

AMENDMENTS TO LB257

(Amendments to E & R amendments, ER37)

Introduced by Hunt, 8.

1 1. Insert the following new sections:

2 **Sec. 24.** Section 71-1911.03, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 71-1911.03 (1) An applicant for a license under the Child Care
5 Licensing Act shall provide to the department written proof of liability
6 insurance coverage for the hours such applicant is operating and a child
7 is in the applicant's care of at least one hundred thousand dollars per
8 occurrence prior to issuance of the license. ~~A licensee subject to the~~
9 ~~Child Care Licensing Act on July 1, 2014, shall obtain such liability~~
10 ~~insurance coverage and provide written proof to the department within~~
11 ~~thirty days after July 1, 2014.~~

12 (2) A licensee shall continue to maintain the required level of
13 liability insurance for any time period during which a child is in the
14 care of such licensee. Failure by a licensee to maintain the required
15 level of liability insurance coverage shall be deemed noncompliance with
16 the Child Care Licensing Act. If the licensee is the State of Nebraska or
17 a political subdivision, the licensee may utilize a risk retention group
18 or a risk management pool for purposes of providing such liability
19 insurance coverage or may self-insure all or part of such coverage.

20 **Sec. 25.** Section 71-1912, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 71-1912 (1) Before issuance of a license, the department shall
23 investigate or cause an investigation to be made, when it deems
24 necessary, to determine if the applicant or person in charge of the
25 program meets or is capable of meeting the physical well-being, safety,
26 and protection standards and the other rules and regulations of the

1 department adopted and promulgated under the Child Care Licensing Act.
2 The department may investigate the character of applicants and licensees,
3 any member of the applicant's or licensee's household, and the staff and
4 employees of programs. The department may at any time inspect or cause an
5 inspection to be made of any place where a program is operating to
6 determine if such program is being properly conducted.

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

14 (3) An unannounced inspection of any place where a program is
15 operating shall be conducted by the department or the city, village, or
16 county pursuant to subsection (2) of section 71-1914 at least annually
17 for a program licensed to provide child care for fewer than thirty
18 children and at least twice every year for a program licensed to provide
19 child care for thirty or more children. At each unannounced inspection,
20 the inspector shall request from the licensee, and verify, current proof
21 of required liability insurance. If the licensee is unable to provide
22 current proof of liability insurance or has let the required coverage
23 lapse, the department shall notify the licensee that proof of insurance
24 shall be provided to the department within three business days. If such
25 proof of insurance is not provided to the department within three
26 business days, the licensee's license shall be suspended. Licensure shall
27 be restored upon the department's receipt and verification of current
28 proof of the required liability insurance as provided in section
29 71-1911.03.

30 (4) Whenever an inspection is made, the findings shall be recorded
31 in a report designated by the department. The public shall have access to

1 the results of these inspections upon a written or oral request to the
2 department. The request must include the name and address of the program.
3 Additional unannounced inspections shall be performed as often as is
4 necessary for the efficient and effective enforcement of the Child Care
5 Licensing Act.

6 (5)(a) A person applying for a license as a child care provider or a
7 licensed child care provider under the Child Care Licensing Act shall
8 submit a request for a national criminal history record information check
9 for each child care staff member, including a prospective child care
10 staff member of the child care provider, at the applicant's or licensee's
11 expense, as set forth in this section.

12 (b) A prospective child care staff member shall submit to a national
13 criminal history record information check (i) prior to employment, except
14 as otherwise permitted under 45 C.F.R. 98.43, as such regulation existed
15 on January 1, 2019, or (ii) prior to residing in a family child care
16 home.

17 (c) The department shall provide documentation of national criminal
18 history record information checks which proves eligibility for
19 employment. Such documentation shall be made available to each child care
20 staff member or prospective child care staff member by the applicant or
21 licensee for at least one hundred eighty days after the last day of
22 employment or date the documentation was provided by the department,
23 whichever is later.

24 (d) A child care staff member shall be required to undergo a
25 national criminal history record information check not less than once
26 during each five-year period. A child care staff member shall submit a
27 complete set of his or her fingerprints to the Nebraska State Patrol. The
28 Nebraska State Patrol shall transmit a copy of the child care staff
29 member's fingerprints to the Federal Bureau of Investigation for a
30 national criminal history record information check. The national criminal
31 history record information check shall include information concerning

1 child care staff members from federal repositories of such information
2 and repositories of such information in other states, if authorized by
3 federal law for use by the Nebraska State Patrol. The Nebraska State
4 Patrol shall issue a report to the department that includes the
5 information collected from the national criminal history record
6 information check concerning child care staff members. The department
7 shall seek federal funds, if available, to assist child care providers
8 and child care staff members with the costs of the fingerprinting and
9 national criminal history record information check. If the department
10 does not receive sufficient federal funds to assist child care providers
11 and staff members with such costs, then the child care staff member being
12 screened, applicant for a license, or licensee shall pay the actual cost
13 of the fingerprinting and national criminal history record information
14 check, except that the department may pay all or part of the cost if
15 funding becomes available. The department and the Nebraska State Patrol
16 may adopt and promulgate rules and regulations concerning the costs
17 associated with the fingerprinting and the national criminal history
18 record information check. The department may adopt and promulgate rules
19 and regulations implementing national criminal history record information
20 check requirements for child care providers and child care staff members.

21 (e) A child care staff member shall also submit to the following
22 background checks at his or her expense not less than once during each
23 five-year period:

24 (i) A search of the National Crime Information Center's National Sex
25 Offender Registry; and

26 (ii) A search of the following registries, repositories, or
27 databases in the state where the child care provider is located or where
28 the child care staff member resides and each state where the child care
29 provider was located or where the child care staff member resided during
30 the preceding five years:

31 (A) State criminal registries or repositories;

1 (B) State sex offender registries or repositories; and

2 (C) State-based child abuse and neglect registries and databases.

3 (f) Background checks shall be portable between child care
4 providers.

5 (g) Any individual shall be ineligible for employment by a child
6 care provider if such individual:

7 (i) Refuses to consent to the national criminal history record
8 information check or a background check described in this subsection;

9 (ii) Knowingly makes a materially false statement in connection with
10 the national criminal history record information check or a background
11 check described in this subsection;

12 (iii) Is registered, or required to be registered, on a state sex
13 offender registry or repository or the National Sex Offender Registry; or

14 (iv) Has been convicted of a crime of violence, a crime of moral
15 turpitude, or a crime of dishonesty.

16 (h) The department may adopt and promulgate rules and regulations
17 for purposes of this section.

18 (i) A child care provider shall be ineligible for a license under
19 the Child Care Licensing Act and shall be ineligible to participate in
20 the child care subsidy program if the provider employs a child care staff
21 member who is ineligible for employment under subdivisions (g) or (h) of
22 this subsection.

23 (j) National criminal history record information and information
24 from background checks described in this subsection subject to state or
25 federal confidentiality requirements may only be used for purposes of
26 granting a child care license or approving a child care provider for
27 participation in the child care subsidy program.

28 (k) For purposes of this subsection:

29 (i) Child care provider means a child care program required to be
30 licensed under the Child Care Licensing Act; and

31 (ii) Child care staff member means an individual who is not related

1 to all of the children for whom child care services are provided and:

2 (A) Who is employed by a child care provider for compensation,
3 including contract employees or self-employed individuals;

4 (B) Whose activities involve the care or supervision of children for
5 a child care provider or unsupervised access to children who are cared
6 for or supervised by a child care provider; or

7 (C) Who is residing in a family child care home and who is eighteen
8 years of age or older.

9 **Sec. 26.** Section 71-1913, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 71-1913 (1) The department may request the State Fire Marshal to
12 inspect any program for fire safety pursuant to section 81-502. The State
13 Fire Marshal shall immediately notify the department whenever he or she
14 delegates authority for such inspections under such section.

15 (2) The department may investigate all facilities and programs of
16 licensed providers of child care programs as defined in section 71-1910
17 or applicants for licenses to provide such programs to determine if the
18 place or places to be covered by such licenses meet standards of
19 sanitation and physical well-being set by the department for the care and
20 protection of the child or children who may be placed in such facilities
21 and programs. The department may delegate this authority to qualified
22 local environmental health personnel.

23 (3) At each investigation, the inspector shall request from the
24 licensee, and verify, current proof of liability insurance pursuant to
25 section 71-1911.03.

26 (4) ~~(3)~~ This section does not apply to school-age child care
27 programs which are licensed pursuant to section 71-1917.

28 2. Renumber the remaining section and correct the repealer
29 accordingly.