

HOUSE COMMERCE COMMITTEE
SB96 HEARING
PROPONENT TESTIMONY WITH SUGGESTIONS
MARCH 14, 2024

COLTON GIBSON
MODERN GOVERNMENT

**Model Regulations for at-Home
Child Care**

Model Regulations for At-Home Child Care Programs

1. General Permit and Zoning Requirements

- Small and large family child care homes must be treated as residential homes by cities and counties, exempt from special zoning or business licenses.
- It is the intent of the Legislature that family daycare homes for children should be situated in normal residential surroundings so as to give children the home environment that is conducive to healthy and safe development. It is the public policy of this state to provide children in a family daycare home the same home environment as provided in a traditional home setting.
- The Legislature declares this policy to be of statewide concern with the purpose of occupying the field. This act, the state building code, and the fire code, and regulations promulgated pursuant to those provisions, shall preempt local laws, regulations, and rules governing the use and occupancy of family daycare homes. Local laws, regulations, or rules shall not directly or indirectly prohibit or restrict the use of a facility as a family daycare home, including, but not limited to, precluding the operation of a family daycare home.
- Every provision in a written instrument relating to real property that purports to restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family daycare home is void, and every restriction in that written instrument as to the use or occupancy of the property as a family daycare home is void.
- An attempt to deny, restrict, or encumber the conveyance, leasing, or mortgaging of real property for use or occupancy as a family daycare home is void. A restriction related to the use or occupancy of the property as a family daycare home is void. A property owner or manager shall not refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential use to a person because that person is a family daycare provider.
- A prospective family daycare home provider who resides in a rental property shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family daycare home.
- The use of a home as a small or large family daycare home shall be considered a residential use of property and a use by right for the purposes of all local ordinances, including, but not limited to, zoning ordinances.
- The provisions of this chapter do not preclude a city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family daycare home, as long as those restrictions are identical to those applied to all other residences with the same zoning designation as the family daycare home. This chapter does not preclude a local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity, as long as the local ordinance is identical to those applied to all other residences with the same zoning designation as the family daycare home. This chapter also does not prohibit or restrict the abatement of nuisances by a city, county, or city and

county. However, the ordinance or nuisance abatement shall not distinguish family daycare homes from other homes with the same zoning designation, except as otherwise provided in this chapter.

2. Restrictions by HOAs and Landlords

- HOAs cannot impose restrictions or different rules due to the operation of a licensed family child care home. Landlords cannot refuse to rent, increase rent, or evict tenants based on their operation of a licensed family child care home.

3. Licensing Process and Location Constraints

- Streamlining the licensing process to not exceed three months, with assistance from organizations like Wonderschool. Family child care homes are permitted in any residentially-zoned area, including various types of housing.
- A local jurisdiction shall not impose a business license, fee, or tax for the privilege of operating a small or large family daycare home.
- A brief statement confirming that the applicant is financially secure to operate a family daycare home for children. The department shall not require any other specific or detailed financial disclosure.
- Evidence that the small family daycare home contains a fire extinguisher or smoke detector device, or both, that meets standards established by the State Fire Marshal
- Evidence satisfactory to the department that there is a disaster plan for the facility and that fire drills and disaster drills will be conducted at least once every six months. The documentation of these drills shall be maintained at the facility on a form prepared by the department and shall include the date and time of the drills.
- The fingerprints of any applicant of a family daycare home license, and any other adult, as required under current state law.
- **Modify K.S.A. 65-501. License or temporary permit required; exemptions.**
 - ***It shall be unlawful for any person, firm, corporation or association to conduct or maintain a maternity center or a child care facility with more than 5 (five) children under 16 years of age without having a license or temporary permit therefor from the secretary of health and environment.***
- **Modify K.S.A. 65-504. Section E. Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure.**
 - ***Section E. If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license for a period of 90 (ninety) days subsequent to the date such revocation or refusal to renew becomes final.***
- **Modify K.S.A. 65-514. Violations of article 5 of chapter 65; penalties; notice and hearing**
 - ***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 shall be guilty of a 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, 10 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.**~~

- **Strike K.S.A. 65-505. License fees; maternity centers and child care licensing fee fund.**
 - **There should be no application or annual fees associated with child care providers.**

4. Safety Standards

- Implementation of comprehensive safety protocols including regular safety drills, secure storage of hazardous materials, and child-proofing of all areas.
- A family daycare home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.
- Shall have one or more carbon monoxide detectors in the facility that meet the standards

5. Child-to-Caregiver Ratios

- Strict adherence to child-to-caregiver ratios ensuring individual attention and safety. Ratios may vary depending on the age group of children. Below is a ratio example:

Adult to Child Ratio (Child Care Centers)		Adult to Child Ratio (Family Day Care Homes)
0-2 years	1 adult : 4 children	1 adult 4 (infants are considered children under the age of 2)
2-6 years	1 adult: 12 children	1 adult: 6 children (may include up to 2 infants) 1 adult (8 children (may include up to 2 infants and must include at least 2 children over the age of 6)
6-14 years	1 adult: 15 children	**Note: Provider's own children under the age of 10 must be included in the adult to child ratio.

6. Health and Hygiene Practices

- Establishment of rigorous hygiene practices including regular handwashing, sanitization of toys and equipment, and illness prevention protocols. Clear guidelines for managing sick children and communicable diseases.

7. Educational Activities

- Structured educational activities suited to different developmental stages, including play-based learning, literacy, numeracy, and social skills. Regular assessment and documentation of each child's development.

8. Nutrition and Meal Planning

- Provision of balanced and nutritious meals and snacks, adhering to dietary guidelines and accommodating special dietary needs. Emphasis on educating children about healthy eating habits.

9. Emergency Procedures

- Establishment of clear and practiced emergency procedures, including evacuation plans, emergency contact information, and first-aid availability. Regular training and drills for staff and children on emergency response.

10. Outdoor Space Requirements

- Nearby playgrounds within five (5) miles is considered suitable.