

House File 2428 - Introduced

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BY EHLERT, KURTH, STECKMAN,
and DONAHUE

A BILL FOR

1 An Act relating to child care facilities, including licensing
2 and registration, and providing penalties.

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

1 Section 1. Section 237A.2, subsection 1, Code 2020, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *d.* The applicant has not been previously
4 convicted or received a deferred judgment for any offense under
5 section 237A.19 in the twelve months prior to the application.

6 Sec. 2. NEW SECTION. **237A.9 Licensing and registration**
7 **violations — civil penalties.**

8 1. The department shall establish by rule, in accordance
9 with chapter 17A, civil penalties, not to exceed one thousand
10 dollars per violation, for the following violations by a child
11 care provider in the licensing application or registration
12 application process:

13 *a.* Failure to disclose on the application that the applicant
14 has previously operated a child care center or a child care
15 home, whether under a different name, at a different address,
16 or in another state.

17 *b.* Failure to disclose on the application prior compliance
18 reports indicating noncompliance or complaints filed against
19 the child care provider at any previous child care center or
20 child care home.

21 2. If a child care provider assessed a penalty does not
22 request a formal hearing pursuant to chapter 17A or withdraws
23 its request for a formal hearing within thirty days of the
24 date the penalty was assessed, the penalty shall be reduced
25 by thirty-five percent if the penalty is paid within thirty
26 days of the issuance of a demand letter by the department. The
27 demand letter, which includes the civil penalty, shall include
28 a statement to this effect.

29 Sec. 3. Section 237A.19, subsection 1, Code 2020, is amended
30 to read as follows:

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

1 been convicted of an offense under this subsection commits
2 an aggravated misdemeanor. A person who has previously
3 been convicted three or more time of an offense under this
4 subsection commits a class "D" felony.

5 Sec. 4. Section 237A.19, Code 2020, is amended by adding the
6 following new subsections:

7 NEW SUBSECTION. 4. A person who has been convicted of
8 an offense under this section or who has been granted a
9 deferred judgment under section 907.3 shall be prohibited from
10 establishing, conducting, managing, or operating a licensed
11 child care facility for a period of twelve months from the date
12 of conviction or deferred judgment.

13 NEW SUBSECTION. 5. The department shall report any
14 violation or continuing violations of this section to the local
15 law enforcement department with jurisdiction over the center,
16 child development home, or child care home. Upon completion
17 of an investigation of any offense under this section, the
18 local law enforcement department with jurisdiction over the
19 center, child development home, or child care home shall
20 provide a report to the county attorney with a recommendation
21 for either criminal prosecution under this section, injunctive
22 relief under section 237A.20, or both. A copy of this report
23 and recommendation shall also be provided to the appropriate
24 political subdivision of the state and to the attorney general.

25 Sec. 5. Section 237A.20, Code 2020, is amended to read as
26 follows:

27 **237A.20 Injunction.**

28 A person who establishes, conducts, manages, or operates a
29 center without a license or a child development home without a
30 certificate of registration, if registration is required under
31 section 237A.3A, may be restrained by temporary or permanent
32 injunction. A person who has been convicted of a crime against
33 a person, a person with a record of founded child abuse, a
34 person who has been previously convicted of an offense under
35 section 237A.19 in the twelve months prior to any current

1 action filed against a center or child development home,
2 or a person who has been prohibited by the department from
3 involvement with child care may be restrained by temporary or
4 permanent injunction from providing unregistered, registered,
5 or licensed child care or from other involvement with
6 child care. The action may be instituted by the state, the
7 county attorney, a political subdivision of the state, or an
8 interested person.

9 Sec. 6. Section 237A.25, subsection 2, Code 2020, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. *0g.* Information explaining the availability
12 of child care compliance reports and complaint reports
13 concerning child care providers.

14 Sec. 7. Section 237A.25, subsection 3, Code 2020, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. *0d.* Capability for a consumer to access
17 information relating to the filing of child care compliance
18 and complaint reports concerning child care providers. All
19 compliance reports and complaint reports filed shall be
20 published on the department's internet page or site within
21 thirty days of the filing of a report.

22 Sec. 8. CHILD CARE FACILITIES — COMPLAINTS. The department
23 of human services shall amend its administrative rules pursuant
24 to chapter 17A to require all compliance reports and complaint
25 reports made against nonregistered child care homes and in-home
26 child care providers be published on the department's internet
27 page or site within thirty days of the filing of a report.

28 Sec. 9. CHILD CARE FACILITIES — LICENSING OR REGISTRATION
29 APPLICATIONS. The department of human services shall amend its
30 administrative rules pursuant to chapter 17A to include the
31 following requests for information on licensing or registration
32 applications:

33 1. Have you previously operated a child care center or a
34 child care home, whether under a different name, at a different
35 address or in another state?

1 2. If you have previously operated a child care center or a
2 child care home, provide the name and address of the child care
3 center or the child care home.

4 3. Provide any previous provider identification numbers
5 which were assigned to you when operating a child care center
6 or a child care home.

7 Sec. 10. CHILD CARE FACILITIES — CHILD CARE PROVIDER
8 IDENTIFICATION NUMBERS. The department of human services
9 shall amend its administrative rules pursuant to chapter 17A
10 to require that all child care provider identification numbers
11 associated with an individual child care provider be merged and
12 be discoverable by a consumer searching on the department's
13 internet page or site concerning compliance reports and
14 complaint reports filed for a named child care provider.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to child care facilities including
19 licensing and registration and provides penalties.

20 The bill provides that prior to issuing a license for a child
21 care center, the department of human services (department)
22 shall determine that the applicant has not been previously
23 convicted or received a deferred judgment for any offense under
24 Code section 237A.19 (penalties) in the 12 months prior to the
25 filing of the application.

26 The bill establishes civil penalties, not to exceed \$1,000
27 per violation, for failure of a child care provider to provide
28 certain requested information in the licensing application or
29 registration application process. If a child care provider
30 assessed a penalty does not request a formal hearing pursuant
31 to Code chapter 17A or withdraws its request for a formal
32 hearing within 30 days of the date the penalty was assessed,
33 the penalty shall be reduced by 35 percent if the penalty is
34 paid within 30 days of the issuance of a demand letter by the
35 department.

1 The bill provides that a person who has previously been
2 convicted of an offense establishing, conducting, managing,
3 or operating a child care center without a license commits
4 an aggravated misdemeanor, and a person who has previously
5 been convicted three or more times of an offense establishing,
6 conducting, managing, or operating a child care center
7 without a license commits a class "D" felony. An aggravated
8 misdemeanor is punishable by confinement for no more than two
9 years and a fine of at least \$625 but not more than \$6,250. A
10 class "D" felony is punishable by confinement for no more than
11 five years and a fine of at least \$750 but not more than \$7,500.

12 The bill provides that a person who has been convicted of
13 an offense under Code section 237A.19 or who has been granted
14 a deferred judgment shall be prohibited from establishing,
15 conducting, managing, or operating a licensed child care
16 facility for a period of 12 months from the date of conviction
17 or deferred judgment. The department shall report any
18 violation or continuing violations of Code section 237A.19 to
19 the local law enforcement department with jurisdiction over the
20 child care center, child development home, or child care home
21 for investigation. The local law enforcement department shall
22 provide a report to the county attorney with a recommendation
23 for either criminal prosecution, injunctive relief, or both. A
24 copy of the report and recommendation shall also be provided to
25 the appropriate political subdivision of the state and to the
26 attorney general.

27 The bill provides that a person who has been previously
28 convicted of an offense under Code section 237A.19 in the
29 12 months prior to any current action filed against a child
30 care center or child development home may be restrained by
31 temporary or permanent injunction from providing unregistered,
32 registered, or licensed child care or from other involvement
33 with child care.

34 The bill requires that consumer information material
35 developed by the department for parents and other consumers of

1 child care services shall include information explaining the
2 availability of child care compliance reports and complaint
3 reports concerning child care providers. The department shall
4 provide on its internet page or site the capability for a
5 consumer to access information relating to the filing of child
6 care compliance and complaint reports concerning child care
7 providers and such filed reports shall be published on the
8 department's internet page or site within 30 days of the filing
9 of a report.

10 The bill requires the department to amend its administrative
11 rules pursuant to Code chapter 17A to require all compliance
12 reports and complaint reports made against nonregistered child
13 care homes and in-home child care providers to be published on
14 the department's internet page or site within 30 days of the
15 filing of a report; to include specific questions and request
16 specific information concerning previously operated child
17 care centers or child care homes on licensing or registration
18 applications; and that all provider identification numbers
19 associated with an individual child care provider be merged and
20 be discoverable by a consumer searching on the department's
21 internet page or site concerning compliance reports and
22 complaint reports filed for a named child care provider.