

1 AN ACT relating to licensed child-care centers.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 199.896 is amended to read as follows:

- 4 (1) No person, association, or organization shall conduct, operate, maintain, or  
5 advertise any child-care center without obtaining a license as provided in KRS  
6 199.892 to 199.896.
- 7 (2) The cabinet may promulgate administrative regulations pursuant to KRS Chapter  
8 13A relating to license fees and may, in the administrative regulations, establish  
9 standards of care and service for a child-care center, criteria for the denial of a  
10 license if criminal records indicate convictions that may impact the safety and  
11 security of children in care, and procedures for enforcement of penalties which are  
12 not in contravention of this section.
- 13 (3) Each initial application for a license shall be made to the cabinet and shall be  
14 accompanied by a fee that shall not exceed administrative costs of the program to  
15 the cabinet and shall be renewable annually upon expiration and reapplication when  
16 accompanied by a renewal fee that shall not exceed administrative costs of the  
17 program to the cabinet. Regular licenses and renewals thereof shall expire one (1)  
18 year from their effective date.
- 19 (4) No child-care center shall be refused a license or have its license revoked for failure  
20 to meet standards set by the secretary until after the expiration of a period not to  
21 exceed six (6) months from the date of the first official notice that the standards  
22 have not been met. If, however, the cabinet has probable cause to believe that an  
23 immediate threat to the public health, safety, or welfare exists, the cabinet may take  
24 emergency action pursuant to KRS 13B.125. All administrative hearings conducted  
25 under authority of KRS 199.892 to 199.896 shall be conducted in accordance with  
26 KRS Chapter 13B.
- 27 (5) If, upon inspection or investigation, the inspector general finds that a child-care

1 center licensed under this section has violated the administrative regulations,  
2 standards, or requirements of the cabinet, the inspector general shall issue a  
3 statement of deficiency to the center containing:

4 (a) A statement of fact;

5 (b) A statement of how an administrative regulation, standard, or requirement of  
6 the cabinet was violated; and

7 (c) The timeframe, negotiated with the child-care center, within which a violation  
8 is to be corrected, except that a violation that poses an immediate threat to the  
9 health, safety, or welfare of children in the center shall be corrected in no  
10 event later than five (5) working days from the date of the statement of  
11 deficiency.

12 (6) The cabinet~~[for Health and Family Services]~~, in consultation with the Office of the  
13 Inspector General, shall establish by administrative regulations promulgated in  
14 accordance with KRS Chapter 13A an informal dispute resolution process through  
15 which a child-care provider may dispute licensure deficiencies that have an adverse  
16 effect on the child-care provider's license.

17 (7) A child-care center shall have the right to appeal to the cabinet~~[for Health and~~  
18 ~~Family Services]~~ under KRS Chapter 13B any action adverse to its license or the  
19 assessment of a civil penalty issued by the inspector general as the result of a  
20 violation contained in a statement of deficiency within twenty (20) days of the  
21 issuance of the action or assessment of the civil penalty. An appeal shall not act to  
22 stay the correction of a violation.

23 (8) In assessing the civil penalty to be levied against a child-care center for a violation  
24 contained in a statement of deficiency issued under this section, the inspector  
25 general or the inspector general's designee shall take into consideration the  
26 following factors:

27 (a) The gravity of the threat to the health, safety, or welfare of children posed by

- 1           the violation;
- 2       (b) The number and type of previous violations of the child-care center;
- 3       (c) The reasonable diligence exercised by the child-care center and efforts to
- 4           correct the violation; and
- 5       (d) The amount of assessment necessary to assure immediate and continued
- 6           compliance.
- 7 (9) Upon a child-care center's failure to take action to correct a violation of the
- 8       administrative regulations, standards, or requirements of the cabinet contained in a
- 9       statement of deficiency, or at any time when the operation of a child-care center
- 10      poses an immediate threat to the health, safety, or welfare of children in the center,
- 11      and the child-care center continues to operate after the cabinet has taken emergency
- 12      action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee
- 13      shall take at least one (1) of the following actions against the center:
- 14      (a) Institute proceedings to obtain an order compelling compliance with the
- 15           administrative regulations, standards, and requirements of the cabinet;
- 16      (b) Institute injunctive proceedings in Circuit Court to terminate the operation of
- 17           the center;
- 18      (c) Institute action to discontinue payment of child-care subsidies; or
- 19      (d) Suspend or revoke the license or impose other penalties provided by law.
- 20 (10) Upon request of any person, the cabinet shall provide information regarding the
- 21      denial, revocation, suspension, or violation of any type of child-care center license
- 22      of the operator. Identifying information regarding children and their families shall
- 23      remain confidential.
- 24 (11) The cabinet shall provide, upon request, public information regarding the
- 25      inspections of and the plans of correction for the child-care center within the past
- 26      year. All information distributed by the cabinet under this subsection shall include a
- 27      statement indicating that the reports as provided under this subsection from the past

1 five (5) years are available from the child-care center upon the parent's, custodian's,  
2 guardian's, or other interested person's request.

3 (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and  
4 certification applications shall be paid into the State Treasury and credited to a  
5 special fund for the purpose of administering KRS 199.892 to 199.896 including the  
6 payment of expenses of and to the participants in child-care workshops. The funds  
7 collected are hereby appropriated for the use of the cabinet. The balance of the  
8 special fund shall lapse to the general fund at the end of each biennium.

9 (13) Any advertisement for child-care services shall include the address of where the  
10 service is being provided.

11 (14) All inspections of licensed and unlicensed child-care centers by the cabinet~~[-for~~  
12 ~~Health and Family Services]~~ shall be unannounced.

13 (15) All employees and owners of a child-care center who provide care to children shall  
14 demonstrate within the first three (3) months of employment completion of at least  
15 a total of six (6) hours of orientation in the following areas:

- 16 (a) Basic health, safety, and sanitation;
- 17 (b) Recognizing and reporting child abuse; and
- 18 (c) Developmentally appropriate child-care practice.

19 (16) All employees and owners of a child-care center who provide care to children shall  
20 annually demonstrate to the department completion of at least six (6) hours of  
21 training in child development. These hours shall include but are not limited to one  
22 and one-half (1.5) hours one (1) time every five (5) years of continuing education in  
23 the recognition and prevention of pediatric abusive head trauma, as defined in KRS  
24 620.020. Training in recognizing pediatric abusive head trauma may be designed in  
25 collaboration with organizations and agencies that specialize in the prevention and  
26 recognition of pediatric head trauma approved by the secretary~~[-of the Cabinet for~~  
27 ~~Health and Family Services]~~. The one and one-half (1.5) hours required under this

1 section shall be included in the current number of required continuing education  
2 hours.

3 (17) The cabinet~~[ for Health and Family Services]~~ shall make available either through  
4 the development or approval of a model training curriculum and training materials,  
5 including video instructional materials, to cover the areas specified in subsection  
6 (15) of this section. The cabinet shall develop or approve the model training  
7 curriculum and training materials to cover the areas specified in subsection (15) of  
8 this section.

9 (18) Child-care centers licensed pursuant to this section and family child-care homes  
10 certified pursuant to KRS 199.8982 shall not use corporal physical discipline,  
11 including the use of spanking, shaking, or paddling, as a means of punishment,  
12 discipline, behavior modification, or for any other reason. For the purposes of this  
13 section, "corporal physical discipline" means the deliberate infliction of physical  
14 pain and does not include spontaneous physical contact that is intended to protect a  
15 child from immediate danger.

16 (19) Child-care centers that provide instructional and educational programs for  
17 preschool-aged children that operate for a maximum of twenty (20) hours per week  
18 and that a child attends for no more than fifteen (15) hours per week shall:

- 19 (a) Notify the cabinet in writing that the center is operating;  
20 (b) Meet all child-care center licensure requirements and administrative  
21 regulations related to employee background checks;  
22 (c) Meet all child-care center licensure requirements and administrative  
23 regulations related to tuberculosis screenings; and  
24 (d) Be exempt from all other child-care center licensure requirements and  
25 administrative regulations.

26 (20) Child-care centers that provide instructional and educational programs for  
27 preschool-aged children that operate for a maximum of twenty (20) hours per week

1 and that a child attends for no more than ten (10) hours per week shall be exempt  
2 from all child-care licensure requirements and administrative regulations.

3 (21) Instructional programs for school-age children that offer, whether free or for a fee,  
4 recreational, educational, sports training, or vacation programs that include but are  
5 not limited to martial arts and dance programs to children under eighteen (18) years  
6 of age, that a child attends outside the presence of his or her parent or legal  
7 guardian, shall be exempt from all child-care licensure administrative regulations if  
8 the following criteria are met:

9 (a) The program provides primary instruction in a skill, talent, ability, expertise,  
10 or proficiency;

11 (b) The program operates outside the time period when school is in session,  
12 including before or after school hours, holidays, school breaks, teaching  
13 planning days, or summer vacation;

14 (c) The program does not advertise or otherwise represent that the program is a  
15 licensed child-care center or that the program offers child-care services;

16 (d) The program informs the parent or guardian:

17 1. That the program is not licensed by the cabinet; and

18 2. About the physical risks a child may face while participating in the  
19 program; and

20 (e) The program conducts the following background checks for all program  
21 employees and volunteers who work with children:

22 1. Check of the child abuse and neglect records maintained by the cabinet;  
23 and

24 2. In-state criminal background information check from the Justice and  
25 Public Safety Cabinet or Administrative Office of the Courts.

26 (22) Directors and employees of child-care centers in a position that involves  
27 supervisory or disciplinary power over a minor, or direct contact with a minor, shall

1 submit to a criminal record check in accordance with KRS 199.8965.

2 (23) A director or employee of a child-care center may be employed on a probationary  
3 status pending receipt of the criminal background check. Application for the  
4 criminal record of a probationary employee shall be made no later than the date  
5 probationary employment begins.

6 (24) The cabinet shall promulgate administrative regulations in accordance with KRS  
7 Chapter 13A to:

8 (a) Require that a child-care center have a minimum of thirty-five (35) square  
9 feet of indoor space per child, including but not limited to bathrooms and  
10 hallways that are exclusively used by children enrolled at the child-care  
11 center; and

12 (b) Identify emergency care providers who provide essential child-care services  
13 during an identified state of emergency.

14 (25) Notwithstanding any state law, administrative regulation, executive order, or  
15 executive directive to the contrary, during the 2020 or 2021 state of emergency  
16 declared by the Governor in response to COVID-19, including but not limited to  
17 any mutated strain of the COVID-19 virus, the cabinet shall not establish any  
18 restrictions on capacity for class or group size or the ability to combine classes and  
19 groups for capacity limits in the morning or afternoon that is below the number that  
20 was in effect on February 1, 2020.