

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

HOUSE BILL 287  
RATIFIED BILL

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES REGARDING CHILD CARE, TO REPEAL SECTION 4(B) OF S.L. 1997-506, AND TO MAKE CHANGES REGARDING THE TRAINING MATERIALS THAT MAY BE USED BY CHILD CARE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-88 reads as rewritten:

**"§ 110-88. Powers and duties of the Commission.**

The Commission shall have the following powers and duties:

- (1) To develop policies and procedures for the issuance of a license to any child care facility that meets all applicable standards established under this Article.
- (1a) To adopt applicable rules and standards based upon the capacity of a child care facility.
- (2) To require inspections by and satisfactory written reports from representatives of local or State health ~~agencies and agencies~~, fire ~~and building inspection agencies-agencies~~, and from representatives of the Department prior to the issuance of ~~a~~ an initial license to any child care center.
- (2a) To require annually, inspections by and satisfactory written reports from representatives of local or State health agencies and fire inspection agencies after a license is issued.
- (3) Repealed by Session Laws 1997-506, s. 4.
- (4) Repealed by Session Laws 1975, c. 879, s. 15.
- (5) To adopt rules and develop policies for implementation of this Article, including procedures for application, approval, annual compliance visits for centers, and revocation of licenses.
- (6) To adopt rules for the issuance of a provisional license that shall be in effect for no more than 12 consecutive months to a child care facility that does not conform in every respect with the standards established in this Article and rules adopted by the Commission pursuant to this Article but that is making a reasonable effort to conform to the standards.
- (6a) To adopt rules for administrative action against a child care facility when the Secretary's investigations pursuant to G.S. 110-105(a)(3) substantiate that child abuse or neglect did occur in the facility. The rules shall provide for types of sanctions which shall depend upon the severity of the incident and the probability of reoccurrence. The rules shall also provide for written warnings and special provisional licenses.
- (7) **(See editor's note)** To develop and adopt voluntary enhanced program standards which reflect higher quality child care than the mandatory standards established by this Article. These enhanced program standards must address, at a minimum, staff/child ratios, staff qualifications, parent involvement, operational and personnel policies, developmentally appropriate curricula, and facility square footage.

- (8) To develop a procedure by which the Department shall furnish those forms as may be required for implementation of this Article.
- (9) Repealed by Session Laws 1985, c. 757, s. 156(66).
- (10) To adopt rules for the issuance of a temporary license which shall expire in six months and which may be issued to the operator of a new center or to the operator of a previously licensed center when a change in ownership or location occurs.
- (11) To adopt rules for child care facilities which provide care for children who are mildly sick.
- (12) To adopt rules regulating the amount of time a child care administrator shall be on-site at a child care center.

~~The Department of Health and Human Services, Division of Child Development and the Child Care Commission shall not promote or require the utilization of training materials, curriculum, or policy developed or provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development. The Division and the Commission shall permit individual facilities to make curriculum decisions.~~ decisions and may not require the standards, policies, or curriculum of any single accrediting child care organization. If Division inquiries to providers include database fields or questions regarding accreditation, the inquiry shall permit daycare providers to fill in any accrediting organization from which they have received accreditation."

Section 2. G.S. 110-91(8) reads as rewritten:

- "(8) Qualifications for Staff. – All child care center administrators shall be at least 21 years of age. All child care center administrators shall have the North Carolina Early Childhood Administration Credential or its equivalent as determined by the Department. All child care administrators performing administrative duties as of the date this act becomes law and child care administrators who assume administrative duties at any time after this act becomes law and until September 1, 1998, shall obtain the required credential by September 1, 2000. Child care administrators who assume administrative duties after September 1, 1998, shall begin working toward the completion of the North Carolina Early Childhood Administration Credential or its equivalent within six months after assuming administrative duties and shall complete the credential or its equivalent within two years after beginning work to complete the credential. Each child care center shall be under the direction or supervision of a person meeting these requirements. All staff counted toward meeting the required staff-child ratio shall be at least 16 years of age, provided that persons younger than 18 years of age work under the direct supervision of a credentialed staff person who is at least 21 years of age. All lead teachers in a child care center shall have at least a North Carolina Early Childhood Credential or its equivalent as determined by the Department. Lead teachers shall be enrolled in the North Carolina Early Childhood Credential coursework or its equivalent as determined by the Department within six months after becoming employed as a lead teacher or within six months after this act becomes law, whichever is later, and shall complete the credential or its equivalent within 18 months after enrollment.

For child care centers licensed to care for 200 or more children, the Department, in collaboration with the North Carolina Institute for Early Childhood Professional Development, shall establish categories to recognize the levels of education achieved by child care center administrators and teachers who perform administrative functions. The

Department shall use these categories to establish appropriate staffing based on the size of the center and the individual staff responsibilities.

Effective January 1, 1998, an operator of a licensed family child care home shall be at least 21 years old and have a high school diploma or its equivalent. Operators of a family child care home licensed prior to January 1, 1998, shall be at least 18 years of age and literate. Literate is defined as understanding licensing requirements and having the ability to communicate with the family and relevant emergency personnel. Any operator of a licensed family child care home shall be the person on-site providing child care.

No person shall be an operator of nor be employed in a child care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

The Commission shall adopt standards to establish appropriate qualifications for all ~~other~~ staff in child care centers. These standards shall reflect training, experience, education and credentialing and shall be appropriate for the size center and the level of individual staff responsibilities. It is the intent of this provision to guarantee that all children in child care are cared for by qualified people. No Pursuant to G.S. 110-106, no requirements may interfere with the teachings or doctrine of any established religious organization. The staff qualification requirements of this subdivision do not apply to religious-sponsored child care facilities pursuant to G.S. 110-106.

Section 3. G.S. 110-93 reads as rewritten:

**"§ 110-93. Application for a license.**

(a) Each person who seeks to operate a child care facility shall apply to the Department for a license. The application shall be in the form required by the Department. Each ~~operator applicant~~ seeking a license shall be responsible for supplying with the application the necessary supporting data and reports to show conformity with rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article, including any required reports from the local and district health departments, local building inspectors, local firemen, voluntary firemen, and others, on forms which shall be provided by the Department.

(b) If an ~~operator applicant~~ conforms to the rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article as shown in the application and other supporting data, the Secretary shall issue a license that shall remain valid until the Secretary notifies the licensee otherwise pursuant to G.S. 150B-3 or other provisions of this Article, subject to suspension or revocation for cause as provided in this Article. If the applicant fails to conform to the required rules and standards, the Secretary may issue a provisional license under the policies of the Commission. The Department shall notify the ~~operator applicant~~ in writing by registered or certified mail the reasons the Department issued a provisional license.

(c) Repealed by Session Laws 1997-506, s. 10.

(d) Repealed by Session Laws 1977, c. 929, s. 1."

Section 4. G.S. 110-99(b) reads as rewritten:

"(b) A person who provides only drop-in or short-term child care as described in G.S. 110-86(2)(d)-110-86(2)(d), excluding drop-in or short-term child care provided in churches, shall notify the Department that the person is providing only drop-in or short-term child care. Any person providing only drop-in or short-term child care as described in G.S. 110-86(2)(d)-110-86(2)(d), excluding drop-in or short-term child care provided

in churches, shall display in a prominent place at all times a notice that the child care arrangement is not required to be licensed and regulated by the Department and is not licensed and regulated by the Department."

Section 5. Section 4(b) of S.L. 1997-506 is repealed.

Section 6. Chapter 110 of the General Statutes is amended by adding a new section to read:

**"§ 110-88.1. Commission may not interfere with religious training offered in religious-sponsored child care facilities.**

Nothing in this Article shall be interpreted to allow the State to determine the training or curriculum offered in any religious-sponsored child care facility as defined in G.S. 110-106(a)."

Section 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of May, 1999.

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Dennis A. Wicker  
President of the Senate

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James B. Black  
Speaker of the House of Representatives

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James B. Hunt, Jr.  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_ , 19