

CHAPTER 144

CHILD DAY CARE FACILITIES

S. F. 491

AN ACT relating to the licensing and registration of child day care facilities and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section two hundred thirty-seven A point one (237A.1),
2 Code 1975, is amended to read as follows:

3 **237A.1 Definitions.** As used in this chapter unless the context
4 otherwise requires:

5 1. "Commissioner" means the commissioner of social services.

6 2. "Department" means the department of social services.

7 3. "Director" means the director of the division designated by the
8 commissioner to administer this chapter.

9 4. "County board" means the county board of social welfare.

10 5. "Child" means a person under eighteen years of age.

11 6. "Relative" means a person who by marriage, blood or adoption
12 is a parent, grandparent, brother, sister, stepfather, stepmother, step-
13 brother, stepsister, uncle, aunt, first cousin, or guardian.

14 7. "Child day care" means the care, supervision, or guidance of a
15 child by a person other than the parent, guardian, relative or custo-
16 dian for periods of two hours or more and less than twenty-four
17 hours per day per child on a regular basis in a place other than the
18 child's home, but does not include:

19 a. An instructional program administered by a public or nonpub-
20 lic school system approved by the department of public instruction
21 or the state board of regents.

22 b. A church-related instructional program of not more than one
23 day per week.

24 c. Short-term classes held between school terms.

25 8. "Child care center" or "center" means a facility providing care
26 for six child day care for seven or more children for more than four
27 hours, but less than twenty-four hours, per day.

28 9. "Family day care home" means a facility which provides child
29 day care to less than seven children.

30 10. "Child day care facility" or "facility" means a child care cen-
31 ter or registered family day care home.

32 11. "Licensed center" means a center applying for or issued a full
33 or provisional license by the department under the provisions of this
34 chapter or a center for which a license is being processed.

35 12. "Low-income family" means a family whose total income, rel-
36 ative to the number of persons dependent on the family's total income
37 for support, is designated by the department as insufficient to provide
38 an adequate standard of living. Adequate standard of living shall be
39 defined as at or below the minimum living standard budget deter-
40 mined by the bureau of labor statistics of the United States depart-
41 ment of labor, adjusted regionally and for family size monthly gross
42 income is less than the lower of:

43 a. Eighty percent of the median income of a family of four in
44 this state adjusted to take into account the size of the family; or

45 b. The median income of a family of four in the fifty states and
46 the District of Columbia adjusted to take into account the size of
47 the family.

48 13. "State day care advisory committee" means the state day care
49 advisory committee established by regulation 220.4 of the Social Secu-

50 rity Act of 1967 whose membership is no less than nine nor no more
 51 than fifteen members and is comprised of one-third providers of ser-
 52 vices, one-third interested citizens from urban and rural areas across
 53 the state and one-third parents of children served. If for any reason the
 54 federal government eliminates this advisory committee, this advisory
 55 committee shall continue to function as a state advisory group to the
 56 department pursuant to section ten (10) of this Act.

1 SEC. 2. Section two hundred thirty-seven A point two (237A.2),
 2 Code 1975, is amended to read as follows:

3 **237A.2 License voluntary.** A center may request to be licensed
 4 by the department but is not required to be licensed in order to operate
 5 in this state: **Licensing of child care centers.** A person shall not es-
 6 tablish or operate a child care center without obtaining a license
 7 under the provisions of this chapter. A center may operate for a
 8 specified period of time, to be established by rule of the department,
 9 if application for a license has been made. The department shall is-
 10 sue a license if it determines that the following conditions have been
 11 met:

12 1. An application for a license or a renewal has been filed with the
 13 director on forms provided by the department.

14 2. The center possesses adequate financial resources to perform the
 15 services it undertakes.

16 3 2. The center is maintained so as to comply with state and local
 17 health, and fire, and zoning laws.

18 4 3. The facility center is maintained so as to comply with rules
 19 promulgated under section 237A.12.

20 A person denied a license under the provisions of this section shall
 21 receive written notice of the denial stating the reasons for denial and
 22 may appeal the decision as provided in sections 237A.10 and 237A.11
 23 shall be provided with an opportunity for an evidentiary hearing.
 24 Licenses granted under this chapter shall be valid for one year from
 25 the date of issuance unless revoked or suspended in accordance with
 26 the provisions of section two hundred thirty-seven A point eight
 27 (237A.8) of the Code. A record of the license shall be kept by the de-
 28 partment. The license shall be posted in a conspicuous place in the
 29 center and shall state the particular premises in which child day
 30 care may be offered and the number of individuals who may be re-
 31 ceived for care at any one time. No greater number of children than
 32 is authorized by the license shall be kept in the center at any one
 33 time.

34 The director may issue a provisional license for a period of time not
 35 to exceed one year if the center does not meet standards required un-
 36 der this section. A provisional license shall be posted in a conspicu-
 37 ous place in the center as provided in this section. If written plans to
 38 bring the center up to standards, giving specific dates for completion of
 39 work, are submitted to and approved by the department promulgating
 40 the regulations, the provisional license shall be renewable.

41 A facility which is not a child care center by reason of the defini-
 42 tion of child day care in section one (1) of this Act, but which pro-
 43 vides care, supervision or guidance to a child may be issued a
 44 license if the facility complies with all the provisions of this chap-
 45 ter.

1 SEC. 3. Section two hundred thirty-seven A point three (237A.3),
 2 Code 1975, is amended by striking the section and inserting in lieu
 3 thereof the following:

4 **237A.3 Registration of family day care homes.** A person who
 5 operates or establishes a family day care home may apply to the de-
 6 partment for registration under the provisions of this chapter. The de-
 7 partment shall issue a certificate of registration upon receipt of a
 8 statement from the family day care home that the home complies with
 9 rules promulgated by the department. The registration certificate shall
 10 be posted in a conspicuous place in the family day care home, shall
 11 state the name of the registrant, the number of individuals who may
 12 be received for care at any one time and the address of the home, and
 13 shall include a check list of registration compliances. No greater num-
 14 ber of children than is authorized by the certificate shall be kept in the
 15 family day care home at any one time. The registration process may
 16 be repeated on an annual basis. A facility which is not a family day
 17 care home by reason of the definition of child day care in section one
 18 (1) of this Act, but which provides care, supervision or guidance to a
 19 child may be issued a certificate of registration under the provisions of
 20 this chapter.

1 SEC. 4. Section two hundred thirty-seven A point four (237A.4),
 2 Code 1975, is amended to read as follows:

3 **237A.4 Examinations Inspection and evaluation.** ~~The~~ *The local boards of health shall make periodic inspections of licensed centers to insure compliance with licensing requirements provided in this chapter. In those instances where no local board of health exists then the director may make periodic inspections of licensed centers as necessary to carry out the provisions of this chapter. The director may inspect records maintained by a licensed center and may inquire into matters concerning these centers and the persons in charge. The director shall require that the center be inspected by the commissioner of public health and the state fire marshal or a designee for compliance with rules relating to fire safety or their designees, before a license is granted or renewed.*

15 *The director or a designee may periodically visit registered family day care homes for the purpose of evaluation of an inquiry into matters concerning compliance with rules promulgated under section two hundred thirty-seven A point twelve (237A.12) of the Code. Evaluation of family day care homes under this section may include consultative services provided pursuant to section two hundred thirty-seven A point six (237A.6) of the Code.*

1 SEC. 5. Section two hundred thirty-seven A point five (237A.5),
 2 Code 1975, is amended to read as follows:

3 **237A.5 Personnel.** All personnel ~~having direct responsibility for~~
 4 ~~individual children~~ in licensed child care centers shall have good ~~physi-~~
 5 ~~eal and mental~~ health as evidenced by a report following a *pre-em-*
 6 *ployment physical examination taken within six months prior to*
 7 *beginning employment, including communicable disease tests an ex-*
 8 *amination, by a licensed physician, as defined in section one*
 9 *hundred thirty-five C point one (135C.1) of the Code, at the time of*
 10 *initial employment and every three years thereafter. A new report*
 11 ~~shall be required every year thereafter.~~ No staff member of a licensed
 12 center or registered home with direct responsibility for child care shall
 13 have a conviction by any law of any state involving lascivious acts
 14 with a child, child neglect or child abuse.

1 SEC. 6. Section two hundred thirty-seven A point six (237A.6),
 2 Code 1975, is amended to read as follows:

3 **237A.6 Consultative services.** The department *shall, and the*
 4 *commissioner of public health* may provide consultative services to a
 5 person applying for a license *or registration*, or licensed *or registered*
 6 by the director under this chapter.

1 SEC. 7. Section two hundred thirty-seven A point seven (237A.7),
 2 Code 1975, is amended to read as follows:

3 **237A.7 Confidential information.** Anyone who acquires through
 4 the administration of this chapter information relative to an individual
 5 in a ~~center~~ *child day care facility* or to a relative of the individual
 6 shall not, directly or indirectly, disclose the information except upon
 7 inquiry before a court of law or with the written consent of the individ-
 8 ual or, in the case of a child, the written consent of the parent or
 9 guardian *or as otherwise specifically required or allowed by law.*

10 This section shall not prohibit the director from disclosing facts when
 11 it is in the best interests of a child or in the interest of the child's par-
 12 ents, guardian, or foster parents and not harmful to the child, or when
 13 disclosure is necessary to protect the interests of the child's prospective
 14 foster parents.

15 This section shall not prohibit the director from disclosing disclosure
 16 of information relative to the structure and operation of a licensed cen-
 17 ter facility nor shall it prohibit the statistical analysis by duly author-
 18 ized persons of data collected by virtue of this chapter, or the
 19 publication of the results of the analysis in a manner which does not
 20 disclose information identifying individual persons.

1 SEC. 8. Section two hundred thirty-seven A point eight (237A.8),
 2 Code 1975, is amended to read as follows:

3 **237A.8 Suspension and revocation.** The director, after notice
 4 and *opportunity for an evidentiary* hearing, may suspend or revoke a
 5 license *or certificate of registration* issued under the provisions of this
 6 chapter if the person to whom a license *or certificate* is issued violates
 7 any provision of this chapter or if a person makes false reports regard-
 8 ing the operation of the ~~center~~ *child day care facility* to the director
 9 or his a designee.

1 SEC. 9. Section two hundred thirty-seven A point twelve (237A.12),
 2 Code 1975, is amended to read as follows:

3 **237A.12 Rules.** Subject to the provisions of chapter 17A, the di-
 4 rector shall promulgate rules ~~for operating and maintaining~~ licensed
 5 *setting minimum standards to provide quality child day care in the*
 6 *operation and maintenance of child care centers and registered fam-*
 7 *ily day care homes* relating to:

8 1. The number ~~of~~ *qualified and qualifications* of personnel neces-
 9 sary to assure the health, safety, and welfare of children in the ~~center~~
 10 *facilities.*

11 2. The ~~minimum~~ number of square feet available for use both in-
 12 doors and outdoors, by each child received into the center. Outdoor
 13 areas used by the children shall be enclosed either by fencing or some
 14 other appropriate method *Physical facilities.*

15 3. The adequacy of activity programs and food services available to
 16 the children.

17 4. Policies established by the center for parental participation.

18 5. *Programs for education and in-service training of staff.*

19 6. *Records kept by the facilities.*

20 7. *Administration.*

21 8. *Health, safety, and medical policies for children.*

22 Before a proposed rule, as defined in chapter 17A, is submitted to
 23 the departmental rules review committee, a public hearing shall be
 24 held in regard to the rule, and members of the departmental rules re-
 25 view committee shall be notified of the hearings.

26 Rules promulgated by the state fire marshal and the commissioner of
 27 public health for buildings used as child care centers as an adjunct to
 28 the primary purpose of the building shall take into consideration that
 29 children are received for temporary care only and shall not differ from
 30 rules promulgated for these buildings when they are used by groups of
 31 persons congregating from time to time in the primary use and occu-
 32 pancy of the buildings. Furthermore, such rules shall govern only por-
 33 tions of the building utilized for child care centers. However, the rules
 34 may require a fire-rated separation from the remaining portion of
 35 the building if the fire marshal determines that the separation is
 36 necessary for the protection of children from a specific flammable
 37 hazard.

38 All rules and standards promulgated under this chapter with respect
 39 to child care centers shall be developed in consultation with the state
 40 day care advisory committee.

41 Rules relating to fire safety and sanitation shall be promulgated
 42 under this chapter by the state fire marshal and the commissioner
 43 of public health respectively, in consultation with the department,
 44 and all rules shall be developed in consultation with the state day
 45 care advisory committee. The state fire marshal shall inspect the fa-
 46 cilities.

1 SEC. 10. Chapter two hundred thirty-seven A (237A), Code 1975, is
 2 amended by adding the following new sections:

3 NEW SECTION. **Penalty.** A person who establishes, conducts, man-
 4 ages, or operates a center without a license shall be guilty of a misde-
 5 meanor. Each day of continuing violation after conviction, or notice
 6 from the department by certified mail of the violation, shall be consid-
 7 ered a separate offense.

8 NEW SECTION. **Injunction.** Any person who establishes, conducts,
 9 manages, or operates a center without a license may be restrained by
 10 permanent injunction.

11 NEW SECTION. **State day care advisory committee.** There is es-
 12 tablished a state day care advisory committee to consist of not less
 13 than nine and not more than fifteen members from urban and rural
 14 areas across the state. The membership shall consist of one-third provid-
 15 ers of services, one-third interested citizens, and one-third parents of
 16 children served. Members shall be appointed by the commissioner from
 17 a list of names submitted by a nominating committee to consist of one
 18 member of the state day care advisory committee established pursuant
 19 to this section, one member of the day care unit of the department,
 20 and one member of a professional child care organization. Two names
 21 shall be submitted for each appointment. Members shall be appointed
 22 for terms of three years but no member shall be appointed to more
 23 than two consecutive terms. The state day care advisory committee
 24 shall write its own operational policies with departmental approval.
 25 The member of the state day care advisory committee who submits
 26 names of nominees for initial membership on the committee shall be a
 27 member of the state day care advisory committee established by regu-
 28 lation two hundred twenty point four (220.4) of the Social Security Act
 29 of 1967.

30 NEW SECTION. **Duties of the state day care advisory commit-**
 31 **tee.** The state day care advisory committee shall:

32 1. Consult with and make recommendations to the department in
33 the promulgation of rules under this chapter.

34 2. Recommend improvements in the licensing and registration of fa-
35 cilities.

36 3. Advise the department on licensing policy, planning, and priori-
37 ties.

1 SEC. 11. Sections two hundred thirty-seven A point nine (237A.9),
2 two hundred thirty-seven A point ten (237A.10) and two hundred
3 thirty-seven A point eleven (237A.11), Code 1975, are repealed.

Approved July 17, 1975

This Act was passed by the G.A. prior to July 1, 1975; see §3.7 of the Code

CHAPTER 145

VIETNAMESE CHILDREN

H. F. 877

AN ACT relating to the placement and adoption of South Vietnamese children.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1.

2 1. Notwithstanding chapter two hundred thirty-eight (238) of the
3 Code, a child-placing agency, as defined in section two hundred thirty-
4 eight point two (238.2) of the Code or as licensed under the laws of an-
5 other state, may place a child in the home of a proposed parent in an-
6 ticipation of an ensuing adoption if:

7 a. The agency has a contract with the government of the republic of
8 South Vietnam to place the child;

9 b. The agency had, at the time the child resided in South Vietnam,
10 proper documents from the government of the republic of South Viet-
11 nam permitting the child to be placed and adopted but that the docu-
12 ments cannot be located and replaced; and

13 c. The child is legally admitted to the United States of America.

14 2. The home in which a child is placed under subsection two (2) of
15 this section shall be investigated for suitability by the department of
16 social services before or upon placement of the child. A petition for
17 adoption of the child shall not be filed under section six hundred point
18 one (600.1) of the Code until the department has approved the place-
19 ment. Upon application of the department to the appropriate juvenile
20 court, the child may be removed from an unapproved home and a
21 guardian appointed for the child.

1 SEC. 2. Notwithstanding chapter six hundred (600) of the Code, a
2 child placed under section one (1) of this Act may be adopted without
3 the adoption petition allegations relating to the child required under
4 section six hundred point one (600.1) of the Code and without the con-
5 sents required under section six hundred point three (600.3) of the Code
6 if an affidavit by the agency verifying that the documents specified
7 under paragraph b of section one (1) of this Act existed and are now
8 unavailable is submitted to the court. In such case, the agency shall
9 deliver to the court all available information on the child.

1 SEC. 3. Notwithstanding the provisions of chapter one hundred for-
2 ty-four (144), the state registrar of vital statistics shall issue a birth cer-
3 tificate for any child adopted pursuant to section two (2) of this Act