

HOUSE BILL No. 2524

By Committee on Child Welfare and Foster Care

Requested by John Monroe on behalf of KVC Kansas

1-22

1 AN ACT concerning child care facilities; relating to licensure of family
2 foster homes; requiring the secretary for children and families to
3 license or allow maintenance of licensure of family foster homes when
4 certain persons reside in such homes; permitting the secretary, when not
5 required, to license or allow maintenance of licensure; creating an
6 appeal process for family foster homes; amending K.S.A. 2025 Supp.
7 65-516 and repealing the existing section.
8

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

10 Section 1. K.S.A. 2025 Supp. 65-516 is hereby amended to read as
11 follows: 65-516. (a) *Except as provided in subsection (d),* no person shall
12 knowingly maintain a child care facility if an employee who, in this state
13 or in other states or the federal government:

14 (1) (A) Has been convicted of a crime that is classified as a person
15 felony under the Kansas criminal code;

16 (B) has been convicted of a felony under K.S.A. 2010 Supp. 21-
17 36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21
18 of the Kansas Statutes Annotated, and amendments thereto, or any felony
19 violation of any provision of the uniform controlled substances act prior to
20 July 1, 2009;

21 (C) has been convicted of any act that is described in articles 34, 35
22 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal,
23 or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, and
24 amendments thereto, or K.S.A. 21-6104, 21-6325, 21-6326, 21-6418
25 through 21-6422 or 21-6424, and amendments thereto, or been convicted
26 of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301,
27 and amendments thereto, to commit any such act or been convicted of
28 conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302,
29 and amendments thereto, to commit such act, or similar statutes of any
30 other state or the federal government;

31 (D) has been convicted of any act that is described in K.S.A. 21-4301
32 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments
33 thereto, or similar statutes of any other state or the federal government; or

34 (E) has been convicted of any act that is described in K.S.A. 21-3718
35 or 21-3719, prior to their repeal, or K.S.A. 21-5812, and amendments

1 thereto, or similar statutes of any other state or the federal government;
2 (2) ~~except as provided in subsection (b),~~ has been adjudicated a
3 juvenile offender because of having committed an act which, if committed
4 by an adult, would constitute the commission of a felony and that is a
5 crime against persons, is any act described in articles 34, 35 or 36 of
6 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
7 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, and
8 amendments thereto, or K.S.A. 21-6104, 21-6325, 21-6326, 21-6418
9 through 21-6422 or 21-6424, and amendments thereto, or similar statutes
10 of any other state or the federal government, or is any act described in
11 K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and
12 amendments thereto, or similar statutes of any other state or the federal
13 government;

14 (3) has been convicted or adjudicated of a crime that requires
15 registration as a sex offender under the Kansas offender registration act,
16 K.S.A. 22-4901 et seq., and amendments thereto, as a sex offender in any
17 other state or as a sex offender on the national sex offender registry;

18 (4) has committed an act of physical, mental or emotional abuse or
19 neglect or sexual abuse and who is listed in the child abuse and neglect
20 registry maintained by the Kansas department for children and families
21 pursuant to K.S.A. 38-2226, and amendments thereto, or any similar child
22 abuse and neglect registries maintained by any other state or the federal
23 government and:

24 (A) The person has failed to successfully complete a corrective action
25 plan that had been deemed appropriate and approved by the Kansas
26 department for children and families or requirements of similar entities in
27 any other state or the federal government; or

28 (B) the record has not been expunged pursuant to rules and
29 regulations adopted by the secretary for children and families or similar
30 entities in any other state or the federal government;

31 (5) has had a child removed from home based on a court order
32 pursuant to K.S.A. 38-2251, and amendments thereto, in this state, or a
33 court order in any other state based upon a similar statute that finds the
34 child to be deprived or a child in need of care based on a finding of
35 physical, mental or emotional abuse or neglect or sexual abuse and the
36 child has not been returned to the home or the child reaches majority
37 before being returned to the home and the person has failed to
38 satisfactorily complete a corrective action plan approved by the
39 department of health and environment;

40 (6) has had parental rights terminated pursuant to the revised Kansas
41 code for care of children, or a similar statute of other states;

42 (7) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
43 seq., and amendments thereto, or an immediate intervention agreement

1 pursuant to K.S.A. 38-2346, and amendments thereto, involving a charge
2 of child abuse or a sexual offense; or

3 (8) has an infectious or contagious disease.

4 (b) If the secretary determines that there is no safety concern, The
5 secretary may license a family foster home, as defined in K.S.A. 38-134,
6 and amendments thereto, when a person who has been adjudicated as a
7 juvenile offender for an offense described in subsection (a)(2):

8 (1) Was a child in the custody of the secretary and placed with such
9 family foster home by the secretary;

10 (2) is 18 years of age or older;

11 (3) (A) maintains residence at such family foster home; or

12 (B) has been legally adopted by any person who resides at such
13 family foster home; and

14 (4) six months have passed since the date of adjudication.

15 (e) No person shall maintain a child care facility if such person has
16 been found to be a person in need of a guardian or a conservator, or both,
17 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

18 (d) Any person who resides in a child care facility and who has
19 been found to be in need of a guardian or a conservator, or both, shall be
20 counted in the total number of children allowed in care.

21 (d) (1) The secretary for children and families shall grant a license to
22 or allow maintenance of an existing license of a family foster home, as
23 defined in K.S.A. 38-134, and amendments thereto, when:

24 (A) Such applicant or licensee otherwise qualifies for such licensure;
25 and

26 (B) a person who resides in such home:

27 (i) Was a child in custody of and placed in such home by the
28 secretary;

29 (ii) is more than 18 years of age but less than 26 years of age; and

30 (iii) maintains residence in such home or has been legally adopted by
31 a person who resides in such home.

32 (2) The secretary for children and families may grant a license to or
33 allow maintenance of an existing license of a family foster home, as
34 defined in K.S.A. 38-134, and amendments thereto, when:

35 (A) A person is older than 26 years of age but otherwise meets the
36 requirements of paragraph (1); or

37 (B) an applicant or licensee is not granted or allowed to maintain a
38 license under this subsection.

39 (3) (A) An applicant or licensee may appeal to the secretary for
40 children and families for review, if such secretary has not granted or
41 allowed the maintenance of a license when such licensure shall or may be
42 otherwise granted or allowed to be maintained under this subsection.

43 (B) Upon review of such appeal, licensure may be granted or allowed

1 *to be maintained by the secretary, whose decision shall be final.*

2 (e) In accordance with the provisions of this subsection, the secretary
3 of health and environment shall have access to any court orders or
4 adjudications of any court of record, any records of such orders or
5 adjudications, criminal history record information including, but not
6 limited to, diversion agreements, in the possession of the Kansas bureau of
7 investigation and any report of investigations as authorized by K.S.A. 38-
8 2226, and amendments thereto, in the possession of the Kansas department
9 for children and families or court of this state concerning employees in a
10 child care facility. The secretary shall have access to these records for the
11 purpose of determining whether or not the home meets the requirements of
12 K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.

13 (f) In accordance with the provisions of this subsection, the secretary
14 is authorized to conduct national criminal history record checks to
15 determine criminal history on employees in a child care facility. In order to
16 conduct a national criminal history check the secretary shall require
17 fingerprinting for identification and determination of criminal history in
18 accordance with K.S.A. 2025 Supp. 22-4714, and amendments thereto.

19 (g) (1) The secretary shall adopt rules and regulations to fix a fee for
20 fingerprinting employees in a child care facility, as may be required by the
21 department to reimburse the department for the cost of the fingerprinting.

22 (2) The secretary shall remit all moneys received from the fees
23 established under this section to the state treasurer in accordance with
24 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
25 remittance, the state treasurer shall deposit the entire amount in the state
26 treasury to the credit of the child care criminal background and
27 fingerprinting fund.

28 (h) The child care criminal background and fingerprinting fund is
29 hereby created in the state treasury to be administered by the secretary of
30 health and environment. All moneys credited to the child care criminal
31 background and fingerprinting fund shall be used to pay local and state
32 law enforcement officers and agencies for the processing of fingerprints
33 and criminal history background checks for the department. All
34 expenditures from the child care criminal background and fingerprinting
35 fund shall be made in accordance with appropriation acts upon warrants of
36 the director of accounts and reports issued pursuant to vouchers approved
37 by the secretary or by a person designated by the secretary.

38 (i) The secretary shall notify the child care applicant or licensee,
39 within seven days by certified mail with return receipt requested, when the
40 result of the national criminal history record check or other appropriate
41 review reveals unfitness specified in subsections (a)(1) through (8) with
42 regard to the person who is the subject of the review.

43 (j) No child care facility or the employees thereof, shall be liable for

1 civil damages to any person refused employment or discharged from
2 employment by reason of such facility's or home's compliance with the
3 provisions of this section if such home acts in good faith to comply with
4 this section.

5 (k) For the purpose of subsection (a)(3), a person listed in the child
6 abuse and neglect central registry shall not be prohibited from residing,
7 working or volunteering in a child care facility unless such person has:

8 (1) Had an opportunity to be interviewed and present information
9 during the investigation of the alleged act of abuse or neglect; and

10 (2) been given notice of the agency decision and an opportunity to
11 appeal such decision to the secretary and to the courts pursuant to the
12 Kansas judicial review act.

13 (l) In regard to Kansas issued criminal history records:

14 (1) The secretary of health and environment shall provide in writing
15 information available to the secretary to each child placement agency
16 requesting information under this section, including the information
17 provided by the Kansas bureau of investigation pursuant to this section, for
18 the purpose of assessing the fitness of persons living, working or regularly
19 volunteering in a family foster home under the child placement agency's
20 sponsorship.

21 (2) The child placement agency is considered to be a governmental
22 entity and the designee of the secretary of health and environment for the
23 purposes of obtaining, using and disseminating information obtained under
24 this section.

25 (3) The information shall be provided to the child placement agency
26 regardless of whether the information discloses that the subject of the
27 request has been convicted of any offense.

28 (4) Whenever the information available to the secretary reveals that
29 the subject of the request has no criminal history on record, the secretary
30 shall provide notice thereof in writing to each child placement agency
31 requesting information under this section.

32 (5) Any staff person of a child placement agency who receives
33 information under this subsection shall keep such information confidential,
34 except that the staff person may disclose such information on a need-to-
35 know basis to:

36 (A) The person who is the subject of the request for information;
37 (B) the applicant or operator of the family foster home in which the
38 person lives, works or regularly volunteers;

39 (C) the department of health and environment;

40 (D) the Kansas department for children and families;

41 (E) the department of corrections; and

42 (F) the courts.

43 (6) A violation of paragraph (5) shall be an unclassified misdemeanor

1 punishable by a fine of \$100 for each violation.

2 (m) (1) No person shall maintain a day care facility unless such
3 person is a high school graduate or the equivalent thereof, except where
4 extraordinary circumstances exist, the secretary of health and environment
5 may exercise discretion to make exceptions to this requirement. The
6 provisions of this subsection shall not apply to any person who was
7 maintaining a day care facility on the day immediately prior to July 1,
8 2010, or who had an application for an initial license or the renewal of an
9 existing license pending on July 1, 2010.

10 (2) This subsection shall expire on June 30, 2026.

11 Sec. 2. K.S.A. 2025 Supp. 65-516 is hereby repealed.

12 Sec. 3. This act shall take effect and be in force from and after its
13 publication in the statute book.