111	9,653	10,481
ATTENDANT CARE FACILITIES	35	40	44
GROUP BOARDING HOMES	50	51	53
RESIDENTIAL CENTERS	38	39	40
DETENTION CENTERS	7	6	7
SECURE CARE CENTERS	1	2	2
CHILD PLACEMENT AGENCIES	39	43	47
MATERNITY CENTERS	1	1	1
FAMILY FOSTER HOMES	1835	1908	1982
TOTAL FACILITIES AND AGENCIES	11,117	11,743	12,718

SENATE BILL No. 615

By Committee on Public Health and Welfare

1-26

AN ACT relating to regulation of child care establishments; amending K.S.A. 65-504, 65-505, 65-506, 65-507, 65-508, 65-510, 65-512, 65-514, 65-515, 65-516, 65-518, 65-519, 65-520, 65-522, 65-523, 65-524, 65-525, 65-526 and 65-527 and repealing the existing sections; also repealing K.S.A. 65-501, 65-502, 65-503, 65-511, 65-513, 65-517 and 65-521.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. This act shall be known and may be cited as the Kansas act for regulation of child care establishments.

New Sec. 2. This act is for the purpose of protecting the health, safety and welfare of adults and children who are affected by or use the services provided by child placement agencies, child care referral agencies or child care facilities.

New Sec. 3. As used in this act:

(a) "Attendant care facility" means a child care facility engaged in one-on-one direct supervision of a juvenile who has been taken into custody.

(b) "Child care center" means a child care facility which provides care and educational activities for 13 or more children for more than three hours a day or which provides before or after school care for school-age children.

(c) "Child care facility" means a place conducted, maintained or operated by a person caring for one or more children under 16 years of age unattended by parent or guardian, including an attendant care facility, child care center, child care home, family child care home, family foster home, group boarding home, group child care home, juvenile detention facility, preschool, residential center, secure care center or a place conducted, maintained or operated by a person caring for one or more pregnant females under 18 years of age, or other institution of a type determined by the secretary to require regulation under this act. place

(d) "Child care referral agency" means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child

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1 care.

2 (e) "Child placement agency" means a business or service con-
3 ducted, maintained or operated by a person engaged in finding
4 homes for children by placing or arranging for the placement of such
5 children for adoption or foster care. "Arranging for placement" in-
6 cludes, but is not limited to, recruiting, developing, training, in-
7 specting, supervising and recommending for licensure family foster
8 homes used by a child placement agency.

9 (f) "Child care home" means a child care facility providing care
10 for a maximum of 12 children less than 24 hours a day.

11 (g) "Family child care home" means a child care facility operated
12 by a resident of the home in which care is provided for a maximum
13 of ~~one~~ children, three of whom may be less than 18 months of age,
14 less than 24 hours a day.

four

less than 16 years of age

15 (h) "Family foster home" means a child care facility operated in
16 a private home in which care is given for 24 hours a day for a child
17 or children away from their parent or guardian.

18 (i) "Group boarding home" means a child care facility which is
19 a nonsecure facility providing 24-hour care for not less than five nor
20 more than 10 children.

Any child of the operator of a family child care home shall count
toward the limitation of four children, if such child is less than
12 years of age and is cared for in the home.

21 (j) "Group child care home" means a child care facility providing
22 care for a maximum of 14 children less than 24 hours a day.

23 (k) "Juvenile detention facility" means a child care facility which
24 is a secure public or private facility used for the lawful custody of
25 accused or adjudicated juvenile offenders which shall not be a jail.

26 (l) "Maternity home" means a child care facility providing care
27 for one or more pregnant females under 18 years of age.

28 (m) "Person" means an individual, corporation, government, gov-
29 ernmental subdivision or agency, partnership, association or any
30 other legal entity.

31 (n) "Preschool" means a child care facility which provides care
32 and educational activities for children who have not attained the age
33 of eligibility to enter kindergarten and who are 30 months of age
34 or older, which conducts sessions not exceeding three hours, which
35 does not enroll any child for more than one session per day and
36 which does not serve a meal.

37 (o) "Residential center" means a child care facility which is a
38 nonsecure facility and which provides 24-hour care for more than
39 10 children.

40 (p) "Secure care center" means a child care facility, other than
41 a juvenile detention facility, which is used to provide care and treat-
42 ment for alleged or adjudicated children in need of care pursuant
43 to the Kansas code for the care of children and which is operated

1 or structured to ensure that all entrances or exits from such facility
2 are under the exclusive control of the staff or which relies on locked
3 rooms and buildings, fences or physical restraint in order to control
4 the behavior of the children.

5 (q) "Secretary" means the secretary of health and environment.

6 New Sec. 4. It is unlawful for any person to conduct, maintain
7 or operate a child placement agency, child care referral agency or
8 child care facility in this state without a license, certificate of reg-
9 istration or temporary permit issued by the secretary under this act.
10 Nothing in this act shall apply to any institution maintained by the
11 state or any individual caring for, placing or arranging for the place-
12 ment of children related by blood, marriage or legal adoption.

13 Sec. 5. K.S.A. 65-504 is hereby amended to read as follows: 65-

14 504. (a) (1) The secretary of health and environment shall have
15 the power to ~~may~~ grant a license to a person, firm, corporation
16 or association to maintain a maternity hospital or home, or a
17 boarding home for children under 16 years of age to conduct,
18 maintain or operate a child care facility, except for a family child
19 care home, who submits a complete application and meets the re-
20 quirements of this act and rules and regulations of the secretary.

21 The license shall state the name of the licensee, describe the par-
22 ticular premises in or at which the business shall be carried on,
23 whether it shall receive and care for women or children, and
24 the number of women or children that may be received, treated,
25 maintained, boarded or cared for at any one time. No greater
26 number of women or children than is authorized in the license shall
27 be kept received, treated or cared for on those premises, and the
28 business shall not be carried on in a building or place not designated
29 in the license. The license shall be kept posted in a conspicuous
30 place in the hospital or house in which the business is con-
31 ducted. The secretary of health and environment shall grant
32 no license in any case until careful inspection of the maternity
33 hospital or home, or home for children shall have been made
34 according to the terms of this act and until such maternity
35 hospital or home, or home for children has complied with all
36 the requirements of this act. No license shall be granted with-
37 out the approval of the secretary of social and rehabilitation
38 services, except that the secretary of health and environment
39 may issue, without the approval of the secretary of social and
40 rehabilitation services, a temporary permit to operate for a pe-
41 riod not to exceed 90 days upon receipt of an initial application
for license child care facility.

42 (2) The secretary may grant a license to a person to conduct,

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1 maintain or operate a child placement agency who: (A) Has a prin-
2 cipal office or place of business which is physically located in this
3 state, (B) submits a complete application and (C) meets the require-
4 ments of this act and rules and regulations of the secretary. The
5 license shall state the name of the licensee, describe the particular
6 premises in or at which the business shall be carried on, and if
7 applicable, the number of family foster homes that may be super-
8 vised. The license shall be posted in a conspicuous place in the child
9 placement agency. No license or temporary permit shall be issued
10 to a child placement agency without approval of the secretary of
11 social and rehabilitation services.

12 (3) The secretary may grant a license to a person to conduct,
13 maintain or operate a child care referral agency who: (A) Has a
14 principal office or place of business which is physically located in
15 this state, (B) submits a complete application and (C) meets the
16 requirements of this act and rules and regulations of the secretary.
17 The license shall state the name of the licensee and describe the
18 particular premises in or at which the business shall be carried on.
19 The license shall be posted in a conspicuous place in the child care
20 referral agency.

21 (b) (1) In all cases where the secretary of social and rehabilitation
22 services deems it necessary, an investigation of ~~the home a child~~
23 ~~placement agency, child care referral agency or child care facility~~
24 shall be made under the supervision of the secretary of social and
25 rehabilitation services or other designated qualified agents. For that
26 purpose and for any subsequent investigations ~~they~~ the secretary of
27 social and rehabilitation services and such secretary's designees shall
28 have the right of entry and access to the premises of the ~~home child~~
29 ~~placement agency, child referral agency or child care facility~~ and to
30 any information deemed necessary to the completion of the inves-
31 tigation. ~~In all cases where~~ When an investigation is made, a report
32 of the investigation of ~~such home~~ shall be filed with the secretary
33 of health and environment.

34 (2) The secretary shall not grant a license until an inspection of
35 a child placement agency, child care referral agency or child care
36 facility has been made and until the child placement agency, child
37 care referral agency or child care facility has complied with all the
38 requirements of this act. The approval of the secretary of social and
39 rehabilitation services is required prior to the issuance of a license,
40 except that the secretary may issue a temporary permit for the
41 applicant to operate for a period not to exceed 90 days upon receipt
42 of an initial application. Any temporary permit issued shall be kept
43 posted in a conspicuous place in the child placement agency, child

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1 care referral agency or child care facility.

2 (2) In cases where neither approval or disapproval can be
3 given within a period of 30 days following formal request for
4 such a study, the secretary of health and environment may issue
5 a temporary license without fee pending final approval or dis-
6 approval of the home or facility.

7 (c) Whenever the secretary of health and environment re-
8 fuses to grant a license to an applicant, the secretary shall issue
9 an order to that effect stating the reasons for such denial and
10 within five days after the issuance of such order shall notify
11 the applicant of the refusal. Upon application not more than
12 15 days after the date of its issuance a hearing on the order
13 shall be held in accordance with the provisions of the Kansas
14 administrative procedure act.

15 (d) When the secretary of health and environment finds
16 upon investigation or is advised by the secretary of social and
17 rehabilitation services that any of the provisions of this act or
18 the provisions of K.S.A. 50-2123 and amendments thereto are
19 being violated, or such maternity hospital or home, or home
20 for children is maintained without due regard to the health,
21 comfort or morality of the residents, the secretary of health and
22 environment, after giving notice and conducting a hearing in
23 accordance with the provisions of the Kansas administrative
24 procedure act, shall issue an order revoking such license and
25 such order shall clearly state the reason for such revocation.

26 (e) If the secretary revokes or refuses to renew a license,
27 the licensee who had a license revoked or not renewed shall
28 not be eligible to apply for a license or for a certificate of
29 registration to maintain a family day care home under K.S.A.
30 65-518 and amendments thereto for a period of one year sub-
31 sequent to the date such revocation or refusal to renew becomes
32 final.

33 (f) Any applicant or licensee aggrieved by a final order of
34 the secretary of health and environment denying or revoking
35 a license under this act may appeal the order in accordance
36 with the act for judicial review and civil enforcement of agency
37 actions.

38 Sec. 6. K.S.A. 65-505 is hereby amended to read as follows: 65-
39 505. (a) Except as otherwise provided in this section, an annual fee
40 for a license to conduct a maternity hospital or home, or home
41 for children child placement agency, child care referral agency or
42 child care facility shall be fixed by the secretary of health and
43 environment by rules and regulations. Such fee shall not exceed

1 \$15 except that for a hospital or home which is licensed to care
 2 for 13 or more residents such fee shall not exceed \$75. The fee
 3 for a child care facility shall not exceed \$35 plus an additional \$1
 4 for each child or woman in the license capacity, except that the fee
 5 for a child care home or group child care home shall not exceed
 6 \$15 and the fee for a family foster home shall not exceed \$5. The
 7 fee for a child care referral agency or child placement agency shall
 8 not exceed \$75. Such fee shall be paid to the secretary of health
 9 and environment when the license is applied for and annually
 10 thereafter. The fee shall not be refundable. No fee shall be
 11 charged for a license to conduct a home for children which is
 12 a family foster home as defined in K.A.R. 28-4-311 and amend-
 13 ments thereto. Any licensee who does not submit the fee or notify
 14 the secretary in writing that the person has discontinued caring for
 15 women or children on or before the annual renewal date shall pay
 16 an additional fee of \$10. A fee equal to the annual fee, but not
 17 exceeding \$35, shall be paid for an application for a license amend-
 18 ment. No fee shall be refunded.

19 (b) The secretary of health and environment shall remit all
 20 moneys received by the secretary from fees under the provisions of
 21 this section to the state treasurer at least monthly. Upon receipt of
 22 any such remittance the state treasurer shall deposit the entire
 23 amount thereof in the state treasury, and such amount shall be
 24 credited to the state general fund.

25 Sec. 7. K.S.A. 65-506 is hereby amended to read as follows: 65-
 26 506. (a) The secretary of health and environment shall serve writ-
 27 ten notice to the secretary of social and rehabilitation services and
 28 to the county, city-county and multi-county department of health in
 29 every city and county in which a maternity hospital or home, or
 30 home for children child placement agency, child care referral
 31 agency or child care facility is located, of the issuance of a license
 32 or certificate of registration to conduct such hospital or home, or
 33 the revocation of such license, maintain or operate a child place-
 34 ment agency, child referral agency or child care facility, or the
 35 limitation, conditioning, suspension or revocation of such license or
 36 certificate of registration.

37 (b) Neither the secretary of social and rehabilitation services nor
 38 any other person shall place or cause to be placed any maternity
 39 patient or child under 16 years of age in any maternity hospital
 40 or home, or home for children not licensed by the secretary of
 41 health and environment child care facility not licensed or regis-
 42 tered by the secretary.

43 (c) Neither the secretary of social and rehabilitation services nor

license to operate a

\$50

by any licensee who does not submit the annual fee or notify the
 secretary in writing that the person has discontinued caring for
 children on or before the annual renewal date and by any licensee
 when applying.

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1 any other person shall use the services of a child placement agency
2 not licensed by the secretary.

3 Sec. 8. K.S.A. 65-507 is hereby amended to read as follows: 65-
4 507. The licensee of a maternity hospital or home shall keep
5 a record upon forms prescribed and provided by the secretary
6 of health and environment and the secretary of social and re-
7 habilitation services, wherein shall be entered the true name
8 of every patient, together with her place of residence during
9 the year preceeding admission to the hospital or home; the name
10 and address of the physician or midwife who attends each birth
11 taking place in such hospital or home; and (a) The licensee or
12 registrant of a home for children child care facility shall keep a
13 record upon forms prescribed and provided by the secretary of
14 health and environment, wherein in which shall be entered the
15 name and age of each child received and cared for in such home;
16 the name of the physician who attended any sick children
17 therein, the child care facility together with the names and addresses
18 of the parents or, guardians or custodians of such children; and such
19 other information as that the secretary of health and environment
20 or secretary of social and rehabilitation services may require re-
21 quires. The licensee of a maternity hospital or home, or home
22 for children shall apply to and shall receive gratuitously from
23 the secretary of health and environment and the secretary of
24 social and rehabilitation services forms for such records as may
25 be required, which forms shall contain a copy of this act.

26 (b) The licensee of a child placement agency shall keep a record
27 upon forms prescribed and provided by the secretary and the sec-
28 retary of social and rehabilitation services, in which shall be entered
29 the names of all birth parents, foster parents and prospective adop-
30 tive parents, together with their places of residence; the names and
31 birth dates of all children relinquished to or placed by the agency
32 or for whom the agency arranged placements; and other information
33 that the secretary or secretary of social and rehabilitation services
34 requires. Such information shall be confidential and shall not be
35 disclosed or released except to the secretary or secretary of social
36 and rehabilitation services, or as provided by law or court order.

37 (c) The licensee of a child care referral agency shall keep a record
38 upon forms prescribed and provided by the secretary, which shall
39 include the names of licensed and registered child care facilities to
40 which referrals are made, names and addresses of parents to which
41 services are provided and other information that the secretary re-
42 quires.

43 Sec. 9. K.S.A. 65-508 is hereby amended to read as follows: 65-

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1 508. (a) Any maternity hospital, or home for children *child care*
2 *facility* coming under the provisions of this act shall be properly
3 heated, plumbed, lighted and ventilated and shall be conducted in
4 every department *operated* with strict regard to the health, com-
5 fort, safety and social welfare of the residents. In all cities, towns
6 and villages where there is a system of waterworks and sew-
7 erage maintained for public use, every maternity hospital or
8 home, or home for children *children in care*. Every *child care*
9 *facility* shall be equipped with suitable toilets, lavatories, bathtubs
10 or showers, sinks and drains, shall be connected by proper plumbing
11 with such *approved* water and sewerage systems and shall be kept
12 at all times in a clean and sanitary condition *and free from foul*
13 *odor*. In all cities, towns or villages not having a system of
14 waterworks or sewerage for public use, every maternity hospital
15 or home, or home for children shall have properly constructed
16 privies or overvaults to receive night soil, the same to be ven-
17 tilated, screened, disinfected, kept free from foul odor, all times
18 in a clean and sanitary condition. Every *child care facility* shall
19 *comply with all applicable fire codes, and regulations of the state*
20 *fire marshal*.

21 (b) Every maternity hospital or home, or home for children
22 shall furnish or cause to be furnished for the use of each res-
23 ident and employee individual towel, wash cloth, comb and
24 individual drinking cup or sanitary bubbling fountain, and
25 toothbrushes for all other than infants, and shall keep or require
26 such articles to be kept at all times in a clean and sanitary
27 condition. Every maternity hospital or home, or home for chil-
28 dren shall be provided with one fire extinguisher of a style
29 and size approved by the state fire marshal, and every maternity
30 hospital or home, or home for children which is more than one
31 story high and containing and offering accommodations for, at
32 any one time, 10 or more maternity patients, or 10 or more
33 children, shall be provided with a suitable fire escape con-
34 structed of iron or steel, approved by the state fire marshal.
35 Dental and personal hygiene of each child in care shall be observed
36 by providing clean and sanitary utensils and equipment in sufficient
37 quantity.

38 (c) The secretary of health and environment with the co-
39 operation of the secretary of social and rehabilitation services
40 shall develop and adopt rules and regulations for the operation
41 and maintenance of maternity hospitals or homes, or homes for
children and for the granting, suspending or revoking of li-
censes. The rules and regulations for operating and maintaining

1 maternity hospitals or homes, or homes for children shall be
2 designed to promote the health, safety and welfare of the res-
3 idents who are to be served in such facilities by assuring safe
4 and adequate physical surroundings, healthful food, (1) *Each*
5 *child care facility shall provide for health, safety and welfare of the*
6 *children in care by assuring supervision and care of the residents*
7 *children in care by capable, qualified persons of sufficient number,*
8 *an adequate program of activities and services and such appropriate*
9 *parental participation as may be is feasible under the circumstances.*
10 *The rules and regulations with respect to granting, suspending*
11 *and revoking licenses shall be designed to promote the proper*
12 *and efficient processing of matters relating to licensure to as-*
13 *sure applicants and licensees fair and expeditious treatment*
14 *under the law.*

15 (2) *Each child placement agency and child care referral agency*
16 *shall be operated by qualified persons of sufficient number and*
17 *provide appropriate programs and services.*

18 (d) ~~On and after January 1, 1993, Each child cared for in a~~
19 ~~boarding home for children child care facility, including children~~
20 ~~of the person maintaining the home facility, shall be required to~~
21 ~~have current such immunizations as the secretary of health and~~
22 ~~environment considers necessary. The person maintaining a board-~~
23 ~~ing home for children child care facility shall maintain a record~~
24 ~~of each child's immunizations and shall provide to the secretary of~~
25 ~~health and environment such information relating thereto, in ac-~~
26 ~~cordance with rules and regulations of the secretary.~~

27 (e) The immunization requirement of subsection (d) shall not
28 apply if one of the following is obtained:

29 (1) Certification from a licensed physician stating that the physical
30 condition of the child is such that immunization would endanger the
31 child's life or health; or

32 (2) a written statement signed by a parent or guardian that the
33 parent or guardian is an adherent of a religious denomination whose
34 teachings are opposed to immunizations.

35 Sec. 10. K.S.A. 65-510 is hereby amended to read as follows:
36 65-510. ~~It shall be unlawful for any home for children to No~~
37 ~~child care facility shall receive or care for any adult except as au-~~
38 ~~thorized by rules and regulations adopted by the secretary of health~~
39 ~~and environment.~~

40 Sec. 11. K.S.A. 65-512 is hereby amended to read as follows:
41 65-512. ~~It is hereby made the duty of the division of health of~~
42 ~~the department of health and environment to (a) After licensure,~~
43 ~~the secretary shall inspect or cause to be inspected at least once~~

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entire

every 12 months every maternity hospital or home, or home for children child care referral agency or child care facility, except for a family foster home or family child care home, and for that purpose it the secretary shall have the right of entry and access thereto in every department and to every place in to the premises, shall call for and the right to examine the records which are required to be kept by the provisions of in accordance with this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or residents therein. No patient or resident without the consent of the patient or resident shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician and rules and regulations of the secretary. The secretary shall maintain a record of every inspection.

(b) After licensure the department of social and rehabilitation services shall inspect or cause to be inspected at least once every 12 months every child placement agency and family foster home and for that purpose it shall have the right of entry and access to the premises and the right to the records which are required to be kept in accordance with this act and rules and regulations of the secretary. A copy of the record of inspection shall be sent to the division of health of the department of health and environment.

Sec. 12. K.S.A. 65-514 is hereby amended to read as follows: 65-514. Any person, firm, corporation or association who violates the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto this act or rules and regulations of the secretary adopted under this act shall be guilty of a class C misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50. Each and every day that the person fails or refuses to comply shall be deemed a separate offense under the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto. If for 30 days after any final conviction for such violation or revocation of license the person still fails or refuses to comply with the orders in the notice under K.S.A. 65-513 and amendments thereto, upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the building or premises where such home is conducted may be closed until all provisions of this act shall have been complied with.

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1 Sec. 13. K.S.A. 65-515 is hereby amended to read as follows:
2 65-515. The county attorney of each county in this state is
3 hereby authorized and required, upon complaint of any au-
4 thorized agent of the secretary of health and environment, to
5 file complaint and prosecute to the final determination all ac-
6 tions or proceedings against any person under the provisions
7 of this act. When it appears to the secretary that any person is
8 violating any of the provisions of this act or rules and regulations
9 of the secretary, or order of the secretary, the secretary may bring
10 an action in a court of competent jurisdiction for an injunction
11 against such violation, and the proper courts of this state may enjoin
12 any person from such violation.

13 Sec. 14. K.S.A. 65-516 is hereby amended to read as follows:
14 65-516. (a) No person shall knowingly conduct, maintain a boarding
15 home for children or maintain a family day care home or operate
16 a child placement agency, child referral agency or child care facility
17 if, in such boarding home or family day care home, establishment
18 there resides, works or regularly volunteers any person who:
19 (1) (A) Has a felony conviction for a crime against persons, (B)
20 has a felony conviction for a crime under the uniform controlled
21 substances act, (C) has a conviction of any act which is described
22 crime defined in articles 34, 35 or 36 of chapter 21 of the Kansas
23 Statutes Annotated and acts amendatory thereof or supplemental
24 thereto or a conviction of an attempt under K.S.A. 21-3301 and
25 amendments thereto to commit any such act, or amendments
26 thereto, (D) has been convicted of any act which is described
27 crime defined in K.S.A. 21-4301 or, 21-4301a or 21-4301c and
28 amendments thereto or (E) has a conviction of any crime defined
29 in article 33 of chapter 21 of the Kansas Statutes Annotated and
30 amendments thereto to commit any crimes described in this section
31 or similar statutes of other states or the federal government;
32 (2) has been adjudicated a juvenile offender because of having
33 committed an act which (A) if done by an adult would constitute
34 the commission of a felony and which is a crime against persons, is
35 any act described in articles 34, 35 or 36 of chapter 21 of the
36 Kansas Statutes Annotated and acts amendatory thereof or sup-
37 plemental thereto, or is any act described in K.S.A. 21-4301 or
38 21-4301a and amendments thereto (B) is any crime defined in
39 articles 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated
40 and amendments thereto, (C) is any crime defined in K.S.A. 21-
41 4301, 21-4301a or 21-4301c and amendments thereto, or (D) is any
42 crime defined in article 33 of chapter 21 of the Kansas Statutes
43 Annotated and amendments thereto to commit any crimes described

1 *in this section* or similar statutes of other states or the federal gov-
2 ernment;

3 (3) has committed an act of physical, mental or emotional abuse
4 or neglect or sexual abuse as validated by the department of social
5 and rehabilitation services pursuant to K.S.A. 38-1523 and amend-
6 ments thereto and (A) the person has failed to successfully complete
7 a corrective action plan which had been deemed appropriate and
8 approved by the department of social and rehabilitation services, or
9 (B) the record has not been expunged pursuant to rules and regu-
10 lations adopted by the secretary of social and rehabilitation services;

11 (4) has had a child declared in a court order in this or any other
12 state to be deprived or a child in need of care based on an allegation
13 of physical, mental or emotional abuse or neglect or sexual abuse;

14 (5) has had parental rights terminated pursuant to the Kansas
15 juvenile code or K.S.A. 38-1581 to 38-1584, inclusive, and amend-
16 ments thereto or a similar statute of other states;

17 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906
18 *et seq.*, and amendments thereto, or pursuant to K.S.A. 38-1635 and
19 amendments thereto involving a charge of child abuse or a sexual
20 offense; or

21 (7) has an infectious or contagious disease.

22 (b) No person shall ~~maintain a boarding home for children~~
23 ~~or maintain a family day care home conduct, maintain or operate~~
24 ~~a child placement agency, child care referral agency or child care~~
25 ~~facility~~ if such person has been found to be a disabled person in
26 need of a guardian or conservator, ~~or both.~~

27 (c) ~~Any person who resides in the home and who has been~~
28 ~~found to be a disabled person~~ *The total number of children al-*
29 *lowed in a child care facility shall be reduced by the number of*
30 *persons residing in the facility who have been found to be persons*
31 *in need of a guardian or conservator, or both, shall be counted*
32 *in the total number of children allowed in care.*

33 (d) In accordance with the provisions of this subsection (d), the
34 secretary shall have access to any court orders or adjudications of
35 any court of record, any records of such orders or adjudications,
36 criminal history record information in the possession of the Kansas
37 bureau of investigation and any report of investigations as authorized
38 by subsection (e) of K.S.A. 38-1523 and amendments thereto in the
39 possession of the department of social and rehabilitation services or
40 court of this state concerning persons working, regularly volunteering
41 or residing in a ~~boarding home for children or a family day care~~
42 ~~home child placement agency, child care referral agency or child~~
3 ~~care facility.~~ The secretary shall have access to these records for the

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1 purpose of determining whether or not the *home establishment*
2 meets the requirements of K.S.A. 65-516 and 65-519 and amend-
3 ments thereto.

4 (e) No ~~boarding home for children or family day care home~~
5 *child placement agency, child care referral agency or child care*
6 *facility* or their employees shall be liable for civil damages to any
7 person refused employment or discharged from employment by rea-
8 son of such ~~home's establishment's~~ compliance with the provisions
9 of this section if such *home establishment* acts in good faith to comply
10 with this section.

11 (f) For the purpose of subsection (a)(3), an act of abuse or neglect
12 shall not be considered to have been validated by the department
13 of social and rehabilitation services unless the alleged perpetrator
14 has: (1) Had an opportunity to be interviewed and present infor-
15 mation during the investigation of the alleged act of abuse or neglect,
16 and (2) been given notice of the agency decision and an opportunity
17 to ~~appeal~~ *seek review of* such decision to the secretary *pursuant to*
18 *the Kansas administrative procedure act* and to the courts pursuant
19 to the act for judicial review and civil enforcement of agency actions.

20 Sec. 15. K.S.A. 65-518 is hereby amended to read as follows:
21 65-518. ~~Any person~~ *An individual conducting, maintaining or op-*
22 *erating a family day child care home* shall register such home with
23 the secretary of ~~health and environment~~ on forms furnished by
24 the secretary. ~~In lieu of registration, a person maintaining a~~
25 *family day care home may seek licensure for such home as a*
26 *boarding home for children under article 5 of chapter 65 of*
27 *Kansas Statutes Annotated and amendments to the provisions*
28 *thereof and supplemental thereto.*

29 Sec. 16. K.S.A. 65-519 is hereby amended to read as follows:
30 65-519. (a) The secretary shall issue a certificate of registration to
31 any ~~person~~ *individual* who applies for registration on forms furnished
32 by the secretary, who attests to the safety of the *family day child*
33 *care home* for the care of children, who submits a fee of \$5 \$15
34 payable to the secretary of ~~health and environment~~, and who
35 certifies that no person described in paragraphs (1), (2), (3), (4), (5)
36 or (6) of subsection (a) of K.S.A. 65-516 and amendments thereto
37 resides, works or *regularly* volunteers in the *family day child care*
38 home.

39 (b) The secretary shall furnish each applicant for registration a
40 *family day child care home safety evaluation form* to be completed
by the applicant and submitted with the registration application.

41 (c) (1) ~~On and after January 1, 1993,~~ Each child cared for in
42 a *family day child care home*, including children of the person
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maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a family day child care home shall maintain a record of each child's immunizations, and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary.

(2) The immunization requirement of subsection (c)(1) shall not apply if one of the following is obtained:

(A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(B) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

~~(d)~~ The certificate of registration shall be renewed annually in the same manner provided for in this section.

~~(e)~~ The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the state general fund.

Sec. 17. K.S.A. 65-520 is hereby amended to read as follows: 65-520. A certificate of registration shall be in force for one year after the date of issuance unless revoked pursuant to K.S.A. 65-521, 65-523 and amendments thereto or upon notification by the registrant that the family child care home has been closed. The registrant shall notify the secretary within two weeks of closing the family child care home. The certificate shall specify that the registrant may operate a family day child care home for six or fewer children. This section shall not be construed to limit the right of The secretary shall have the right to enter a registered family day child care home for the purpose of assessing compliance with K.S.A. 65-516 to 65-522, inclusive, this act and rules and regulations of the secretary, after receiving a complaint against the registrant of such home.

Sec. 18. K.S.A. 65-522 is hereby amended to read as follows: 65-522. The secretary shall with the cooperation of the secretary of social and rehabilitation services shall adopt rules and regulations to implement the registration provisions of K.S.A. 65-516 to 65-522, inclusive this act, consistent with the health, safety and welfare of children.

Sec. 19. K.S.A. 65-523 is hereby amended to read as follows:

(d) The secretary of health and environment shall provide to each person maintaining a registered family child care home a list of the requirements for registration of family child care homes. The person maintaining a family child care home shall provide a copy of such list to the parent or guardian of each child cared for in such home and shall maintain on the premises a copy of the list which has been signed and dated by the parent or guardian.

(e)

(f)

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65-523. (a) The secretary may ~~suspend limit, condition, suspend,~~
~~deny or revoke~~ any license, certificate of registration or, temporary
permit issued under the provisions of K.S.A. 65-501 to 65-522,
~~inclusive, and amendments thereto or amendment to a license~~
authorized under this act in accordance with the Kansas adminis-
trative procedure act upon any of the following grounds and in the
manner provided in this act:

(a) (1) Violation by the licensee, registrant or holder of a
temporary permit of any provision of this act or of the rules and
regulations promulgated adopted under this act;

(b) (2) aiding, abetting or permitting the violating of any pro-
vision of this act or of the rules and regulations promulgated adopted
under this act;

(c) conduct in the operation or maintenance, or both the
operation and maintenance, of a boarding home for children
or family day care home which is inimical to health, morals,
welfare or safety of either an individual in or receiving services
from the home or the people of this state; and

(d) the conviction of a licensee, registrant or holder of a
temporary permit, at any time during licensure or registration
or during the time the temporary permit is in effect, of crimes
as defined in K.S.A. 65-516 and amendments thereto.

(3) acting in disregard for the health, safety or welfare of any
child ~~received, treated or cared for by~~ an applicant, licensee or
registrant.

(4) falsification or misrepresentation of information on the ap-
plication or other records required to be maintained by this act; or

(5) failure to comply with any order issued by the secretary
pursuant to the Kansas administrative procedure act.

(b) If the secretary revokes a license or certificate of registration,
the licensee or registrant who had a license or certificate revoked
shall not be eligible to apply for a license to conduct, maintain or
operate a child placement agency, child care referral agency or child
care facility or apply for a certificate of registration to conduct,
maintain or operate a family child care home for a period of one
year subsequent to the date the revocation becomes final.

(c) Any applicant, registrant or licensee aggrieved by a final
order of the secretary may appeal the order in accordance with the
act for judicial review and civil enforcement of agency actions.

Sec. 20. K.S.A. 65-524 is hereby amended to read as follows:

65-524. The secretary may suspend any license, certificate of reg-
istration or temporary permit issued under the provisions of K.S.A.
65-501 to 65-522, inclusive, and amendments thereto this act

or other person residing, working or regularly volunteering in the
child care facility, child care referral agency or child placement agency

1 prior to any hearing when, in the opinion of the secretary, the action
2 is necessary to protect any child in the boarding home for children
3 or family day care home or a child care facility from physical or
4 mental abuse, abandonment or any other substantial threat to health
5 or, safety or welfare. Administrative proceedings under this section
6 shall be conducted in accordance with the emergency adjudicative
7 proceedings of the Kansas administrative procedure act and in ac-
8 cordance with other relevant provisions of the Kansas administrative
9 procedure act.

10 Sec. 21. K.S.A. 65-525 is hereby amended to read as follows:
11 65-525. Information received by the licensing agency secretary or
12 the secretary of social and rehabilitation services through filed re-
13 ports, inspections or otherwise authorized under K.S.A. 65-501
14 to 65-522, inclusive, and amendments thereto, complaints or
15 other documents authorized under this act shall not be disclosed
16 publicly in such manner as to identify individuals complainants or
17 individuals receiving care, treatment or service or other matters
18 made confidential by other laws. The names of complainants shall
19 be confidential and shall not be subject to discovery, subpoena or
20 other means of legal compulsion. In any hearings conducted under
21 the licensing or regulation provisions of K.S.A. 65-501 to 65-
22 522, inclusive, and amendments thereto this act, the hearing
23 officer may close the hearing to the public to prevent public dis-
24 closure of matters relating to individuals restricted by other laws
25 law.

26 Sec. 22. K.S.A. 65-526 is hereby amended to read as follows:
27 65-526. The secretary of health and environment, in addition to
28 any other penalty prescribed under article 5 of chapter 65 of the
29 Kansas Statutes Annotated, or acts amendatory of the provisions
30 thereof or supplemental thereto, this act may assess a civil fine,
31 after proper notice and an opportunity to be heard, against a
32 licensee or registrant in accordance with the Kansas administrative
33 procedure act for a violation of such provisions or rules and reg-
34 ulations adopted pursuant thereto which affect significantly and
35 adversely the health, safety or sanitation of children in a board-
36 ing home for children or family day care home any such provision
37 or rules and regulations adopted under this act. A civil fine assessed
38 under this section shall not exceed \$500 per violation. All fines
39 assessed and collected under this section shall be remitted promptly
40 to the state treasurer. Upon receipt thereof, the state treasurer shall
41 deposit the entire amount in the state treasury and credit it to the
state general fund.

Sec. 23. K.S.A. 65-527 is hereby amended to read as follows:

1 65-527. (a) As used in this section:

2 (1) ~~"Child care program"~~ means a day care center, group
3 day care home or day care home.

4 (2) (1) "Recreation center" means any building used by a political
5 or taxing subdivision of this state, or by an agency thereof, for
6 recreation programs which serve children who are 16 years of age
7 or younger.

8 (3) (2) "School" means any building used by a unified school
9 district or an accredited nonpublic school for student instruction or
10 attendance of pupils enrolled in kindergarten or any of the grades
11 1 through 6.

12 (b) No license for a child care ~~program facility~~ for school age
13 children shall be denied on the basis that the building in which the
14 child care facility is located does not meet requirements for licensure
15 if the building:

16 (1) Is a recreation center or school;

17 (2) complies, during all hours of operation of the child care pro-
18 gram, with the Kansas fire prevention code or a building code com-
19 pliance with which is by law deemed to be compliance with the
20 Kansas fire prevention code;

21 (3) subject to subsection (c), complies, during all hours of op-
22 eration of the child care ~~program facility~~, with all local building
23 code provisions that apply to recreation centers, if the building is a
24 recreation center, or schools, if the building is a school; and

25 (4) as a recreation center or school, is used by school age children
26 and the same age children are cared for in the child care program.

27 (c) In the case of an inconsistency in standards with which a
28 building is required to comply pursuant to subsections (b)(2) and
29 (b)(3), the standards provided by subsection (b)(2) shall control.

30 New Sec. 24. If any provision of this act or the application
31 thereof to any person or circumstances is held invalid, the invalidity
32 shall not affect other provisions or applications of the act which can
33 be given effect without the invalid provision or application, and to
34 this end the provisions of this act are severable.

35 Sec. 25. K.S.A. 65-501 to 65-508, inclusive, and ~~65-110~~ to 65-
36 527, inclusive, are hereby repealed.

37 Sec. 26. This act shall take effect and be in force from and after
38 its publication in the statute book.

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New Section ____ . (a) The desired outcome of the child care policy of the state of Kansas is that families be able to fulfill their roles as primary child care givers and educators of young children by having access to high quality, affordable child care. The following principles shall guide development and implementation of state policy to achieve that outcome:

(1) Family self-sufficiency. A stable source of child care is a critical ingredient to economic self-sufficiency. Child care policies and programs must facilitate a smooth transition into the work force for parents and a rich and stable environment for children.

(2) Investment in children. Child care is a critical investment that affects a child's readiness to learn. High quality child care programs recognize and implement good early childhood practices.

(3) Consumer orientation and education. Child care policies and programs must be responsive to the changing needs of families and educate families about available options, identifying quality programs and selecting appropriate care.

(4) Accessibility. High quality child care must be available to any family seeking care regardless of where the family lives or the special needs of a child. A centralized place in local communities must be available to facilitate parents' access to child care.

(5) Affordability. High quality child care must be available on a sliding scale basis, with families contributing based on ability to pay.

(6) Diversity. It is the goal of the state to strive wherever possible to provide child care in an integrated setting where children with various needs and of various income levels and cultures are cared for together.

(7) Efficient, coordinated administration and support for infrastructure. Child care programs must be coordinated to ensure the most effective use of federal, state, local and private funds. State child care agencies and policies must support the orderly development of a high quality child care system working with local and private providers.

(b) Any state agency involved in implementing any part of the state's child care policy shall develop appropriate measures of progress toward achievement of the stated outcome under the oversight of the joint committee on children and families in accordance with K.S.A. 46-2001 et seq. and amendments thereto.

Sec. ____ . K.S.A. 39-923 is hereby amended to read as follows: 39-923.

(a) As used in this act:

(1) "Adult care home" means any nursing facility, intermediate personal care home, one-to-five-bed adult care home and any boarding care home, all of which classifications of adult care homes are required to be licensed by the secretary of health and environment. Adult care home does not mean adult family home.

(2) "Nursing facility" means any place or facility operating for not less than 24 hours in any week and caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves, and for whom reception, accommodation, board and skilled nursing care and treatment is provided, and which place or facility is staffed to provide 24 hours a day licensed nursing personnel plus additional staff, and is maintained and equipped primarily for the accommodation of individuals who are not acutely ill and are not in need of hospital care but who require skilled nursing care.

(3) "Intermediate personal care home" means any place or facility operating for not less than 24 hours in any week any caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness,

care for themselves and for whom reception, accommodation, board, personal care and treatment or simple nursing care is provided, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care, nursing facility care or moderate nursing care but who require domiciliary care and simple nursing care. 13-1

(4) "One-to-five-bed adult care home" means any place or facility which place or facility may be a private residence and which place or facility is operating for not less than 24 hours in any week and caring for not more than five individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment and skilled nursing care, supervised nursing care or simple nursing care is provided by the adult care home, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care but who require domiciliary care and skilled nursing care, supervised nursing care or simple nursing care provided by the adult care home. When the home's capabilities are questioned in writing, the licensing agency shall determine according to its rules and regulations if any restriction will be placed on the care the home will give residents.

(5) "Boarding care home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervision is provided and which place or facility is staffed, maintained and equipped primarily to provide shelter to residents who require some supervision, but who are ambulatory and essentially capable of managing their own care and affairs.

(6) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(7) "Skilled nursing care" means services commonly performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel for individuals requiring 24-hour-a-day care by licensed nursing personnel including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions requiring substantial specialized judgment and skill based on the knowledge and application of scientific principles.

(8) "Supervised nursing care" means services commonly performed by or under the immediate supervision of licensed nursing personnel at least eight hours a day for at least five days a week including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other selected functions requiring specialized judgment and certain skills based on the knowledge of scientific principles.

(9) "Simple nursing care" means selected acts in the care of the ill, injured or infirm requiring certain knowledge and specialized skills but not requiring the substantial specialized skills, judgment and knowledge of licensed nursing personnel.

(10) "Resident" means any individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(11) "Person" means any individual, firm, partnership, corporation, company, association or jointed-stock association, and the legal successor

company, association or jointed-stock association, and the legal successor thereof.

(12) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage and adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(13) "Licensing agency" means the secretary of health and environment.

(14) "Skilled nursing home" means a nursing facility.

(15) "Intermediate nursing care home" means a nursing facility.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, hospitals or institutions for the treatment and care of psychiatric patients, ~~boarding homes for children under the age of 16 years, day nurseries, child caring institutions~~ *child care facilities* maternity homes, hotels or offices of physicians.

(c) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. ____ . K.S.A. 1993 Supp. 59-2123 is hereby amended to read as follows: 59-2123. (a) Except as otherwise provided in this section:

(1) No person shall advertise that such person will adopt, find an adoptive home for a child or otherwise place a child for adoption;

(2) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to a woman to come to such person's maternity hospital or home during pregnancy or after delivery; and

(3) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to any parent, guardian or custodian of a child to place such child in such person's home, institution or establishment.

(b) The provisions of subsection (a)(1) shall not apply to a licensed child placement agency operating as authorized by Kansas law or to the department of social and rehabilitation services.

(c) As used in this section:

(1) "Advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast or electronic medium.

(2) "Person" means an individual, firm, partnership, corporation, joint venture or other association or entity, ~~and.~~

(3) "Maternity hospital or home" means ~~the same as provided in K.S.A. 65-502 and amendments thereto~~ *a special hospital as defined in K.S.A. 65-425 which provides delivery services for normal, uncomplicated pregnancies.*

(d) Any person who violates the provisions of this section shall be guilty of a class C misdemeanor.

Sec. ____ . K.S.A. 1993 Supp. 75-6506 is hereby amended to read as follows: 75-6506. (a) The participation of a person qualified to participate in the state health care benefits program shall be voluntary, and the cost of the state health care benefits program for such person shall be established by the Kansas state employees health care commission.

(b) Periodic deductions from state payrolls may be made in accordance with procedures prescribed by the secretary of administration to cover the costs of the state health care benefits program payable by persons who are on the state payroll when authorized by such persons. Any such periodic payroll deductions

in effect on an implementation date for biweekly payroll periods shall be collected in the manner prescribed by the secretary of administration.

(c) In the event that the Kansas state employees health care commission designates by rules and regulations a group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed ~~boarding home for children child care facility~~ operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, as qualified to participate in the state health care benefits program, periodic deductions from payrolls of the local governmental entity, public school district, licensed ~~boarding home for children child care facility~~ operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, may be made to cover the costs of the state health care benefits program payable by such persons when authorized by such persons. All such moneys deducted from payrolls shall be remitted to the Kansas state employees health care commission in accordance with the directions of the commission.

Sec. ____ . K.S.A. 1993 Supp. 75-6508 is hereby amended to read as follows:
75-6508. (a) (1) Each state agency which has on its payroll persons participating in the state health care benefits program shall pay from any moneys available to the agency for such purpose an amount specified by the Kansas state employees health care commission, including any amounts prescribed under a cafeteria plan established under K.S.A. 75-6512 and amendments thereto. All such payments shall continue on the behalf of employees otherwise eligible for participation in the state health care benefits program who are temporarily unable to work because of an injury or illness and who have exhausted their sick and annual leave hours. Such payments will continue for three months following the exhaustion of sick and annual leave. The commission may charge each state agency a uniform amount per person as the cost to the agency for the state's contribution for persons participating in the state health care benefits program. Such amounts may include the costs of administering the program.

(2) In the event that the Kansas state employees health care commission designates by rules and regulations a group of persons on the payroll of a county, township, city special district or other local governmental entity, public school district, licensed ~~boarding home for children child care facility~~ operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, as qualified to participate in the state health care benefits program, each local governmental entity, public school district, licensed ~~boarding home for children child care facility~~ operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental

1-34
health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, which has on its payroll persons participating in the state health care benefits program shall pay from any moneys available to the local governmental entity, public school district, ~~licensed boarding home for children~~ child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, for such purpose an amount specified by the commission. The commission may charge each local governmental entity, public school district, ~~licensed boarding home for children~~ child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, a uniform amount per person as the cost to the local governmental entity, public school district, ~~licensed boarding home for children~~ child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, for the contribution of the local governmental entity, public school district, ~~licensed boarding home for children~~ child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center as provided in K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-501 and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, for persons participating in the state health care benefits program. Such amounts may include the costs of administering the program.

(b) Payments from public funds for coverage under the state health care benefits program for persons participating in that program shall not be deemed a payment or supplement of wages of such person notwithstanding any other provision of law or rules and regulations relating to wages of any such person.

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

Senate Committee on Public Health and Welfare
Testimony on Senate Bill 615

February 9, 1994

SRS Mission Statement

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

TITLE

An Act relating to regulation of child care establishments; amending K.S.A. 65-504, K.S.A. 65-505, K.S.A. 65-506, K.S.A. 65-507, K.S.A. 65-508, K.S.A. 65-510, 65-512, K.S.A. 65-514, K.S.A. 65-515, K.S.A. 65-516, K.S.A. 65-518, K.S.A. 65-519, K.S.A. 65-520, K.S.A. 65-522, K.S.A. 65-523, K.S.A. 65-524, K.S.A. 65-525, K.S.A. 65-526, and K.S.A. 65-527 and repealing the existing sections; also repealing K.S.A. K.S.A. 65-501, K.S.A. 65-502, K.S.A. 65-503, K.S.A. 65-511, K.S.A. 65-513, K.S.A. 65-517, and K.S.A. 65-521.

Madam Chair, on behalf of the Secretary of SRS, I thank you for the opportunity to provide this testimony on S.B. 615.

The information presented today is to highlight issues outlined in S.B. 615, which concern two major programs within SRS - Foster Care and Child Care. I will present the issues separately.

FOSTER CARE ISSUES:

BACKGROUND

In the late 1970's or early 1980's the existing fees for family foster care licenses were removed as the fees created more difficulty than the revenue was worth. Although the fees were small, families often procrastinated in paying them. A consequence was a family, otherwise approved to provide care for a child, could not be used for foster care until the fee was paid and the license issued. The chronic need for choices when making a foster placement (then and now) made the unavailability of an approved foster home particularly frustrating. Social service staff found themselves using valuable time reminding foster parents to pay the fee.

*Senate PHW
Attachment # 2
2-9-94*

EFFECT OF PASSAGE

There is little to motivate a potential foster family to pay a fee. They receive nothing tangible for the fee; it is the state and the children cared for who receive the tangible benefits of the license. Foster parents receive no pay for their services. Many, perhaps most, foster parents actually incur out-of-pocket expenses from their own resources which are not covered by the foster care reimbursement. The fee will not impoverish the family, but as it may seem to them somewhat unfair, it may serve as a damper on recruitment of foster homes. The imposition of a fee, however small, does not communicate to current or prospective foster homes a statement of official gratitude for the invaluable service they render.

The Department of Health and Environment is currently issuing non-expiring licenses. This means licenses are cancelled only for cause such as at the request of the family or upon confirmation of abuse or neglect. This was done, in part, to reduce cost to the state. If annual license fees are required, non-payment would presumably become a reason for revocation. A delay in payment could render a home temporarily unlicensed. Either revocation or delay would pose a problem for the Department of SRS, as we lose eligibility for federal IV-E funds if children in the custody of the Secretary are in unlicensed homes. Use of an unlicensed home is also a violation of Kansas law and the settlement agreement reached with the ACLU.

The consequence of the imposition of this fee would at a minimum mean increased staff time to ensure timely payment of fees. At worst (for the state) it could mean the forfeiture of substantial federal funds. For the child in placement, it could, in extreme circumstances, result in yet another loss of a family.

RECOMMENDATION

→ The Department of Social and Rehabilitation Services recommends the provision for a license fee for a family foster home be deleted from Senate Bill 615.

DAY CARE ISSUES:

We are supportive of the following Child Care Issues in S.B. 615:

1. The definition of child care resource and referral services is more clearly defined.
2. Proposes an increase in licensing fees for child care providers.
3. Increases enforcement action allowing a limit or condition on licenses and fines up to \$500 per violation.

→ However, we do have a concern as to whether S.B. 615 should be merged with S.B. 451. We share the following pros and cons related to one major issue, that of reducing from six to four the number of children allowed in registered family day care homes. The goal of the reduction in children is to improve quality through training mandates and annual on-site inspections if providers are forced to become licensed to remain in business. Reducing from six to four the total number of children allowed in registered family day care homes would require

providers to reduce the number of children in care by two, or apply to become a licensed home facility. There are currently over 4,000 registered homes in the state. Approximately half of all home-based services are provided in registered homes.

We estimate nearly 25% of all SRS assisted children are currently in registered homes. This action has the potential to either increase or decrease the availability of care for families, which will be largely determined by the response of providers to this action.

PROS

1. Providers that want to continue caring for 6 children will need to become licensed care providers. The licensing process will require annual on site inspection by Health and Environment and in-service training requirements for providers.
2. Potentially will reduce SRS field stafftime now required for on-site inspection of registered homes with SRS contracts. Providers that want to maintain 6 children in care will be required to become licensed, and will result in Health and Environment, instead of SRS, conducting annual on-site inspections.
3. Registered providers who choose to become licensed may increase care capacity to 10 children, thus increasing the availability of care.

SRS plans to implement a home-based care expansion program to provide loan or grant funds to providers to expand services to care for special needs children or infants and toddlers. Should S.B. 451 be approved, the availability of assistance could serve as a motivation for providers to expand care services.

CONS

1. If all registered providers choose not to become licensed, therefore reducing the number of children in care, the state will lose approximately 8,000 child care slots needed by working parents.
2. Registered providers who choose not to become licensed and reduce the number of children in their care, will experience a one third reduction in their earning potential with the loss of 2 children in care.

The impact of reducing the number of children allowed in registered homes will be determined largely by the response of home providers.

For Donna Whiteman
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