

CHILD CARE FACILITIES

237A.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. "*Administrator*" means the administrator of the division of the department designated by the director to administer this chapter.
2. "*Child*" means either of the following:
 - a. A person twelve years of age or younger.
 - b. A person thirteen years of age or older but younger than nineteen years of age who has a developmental disability as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402, as codified in 42 U.S.C. § 15002(8).
3. "*Child care*" means the care, supervision, and guidance of a child by a person other than the child's parent, guardian, or custodian for periods of less than twenty-four hours per day per child on a regular basis, but does not include care, supervision, and guidance of a child by any of the following:
 - a. An instructional program for children who are attending prekindergarten as defined by the state board of education under section 256.11 or a higher grade level and are at least four years of age administered by any of the following:
 - (1) A public or nonpublic school system accredited by the department of education or the state board of regents.
 - (2) A nonpublic school system which is not accredited by the department of education or the state board of regents.
 - b. A program provided under section 279.49 or 280.3A.
 - c. Any of the following church-related programs:
 - (1) An instructional program.
 - (2) A youth program other than a preschool, before or after school child care program, or other child care program.
 - (3) A program providing care to children on church premises while the children's parents are attending church-related or church-sponsored activities on the church premises.
 - d. Short-term classes of less than two weeks' duration held between school terms or during a break within a school term.
 - e. A child care center for sick children operated as part of a pediatrics unit in a hospital licensed by the department of inspections and appeals pursuant to chapter 135B.
 - f. A program operated not more than one day per week by volunteers which meets all of the following conditions:
 - (1) Not more than eleven children are served per volunteer.

(2) The program operates for less than four hours during any twenty-four-hour period.

(3) The program is provided at no cost to the children's parent, guardian, or custodian.

g. A program administered by a political subdivision of the state which is primarily for recreational or social purposes and is limited to children who are five years of age or older and attending school.

h. An after school program continuously offered throughout the school year calendar to children who are at least five years of age and are enrolled in school, and attend the program intermittently or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.

i. A special activity program which meets less than four hours per day for the sole purpose of the special activity. Special activity programs include but are not limited to music or dance classes, organized athletic or sports programs, recreational classes, scouting programs, and hobby or craft clubs or classes.

j. A nationally accredited camp.

k. A structured program for the purpose of providing therapeutic, rehabilitative, or supervisory services to children under any of the following:

(1) A purchase of service or managed care contract with the department.

(2) A contract approved by a governance board of a decategorization of child welfare and juvenile justice funding project created under section 232.188.

(3) An arrangement approved by a juvenile court order.

l. Care provided on-site to children of parents residing in an emergency, homeless, or domestic violence shelter.

m. A child care facility providing respite care to a licensed foster family home for a period of twenty-four hours or more to a child who is placed with that licensed foster family home.

n. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided.

4. "*Child care center*" or "*center*" means a facility providing child care or preschool services for seven or more children, except when the facility is registered as a child development home.

5. "*Child care facility*" or "*facility*" means a child care center, preschool, or a registered child development home.

6. "*Child care home*" means a person or program providing child care to five or fewer children at any one time that is not registered to provide child care under this chapter, as authorized under section 237A.3.

7. "*Child development home*" means a person or program registered under section 237A.3A that may provide child care to six or more children at any one time.

8. "*Department*" means the department of human services.

9. "*Director*" means the director of human services.

10. *"Infant"* means a child who is less than twenty-four months of age.
11. *"Involvement with child care"* means licensed or registered under this chapter, employed in a child care facility, residing in a child care facility, receiving public funding for providing child care, or providing child care as a child care home provider, or residing in a child care home.
12. *"Licensed center"* means a center issued a full or provisional license by the department under the provisions of this chapter or a center for which a license is being processed.
13. *"Poverty level"* means the poverty level defined by the most recently revised poverty income guidelines published by the United States department of health and human services.
14. *"Preschool"* means a child care facility which provides to children ages three through five, for periods of time not exceeding three hours per day, programs designed to help the children to develop intellectual skills, social skills, and motor skills, and to extend their interest and understanding of the world about them.
15. *"School"* means kindergarten or a higher grade level.
16. *"State child care advisory council"* means the state child care advisory council established pursuant to sections 237A.21 and 237A.22.

[C75, 77, 79, 81, § 237A.1; 82 Acts, ch 1213, § 13]

83 Acts, ch 96, § 157, 159; 87 Acts, ch 115, § 34; 88 Acts, ch 1097, § 1; 89 Acts, ch 206, § 3; 90 Acts, ch 1005, § 13; 91 Acts, ch 151, § 1; 92 Acts, ch 1083, § 1; 92 Acts, ch 1109, § 1; 93 Acts, ch 54, §4; 93 Acts, ch 76, §8, 9; 94 Acts, ch 1129, §1; 94 Acts, ch 1175, §1; 97 Acts, ch 151, § 1; 99 Acts, ch 192, §1; 2000 Acts, ch 1067, §14; 2001 Acts, ch 105, §3, 4; 2002 Acts, ch 1142, §38, 31; 2003 Acts, ch 81, §1; 2005 Acts, ch 95, §4

237A.2 Licensing of child care centers.

1. A person shall not establish or operate a child care center without obtaining a license under the provisions of this chapter. A center may operate for a specified period of time, to be established by rule of the department, if application for a license has been made. If the department denies an application for an initial license, notwithstanding section 17A.18, the applicant center shall not continue to provide child care pending the outcome of an evidentiary hearing. The department shall issue a license if it determines that all of the following conditions have been met:

a. An application for a license or a renewal has been filed with the administrator on forms provided by the department.

b. The center is maintained to comply with state health and fire laws.

c. The center is maintained to comply with rules adopted under section 237A.12.

2. *a.* A person denied a license under this section shall receive written notice of the denial stating the reasons for denial and shall be provided with an opportunity for an evidentiary hearing.

b. A license issued under this chapter shall be valid for twenty-four months from the date of issuance. A license shall remain valid unless it is revoked or suspended in accordance with the provisions of section 237A.8 or is reduced to a provisional license under subsection 3. The department may inspect a licensed center at any time. A record of the license shall be kept by the department.

c. The license shall be posted in a conspicuous place in the center and shall state the particular premises in which child care may be offered and the number of individuals who may be received for care at any one time. A greater number of children than is authorized by the license shall not be kept in the center at any one time.

3. The administrator may reduce a previously issued license to a provisional license or issue a provisional license for a period of time not to exceed one year if the center does not meet standards required under this section. A provisional license shall not be renewable in regard to the same standards for more than two consecutive years. A provisional license shall be posted in a conspicuous place in the center as provided in this section. If written plans to bring the center up to standards, giving specific dates for completion of work, are submitted to and approved by the department, the provisional license shall be renewable as provided in this subsection.

4. A program which is not a child care center by reason of the exceptions to the definition of child care in section 237A.1, subsection 3, but which provides care, supervision, and guidance to a child may be issued a license if the program complies with all the provisions of this chapter.

5. If the department has denied or revoked a license because the applicant or person has continually or repeatedly failed to operate a licensed center in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a child care center for a period of twelve months from the date the license is denied or revoked. The department shall not act on an application for a license submitted by the applicant or person during the twelve-month period. The applicant or person shall be prohibited from involvement with child care unless the involvement is specifically permitted by the department.

[C75, § 237A.2, 237A.3; C77, 79, 81, § 237A.2]

90 Acts, ch 1005, § 4; 91 Acts, ch 232, § 12; 92 Acts, ch 1163, § 54; 99 Acts, ch 192, §2; 2002 Acts, ch 1142, §9, 10, 31; 2003 Acts, ch 44, §54; 2003 Acts, ch 81, §2

237A.3 Child care homes.

1. A person or program providing child care to five children or fewer at any one time is a child care home provider and is not required to register under section 237A.3A as a child development home. However, the person or program may register as a child development home.

2. If a person or program has been prohibited by the department from involvement with child care, the person or program shall not provide child care as a child care home provider and is subject to penalty under section 237A.19 or injunction under section 237A.20 for doing so.

[C75, 77, 79, 81, § 237A.3; 82 Acts, ch 1016, § 3, ch 1213, § 4]

90 Acts, ch 1005, § 5; 91 Acts, ch 151, § 2; 91 Acts, ch 232, § 13; 91 Acts, ch 267, § 142; 92 Acts, ch 1163, § 55; 93 Acts, ch 76, §10, 11; 94 Acts, ch 1129, §2, 3; 97 Acts, ch 151, §2; 99 Acts, ch 192, §3; 2001 Acts, ch 135, §3; 2002 Acts, ch 1142, §11, 31; 2003 Acts, ch 81, §3

237A.3A Child development homes.

1. Registration.

a. A person shall not establish or operate a child development home unless the person obtains a certificate of registration. The department shall issue a certificate of registration upon receipt of a statement from the person or upon completion of an inspection conducted by the department or a designee of the department verifying that the person complies with applicable rules adopted by the department pursuant to this section and section 237A.12.

b. The certificate of registration shall be posted in a conspicuous place in the child development home and shall state the name of the registrant, the registration category of the child development home, the maximum number of children who may be present for child care at any one time, and the address of the child development home. In addition, the certificate shall include a checklist of registration compliances.

c. The registration process for a child development home shall be repeated every twenty-four months as provided by rule.

d. A person who holds a child foster care license under chapter 237 shall register as a child development home provider in order to provide child care.

2. *Revocation or denial of registration.* If the department has denied or revoked a certificate of registration because a person has continually or repeatedly failed to operate a registered or licensed child care facility in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not operate or establish a registered child development home for a period of twelve months from the date the registration or license was denied or revoked. The department shall not act on an application for registration submitted by the person during the twelve-month period. The applicant or person shall be prohibited from involvement with child care unless the involvement is specifically permitted by the department.

3. *Rules.*

a. Three categories of standards shall be applicable to child development homes. The initial designations of the categories, which may be revised by the department, shall be "A", "B", and "C", as ranked from less stringent standards and capacity to more stringent standards and capacity. The "C" registration category standards shall require the highest level of provider qualifications and allow the greatest capacity of the three categories. The department of human services, in consultation with the Iowa department of public health, shall adopt rules applying standards to each category specifying provider qualifications and training, health and safety requirements, capacity, amount of space available per child, and other minimum requirements. The capacity requirements shall take into consideration the provider's own children, children who have a mild illness, children receiving part-time child care, and children served as a sibling group in overnight care.

b. The rules shall allow a child development home to be registered in a particular category for which the provider is qualified even though the amount of space required to be available for the maximum number of children authorized for that category exceeds the actual amount of space available in that home. However, the total number of children authorized for the child development home at that category of registration shall be limited by the amount of space available per child.

c. In consultation with the state fire marshal, the department shall adopt rules relating to the provision of fire extinguishers, smoke detectors, and two exits accessible to children in a child development home.

4. *Number of children.*

a. In determining the number of children present for child care at any one time in a child development home, each child present in the child development home shall be considered as being provided child care unless the child is described by one of the following exceptions:

(1) The child's parent, guardian, or custodian operates or established the child development home and the child is attending school or the child is provided child care full-time on a regular basis by another person.

(2) The child has been present in the child development home for more than seventy-two consecutive hours and the child is attending school or the child is provided child care full-time on a regular basis by another person.

b. For purposes of determining the number of children present for child care in a child development home, a child receiving foster care from a child development home provider shall be considered to be the child of the provider.

5. Smoking, as defined in section 142B.1, shall not be permitted during a child development home's hours of operation in an area of the child development home which may be used by the children receiving child care.

97 Acts, ch 151, §3; 98 Acts, ch 1127, §1, 2, 6; 99 Acts, ch 192, §411, 37; 2001 Acts, ch 135, §4; 2002 Acts, ch 1142, §12, 31; 2003 Acts, ch 81, §4

237A.4 Inspection and evaluation.

The department shall make periodic inspections of licensed centers to ensure compliance with licensing requirements provided in this chapter, and the local boards of health may make periodic inspections of licensed centers to ensure compliance with health-related licensing requirements provided in this chapter. The department may inspect records maintained by a licensed center and may inquire into matters concerning these centers and the persons in charge. The department shall require that the center be inspected by the state fire marshal or a designee for compliance with rules relating to fire safety before a license is granted or renewed. The department or a designee may periodically visit registered child development homes for the purpose of evaluation of an inquiry into matters concerning compliance with rules adopted under section 237A.12. Evaluation of child development homes under this section may include consultative services provided pursuant to section 237A.6.

[C75, 77, 79, 81, § 237A.4]

85 Acts, ch 173, §19; 99 Acts, ch 192, §12; 2002 Acts, ch 1142, §13, 31

237A.5 Personnel.

1. All personnel in licensed or registered facilities shall have good health as evidenced by a report following a preemployment physical examination taken within six months prior to beginning employment. The examination shall include communicable disease tests by a licensed physician as defined in section 135C.1 and shall be repeated every three years after initial employment. Controlled medical conditions which would not affect the performance of the employee in the capacity employed shall not prohibit employment.

2. a. For the purposes of this section, unless the context otherwise requires:

(1) *"Person subject to a record check"* means a person who is described by any of the following:

(a) The person is being considered for licensure or registration or is registered or licensed under this chapter.

(b) The person is being considered by a child care facility for employment involving direct responsibility for a child or with access to a child when the child is alone or is employed with such responsibilities.

(c) The person will reside or resides in a child care facility.

(d) The person has applied for or receives public funding for providing child care.

(e) The person will reside or resides in a child care home that is not registered under this chapter but that receives public funding for providing child care.

(2) *"Person subject to an evaluation"* means a person subject to a record check whose record indicates that the person has committed a transgression.

(3) "*Transgression*" means the existence of any of the following in a person's record:

(a) Conviction of a crime.

(b) A record of having committed founded child or dependent adult abuse.

(c) Listing in the sex offender registry under chapter 692A.

(d) A record of having committed a public or civil offense.

(e) The department has revoked a child care facility registration or license due to the person's continued or repeated failure to operate the child care facility in compliance with this chapter and rules adopted pursuant to this chapter.

b. If an individual person subject to a record check is being considered for employment by a child care facility or child care home, in lieu of requesting a record check to be conducted by the department under paragraph "*c*", the child care facility or child care home may access the single contact repository established pursuant to section 135C.33 as necessary to conduct a criminal and child abuse record check of the individual. A copy of the results of the record check conducted through the single contact repository shall also be provided to the department. If the record check indicates the individual is a person subject to an evaluation, the child care facility or child care home may request that the department perform an evaluation as provided in this subsection. Otherwise, the individual shall not be employed by the child care facility or child care home.

c. Unless a record check has already been conducted in accordance with paragraph "*b*", the department shall conduct a criminal and child abuse record check in this state for a person who is subject to a record check and may conduct such a check in other states. In addition, the department may conduct a dependent adult abuse, sex offender registry, or other public or civil offense record check in this state or in other states for a person who is subject to a record check. If a record check performed pursuant to this paragraph identifies an individual as a person subject to an evaluation, an evaluation shall be performed to determine whether prohibition of the person's involvement with child care is warranted. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

Prior to performing an evaluation, the department shall notify the affected person, licensee, registrant, or child care home applying for or receiving public funding for providing child care, that an evaluation will be conducted to determine whether prohibition of the person's involvement with child care is warranted.

d. In an evaluation, the department shall consider the nature and seriousness of the transgression in relation to the position sought or held, the time elapsed since the commission of the transgression, the circumstances under which the transgression was committed, the degree of rehabilitation, the likelihood that the person will commit the transgression again, and the number of transgressions committed by the person involved. In addition to record check information, the department may utilize information from the department's case records in performing the evaluation. The department may permit a person who is evaluated to maintain involvement with child care, if the person complies with the department's conditions and corrective action plan relating to the person's involvement with child care. The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements and corrective action plan under this paragraph.

e. (1) A person subject to an evaluation shall be prohibited from involvement with child care if the person has a record of founded child or dependent adult abuse that was determined to be sexual abuse, the person is listed on the sex offender registry under chapter 692A, or the person has committed any of the following felony-level offenses:

- (a) Child endangerment or neglect or abandonment of a dependent person.
- (b) Domestic abuse.
- (c) A crime against a child including but not limited to sexual exploitation of a minor.
- (d) A forcible felony.

(2) If, within five years prior to the date of application for registration or licensure under this chapter, for employment or residence in a child care facility or child care home, or for receipt of public funding for providing child care, a person subject to an evaluation has been convicted of a controlled substance offense under chapter 124 or has been found to have committed physical abuse, the person shall be prohibited from involvement with child care for a period of five years from the date of conviction or founded abuse. After the five-year prohibition period, the person may submit an application for registration or licensure under this chapter, or to receive public funding for providing child care or may request an evaluation, and the department shall perform an evaluation and, based upon the criteria in paragraph "d", shall determine whether prohibition of the person's involvement with child care continues to be warranted.

f. If the department determines, through an evaluation of a person's transgression, that the person's prohibition of involvement with child care is warranted, the person shall be prohibited from involvement with child care. The department may identify a period of time after which the person may request that another record check and evaluation be performed. A person who continues involvement with child care in violation of this subsection is subject to penalty under section 237A.19 or injunction under section 237A.20.

g. If it has been determined that a child receiving child care from a child care facility or a child care home is the victim of founded child abuse committed by an employee, license or registration holder, child care home provider, or resident of the child care facility or child care home for which a report is placed in the central registry pursuant to section 232.71D, the administrator shall provide notification at the time of the determination to the parents, guardians, and custodians of children receiving care from the child care facility or child care home. A notification made under this paragraph shall identify the type of abuse but shall not identify the victim or perpetrator or circumstances of the founded abuse.

3. On or after July 1, 1994, a licensee or registrant shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

4. On or after July 1, 1994, a licensee or registrant shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

5. A person who serves as an unpaid volunteer in a child care facility shall not be required to complete training as a mandatory reporter of child abuse under section 232.69 or under any other requirement.

[C75, 77, 79, 81, § 237A.5]

83 Acts, ch 153, § 5; 85 Acts, ch 184, §1; 87 Acts, ch 153, § 17; 88 Acts, ch 1134, §58; 90 Acts, ch 1221, § 8; 91 Acts, ch 138, §8; 94 Acts, ch 1130, §15; 97 Acts, ch 45, § 1; 98 Acts, ch 1127, §3, 6; 99 Acts, ch 192, §13; 2003 Acts, ch 81, §5, 6; 2006 Acts, ch 1098, §1; 2006 Acts, ch 1184, §108111

237A.6 Consultative services.

The department shall, and the director of public health may provide consultative services to a person applying for a license or registration, or licensed or registered by the administrator under this chapter.

[C75, 77, 79, 81, § 237A.6]

237A.7 Confidential information.

Anyone who acquires through the administration of this chapter information relative to an individual in a child care facility or to a relative of the individual shall not, directly or indirectly, disclose the information except upon inquiry before a court of law or with the written consent of the individual or, in the case of a child, the written consent of the parent or guardian or as otherwise specifically required or allowed by law.

This section shall not prohibit the disclosure of information relative to the structure and operation of a facility nor shall it prohibit the statistical analysis by duly authorized persons of data collected by virtue of this chapter, or the publication of the results of the analysis in a manner which does not disclose information identifying individual persons.

[C75, 77, 79, 81, § 237A.7]

99 Acts, ch 192, §14

237A.8 Violations actions against license or registration.

The administrator, after notice and opportunity for an evidentiary hearing before the department of inspections and appeals, may suspend or revoke a license or certificate of registration issued under this chapter or may reduce a license to a provisional license if the person to whom a license or certificate is issued violates a provision of this chapter or if the person makes false reports regarding the operation of the child care facility to the administrator or a designee of the administrator. The administrator shall notify the parent, guardian, or legal custodian of each child for whom the person provides child care at the time of action to suspend or revoke a license or certificate of registration.

[C75, 77, 79, 81, § 237A.8]

83 Acts, ch 153, § 6; 90 Acts, ch 1204, § 54; 99 Acts, ch 192, §15

237A.9 to 237A.11 Repealed by 75 Acts, ch 144, § 11.

237A.12 Rules.

1. Subject to the provisions of chapter 17A, the department shall adopt rules setting minimum standards to provide quality child care in the operation and maintenance of child care centers and registered child development homes, relating to all of the following:

a. The number and qualifications of personnel necessary to assure the health, safety, and welfare of children in the facilities. Rules for facilities which are preschools shall be drawn so that any staff-to-children ratios which relate to the age of the children enrolled shall be based on the age of the majority of the children served by a particular class rather than on the age of the youngest child served.

b. Physical facilities.

c. The adequacy of activity programs and food services available to the children. The department shall not restrict the use of or apply nutritional standards to a lunch or other meal which is brought to the center, child development home, or child care home by a school-age child for the child's consumption.

d. Policies established by the center for parental participation.

e. Programs for education and in-service training of staff.

f. Records kept by the facilities.

g. Administration.

h. Health, safety, and medical policies for children.

2. Rules adopted by the state fire marshal for buildings, other than school buildings, used as child care centers as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from rules adopted for these buildings when they are used by groups of persons congregating from time to time in the primary use and occupancy of the buildings. However, the rules may require a fire-rated separation from the remaining portion of the building if the fire marshal determines that the separation is necessary for the protection of children from a specific flammable hazard.

3. Rules relating to fire safety for child care centers shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child care advisory council. The state fire marshal shall inspect the facilities.

4. If a building is owned or leased by a school district or accredited nonpublic school and complies with standards adopted by the state fire marshal for school buildings under chapter 100, the building is considered appropriate for use by a child care facility. The rules adopted by the administrator under this section shall not require the facility to comply with building requirements which differ from requirements for use of the building as a school.

5. Standards and requirements set by a city or county for a building which is owned or leased by a school district or accredited nonpublic school and used as a child care facility shall take into consideration that children are received for temporary care only and shall not differ from standards and requirements set for use of the building as a school.

[C75, 77, 79, 81, § 237A.12]

85 Acts, ch 173, § 20; 91 Acts, ch 151, § 3; 92 Acts, ch 1083, § 2; 94 Acts, ch 1129, §4, 5; 94 Acts, ch 1175, §2; 99 Acts, ch 192, §16; 2002 Acts, ch 1142, §1416, 31

237A.13 State child care assistance.

1. A state child care assistance program is established in the department to assist children in families who meet eligibility guidelines and are described by any of the following circumstances:

a. The child's parent, guardian, or custodian is participating in approved academic or vocational training.

b. The child's parent, guardian, or custodian is seeking employment. Eligibility for assistance while seeking employment shall be limited to thirty days during a twelve-month period.

c. The child's parent, guardian, or custodian is employed and the family income meets income requirements.

d. The child's parent, guardian, or custodian is absent for a limited period of time due to hospitalization,

physical illness, or mental illness, or is present but is unable to care for the child for a limited period as verified by a physician.

e. The child needs protective services to prevent or alleviate child abuse or neglect.

2. Services under the program may be provided in a licensed child care center, a child development home, the home of a relative, the child's own home, a child care home, or in a facility exempt from licensing or registration.

3. The department shall set reimbursement rates as authorized by appropriations enacted for payment of the reimbursements. The department shall conduct a statewide reimbursement rate survey to compile information on each county and the survey shall be conducted at least every two years. The department shall set rates in a manner so as to provide incentives for an unregistered provider to become registered.

4. On or before July 1, 2007, the department shall implement a system for making program payments by electronic funds transfer or other electronic means.

5. The department shall not apply waiting list requirements to any of the following persons:

a. Persons deemed to be eligible for benefits under the state child care assistance program in accordance with section 239B.24.

b. A family that is receiving state child care assistance at the time a child is born into the family. The newborn child shall be approved for services when the family reports the birth of the child.

c. Children who need protective services to prevent or alleviate child abuse or neglect.

d. A child in a family that is eligible for state child care assistance and that receives a state adoption subsidy for the child.

6. Based upon the availability of the funding appropriated for state child care assistance for a fiscal year, the department shall establish waiting lists for state child care assistance in descending order of prioritization as follows:

a. Families with an income at or below one hundred percent of the federal poverty level whose members are employed at least twenty-eight hours per week, and parents with a family income at or below one hundred percent of the federal poverty level who are under the age of twenty-one years and are participating in an educational program leading to a high school diploma or the equivalent.

b. Parents with a family income at or below one hundred percent of the federal poverty level who are under the age of twenty-one years and are participating, at a satisfactory level, in an approved training program or in an educational program.

c. Families with an income of more than one hundred percent but not more than one hundred forty-five percent of the federal poverty level whose members are employed at least twenty-eight hours per week.

d. Families with an income at or below two hundred percent of the federal poverty level whose members are employed at least twenty-eight hours per week with a special needs child as a member of the family.

7. A child care facility that previously received child care wrap-around funding, meets the requirements for being a shared vision program except that a shared vision program is not operated in the county in which the

facility is located, and is providing a child care wrap-around service that is included in the community empowerment area board's plan for the community empowerment area in which the facility is located shall be deemed to be qualified for child care wrap-around funding.

8. Nothing in this section shall be construed as or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for assistance due to an income level or other eligibility circumstance addressed in this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated for the purposes of state child care assistance.

2000 Acts, ch 1067, §15; 2002 Acts, ch 1142, §17, 18, 31; 2003 Acts, ch 81, §7, 8; 2006 Acts, ch 1016, §13; 2006 Acts, ch 1099, §1

237A.14 through 237A.18 Repealed by 93 Acts, ch 54, § 12.

237A.19 Penalty.

1. A person who establishes, conducts, manages, or operates a center without a license commits a serious misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, shall be considered a separate offense.

2. If registration is required under section 237A.3A, a person who establishes, conducts, manages, or operates a child development home without registering or a person who operates a child development home contrary to section 237A.5, commits a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

3. A person who establishes, conducts, manages, or operates a child care home in violation of section 237A.3, subsection 2, or a person or program that has been prohibited by the department from involvement with child care but continues that involvement commits a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

[C77, 79, 81, § 237A.19; 82 Acts, ch 1213, § 5]

85 Acts, ch 184, §2; 99 Acts, ch 192, §17; 2002 Acts, ch 1142, §19, 31; 2003 Acts, ch 81, §9

237A.20 Injunction.

A person who establishes, conducts, manages, or operates a center without a license or a child development home without a certificate of registration, if registration is required under section 237A.3A, may be restrained by temporary or permanent injunction. A person who has been convicted of a crime against a person, a person with a record of founded child abuse, or a person who has been prohibited by the department from involvement with child care may be restrained by temporary or permanent injunction from providing unregistered, registered, or licensed child care or from other involvement with child care. The action may be instituted by the state, the county attorney, a political subdivision of the state, or an interested person.

[C77, 79, 81, § 237A.20]

83 Acts, ch 153, § 7; 90 Acts, ch 1248, § 2; 99 Acts, ch 192, §18; 2002 Acts, ch 1142, §20, 31; 2003 Acts, ch 81, §10

237A.21 State child care advisory council.

1. A state child care advisory council is established consisting of not more than thirty-five members from urban and rural areas across the state. The membership shall include, but is not limited to, all of the following persons or representatives with an interest in child care: a licensed center provider, a registered child development home provider from a county with a population of less than twenty-two thousand, an unregistered child care home provider, a parent of a child in child care, staff members of appropriate governmental agencies, and other members as deemed necessary by the director. The members are eligible for reimbursement of their actual and necessary expenses while engaged in performance of their official duties.

2. Members shall be appointed by the director from a list of names submitted by a nominating committee to consist of one member of the state council established pursuant to this section, one member of the department's child care staff, three consumers of child care, and one member of a professional child care organization. Two names shall be submitted for each appointment. Members shall be appointed for terms of three years but no member shall be appointed to more than two consecutive terms. The state council shall develop its own operational policies which are subject to departmental approval.

3. The membership of the council shall be appointed in a manner so as to provide equitable representation of persons with an interest in child care and shall include all of the following:

a. Two parents of a child served by a registered child development home.

b. Two parents of a child served by a licensed center.

c. Two not-for-profit child care providers.

d. Two for-profit child care providers.

e. One child care home provider.

f. Three child development home providers.

g. One child care resource and referral service grantee.

h. One nongovernmental child advocacy group representative.

i. One designee of the department of human services.

j. One designee of the Iowa department of public health.

k. One designee of the department of education.

l. One head start program provider.

m. Two legislators appointed in a manner so that both major political parties are represented.

[C75, § 237A.1(8); C77, 79, 81, § 237A.21]

86 Acts, ch 1044, § 1; 92 Acts, ch 1083, § 3; 99 Acts, ch 192, §19; 2002 Acts, ch 1142, §21, 22, 31

237A.22 Duties of state child care advisory council.

The state child care advisory council shall do all of the following:

1. Consult with and make recommendations to the department concerning policy issues relating to child care.
2. Advise the department concerning services relating to child care, including but not limited to any of the following:
 - a. Resource and referral services.
 - b. Provider training.
 - c. Quality improvement.
 - d. Public-private partnerships.
 - e. Standards review and development.
3. Assist the department in developing an implementation plan to provide seamless service to recipients of public assistance which includes child care services. For the purposes of this subsection, "*seamless service*" means coordination, where possible, of the federal and state requirements which apply to child care.
4. Advise and provide technical services to the director of the department of education or the director's designee, upon request, relating to prekindergarten, kindergarten, and before and after school programming and facilities.

[C75, § 237A.12; C77, 79, 81, § 237A.22]

89 Acts, ch 206, § 4; 92 Acts, ch 1083, § 4; 99 Acts, ch 192, §20

237A.23 Child care training and development system.

1. The departments of education, public health, and human services shall jointly establish a leadership council for child care training and development in this state. In addition to representatives of the three departments, the leadership council shall include but is not limited to representatives of community colleges, institutions of higher learning under the state board of regents and private institutions of higher education, the Iowa cooperative extension service in agriculture and home economics, and child care resource and referral service agencies.
2. The charge of the council is to develop a proposal for a statewide child care training and development system and to monitor implementation of the proposal. The purpose of the system is to improve support for persons providing or administering child care services. The system shall be developed in a manner so as to incorporate and enhance existing efforts to provide this support.
3. The proposal for the child care training and development system shall include all of the following elements:
 - a. Identification of core competencies for providers and administrators that may be incorporated into professional standards.
 - b. Establishing levels for professional development.
 - c. Implementing a professional experience registry to track the training, educational attainment, and experience of providers and administrators.
 - d. Implementing a unified training and technical assistance approach for identifying needs, ensuring equal

access, and establishing minimum requirements for training and trainers.

e. Establishing an articulation process to permit recognition of training provided by entities that do not grant academic credit by entities that do grant academic credit.

f. Implementing a financing structure to support the training registry.

g. Identifying other means for enhancing the training and development of persons who provide and administer child care.

4. The proposal shall include an implementation plan and budget provisions and may provide for implementation through a contract with a private nonprofit agency.

99 Acts, ch 192, §21, 38; 2000 Acts, ch 1058, §26

237A.24 Reserved.

237A.25 Consumer information.

1. The department shall develop consumer information material to assist parents in selecting a child care provider. In developing the material, the department shall consult with department of human services staff, department of education staff, the state child care advisory council, the Iowa empowerment board, and child care resource and referral services. In addition, the department may consult with other entities at the local, state, and national level.

2. The consumer information material developed by the department for parents and other consumers of child care services shall include but is not limited to all of the following:

a. A pamphlet or other printed material containing consumer-oriented information on locating a quality child care provider.

b. Information explaining important considerations a consumer should take into account in selecting a licensed or registered child care provider.

c. Information explaining how a consumer can identify quality services, including what questions to ask of providers and what a consumer might expect or demand to know before selecting a provider.

d. An explanation of the applicable laws and regulations written in layperson's terms.

e. An explanation of what it means for a provider to be licensed, registered, or unregistered.

f. An explanation of the information considered in registry and record background checks.

g. Other information deemed relevant to consumers.

3. The department shall implement and publicize an internet page or site that provides all of the following:

a. The written information developed pursuant to subsections 1 and 2.

b. Regular informational updates, including when a child care provider was last subject to a state quality review or inspection and, based upon a final score or review, the results indicating whether the provider passed or failed the review or inspection.

c. Capability for a consumer to be able to access information concerning child care providers, such as informational updates, identification of provider location, name, and capacity, and identification of providers participating in the state child care assistance program and those participating in the child care food program, by sorting the information or employing other means that provide the information in a manner that is useful to the consumer. Information regarding provider location shall identify providers located in the vicinity of an address selected by a consumer and provide contact information without listing the specific addresses of the providers.

d. Other information deemed appropriate by the department.

2003 Acts, 1st Ex, ch 2, §18, 209

237A.26 Statewide resource and referral services grants.

1. The department shall administer a statewide grant program for child care resource and referral services. Grants shall only be awarded to community-based nonprofit incorporated agencies and public agencies. Grants shall be awarded to facilitate the establishment of regional resource and referral agencies throughout the state, based upon the distribution of the child population in the state.

2. The department shall provide oversight of and annually evaluate an agency which is awarded a grant to provide resource and referral services to a region.

3. An agency which receives a grant to provide resource and referral services shall perform both of the following functions:

a. Organize assistance to child care homes and child development homes utilizing training levels based upon the homes' degrees of experience and interest.

b. Operate in partnership with both public and private interests and coordinate resource and referral services with existing community services.

4. An agency, to be eligible to receive a grant to provide resource and referral services, must match the grant with financial resources equal to at least twenty-five percent of the amount of the grant. The financial resources may include a private donation, an in-kind contribution, or a public funding source other than a separate state grant for child care service improvement.

5. An agency, to be eligible to receive a grant to provide resource and referral services, must have a board of directors if the agency is an incorporated nonprofit agency or must have an advisory board if the agency is a public agency, to oversee the provision of resource and referral services. The board shall include providers, consumers, and other persons interested in the provision or delivery of child care services.

6. An agency which receives a child care resource and referral grant shall provide all of the following services:

a. Assist families in selecting quality child care. The agency must provide referrals to registered and licensed child care facilities, and to persons providing care, supervision, and guidance of a child which is not defined as child care under section 237A.1 and may provide referrals to unregistered providers.

b. Assist child care providers in adopting appropriate program and business practices to provide quality child care services.

c. Provide information to the public regarding the availability of child care services in the communities within the agency's region.

d. Actively encourage the development of new and expansion of existing child care facilities in response to identified community needs.

e. Provide specialized services to employers, including the provision of resource and referral services to employee groups identified by the employer and the provision of technical assistance to develop employer-supported child care programs. The specialized services may include but are not limited to working with employers to identify networks of recommended registered and licensed child care providers for employee groups and to implement employer-supported quality improvement initiatives among the network providers.

f. Refer eligible child care facilities to the federal child care food programs.

g. Loan toys, other equipment, and resource materials to child care facilities.

h. Administer funding designated within the grant to provide a substitute caregiver program for registered child development homes to provide substitute child care in a home when the home provider is ill, on vacation, receiving training, or is otherwise unable to provide the care.

7. The department may contract with an agency receiving a child care resource and referral grant to perform any of the following functions relating to publicly funded services providing care, supervision, and guidance of a child:

a. Determine an individual's eligibility for the services in accordance with income requirements.

b. Administer a voucher, certificate, or other system for reimbursing an eligible provider of the services.

8. For purposes of improving the quality and consistency of data collection, consultation, and other support to child care home and child development home providers, a resource and referral services agency grantee shall coordinate and assist with publicly and privately funded efforts administered at the community level to provide the support. The support and efforts addressed by a grantee may include but are not limited to community-funded child care home and child development home consultants. Community members involved with the assistance may include but are not limited to the efforts of a community empowerment area board under chapter 28, and of community representatives of education, health, human services, business, faith, and public interests.

90 Acts, ch 1248, § 4; 92 Acts, ch 1083, § 5; 99 Acts, ch 192, §22; 2002 Acts, ch 1142, §2326, 31

237A.27 Crisis child care. Repealed by 2002 Acts, ch 1142, §29, 31.

237A.28 Child care credit fund.

A child care credit fund is created in the state treasury under the authority of the department of human services. The moneys in the fund shall consist of moneys deposited pursuant to section 422.100 and are appropriated to the department to be used for the state child care assistance program in accordance with section 237A.13.

93 Acts, ch 172, §42; 99 Acts, ch 192, §24; 2005 Acts, ch 175, §105

237A.29 Public funding of child care sanctions.

1. State funds and federal funds provided to the state in accordance with federal requirements shall not be used to pay for the care, supervision, and guidance of a child for periods of less than twenty-four hours per day on a regular basis unless the care, supervision, and guidance is defined as child care as used in this

chapter.

2. *a.* For the purposes of this subsection, "*fraudulent means*" means knowingly making or causing to be made a false statement or a misrepresentation of a material fact, knowingly failing to disclose a material fact, or committing a fraudulent practice.

b. A child care provider that has been found by the department of inspections and appeals in an administrative proceeding or in a judicial proceeding to have obtained, or has agreed to entry of a civil judgment or judgment by confession that includes a conclusion of law that the child care provider has obtained, by fraudulent means, public funding for provision of child care in an amount equal to or in excess of the minimum amount for a fraudulent practice in the second degree under section 714.10, subsection 1, shall be subject to sanction in accordance with this subsection. Such child care provider shall be subject to a period during which receipt of public funding for provision of child care is conditioned upon no further violations and to one or more of the following sanctions as determined by the department of human services:

- (1) Ineligibility to receive public funding for provision of child care.
- (2) Suspension from receipt of public funding for provision of child care.
- (3) Special review of the child care provider's claims for providing publicly funded child care.

c. The following factors shall be considered in determining the sanction or sanctions to be imposed under paragraph "*b*", subparagraphs (1) through (3):

- (1) Seriousness of the violation.
- (2) Extent of the violation.
- (3) History of prior violations.
- (4) Prior imposition of sanctions.
- (5) Prior provision of provider education.
- (6) Provider willingness to obey program rules.
- (7) Whether a lesser sanction will be sufficient to remedy the problem.

d. In determining the value of the public funding obtained by fraudulent means, if the public funding is obtained by two or more acts of fraudulent means by the same person or in the same location, or is obtained by different persons by two or more acts which occur in approximately the same location or time period so that the acts of fraudulent means used to obtain the public funding are attributable to a single scheme, plan, or conspiracy, these acts may be considered as a single instance of the use of fraudulent means and the value may be the total value of all moneys involved.

3. *a.* If a child care provider is subject to sanctions under subsection 2, within five business days of the date the sanctions are imposed, the provider shall submit to the department the names and addresses of children receiving child care from the provider. The department shall send information to the parents of the children regarding the provider's actions leading to the imposition of the sanctions and the nature of the sanctions imposed.

b. If the child care provider fails to submit the names and addresses within the time period required by paragraph "*a*", the department shall request that the attorney general file a petition with the district court of

the county in which the provider is located for issuance of a temporary injunction enjoining the provider from providing child care until the names and addresses are submitted to the department. The attorney general may file the petition upon receiving the request from the department. Any temporary injunction may be granted without a bond being required from the department.

c. If the sanctions imposed under subsection 2 involve the provider's suspension or ineligibility for receiving public funding for provision of child care, the department shall not impose those sanctions before the parents of the affected children are informed, and upon request, shall provide assistance to the parents in locating replacement child care.

93 Acts, ch 76, §13; 99 Acts, ch 192, §25; 2002 Acts, ch 1104, §1; 2003 Acts, ch 44, §55; 2003 Acts, ch 81, §11, 12; 2004 Acts, ch 1086, §44

237A.30 Voluntary child care quality rating system.

1. The department shall work with the community empowerment office of the department of management established in section 28.3 and the state child care advisory council in designing and implementing a voluntary quality rating system for each provider type of child care facility.

2. The criteria utilized for the rating system may include but are not limited to any of the following: facility type; provider staff experience, education, training, and credentials; facility director education and training; an environmental rating score or other direct assessment environmental methodology; national accreditation; facility history of compliance with law and rules; child-to-staff ratio; curriculum, including the extent to which the curriculum focuses on the stages of child development and on child outcomes; business practices; staff retention rates; evaluation of staff members and program practices; staff compensation and benefit practices; provider and staff membership in professional early childhood organizations; and parental involvement with the facility.

3. A facility's quality rating may be included on the internet webpage and in the consumer information provided by the department pursuant to section 237A.25 and shall be identified in the child care provider referrals made by child care resource and referral service grantees under section 237A.26.

99 Acts, ch 192, §33; 99 Acts, ch 203, §49; 2002 Acts, ch 1142, §27, 28, 31; 2005 Acts, ch 148, §20; 2006 Acts, ch 1010, §76

Voluntary child care quality rating to be implemented by the department beginning on or after January 1, 2006; effective July 1, 2005, applications seeking designation as a gold seal quality child care provider no longer accepted; designations awarded prior to July 1, 2005, may continue to be utilized until expiration; 2005 Acts, ch 148, §21