

Senate Study Bill 3195

SENATE/HOUSE FILE _____
BY (RECOMMENDED BY HOME=BASED
CHILD CARE STUDY COMMITTEE
BILL)

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

A BILL FOR

1 An Act relating to child care by revising requirements for child
2 care homes and child development homes, restricting the
3 presence of certain registered sex offenders on the premises
4 of child care providers, and providing penalties and an
5 appropriation.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 5970IC 82
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1 1 Section 1. NEW SECTION. 237A.3B CHILD CARE HOMES AND
1 2 CHILD DEVELOPMENT HOMES == REQUIREMENTS.
1 3 1. Each child care home or child development home provider
1 4 shall conspicuously post signage in the home providing all of
1 5 the following:
1 6 a. Identification of the provider as an unregistered child
1 7 care home or a registered child development home.
1 8 b. Information expressly stating that the provider is
1 9 prohibited from inflicting corporal punishment on a child
1 10 receiving child care and listing the prohibited forms of
1 11 corporal punishment identified in section 237A.18. The
1 12 information shall also explain how to file a complaint with
1 13 the department if the provider is alleged to have inflicted
1 14 corporal punishment on a child other than a child for whom the
1 15 provider is the child's parent, guardian, or custodian.
1 16 2. This section does not apply to a person who is only
1 17 providing care to one or more children for whom the person is
1 18 the parent, guardian, or custodian.
1 19 Sec. 2. Section 237A.5, subsection 2, paragraph a,
1 20 subparagraph (3), Code 2007, is amended by adding the
1 21 following new subparagraph subdivision:
1 22 NEW SUBPARAGRAPH SUBDIVISION. (f) The person has been
1 23 determined, through an investigation by the department of a
1 24 complaint, a child abuse assessment, or the existence of a
1 25 criminal record, to have inflicted corporal punishment as
1 26 described in section 237A.18 on an individual receiving child
1 27 care from the person.
1 28 Sec. 3. NEW SECTION. 237A.18 CORPORAL PUNISHMENT.
1 29 1. For the purposes of this section, "corporal punishment"
1 30 includes but is not limited to spanking, slapping, shaking,
1 31 punishment which is humiliating or frightening, using
1 32 restraints, or enclosing a child in a locked area.
1 33 2. A person who operates, is employed by, or resides in a
1 34 child care home, child development home, or child care center
1 35 shall not inflict corporal punishment on an individual
2 1 receiving care from the child care home, child development
2 2 home, or child care center. This section does not apply to
2 3 corporal punishment inflicted on an individual by a person who
2 4 is the individual's parent, guardian, or custodian.
2 5 3. A person who has inflicted corporal punishment on an
2 6 individual receiving care from the child care home, child
2 7 development home, or child care center in violation of this
2 8 section, as determined through an investigation by the
2 9 department of a complaint, a child abuse assessment, or
2 10 existence of a criminal record, may be subject to prohibition
2 11 of involvement with child care in accordance with section
2 12 237A.5.
2 13 Sec. 4. NEW SECTION. 692A.3B PRESENCE ON THE REAL
2 14 PROPERTY COMPRISING A CHILD CARE FACILITY OR CHILD CARE HOME
2 15 == RESTRICTION.

2 16 1. As used in this section, "child care provider" includes
2 17 a "child care center", "child care home", "child development
2 18 home", and "preschool" as those terms are defined in section
2 19 237A.1, and a "child care program" as defined in section
2 20 279.49 and authorized in section 280.3A.

2 21 2. A person required to register under this chapter who
2 22 has been convicted of a criminal offense against a minor, or
2 23 an offense involving a minor that is an aggravated offense,
2 24 sexually violent offense, or other relevant offense, shall not
2 25 be knowingly present on the real property comprising a child
2 26 care provider, unless subsection 3 applies or any of the
2 27 following apply:

2 28 a. The person is transporting a minor who is a child of
2 29 the person to or from the child care provider.

2 30 b. The person is attending a child care provider
2 31 conference regarding a minor who is a child of the person.

2 32 c. The person has been summoned to discuss the
2 33 developmental activity or social progress of a minor who is a
2 34 child of the person.

2 35 d. The person is voting in the building in which the child
3 1 care provider is located during the hours designated to vote.

3 2 3. If the person intends to be present for any other
3 3 reason not enumerated in subsection 2, the person shall first
3 4 notify the person in charge of the child care provider that
3 5 the person intends to be present on the real property
3 6 comprising the child care provider, and the person shall
3 7 receive written permission from the child care provider prior
3 8 to entering onto the real property comprising the child care
3 9 provider.

3 10 4. A person who commits a violation of this section
3 11 commits an aggravated misdemeanor.

3 12 Sec. 5. CHILD CARE WORKGROUP. There is appropriated from
3 13 the general fund of the state to the department of human
3 14 services for the fiscal year beginning July 1, 2008, and
3 15 ending June 30, 2009, the following amount, or so much thereof
3 16 as is necessary, to be used for the purpose designated:

3 17 For costs associated with the child care workgroup
3 18 established pursuant to this section:

3 19 \$ 100,000

3 20 1. a. The department of human services, in partnership
3 21 with the departments of education, human rights, and public
3 22 health and the Iowa empowerment board, shall establish a
3 23 workgroup to address implementation of the provisions of this
3 24 Act and the issues identified in this section. The workgroup
3 25 membership shall also include representatives of the state
3 26 child care advisory council and representatives of registered
3 27 and nonregistered child care providers.

3 28 b. The workgroup shall submit a report with findings and
3 29 recommendations to the governor and the general assembly on or
3 30 before December 15, 2008, to address possible implementation
3 31 of a mandatory system of registration for home-based child
3 32 care providers or a voluntary licensure system and the other
3 33 issues addressed by the workgroup in accordance with this
3 34 section.

3 35 c. The workgroup shall address the implementation issues
4 1 associated with a change in child care regulation to mandatory
4 2 registration as described in paragraph "b". The issues
4 3 considered shall include but are not limited to planning for
4 4 the phase-in of and costs for additional inspection visits of
4 5 child development homes, increased expenses for state child
4 6 care assistance program slots, revising state child care
4 7 assistance program reimbursement methodologies to reward
4 8 quality, and other implementation issues.

4 9 2. a. The workgroup shall cooperate with early childhood
4 10 stakeholders and the private sector in addressing the many
4 11 publicly supported programs and services directed to early
4 12 childhood and issues involved with redirecting the programs
4 13 and services to be part of a cohesive child care system.

4 14 b. The issues addressed shall include professional
4 15 development of workers, improving the workforce, ensuring
4 16 articulation between programs, meeting the needs of both
4 17 children and parents, enhancing community engagement to
4 18 support early childhood, and other efforts to address early
4 19 childhood needs with a coordinated system.

4 20 3. In addition, the workgroup shall explore other issues,
4 21 including but not limited to all of the following:

4 22 a. Using the internet to provide information to child care
4 23 providers, capacity for providers to register with the
4 24 department of human services via the internet, and training
4 25 information.

4 26 b. Creating a database of all child care providers.

4 27 c. Streamlining and coordinating inspections of home-based
4 28 child care providers.
4 29 d. Providing health care insurance for providers and their
4 30 workers.
4 31 e. Educating the public on the advantages of using a
4 32 registered child care provider.
4 33 f. Developing possible sanctions for violations at child
4 34 care facilities other than closing the facilities.
4 35 g. Requiring a state and federal fingerprint-based
5 1 background check for all licensed and registered child care
5 2 providers, as well as nonregistered providers caring for
5 3 children through the state child care assistance program.
5 4 h. Providing additional opportunities and resources for
5 5 child care providers and instructing the Iowa state university
5 6 of science and technology cooperative extension service in
5 7 agriculture and home economics, child care resource and
5 8 referral agencies, and community colleges to expand continuing
5 9 education opportunities offered at times the providers are not
5 10 providing care.
5 11 i. Implementing an electronic benefit transfer program to
5 12 pay for state child care assistance.
5 13 Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection
5 14 3, shall not apply to this Act.

5 15 EXPLANATION

5 16 This bill relates to child care by revising requirements
5 17 for child care homes and child development homes, restricting
5 18 the presence of certain registered sex offenders on the
5 19 premises of child care providers, and providing penalties and
5 20 an appropriation.

5 21 Code section 237A.5, relating to records checks and other
5 22 provisions involved with prohibiting certain persons from
5 23 involvement with child care, is amended to include inflicting
5 24 of corporal punishment as described in the bill's new Code
5 25 section 237A.18 in the list of transgressions that must be
5 26 evaluated by the department of human services to determine if
5 27 the transgression warrants prohibition of the person's
5 28 involvement with child care.

5 29 New Code section 237A.18 defines the term "corporal
5 30 punishment", prohibits any person providing child care or
5 31 living where child care is provided from inflicting corporal
5 32 punishment on children receiving care, and states that such a
5 33 person who inflicts corporal punishment may be prohibited from
5 34 involvement with child care. The provision does not apply to
5 35 corporal punishment inflicted on an individual by the person
6 1 who is the individual's parent, guardian, or custodian.

6 2 For purposes of new Code section 692A.3B, the term "child
6 3 care provider" is defined using terms from Code chapter 237A
6 4 to include a "child care center" (a facility providing child
6 5 care or preschool services for seven or more children, except
6 6 when the facility is registered as a child development home),
6 7 "preschool" (a licensed center or registered child development
6 8 home providing programs to children ages three through five
6 9 for up to three hours per day), "child development home" (a
6 10 registered home that may provide child care to six or more
6 11 children at any one time), or "child care home" (a home in
6 12 which child care is provided to five or fewer children at any
6 13 one time that is not registered). These terms are defined in
6 14 Code section 237A.1. In addition, "child care provider"
6 15 includes child care operated by or contracted for by a school
6 16 board or the authorities in charge of an accredited nonpublic
6 17 school, provided the child care meets standards adopted by the
6 18 state board of education.

6 19 New Code section 692A.3B provides that a registered sex
6 20 offender who has been convicted of a criminal offense against
6 21 a minor, or an offense involving a minor that is an aggravated
6 22 offense, sexually violent offense, or other relevant offense,
6 23 shall not be present on the real property comprising a child
6 24 care provider. However, the following exceptions are
6 25 provided: (1) a sex offender may be present on child care
6 26 provider property if the sex offender is transporting the
6 27 offender's child to or from the child care provider, the
6 28 offender is attending a child care provider conference, the
6 29 sex offender is summoned to discuss the developmental activity
6 30 or social progress of the offender's child, or the sex
6 31 offender is voting in an election during the designated hours
6 32 to vote; and (2) if a sex offender is to be present on the
6 33 real property of a child care provider for any other reason,
6 34 the sex offender must first receive written permission from
6 35 the administration of the child care provider prior to
7 1 entering onto the property.

7 2 A person who violates new Code section 692A.3B commits an

7 3 aggravated misdemeanor. An aggravated misdemeanor is
7 4 punishable by confinement for no more than two years and a
7 5 fine of at least \$625 but not more than \$6,250.

7 6 An appropriation is provided to the department of human
7 7 services to establish a workgroup in partnership with the
7 8 departments of education, human rights, and public health and
7 9 the Iowa empowerment board. The workgroup is required to
7 10 address possible implementation of a mandatory system of
7 11 registration for home-based child care providers or a
7 12 voluntary licensure system and numerous other child care
7 13 issues. The workgroup is required to report to the governor
7 14 and general assembly on or before December 15, 2008.

7 15 The bill may include a state mandate as defined in Code
7 16 section 25B.3. The bill makes inapplicable Code section
7 17 25B.2, subsection 3, which would relieve a political
7 18 subdivision from complying with a state mandate if funding for
7 19 the cost of the state mandate is not provided or specified.
7 20 Therefore, political subdivisions are required to comply with
7 21 any state mandate included in the bill.

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