

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1050

Final Reading

Introduced by Campbell, 25.

Read first time January 22, 2014

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to child care; to amend sections 43-2618,
2 71-1911, and 71-1912, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to inspections of
4 certain child care facilities as prescribed; and to
5 repeal the original sections.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-2618, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-2618 All family child care homes ~~required to be~~
4 ~~licensed under section 71-1911 or~~ which are registered pursuant to
5 section 43-2609 shall be inspected within sixty days of ~~licensure or~~
6 registration. ~~All family child care homes licensed under section~~
7 ~~71-1911 shall be inspected after the initial inspection pursuant to~~
8 ~~section 71-1912.~~ All family child care homes registered under section
9 43-2609 shall be inspected at least every two years after the initial
10 inspection. It is the intent of the Legislature that registered
11 family child care homes be inspected annually if sufficient funds are
12 made available under the federal Child Care and Development Block
13 Grant Act of 1990 for such purposes.

14 Sec. 2. Section 71-1911, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-1911 (1) A person may operate child care for three or
17 fewer children without having a license issued by the department. A
18 person who is not required to be licensed may choose to apply for a
19 license and, upon obtaining a license, shall be subject to the Child
20 Care Licensing Act. A person who has had a license issued pursuant to
21 this section and has had such license suspended or revoked other than
22 for nonpayment of fees shall not operate or offer to operate a
23 program for or provide care to any number of children until the
24 person is licensed pursuant to this section.

25 (2) No person shall operate or offer to operate a program

1 for four or more children under his or her direct supervision, care,
2 and control at any one time from families other than that of such
3 person without having in full force and effect a written license
4 issued by the department upon such terms as may be prescribed by the
5 rules and regulations adopted and promulgated by the department. The
6 license may be a provisional license or an operating license. A city,
7 village, or county which has rules, regulations, or ordinances in
8 effect on July 10, 1984, which apply to programs operating for two or
9 three children from different families may continue to license
10 persons providing such programs. If the license of a person is
11 suspended or revoked other than for nonpayment of fees, such person
12 shall not be licensed by any city, village, or county rules,
13 regulations, or ordinances until the person is licensed pursuant to
14 this section.

15 (3) A provisional license shall be issued to all
16 applicants following the completion of preservice orientation
17 training approved or delivered by the department for the first year
18 of operation. At the end of one year of operation, the department
19 shall either issue an operating license, extend the provisional
20 license, or deny the operating license. The provisional license may
21 be extended once for a period of no more than six months. The
22 decision regarding extension of the provisional license is not
23 appealable. The provisional license may be extended if:

24 (a) A licensee is unable to comply with all licensure
25 requirements and standards, is making a good faith effort to comply,

1 and is capable of compliance within the next six months;

2 (b) The effect of the current inability to comply with a
3 rule or regulation does not present an unreasonable risk to the
4 health, safety, or well-being of children or staff; and

5 (c) The licensee has a written plan of correction that
6 has been approved by the department which is to be completed within
7 the renewal period.

8 (4) The department may place a provisional or operating
9 license on corrective action status. Corrective action status is
10 voluntary and may be in effect for up to six months. The decision
11 regarding placement on corrective action status is not a disciplinary
12 action and is not appealable. If the written plan of correction is
13 not approved by the department, the department may discipline the
14 license. A probationary license may be issued for the licensee to
15 operate under corrective action status if the department determines
16 that:

17 (a) The licensee is unable to comply with all licensure
18 requirements and standards or has had a history of noncompliance;

19 (b) The effect of noncompliance with any rule or
20 regulation does not present an unreasonable risk to the health,
21 safety, or well-being of children or staff; and

22 (c) The licensee has a written plan of correction that
23 has been approved by the department.

24 (5) Operating licenses issued under the Child Care
25 Licensing Act shall remain in full force and effect subject to annual

1 inspections and fees. The department may amend a license upon change
2 of ownership or location. Amending a license requires a site
3 inspection by the department at the time of amendment. ~~_, except that~~
4 ~~for amendment of a family child care home I license, an inspection~~
5 ~~shall occur within sixty days.~~ When a program is to be permanently
6 closed, the licensee shall return the license to the department
7 within one week after the closing.

8 (6) The license, including any applicable status or
9 amendment, shall be displayed by the licensee in a prominent place so
10 that it is clearly visible to parents and others. License record
11 information and inspection reports shall be made available by the
12 licensee for public inspection upon request.

13 Sec. 3. Section 71-1912, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-1912 (1) Before issuance of a license, the department
16 shall investigate or cause an investigation to be made, when it deems
17 necessary, to determine if the applicant or person in charge of the
18 program meets or is capable of meeting the physical well-being,
19 safety, and protection standards and the other rules and regulations
20 of the department adopted and promulgated under the Child Care
21 Licensing Act. The department may investigate the character of
22 applicants and licensees, any member of the applicant's or licensee's
23 household, and the staff and employees of programs by making a
24 national criminal history record information check. The department
25 may at any time inspect or cause an inspection to be made of any

1 place where a program is operating to determine if such program is
2 being properly conducted.

3 (2) All inspections by the department shall be
4 unannounced except for initial licensure visits and consultation
5 visits. Initial licensure visits are announced visits necessary for a
6 provisional license to be issued to a family child care home I,
7 family child care home II, child care center, or school-age-only or
8 preschool program. Consultation visits are announced visits made at
9 the request of a licensee for the purpose of consulting with a
10 department specialist on ways of improving the program.

11 (3) An unannounced inspection of any place where a
12 program is operating shall be conducted by the department or the
13 city, village, or county pursuant to subsection (2) of section
14 71-1914 at least annually for a program licensed to provide child
15 care for fewer than thirty children and at least twice every year for
16 a program licensed to provide child care for thirty or more children.

17 (4) Whenever an inspection is made, the findings shall be
18 recorded in a report designated by the department. The public shall
19 have access to the results of these inspections upon a written or
20 oral request to the department. The request must include the name and
21 address of the program. Additional unannounced inspections shall be
22 performed as often as is necessary for the efficient and effective
23 enforcement of the Child Care Licensing Act.

24 Sec. 4. Original sections 43-2618, 71-1911, and 71-1912,
25 Reissue Revised Statutes of Nebraska, are repealed.