

1 AN ACT relating to child care and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 65.870 TO 65.879 IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Certified family child-care home" means a private home that is the  
7 primary residence of an individual who provides full-time or part-time care  
8 day or night for six (6) or fewer children who are not the children, siblings,  
9 stepchildren, grandchildren, nieces, nephews, or children in legal custody of  
10 the provider and certified by the Cabinet for Health and Family Services  
11 pursuant to KRS 199.8982; and

12 (b) "Local government" means a city, county, charter county, urban-county  
13 government, consolidated local government, or unified local government.

14 (2) A local government shall not adopt or enforce any licensing or other  
15 requirements specifically applicable to certified family child-care homes beyond  
16 those required by statutes or administrative regulations of the Commonwealth of  
17 Kentucky or the federal government.

18 (3) This section shall not be construed to exempt certified family child-care homes  
19 from compliance with local government ordinances that apply generally within  
20 the jurisdiction.

21 ➔Section 2. KRS 199.896 is amended to read as follows:

22 (1) No person, association, or organization shall conduct, operate, maintain, or  
23 advertise any child-care center without obtaining a license as provided in KRS  
24 199.892 to 199.896.

25 (2) The cabinet may promulgate administrative regulations pursuant to KRS Chapter  
26 13A relating to license fees and may, in the administrative regulations, establish  
27 standards of care and service for a child-care center, criteria for the denial of a

1 license if criminal records indicate convictions that may impact the safety and  
2 security of children in care, and procedures for enforcement of penalties *which are*  
3 *not in contravention of this section.*

4 (3) Each initial application for a license shall be made to the cabinet and shall be  
5 accompanied by a fee that shall not exceed administrative costs of the program to  
6 the cabinet and shall be renewable annually upon expiration and reapplication when  
7 accompanied by a renewal fee that shall not exceed administrative costs of the  
8 program to the cabinet. Regular licenses and renewals thereof shall expire one (1)  
9 year from their effective date.

10 (4) No child-care center shall be refused a license or have its license revoked for failure  
11 to meet standards set by the secretary until after the expiration of a period not to  
12 exceed six (6) months from the date of the first official notice that the standards  
13 have not been met. If, however, the cabinet has probable cause to believe that an  
14 immediate threat to the public health, safety, or welfare exists, the cabinet may take  
15 emergency action pursuant to KRS 13B.125. All administrative hearings conducted  
16 under authority of KRS 199.892 to 199.896 shall be conducted in accordance with  
17 KRS Chapter 13B.

18 (5) If, upon inspection or investigation, the inspector general finds that a child-care  
19 center licensed under this section has violated the administrative regulations,  
20 standards, or requirements of the cabinet, the inspector general shall issue a  
21 statement of deficiency to the center containing:

22 (a) A statement of fact;

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

25 (c) The timeframe, negotiated with the child-care center, within which a violation  
26 is to be corrected, except that a violation that poses an immediate threat to the  
27 health, safety, or welfare of children in the center shall be corrected in no

1 event later than five (5) working days from the date of the statement of  
2 deficiency.

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

8 (7) A child-care center shall have the right to appeal to the Cabinet for Health and  
9 Family Services under KRS Chapter 13B any action adverse to its license or the  
10 assessment of a civil penalty issued by the inspector general as the result of a  
11 violation contained in a statement of deficiency within twenty (20) days of the  
12 issuance of the action or assessment of the civil penalty. An appeal shall not act to  
13 stay the correction of a violation.

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

18 (a) The gravity of the threat to the health, safety, or welfare of children posed by  
19 the violation;

20 (b) The number and type of previous violations of the child-care center;

21 (c) The reasonable diligence exercised by the child-care center and efforts to  
22 correct the violation; and

23 (d) The amount of assessment necessary to assure immediate and continued  
24 compliance.

25 (9) Upon a child-care center's failure to take action to correct a violation of the  
26 administrative regulations, standards, or requirements of the cabinet contained in a  
27 statement of deficiency, or at any time when the operation of a child-care center

- 1 poses an immediate threat to the health, safety, or welfare of children in the center,  
2 and the child-care center continues to operate after the cabinet has taken emergency  
3 action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee  
4 shall take at least one (1) of the following actions against the center:
- 5 (a) Institute proceedings to obtain an order compelling compliance with the  
6 administrative regulations, standards, and requirements of the cabinet;
  - 7 (b) Institute injunctive proceedings in Circuit Court to terminate the operation of  
8 the center;
  - 9 (c) Institute action to discontinue payment of child-care subsidies; or
  - 10 (d) Suspend or revoke the license or impose other penalties provided by law.
- 11 (10) Upon request of any person, the cabinet shall provide information regarding the  
12 denial, revocation, suspension, or violation of any type of child-care center license  
13 of the operator. Identifying information regarding children and their families shall  
14 remain confidential.
- 15 (11) The cabinet shall provide, upon request, public information regarding the  
16 inspections of and the plans of correction for the child-care center within the past  
17 year. All information distributed by the cabinet under this subsection shall include a  
18 statement indicating that the reports as provided under this subsection from the past  
19 five (5) years are available from the child-care center upon the parent's, custodian's,  
20 guardian's, or other interested person's request.
- 21 (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and  
22 certification applications shall be paid into the State Treasury and credited to a  
23 special fund for the purpose of administering KRS 199.892 to 199.896 including the  
24 payment of expenses of and to the participants in child-care workshops. The funds  
25 collected are hereby appropriated for the use of the cabinet. The balance of the  
26 special fund shall lapse to the general fund at the end of each biennium.
- 27 (13) Any advertisement for child-care services shall include the address of where the

1 service is being provided.

2 (14) All inspections of licensed and unlicensed child-care centers by the Cabinet for  
3 Health and Family Services shall be unannounced.

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

7 (a) Basic health, safety, and sanitation;

8 (b) Recognizing and reporting child abuse; and

9 (c) Developmentally appropriate child-care practice.

10 (16) All employees and owners of a child-care center who provide care to children shall  
11 annually demonstrate to the department completion of at least six (6) hours of  
12 training in child development. These hours shall include but are not limited to one  
13 and one-half (1.5) hours one (1) time every five (5) years of continuing education in  
14 the recognition and prevention of pediatric abusive head trauma, as defined in KRS  
15 620.020. Training in recognizing pediatric abusive head trauma may be designed in  
16 collaboration with organizations and agencies that specialize in the prevention and  
17 recognition of pediatric head trauma approved by the secretary of the Cabinet for  
18 Health and Family Services The one and one-half (1.5) hours required under this  
19 section shall be included in the current number of required continuing education  
20 hours.

21 (17) The Cabinet for Health and Family Services shall make available either through the  
22 development or approval of a model training curriculum and training materials,  
23 including video instructional materials, to cover the areas specified in subsection  
24 (15) of this section. The cabinet shall develop or approve the model training  
25 curriculum and training materials to cover the areas specified in subsection (15) of  
26 this section.

27 (18) Child-care centers licensed pursuant to this section and family child-care homes

1 certified pursuant to KRS 199.8982 shall not use corporal physical discipline,  
2 including the use of spanking, shaking, or paddling, as a means of punishment,  
3 discipline, behavior modification, or for any other reason. For the purposes of this  
4 section, "corporal physical discipline" means the deliberate infliction of physical  
5 pain and does not include spontaneous physical contact that is intended to protect a  
6 child from immediate danger.

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

10 (a) Notify the cabinet in writing that the center is operating;

11 (b) Meet all child-care center licensure requirements and administrative  
12 regulations related to employee background checks;

13 (c) Meet all child-care center licensure requirements and administrative  
14 regulations related to tuberculosis screenings; and

15 (d) Be exempt from all other child-care center licensure requirements and  
16 administrative regulations.

17 (20) Child-care centers that provide instructional and educational programs for  
18 preschool-aged children that operate for a maximum of twenty (20) hours per week  
19 and that a child attends for no more than ten (10) hours per week shall be exempt  
20 from all child-care licensure requirements and administrative regulations.

21 (21) Instructional programs for school-age children shall be exempt from all child-care  
22 licensure administrative regulations if the following criteria are met:

23 (a) The program provides direct instruction in a single skill, talent, ability,  
24 expertise, or proficiency;

25 (b) The program does not provide services or offerings that are not directly related  
26 to the single talent, ability, expertise, or proficiency;

27 (c) The program operates outside the time period when school is in session,

1 including before or after school hours, holidays, school breaks, teaching  
2 planning days, or summer vacation;

3 (d) The program does not advertise or otherwise represent that the program is a  
4 licensed child-care center or that the program offers child-care services;

5 (e) The program informs the parent or guardian:

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

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

9 (f) The program conducts the following background checks for all program  
10 employees and volunteers who work with children:

11 1. Check of the child abuse and neglect records maintained by the cabinet;  
12 and

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

15 (22) Directors and employees of child-care centers in a position that involves  
16 supervisory or disciplinary power over a minor, or direct contact with a minor, shall  
17 submit to a criminal record check in accordance with KRS 199.8965.

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

22 **(24) The cabinet shall promulgate administrative regulations to identify emergency**  
23 **care providers who provide essential child-care services during an identified state**  
24 **of emergency.**

25 **(25) Notwithstanding any other provisions of this chapter, after the effective date of**  
26 **this Act, the cabinet shall not promulgate, implement, or enforce any**  
27 **administrative regulation for a period of more than thirty (30) days that restricts**

1 any child-care center's class or group:

2 (a) Total daily number of children below the number that was in effect on  
3 February 1, 2020; or

4 (b) Beginning of day or ending of day number of children below the number  
5 that was in effect on February 1, 2020.

6 ➔Section 3. KRS 199.8982 is amended to read as follows:

- 7 (1) (a) The cabinet shall establish a family child-care home certification program  
8 which shall be administered by the department. A family child-care provider  
9 shall apply for certification of the provider's home if the provider is caring for  
10 four (4) to six (6) children unrelated to the provider. A family child-care  
11 provider caring for three (3) or fewer children may apply for certification of  
12 the provider's home at the discretion of the provider. Applicants for  
13 certification shall not have been found by the cabinet or a court to have abused  
14 or neglected a child, and shall meet the following minimum requirements:
- 15 1. Submit two (2) written character references;
  - 16 2. Provide a written statement from a physician or advanced practice  
17 registered nurse that the applicant is in good health;
  - 18 3. Submit to a criminal record check in accordance with KRS 199.8965;
  - 19 4. Provide smoke detectors, a telephone, an adequate water supply,  
20 sufficient lighting and space, and a safe environment in the residence in  
21 which care is provided;
  - 22 5. Provide a copy of the results of a tuberculosis risk assessment and the  
23 results of any appropriate follow-up with skin testing or chest X-ray for  
24 applicants who are determined to be at risk for developing tuberculosis  
25 in accordance with the recommendations of the Centers for Disease  
26 Control and Prevention within thirty (30) days of the date of application  
27 for certification; and



- 1           6. Demonstrate completion of a total of at least six (6) hours of training in  
2           the following areas within three (3) months of application for  
3           certification:
- 4           a. Basic health, safety, and sanitation;
  - 5           b. Recognizing and reporting child abuse; and
  - 6           c. Developmentally appropriate child-care practice.
- 7           (b) Initial applications for certification shall be made to the department. The  
8           cabinet may promulgate administrative regulations to establish fees that shall  
9           not exceed costs of the program to the cabinet, for proper administration of the  
10          certification. The department shall issue a certificate of operation upon  
11          inspecting the family child-care home and determining the provider's  
12          compliance with the provisions of this section. The inspection shall be  
13          unannounced. A certificate of operation issued pursuant to this section shall  
14          not be transferable and shall be renewed every two (2) years for a fee that shall  
15          not exceed costs of the program to the cabinet for renewal.
- 16          (c) A certified family child-care provider shall display the certificate of operation  
17          in a prominent place within the residence in which care is provided. The  
18          cabinet shall provide the certified family child-care provider with written  
19          information explaining the requirements for a family day-care provider and  
20          instructions on the method of reporting violations of the requirements which  
21          the provider shall distribute to parents.
- 22          (d) Upon request of any person, the cabinet shall provide information regarding  
23          the denial, revocation, suspension, or violation of any type of day-care license  
24          of the family child-care provider. Identifying information regarding children  
25          and their families shall remain confidential.
- 26          (e) The cabinet shall provide, upon request, public information regarding the  
27          inspections of and the plans of correction for the family child-care home

1 within the past year. All information distributed by the cabinet under this  
2 paragraph shall include a statement indicating that the reports as provided  
3 under this paragraph from the past five (5) years are available from the family  
4 child-care home upon the parent's, custodian's, guardian's, or other interested  
5 person's request.

6 (f) The cabinet shall promulgate administrative regulations in accordance with  
7 KRS Chapter 13A which establish standards for the issuance, monitoring,  
8 release of information under this section and KRS 199.896 and 199.898,  
9 renewal, denial, revocation, and suspension of a certificate of operation for a  
10 family child-care home and establish criteria for the denial of certification if  
11 criminal records indicate convictions that may impact the safety and security  
12 of children in care. A denial, suspension, or revocation of a certificate may be  
13 appealed, and upon appeal an administrative hearing shall be conducted in  
14 accordance with KRS Chapter 13B. If the cabinet has probable cause to  
15 believe that there is an immediate threat to the public health, safety, or  
16 welfare, the cabinet may take emergency action to suspend a certificate  
17 pursuant to KRS 13B.125. The cabinet shall promulgate administrative  
18 regulations to impose minimum staff-to-child ratios. The cabinet may  
19 promulgate administrative regulations relating to other requirements necessary  
20 to ensure minimum safety in family child-care homes. The cabinet shall  
21 develop and provide an "easy-to-read" guide containing the following  
22 information to a family child-care provider seeking certification of his home:

- 23 1. Certification requirements and procedures;
- 24 2. Information about available child-care training; and
- 25 3. Child-care food sponsoring organizations.

26 (2) *A city, county, district, or other form of local government shall not adopt or*  
27 *enforce a building ordinance or local rule or regulation relating to certified*

1       *family child-care homes that is inconsistent with building ordinances or local*  
2       *rules or regulations applying to all residences within the same zoning*  
3       *designation.*

4       **(3)** Family child-care providers shall annually demonstrate to the department  
5       completion of at least six (6) hours of training in child development. These hours  
6       shall include but are not limited to one and one-half (1.5) hours one (1) time every  
7       five (5) years of continuing education in the recognition and prevention of pediatric  
8       abusive head trauma, as defined in KRS 620.020. Training in recognizing pediatric  
9       abusive head trauma may be designed in collaboration with organizations and  
10      agencies that specialize in the prevention and recognition of pediatric abusive head  
11      trauma approved by the secretary of the Cabinet for Health and Family Services.  
12      The one and one-half (1.5) hours of continuing education required under this  
13      section shall be included in the current number of required continuing education  
14      hours.

15      ~~**(4)**~~~~**(3)**~~ The cabinet shall, either through the development of or approval of, make  
16      available a model training curriculum and training materials, including video  
17      instructional materials, to cover the areas specified in subsection (1)(a)6. of this  
18      section. The cabinet shall develop or approve the model training curriculum and  
19      training materials to cover the areas specified in subsection (1)(a)6. of this section.

20      ➔Section 4. Whereas the General Assembly realizes that effective child care and  
21      a robust child-care industry is essential to sustain critical operations, including emergency  
22      and disaster response, and that response to these occurrences is a fundamental  
23      responsibility of elected government in the Commonwealth, an emergency is declared to  
24      exist, and this Act takes effect upon its passage and approval by the Governor or upon its  
25      otherwise becoming law.