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SENATE FILE 346

BY FLYNN and REHBERG

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to family and group day care homes and providing
 2 effective dates.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
FAMILY AND GROUP DAY CARE HOMES
CLASSIFICATIONS COMBINED

Section 1. Section 237A.1, subsection 3, Code 1997, is amended to read as follows:

3. "Child care center" or "center" means a facility providing child day care for seven five or more children, except when the facility is registered as a family-day child care home or-group-day-care-home.

Sec. 2. Section 237A.1, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Child care home" means a person or program which provides child day care in accordance with the provisions of section 237A.3.

Sec. 3. Section 237A.1, subsection 4, unnumbered paragraph 1, Code 1997, is amended to read as follows:

"Child day care" means the care, supervision, or guidance of a child by a person other than the child's parent, guardian, ~~relative,~~ or custodian for periods of less than twenty-four hours per day per child on a regular basis ~~in-a~~ ~~place-other-than-the-child's-home,~~ but does not include care, supervision, or guidance of a child by any of the following:

Sec. 4. Section 237A.1, subsection 5, Code 1997, is amended to read as follows:

5. "Child day care facility" or "facility" means a child care center, ~~group-day-care-home,~~ or registered family-day child care home.

Sec. 5. Section 237A.1, subsections 8 and 12, Code 1997, are amended by striking the subsections.

Sec. 6. Section 237A.3, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

237A.3 REGISTRATION OF CHILD CARE HOMES.

1. DEFINITIONS. For the purposes of this section, unless the context otherwise requires:

a. "Children receiving care on a part-time basis" means

1 children who are present in a child care home for ninety hours
2 per month or less.

3 b. "Infant" means a child who is less than two years of
4 age.

5 c. "School" means kindergarten or a higher grade level.

6 2. REGISTRATION REQUIREMENT -- FEES.

7 a. A person shall not operate or establish a child care
8 home which provides care to more than three infants at any one
9 time or to more than four children at any one time unless the
10 child care home is registered in accordance with this section.
11 The registration process may be repeated on an annual basis as
12 provided by rule.

13 b. A person who is a child foster care licensee under
14 chapter 237 must register as a child care home provider in
15 order to operate or establish a child care home.

16 c. A person or program which provides care, supervision,
17 or guidance to a child which is not defined as child day care
18 under section 237A.1, subsection 4, may be issued a
19 certificate of registration under this chapter.

20 d. Four levels of registration requirements are applicable
21 to registered child care homes in accordance with this section
22 and rules adopted pursuant to section 237A.12. The rules
23 shall apply requirements to each level for the amount of space
24 available per child, provider qualifications and training, and
25 other minimum standards. A registration fee shall be charged
26 to each level of registration, in an amount determined by the
27 department based upon the differential cost of regulation
28 relative to a registration level. Registration fees shall be
29 deposited in the child day care credit fund.

30 3. NUMBER OF CHILDREN. In determining the number of
31 children cared for at any one time in a registered or
32 unregistered child care home, each child present shall be
33 considered to be receiving care unless the child is described
34 by one of the following exceptions:

35 a. The child's parent, guardian, or custodian operates or

1 establishes the home and the child is attending school or the
2 child receives child day care full-time on a regular basis
3 from another person.

4 b. The child has been present in the child care home for
5 more than seventy-two consecutive hours and meets the
6 requirements of paragraph "a" as though the person who
7 operates or establishes the home is the child's parent,
8 guardian, or custodian.

9 4. REGISTRATION CERTIFICATE. The department shall issue a
10 certificate of registration upon receipt of a statement from
11 the child care home or an inspection verifying that the child
12 care home complies with rules adopted by the department. The
13 registration certificate shall be posted in a conspicuous
14 place in the child care home and shall state the name of the
15 registrant, the registration level of the child care home, the
16 number of children who may be present for care at any one
17 time, and the address of the child care home. In addition,
18 the certificate shall include a check list of registration
19 compliances.

20 5. REVOCATION OR DENIAL OF REGISTRATION. If the
21 department has denied or revoked a registration because a
22 person has continually or repeatedly failed to operate a
23 registered or licensed child day care facility in compliance
24 with this chapter and rules adopted pursuant to this chapter,
25 the person shall not operate or establish a registered child
26 care home for a period of six months from the date the
27 registration or license is denied or revoked. The department
28 shall not act on an application for registration submitted by
29 the person during the six-month period.

30 6. INCLEMENT WEATHER EXCEPTION. If school classes have
31 been cancelled due to inclement weather, a registered child
32 care home may have additional children present in accordance
33 with the authorization for the registration level of the child
34 care home and subject to all of the following conditions:

35 a. The child care home has prior written approval from the

1 parent or guardian of each child present in the child care
2 home concerning the presence of additional children in the
3 child care home.

4 b. The child care home has a responsible individual, age
5 fourteen or older, on duty to assist the care provider as
6 required for the registration level of the child care home.

7 c. One or more of the following conditions is applicable
8 to each of the additional children present in the child care
9 home:

10 (1) The child care home provides care to the child on a
11 regular basis for periods of less than two hours.

12 (2) If the child was not present in the child care home,
13 the child would be unattended.

14 (3) The child care home regularly provides care to a
15 sibling of the child.

16 7. FIRE SAFETY. In consultation with the state fire
17 marshal, the department shall adopt rules relating to the
18 provision of fire extinguishers, smoke detectors, and two
19 exits accessible to children in a registered child care home.

20 8. SICK CHILDREN. The department shall adopt rules
21 relating to the provision of a separate area for sick children
22 in those child care homes which are registered at levels III
23 and IV.

24 9. LEVEL I REGISTRATION. All of the following
25 requirements shall apply to a level I registered child care
26 home:

27 a. Except as otherwise provided in this subsection, not
28 more than six children shall be present at any one time.

29 b. Not more than three children who are infants shall be
30 present at any one time.

31 c. In addition to the number of children authorized in
32 paragraph "a", not more than two children who attend school
33 may be present for a period of less than two hours at any one
34 time.

35 d. Not more than eight children shall be present at any

1 one time when an inclement weather exception is in effect.

2 10. LEVEL II REGISTRATION. All of the following
3 requirements shall apply to a level II registered child care
4 home:

5 a. Except as otherwise provided in this subsection, not
6 more than six children shall be present at any one time.

7 b. Not more than three children who are infants shall be
8 present at any one time.

9 c. In addition to the number of children authorized in
10 paragraph "a", not more than four children who attend school
11 may be present for a period of less than two hours at any one
12 time.

13 d. In addition to the number of children authorized in
14 paragraph "a", not more than two children who are receiving
15 care on a part-time basis may be present.

16 e. Not more than twelve children shall be present at any
17 one time when an inclement weather exception is in effect.
18 However, if more than eight children are present during an
19 inclement weather exception, the provider shall be assisted by
20 a person who is at least fourteen years of age.

21 11. LEVEL III REGISTRATION. All of the following
22 requirements shall apply to a level III registered child care
23 home:

24 a. Except as otherwise provided in this subsection, not
25 more than six children shall be present at any one time.

26 b. Not more than three children who are infants shall be
27 present at any one time.

28 c. In addition to the number of children authorized in
29 paragraph "a", not more than four children who attend school
30 may be present.

31 d. In addition to the number of children authorized in
32 paragraph "a", not more than two children who are receiving
33 care on a part-time basis may be present.

34 e. Not more than twelve children shall be present at any
35 one time when an inclement weather exception is in effect.

1 f. If more than eight children are present at any one
2 time, the provider shall be assisted by a person who is at
3 least fourteen years of age.

4 12. LEVEL IV REGISTRATION. All of the following
5 requirements shall apply to a level IV registered child care
6 home:

7 a. Except as otherwise provided in this subsection, not
8 more than twelve children shall be present at any one time.
9 If more than seven children are present, a second person must
10 be present who meets the individual qualifications for child
11 care home registration.

12 b. Not more than four children who are infants shall be
13 present at any one time and of these children, not more than
14 two shall be less than one year old.

15 c. In addition to the number of children authorized in
16 paragraph "a", not more than two children who attend school
17 may be present for a period of less than two hours at any one
18 time.

19 d. In addition to the number of children authorized in
20 paragraph "a", not more than two children who are receiving
21 care on a part-time basis may be present.

22 e. Not more than sixteen children shall be present at any
23 one time when an inclement weather exception is in effect. If
24 more than eight children are present at any one time during an
25 inclement weather exception, the provider shall be assisted by
26 a person who is at least fourteen years of age.

27 DIVISION II

28 CONFORMING AMENDMENTS

29 Sec. 7. Section 232.69, subsection 1, paragraph b,
30 subparagraph (7), Code 1997, is amended to read as follows:

31 (7) An employee or operator of a licensed child care
32 center or ~~registered-group-day-care-home-or~~ registered family
33 day child care home.

34 Sec. 8. Section 237.1, subsection 4, paragraph d, Code
35 1997, is amended to read as follows:

1 d. Child day care furnished by a child care center, group
2 day-care-home, or family-day child care home as defined in
3 section 237A.1.

4 Sec. 9. Section 237A.4, Code 1997, is amended to read as
5 follows:

6 237A.4 INSPECTION AND EVALUATION.

7 The department shall make periodic inspections of licensed
8 centers to insure compliance with licensing requirements
9 provided in this chapter, and the local boards of health may
10 make periodic inspections of licensed centers to insure
11 compliance with health-related licensing requirements provided
12 in this chapter. The administrator may inspect records
13 maintained by a licensed center and may inquire into matters
14 concerning these centers and the persons in charge. The
15 administrator shall require that the center be inspected by
16 the state fire marshal or a designee for compliance with rules
17 relating to fire safety before a license is granted or
18 renewed. The administrator or a designee may periodically
19 visit registered family-day child care homes for the purpose
20 of evaluation of an inquiry into matters concerning compliance
21 with rules adopted under section 237A.12. Evaluation of
22 family-day child care homes under this section may include
23 consultative services provided pursuant to section 237A.6.

24 Sec. 10. Section 237A.12, unnumbered paragraph 1, Code
25 1997, is amended to read as follows:

26 Subject to the provisions of chapter 17A, the administrator
27 shall promulgate consult with the state child day care
28 advisory council created in section 237A.21 in adopting rules
29 setting minimum standards to provide quality child day care in
30 the operation and maintenance of child care centers and
31 registered family-day child care homes relating to all of the
32 following:

33 Sec. 11. Section 237A.12, subsection 3, Code 1997, is
34 amended to read as follows:

35 3. The adequacy of activity programs and food services

1 available to the children. The administrator shall not
2 restrict the use of or apply nutritional standards to a lunch
3 or other meal which is brought to the center or family-day
4 child care home by a school-age child for the child's
5 consumption.

6 Sec. 12. Section 237A.19, unnumbered paragraph 2, Code
7 1997, is amended to read as follows:

8 A person who establishes, conducts, manages, or operates a
9 ~~group-day-care-home-without-registering-under-this-chapter-or~~
10 ~~who-operates-a-family-day~~ child care home contrary to the
11 provisions of section 237A.3 or 237A.5, is-guilty-of commits a
12 simple misdemeanor. Each day of continuing violation after
13 conviction, or notice from the department by certified mail of
14 the violation, is a separate offense. A single charge
15 alleging continuing violation may be made in lieu of filing
16 charges for each day of violation.

17 Sec. 13. Section 237A.20, Code 1997, is amended to read as
18 follows:

19 237A.20 INJUNCTION.

20 A person who establishes, conducts, manages, or operates a
21 center without a license or a group-day child care home
22 without a certificate of registration in violation of section
23 237A.3 may be restrained by temporary or permanent injunction.
24 A person who has been convicted of a crime against a person or
25 a person with a record of founded child abuse may be
26 restrained by temporary or permanent injunction from providing
27 unregistered, registered, or licensed child day care. The
28 action may be instituted by the state, a political subdivision
29 of the state, or an interested person.

30 Sec. 14. Section 237A.21, subsection 1, Code 1997, is
31 amended to read as follows:

32 1. A state child day care advisory council is established
33 consisting of not more than thirty-five members from urban and
34 rural areas across the state. The membership shall include,
35 but is not limited to, all of the following persons or

1 representatives with an interest in child day care: a
2 licensed center, a registered family-day child care home from
3 a county with a population of less than twenty-two thousand,
4 an unregistered family-day child care home, a parent of a
5 child in child day care, appropriate governmental agencies,
6 and other members as deemed necessary by the director. The
7 members are eligible for reimbursement of their actual and
8 necessary expenses while engaged in performance of their
9 official duties.

10 Sec. 15. Section 237A.21, subsection 3, paragraphs a, e,
11 and f, Code 1997, are amended to read as follows:

12 a. Two parents of a child served by a family-or-group-day
13 child care home.

14 e. Two family-day child care home providers who are
15 registered at level I or level II.

16 f. Two group-day child care home providers who are
17 registered at level III or level IV.

18 Sec. 16. Section 237A.26, subsection 3, paragraph a, Code
19 1997, is amended to read as follows:

20 a. Organize assistance to family-and-group-day child care
21 homes utilizing training levels based upon the homes' degrees
22 of experience and interest.

23 Sec. 17. Section 237A.26, subsection 6, paragraph h, Code
24 1997, is amended to read as follows:

25 h. Administer funding designated within the grant to
26 provide a substitute caregiver program for registered family
27 and-group-day child care homes to provide substitute care in a
28 home when the home provider is ill, on vacation, receiving
29 training, or is otherwise unable to provide the care.

30 Sec. 18. Section 256C.3, subsection 5, Code 1997, is
31 amended to read as follows:

32 5. Training, technical assistance, and other support by
33 the family resource center staff to family-day child care home
34 providers in the community. The center may serve as an
35 information and referral clearinghouse for other child care

1 needs and services in the community and shall coordinate the
2 center's information and efforts with any child care delivery
3 systems that may already exist in the community. The center
4 may also provide an adolescent pregnancy prevention program,
5 and other programs as the community determines, for
6 adolescents emphasizing responsible decision making and
7 communication skills.

8 DIVISION III
9 EFFECTIVE DATES

10 Sec. 19. EFFECTIVE DATES.

11 1. Divisions I and II of this Act take effect July 1,
12 1998.

13 2. This division of this Act being deemed of immediate
14 importance takes effect upon enactment. The department of
15 human services shall consult with the state child day care
16 advisory council created in section 237A.21 in developing
17 implementation plans and adopting rules as necessary to
18 implement the provisions of this Act on July 1, 1998.

19 EXPLANATION

20 This bill amends provisions in Code chapter 237A relating
21 to family and group day care homes regulated by the department
22 of human services. Provisions applicable to the homes are
23 amended by combining the two regulatory classifications into a
24 single classification referred to as "child care home". The
25 new classification is divided into four levels with different
26 requirements applied to each level as to the number of
27 children who may be present. The bill takes effect July 1,
28 1998.

29 Definitions in Code section 237A.1 are amended to make
30 changes in the names of child day care classifications and to
31 allow for child day care to be provided in the home of the
32 parent, guardian, and custodian. Exceptions and definitions
33 relating to care of a child by a relative are stricken. The
34 definitions of family and group day care homes are stricken
35 and a new definition of child care home is added.

1 Code section 237A.3 which provides for family and group
2 child care under current law is stricken and rewritten. The
3 maximum number of children who may receive care before the
4 home must register with the state is decreased from six to
5 four or to three infants plus an older child. Numbers of
6 children are authorized for each of the four levels of
7 registration based upon the ages, amount of time in care, and
8 school status of the children, presence of inclement weather
9 conditions, and the number and qualifications of the care
10 providers. Level I is authorized for up to eight children,
11 levels II and III for up to 12 children, and level IV for up
12 to 16 children. The difference between a level II and a level
13 III provider is that the level III provider may keep school
14 age children who are in addition to the basic number beyond
15 two hours.

16 Current law outlining minimum requirements for a home
17 provider to care for additional children during inclement
18 weather when schools have been closed are retained but the
19 number of children allowed depends upon the registration level
20 of the care provider. The term "infant" is defined as
21 children who are less than two years of age.

22 A new care classification is created for children who
23 receive care 90 hours per month or less. Levels II, III, and
24 IV may provide care to two children in this care
25 classification without affecting the basic number of children
26 to whom these levels are authorized to provide.

27 The department is authorized to adopt rules for the
28 registration levels to include outlining the amount of space
29 per child, provider qualifications and training, and other
30 minimum standards. A registration fee is to be charged to
31 each level of registration in an amount determined by the
32 department based upon the differential cost of regulation
33 relative to a registration. Registration fees are to be
34 deposited in the child day care credit fund.

35 The bill makes conforming amendments to strike references

1 to the use of the terms "family day care home" and "group day
2 care home".

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