

1           AN ACT relating to 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 ~~shall~~may promulgate administrative regulations in accordance  
8        ~~with~~pursuant to KRS Chapter 13A relating to license fees~~and may, in the~~  
9        ~~administrative regulations, establish standards of care and service for a child care~~  
10       ~~center~~], criteria for the denial of a license if criminal records indicate convictions  
11       that may impact the safety and security of children in care, and procedures for  
12       enforcement of penalties which are 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 ~~cabinet~~secretary until after the expiration of a period  
21        ~~of~~not to exceed six (6) months from the date of the first official notice that the  
22        standards have not been met. If, however, the cabinet has probable cause to believe  
23        that an immediate threat to the public health, safety, or welfare exists, the cabinet  
24        may take emergency action pursuant to KRS 13B.125. All administrative hearings  
25        conducted under authority of KRS 199.892 to 199.896 shall be conducted in  
26        accordance with 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 which[~~how an~~] administrative regulation[~~, standard, or~~  
6 ~~requirement of the cabinet~~] was violated and how it was violated; and

7 (c) The timeframe, negotiated with the child-care center, within which a violation  
8 is to be corrected.If a violation can be corrected during the time in which  
9 an inspector is present, the inspector shall allow it to be corrected at that  
10 time. The violation shall then be marked as corrected and shall not be  
11 included in any statement of deficiency.[, except that] A violation that poses  
12 an immediate threat to the health, safety, or welfare of children in the center  
13 shall be corrected in no event later than five (5) working days from the date of  
14 the statement of deficiency.

15 (6) The cabinet[~~for Health and Family Services~~], in consultation with the Office of the  
16 Inspector General, shall establish by administrative regulations promulgated in  
17 accordance with KRS Chapter 13A an informal dispute resolution process through  
18 which a child-care provider may dispute licensure deficiencies that have an adverse  
19 effect on the child-care provider's license or report unauthorized actions of  
20 inspectors. If a child-care center prevails in its appeal and no licensure  
21 deficiencies are upheld, the cabinet shall expunge the licensure records of the  
22 child-care center related to the deficiency that was appealed within five (5) days  
23 of the determination.

24 (7) A child-care center shall have the right to appeal to the cabinet [~~for Health and~~  
25 ~~Family Services~~] under KRS Chapter 13B any action adverse to its license or the  
26 assessment of a civil penalty issued by the inspector general as the result of a  
27 violation contained in a statement of deficiency within twenty (20) days of the

1 issuance of the action or assessment of the civil penalty. An appeal shall not act to  
2 stay the correction of a violation **but shall stay the revocation of a license. If a**  
3 **child-care center prevails in its appeal and no substantiated finding was upheld,**  
4 **the cabinet shall expunge the inspection records of the child-care center related**  
5 **to the allegation that was appealed within five (5) days of the determination. The**  
6 **cabinet shall establish by administrative regulations promulgated in accordance**  
7 **with KRS Chapter 13A the appeals process for child-care centers required**  
8 **pursuant to this section.**

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

- 13 (a) The gravity of the threat to the health, safety, or welfare of children posed by  
14 the violation;
- 15 (b) The number and type of previous violations of the child-care center;
- 16 (c) The reasonable diligence exercised by the child-care center and efforts to  
17 correct the violation; and
- 18 (d) The amount of assessment necessary to assure immediate and continued  
19 compliance.

20 (9) Upon a child-care center's failure to take action to correct a violation of the  
21 administrative regulations[~~, standards, or requirements~~] of the cabinet contained in a  
22 statement of deficiency, or at any time when the operation of a child-care center  
23 poses an immediate threat to the health, safety, or welfare of children in the center,  
24 and the child-care center continues to operate after the cabinet has taken emergency  
25 action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee  
26 **may**[~~shall~~] take **any**[~~at least one (1)~~] of the following actions against the center:

- 27 (a) Institute proceedings to obtain an order compelling compliance with the

1                    administrative regulations~~, standards, and requirements~~ of the cabinet;

2                    (b) Institute injunctive proceedings in Circuit Court to terminate the operation of

3                    the center;

4                    (c) Institute action to discontinue payment of child-care subsidies; or

5                    (d) **Institute action to** suspend or revoke the license or impose other penalties

6                    provided by law.

7                    (10) Upon request of any person, the cabinet shall provide information regarding the

8                    denial, revocation, suspension, or violation of any type of child-care center license

9                    of the operator. Identifying information regarding children and their families shall

10                  remain confidential.

11                  (11) The cabinet shall provide, upon request, public information regarding the

12                  inspections of and the plans of correction for the child-care center within the past

13                  year. All information distributed by the cabinet under this subsection shall include a

14                  statement indicating that the reports as provided under this subsection from the past

15                  five (5) years are available from the child-care center upon the parent's, custodian's,

16                  guardian's, or other interested person's request.

17                  (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and

18                  certification applications shall be paid into the State Treasury and credited to a

19                  special fund for the purpose of administering KRS 199.892 to 199.896 including the

20                  payment of expenses of and to the participants in child-care workshops. The funds

21                  collected are hereby appropriated for the use of the cabinet. The balance of the

22                  special fund shall lapse to the general fund at the end of each biennium.

23                  (13) Any advertisement for child-care services shall include the address of where the

24                  service is being provided.

25                  (14) All inspections of licensed and unlicensed child-care centers by the cabinet~~for~~

26                  ~~Health and Family Services~~ shall be unannounced. **Upon arrival to a licensed**

27                  **child-care center, the inspector shall minimize disruption to the operations of the**

1        *child-care center but may be monitored by any director or employee of the child-*  
2        *care center. If the presence of the inspector creates a disruption to the operations*  
3        *of the child-care center, the disruption is exempt from citation.*

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  
22            the 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~~ ~~preschool aged children that operate for a maximum of twenty (20) hours per week~~  
8 ~~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~~ ~~preschool aged children that operate for a maximum of twenty (20) hours per week~~  
18 ~~and~~ that a child attends for no more than ten (10) hours per week shall be exempt  
19 from all child-care licensure requirements and administrative regulations.

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

- 27 (a) The program provides primary instruction in a skill, talent, ability, expertise,

1 or proficiency;

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

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

7 (d) The program informs the parent or guardian:  
8 1. That the program is not licensed by the cabinet; and  
9 2. About the physical risks a child may face while participating in the  
10 program; and

11 (e) The program conducts the following background checks for all program  
12 employees and volunteers who work with children:  
13 1. Check of the child abuse and neglect records maintained by the cabinet;  
14 and  
15 2. In-state criminal background information check from the Justice and  
16 Public Safety Cabinet or Administrative Office of the Courts.

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

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

24 (24) An employee of a child-care center that only serves children from birth to two (2)  
25 years of age shall not be required to complete any educational requirements that  
26 are not part of trainings provided by the child-care center.

27 (25) The cabinet shall promulgate administrative regulations to identify emergency care

1 providers who provide essential child care services during an identified state of  
2 emergency.

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

10 (26) All results for the most recent three (3) years of inspections of child-care centers  
11 required by this section shall be made available on the cabinet's website.

12 ➔ Section 2. KRS 199.8962 is amended to read as follows:

13 (1) Child-care centers licensed pursuant to KRS 199.896 shall have the following  
14 standards:

15 (a) Nutrition and meal planning standards, if the child-care center provides food,  
16 that are consistent with the meal and snack patterns of the most recent version  
17 of the United States Department of Agriculture's Food and Nutrition Service  
18 standards for the Child and Adult Care Food Program. These nutrition  
19 standards do not apply to food that is brought from a child's home;

20 (b) Physical activity standards;

21 (c) Screen time standards; and

22 (d) Sugary drink standards;

23 (e) Premises standards;

24 (f) Sleeping and napping requirements;

25 (g) First aid and medicine standards;

26 (h) Kitchen standards;

27 (i) Food and drink standards;

- 1       (j) Toilet, diapering, and toiletry standards;
- 2       (k) Transportation standards;
- 3       (l) Animal standards;
- 4       (m) Staff-to-child ratio standards that include allowances for incidental or  
5       emergency variances to prevent disruptions to child-care center operations  
6       and family expectations; and
- 7       (n) Staff-to-child ratios related to sleep and nap requirements that shall include  
8       but not be limited to provisions for ratios to be doubled for no more than  
9       two (2) hours during sleep or nap time.
- 10      (2) The cabinet may inspect a child-care center annually to determine if the child-  
11       care center is in compliance with the standards established under subsection (1)  
12       of this section.
- 13      (3) The cabinet shall:
  - 14       (a) Record the inspection results generated pursuant to subsection (2) of this  
15       section on a standardized form;
  - 16       (b) Give a copy of the completed inspection form to the child-care center at the  
17       time of inspection;
  - 18       (c) Require the child-care center to post the copy of the inspection form in a  
19       prominent place easily seen by patrons; and
  - 20       (d) Promulgate an administrative regulation in accordance with KRS Chapter  
21       13A to create the standardized form for inspection results required by this  
22       subsection and make the form available on its website.
- 23      (4) All results for the most recent three (3) years of inspections of child-care centers  
24       required by this section shall be made available on the cabinet's website.
- 25      (5) The cabinet shall[, within ninety (90) days of July 15, 2020,] promulgate  
26       administrative regulations in accordance with KRS Chapter 13A, in consultation  
27       with the Kentucky Early Childhood Advisory Council established pursuant to KRS

1 200.700, the Kentucky Child Care Advisory Council established pursuant to KRS  
2 199.8983, and state and national organizations ~~that have expertise in nutrition,~~  
3 ~~physical activity, screen time, and sugary drink standards,~~ to establish the  
4 requirements and procedures for the implementation of the standards  
5 required~~established~~ in this section.