

CHAPTER 88

(HB 561)

AN ACT relating to child care.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
 - (a) *"Cabinet" means the Cabinet for Economic Development; and*
 - (b) *"Council" means the Council of Area Development Districts.*
- (2) *The cabinet shall work in partnership with the council and the area development districts to establish a Certified Child Care Community Designation Program. The purpose of the program shall be to create new opportunities for local governments to help increase the supply of child care and early childhood education services in their communities through voluntary actions related to zoning reform and programming at the local level.*
- (3) *To administer the program, the cabinet may:*
 - (a) *Delegate authority to a subsidiary department;*
 - (b) *Coordinate and share information with other executive branch agencies and the council;*
 - (c) *Enter into contracts with third parties to administer the program or specific parts of the program; and*
 - (d) *Promulgate administrative regulations in accordance with KRS Chapter 13A to implement the program.*
- (4) (a) *By December 1, 2024, the cabinet shall make available, on its website and to the Legislative Research Commission for referral to the Interim Joint Committee on Families and Children, recommendations and best practices for local governments to utilize when evaluating local ordinances, regulations, and land-use rules pertaining to the availability of child care services in local communities. These recommendations and best practices shall focus on balancing safety with increasing the supply of child care and early childhood education services and easing local regulatory barriers, and shall include but not be limited to the following topics:*
 1. *Local land-use policies related to center-based, in-home, and employer-based child care services, including:*
 - a. *Recommendations for definitions for terms such as "child care," "child care center," and "family child care home";*
 - b. *Recommendations on where child care services should be permitted by right, with special standards, and with conditional use permits;*
 - c. *Recommendations for requirements for compliance with conditional use permits and special standards;*
 - d. *Best practices for safely permitting child care services in or near industrial areas;*
 - e. *Best practices for playgrounds associated with child care services; and*
 - f. *Recommendations for parking requirements where applicable;*
 2. *Policies pertaining to local permitting fees for starting and operating child care services; and*
 3. *Policies related to other local ordinances and regulations that may pertain to the availability of child care services in local communities.*
- (b) *The cabinet may enter into a contract with a third party to produce the recommendations and best practices required in accordance with this subsection.*

- (c) *The cabinet, or a third party under contract with the cabinet, shall solicit feedback and input on these recommendations and best practices from the council, area development districts, and organizations in the Commonwealth representing child care providers and in-home family child care providers, local governments, local elementary and secondary school officials, the business community, economic developers, and community planning and design professionals.*
- (d) *The recommendations and best practices required pursuant to this subsection shall take into consideration the unique needs and differences between urban and rural areas of the state and shall also include recommendations for local jurisdictions that have not adopted local land use rules in accordance with KRS Chapter 100.*
- (5) *By December 1, 2024, the cabinet shall submit a draft standardized application for certification and draft instructions for the Certified Child Care Community Designation Program to the Legislative Research Commission for referral to the Interim Joint Committee on Families and Children.*
- (6) *By April 1, 2025, the cabinet, after consulting with the council, shall make publicly available a standardized application for certification and instructions for the Certified Child Care Community Designation Program.*
- (7) *The cabinet shall:*
 - (a) *Begin receiving and approving applications from local governments no earlier than April 1, 2025; and*
 - (b) *Send notice of approval or denial to applicants no later than thirty (30) days after receiving an application. If the cabinet denies an application, the cabinet shall include the reason for the denial in its notice and shall invite the applicant to resubmit.*
- (8) (a) *To attain certification by the cabinet, applicants shall be required to demonstrate that the local government has:*
 - 1. *Developed clear and actionable strategies, including at least two (2) action items from the list below, to help address local child care challenges and raise awareness of state and local child care resources for working families, current and prospective child care providers, current and prospective employers, and economic developers. Action items include but are not limited to:*
 - a. *Creating a community-wide child care task force that includes representatives from local government, the business community, education, health care, and early childhood education professionals;*
 - b. *Making available and maintaining a public list of certified and licensed child care services in the community;*
 - c. *Designating a local agency or nonprofit to serve as a point-of-contact for local child care issues;*
 - d. *Helping raise awareness of certification and licensing requirements for child care providers;*
 - e. *Making available an accessible guide to assist prospective child care service providers in navigating the jurisdiction's ordinances, regulations, and land-use rules that pertain to child care; and*
 - f. *Conducting a study of child care challenges in the local community or actively participating in a study of child care challenges in the local region; and*
 - 2. *Analyzed local ordinances, regulations, and land-use rules that could create barriers to the availability of child care services and developed an action plan to implement reforms. To comply with this subparagraph, the applicant shall demonstrate that it has:*
 - a. *Gathered community input from child care providers and child care organizations, local residents and homeowners, local elementary and secondary school officials, the business community, civic and nonprofit organizations, and economic developers through meetings, listening sessions, or surveys;*
 - b. *Conducted a comprehensive analysis of the jurisdiction's ordinances, regulations, and land-use rules that may pertain to the provision of child care services and identified*

ordinances, regulations, and land-use rules that create barriers to the availability of child care services in the community; and

- c. *Established a clear and specific action plan to amend ordinances, regulations, and land-use rules that create barriers to the availability of child care services in the community as identified through the comprehensive analysis in subdivision b. of this subparagraph.*
- (b) *For the purposes of paragraph (a)2. of this subsection, "ordinances, regulations, and land-use rules that create barriers to the availability of child care services" in the community means local ordinances, regulations, or land-use rules that local officials and community stakeholders have determined to be overly restrictive or unnecessary and have the effect of discouraging or limiting the availability of child care services without meaningfully supporting safety or preserving the character of the community.*
- (c) *In fulfilling the requirements of paragraph (a)2. of this subsection, an applicant shall demonstrate that it has taken into consideration the recommendations and best practices for local ordinances, regulations, and land-use rules pertaining to child care made available by cabinet pursuant to subsection (4) of this section. The applicant may satisfy this requirement by demonstrating that it has taken into consideration recommendations and best practices produced by its area development district, provided that they are substantially similar to those produced by the cabinet and were developed with stakeholder input as described in subsection (4) of this section.*
- (d) *If the applicant has not adopted land-use rules pursuant to KRS Chapter 100, it may exclude, and the cabinet shall not consider, land-use rules from its analysis and action plan.*
- (9) *Prior to submitting an application to the cabinet for certification, an applicant shall first submit its application to the area development district in which the applicant is located and receive approval. The area development district shall review the application and, within thirty (30) days, recommend the application for approval or deny it based on the criteria in subsection (8) of this section. In cases where the area development district denies an application, it shall provide a detailed explanation of the reason and allow the applicant to resubmit. The cabinet shall not accept an application for review or approval unless the area development district in which the applicant is located has recommended the application for approval.*
- (10) *The cabinet shall make publicly available on its website a list of communities that have obtained the certified child care community designation.*
- (11) *By December 1, 2025, the cabinet shall submit a report to the Legislative Research Commission for referral to the Interim Joint Committee on Families and Children specifying the communities that have obtained the designation, a summary of the different strategies used by local communities to expand access to child care and remove barriers, and recommendations for improvements to the program.*

➔Section 2. KRS 199.881 is amended to read as follows:

The General Assembly finds and declares that the purpose of KRS 199.881 to 199.888 and 199.990(8) is to support Kentucky families by incentivizing employers to contribute to the child-care costs of its employees. In enacting this legislation, it is the intention of the General Assembly to enable the Cabinet for Health and Family Services to facilitate this public and private partnership ~~pilot~~ program, herein known as the Employee Child Care Assistance Partnership, and administer program funds to achieve this purpose.

➔Section 3. KRS 199.887 is amended to read as follows:

- (1) Termination of an active contract between an employer, employee, child-care provider, and the cabinet pursuant to this program shall occur in the following circumstances:
 - (a) If the relationship between the employee and employer is severed, the employer shall notify the child-care provider and the cabinet within three (3) business days of the separation, and the contract is terminated on the calendar date provided by the employer in the notification. If the employer fails to make this notification and the cabinet issues a state match to the provider on behalf of that employer's employee, then the employer shall reimburse the cabinet for the unnecessary state match;~~{-or}~~
 - (b) If the employer fails to make a contribution or contributions for the eligible child-care costs in accordance to the terms of the contract, the child-care provider shall notify the cabinet within five (5) business days. After receiving notification from the provider, the cabinet shall temporarily cease

providing a state match and shall notify the employer that the contract will be terminated unless the employer remedies the nonpayment within five (5) business days of receiving notification from the cabinet. If the provider fails to make this notification and receives a state match from the cabinet on behalf of that employer's employee, the provider shall reimburse the cabinet for the unnecessary state match; *or*

- (c) ***If the relationship between the employee and the child care provider is severed and the employee ceases to utilize the child care provider's services, the employee shall notify the employer within three (3) business days, and the employer shall notify the cabinet and terminate the contract.***
- (2) Termination of an active contract between an employer, employee, child-care provider, and the cabinet pursuant to this program may occur in the following circumstances:
- (a) If the employee fails to pay the child-care provider for costs not covered by the employer contribution and the state match in accordance to the terms of the contract, the child-care provider may give the employee reasonable time to remedy the nonpayment. The child-care provider may notify the cabinet and terminate the contract on the date that the notification was issued. If the child-care provider voluntarily excuses the employee's nonpayment or the child-care provider does not notify the cabinet within two (2) calendar months from the date of the employee's nonpayment and continues to provide services, then the contract made between all the parties will automatically reflect the reduction in value;
- (b) If the child-care provider ceases participation or otherwise loses its rating in the rating system described in KRS 199.8943, it shall notify all parties to the agreement immediately; and
- (c) The employer, employee, or child-care provider may terminate the contract at any time and for any reason. The terminating party shall notify all the parties to the contract and specify the desired termination date, which shall occur no sooner than two (2) weeks from the date of notification unless the child-care provider gives its consent to an earlier termination date. All parties to the contract shall be financially obligated, according to the provisions of the contract, up to the termination date.
- (3) ***Any child-care provider who receives an employer contribution as part of this program or a state match for services not rendered and which will not be rendered after the relationship between the employee and child care provider is severed or after the termination of an active contract in accordance with this section shall return those employer contributions and match funds to the respective parties within five (5) days of receipt of the funds.***

➔Section 4. KRS 199.888 is amended to read as follows:

- (1) The Cabinet for Economic Development may coordinate with the Cabinet for Health and Family Services to incorporate this program into agreements with employers seeking economic development incentives in Subchapters 31 and 32 of KRS Chapter 154, if the employer agrees to participate in the program.
- (2) ***The Cabinet for Economic Development shall develop and implement strategies and programs to promote awareness of the Employee Child Care Assistance Partnership among employers to whom they provide services or with whom they conduct business. The Cabinet for Economic Development may consult with the Cabinet for Health and Family Services in developing and implementing promotional strategies and programs.***
- (3) ***The Education and Labor Cabinet shall develop and implement strategies and programs to promote awareness of the Employee Child Care Assistance Partnership among employers to whom they provide services or with whom they conduct business. The Education and Labor Cabinet may consult with the Cabinet for Health and Family Services in developing and implementing promotional strategies and programs.***

Signed by Governor April 5, 2024.