

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1517  
Committee Substitute Favorable 6/1/05  
Senate Mental Health & Youth Services Committee Substitute Adopted 8/10/05  
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Short Title: Clarify Definition of Child Care.

(Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF CHILD CARE AS RELATED TO  
DROP-IN OR SHORT-TERM CARE UNDER THE LAWS PERTAINING TO  
CHILD CARE FACILITIES AND TO MAKE IT A CRIMINAL OFFENSE FOR A  
BABY SITTING SERVICE TO BE OFFERED OR PROVIDED BY A SEX  
OFFENDER OR TO BE LOCATED IN THE HOME OF A SEX OFFENDER.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 110-86(2) reads as rewritten:

**"§ 110-86. Definitions.**

Unless the context or subject matter otherwise requires, the terms or phrases used in  
this Article shall be defined as follows:

...

(2) Child care. – A program or arrangement where three or more children  
less than 13 years old, who do not reside where the care is provided,  
receive care on a regular basis of at least once per week for more than  
four hours but less than 24 hours per day from persons other than their  
guardians or full-time custodians, or from persons not related to them  
by birth, marriage, or adoption. Child care does not include the  
following:

- a. Arrangements operated in the home of any child receiving care  
if all of the children in care are related to each other and no  
more than two additional children are in care;
- b. Recreational programs operated for less than four consecutive  
months in a year;
- c. Specialized activities or instruction such as athletics, dance, art,  
music lessons, horseback riding, gymnastics, or organized clubs

1 for children, such as Boy Scouts, Girl Scouts, 4-H groups, or  
 2 boys and girls clubs;

3 d. Drop-in or short-term care provided while parents participate in  
 4 activities that are not employment related and where the parents  
 5 are on the premises or otherwise easily accessible, such as  
 6 drop-in or short-term care provided in health spas, bowling  
 7 alleys, shopping malls, resort hotels, or churches;

8 d1. Drop-in or short-term care provided by an employer for its  
 9 part-time employees where (i) the child is provided care not to  
 10 exceed two and one-half hours during that day, (ii) the parents  
 11 are on the premises, and (iii) there are no more than 25 children  
 12 in any one group in any one room;

13 e. Public schools;

14 f. Nonpublic schools described in Part 2 of Article 39 of Chapter  
 15 115C of the General Statutes that are accredited by the Southern  
 16 Association of Colleges and Schools and that operate a child  
 17 care facility as defined in subdivision (3) of this section for less  
 18 than six and one-half hours per day either on or off the school  
 19 site;

20 g. Bible schools conducted during vacation periods;

21 h. Care provided by facilities licensed under Article 2 of Chapter  
 22 122C of the General Statutes;

23 i. Cooperative arrangements among parents to provide care for  
 24 their own children as a convenience rather than for  
 25 employment; and

26 j. Any child care program or arrangement consisting of two or  
 27 more separate components, each of which operates for four  
 28 hours or less per day with different children attending each  
 29 component.

30 ...."

31 **SECTION 2.** G.S. 110-99(b) reads as rewritten:

32 "(b) A person who provides only drop-in or short-term child care as described in  
 33 ~~G.S. 110-86(2)(d)~~ G.S. 110-86(2)d. and G.S. 110-86(2)d1., excluding drop-in or short-  
 34 term child care provided in churches, shall ~~notify~~ register with the Department that the  
 35 person is providing only drop-in or short-term child care. Any person providing only  
 36 drop-in or short-term child care as described in ~~G.S. 110-86(2)(d)~~ G.S. 110-86(2)d. and  
 37 G.S. 110-86(2)d1., excluding drop-in or short-term child care provided in churches,  
 38 shall display in a prominent place at all times a notice that the child care arrangement is  
 39 not required to be licensed and regulated by the Department and is not licensed and  
 40 regulated by the Department."

41 **SECTION 3.** The Director of the Division of Child Development shall  
 42 report to the General Assembly no later than May 1, 2006, the number of drop-in and  
 43 short-term facilities that have registered under G.S. 110-99(b), as enacted by this act.

1           **SECTION 3.1.** The Director of the Division of Child Development, in  
2 coordination with other child care stakeholder organizations and advocates, shall study  
3 current policies, practices, and laws related to drop-in and short-term care and baby  
4 sitting services and shall make recommendations to ensure the health and safety of  
5 children who utilize this type of care. The Division shall report its findings and  
6 recommendations to the General Assembly by April 30, 2006.

7           **SECTION 4.** Article 39 of Chapter 14 is amended by adding a new section  
8 to read:

9           "**§ 14-321.1. Prohibit baby sitting service by sex offender or in the home of a sex**  
10           **offender.**

11           (a)   For purposes of this section the term "baby sitting service" means providing,  
12 for profit, supervision or care for a child under the age of 13 years who is unrelated to  
13 the provider by blood, marriage, or adoption, for more than two hours per day while the  
14 child's parents or guardian are not on the premises.

15           (b)   Notwithstanding any other provision of law, no person who is an adult may  
16 provide or offer to provide a baby sitting service in any of the following circumstances:

17               (1)   The baby sitting service is offered in a home and a resident of the  
18               home is a sex offender who is registered in accordance with Article  
19               27A of Chapter 14 of the General Statutes.

20               (2)   A provider of care for the baby sitting service is a sex offender who is  
21               registered in accordance with Article 27A of Chapter 14 of the General  
22               Statutes.

23           (c)   A violation of this section that is a first offense is a Class 1 misdemeanor. A  
24 violation of this section that is a second or subsequent offense is a Class H felony."

25           **SECTION 5.** Section 4 of this act becomes effective December 1, 2005, and  
26 applies to offenses committed on or after that date. The remainder of this act is  
27 effective when it becomes law.