



Testimony in Support of Senate Bill 282

Kansas Senate Committee on Commerce

March 8, 2023

Andrew Wiens
On behalf of
Opportunity Solutions Project

Introduction:

Chair Erickson and Members of the Kansas Senate Committee on Commerce:

Good afternoon! My name is Andrew Wiens with Dugan Consulting Group, speaking with you today on behalf of Opportunity Solutions Project (OSP). OSP is a non-profit, non-partisan advocacy organization dedicated to advancing policies that reduce barriers to work, protect state benefits for the truly needy, and ensure that the government is accountable to taxpayers and citizens.

I am pleased to speak in support of Senate Bill 282 today. I am a blessed father of three children, all of whom are in some form of child care right now. My four- and three-year old children are in a child care center, and my one-year old child is at a day care home. Their safety, growth, and development is of the utmost importance to me.

SB 282 will **provide much-needed relief for working families in Kansas through long-overdue child care regulatory reform**. To be clear: this legislation won't fix our child care crisis in one fell swoop. It will, however, make progress in the right direction. All else being equal, the changes proposed in this bill will increase child care capacity by adding slots at essentially every age group, allow providers who serve additional children under these new ratios some breathing room to pay higher wages to child care workers, and assist in stemming the tide of child care cost increases that are pricing families out of the labor market or pushing them to seek other child care arrangements.

The Problem:

We are facing a child care crisis in Kansas. We're also not alone among states struggling¹ with this policy area. One commentator summarized a startling new dynamic: "Conventional wisdom holds that stay-at-home moms do so because they can afford not to work. Instead, experts say, many moms appear to be staying home with their kids because they can't afford to work" and pay for childcare.²

We may have different ideas about what solutions will help, but both the proponents and opponents of this bill seem to agree that Kansas is confronting an enormous challenge in child care. I share many of the concerns about the problem that were expressed by several organizations at the early learning and child care advocacy day at the Statehouse last week.

In fact, Kansas Action for Children shared several points with attendees about the Kansas child care crisis:

¹ <https://abcnews.go.com/Health/wireStory/desperation-child-care-struggle-worsens-rural-us-91385651>

² <https://www.cnbc.com/id/100727292>

- **“Affordability and availability of quality child care is a problem in Kansas**, and local communities, businesses, and the state need to all work together to address the child care crisis.
- The problem is that if providers increase their prices, families won’t be able to afford care. But providers can’t afford to charge any less.
- **More than 80,000 additional child care spots are needed in Kansas to fill demand.”**³

To be clear, the Child Care Aware of Kansas point-in-time child care data report from the end of February 2023⁴ shows that the potential number of child care slots needed statewide is 84,803 slots. That is a staggering number. Even half of that total is still a staggering number.

The **average annual income of child care providers in Kansas was only \$23,440, as of May 2021.**⁵ In addition, **45%, or almost half, of family child care providers are over the age of 50.**⁶ Perhaps it should come as no surprise that child care providers are leaving the market. According to a June 2022 report from Child Care Aware of Kansas, “Between 2019 and May of 2021, Kansas lost 78 total child care providers and 938 total child care slots from the total desired capacity of all programs in the state. In 2020, Kansas child care licensing renewal dates were extended due to the COVID-19 pandemic. When this extension ended in June of 2021, many programs closed... From June through August of 2021, Kansas lost 279 more child care programs. Family Child Care Homes saw the steepest decline in supply overall, with a total decrease of 115 programs.”⁷

Childcare in Kansas is also among the most expensive childcare in the nation, higher than every neighboring state except Colorado.⁸ As a percentage of the state’s median income, childcare in Kansas is as expensive as childcare in New York.⁹

The child care crisis is a complicated, multifaceted, adaptive challenge. However, I believe that **one of the maladies behind the symptoms listed above (affordability, availability, low wages) is our overly-strict staffing ratios and onerous regulatory burdens.** Kansas child care regulations are keeping some would-be child care providers out of the market

³ The Child Care and Early Learning Talking Points can be made available to the committee upon request.

⁴ The point-in-time child care data report from the end of February 2023 can be made available to the committee upon request.

⁵ <https://ks.childcareaware.org/data-research/>

⁶ Ibid.

⁷ <https://ks.childcareaware.org/child-care-supply-demand/>

⁸ <https://www.childcareaware.org/our-issues/research/the-us-and-the-high-price-of-child-care-2019/>

⁹ Ibid.

and causing some existing providers to pay their workers less, charge families more, reduce available slots below their licensed capacity, or exit the market entirely.

The Solutions:

Staffing Ratio and Group Size Limit Changes:

The 2015 Mercatus Center paper on “Regulation and the Cost of Child Care” states that, “existing literature suggests that structural measures of childcare quality, such as group size limits or child-staff ratios, do not actually enhance childcare outcomes or safety.”¹⁰ In 2022, the St. Louis Federal Reserve Bank released a report concluding that there is certainly “a negative relationship between childcare affordability” and staffing ratios.¹¹

Interestingly, the regulators in Kansas seemed to agree with these statements last year. KDHE drafted and promulgated regulations that would have relaxed ratios at both licensed day care homes and licensed group day care homes. They even had a hearing in front of the Kansas Legislature’s Joint Committee on Administrative Rules and Regulations (Oct. 18, 2022¹²) to present these regulations. Since then, KDHE has decided to pull back those regulations. However, the economic impact statement¹³ the agency filed with their proposed regulation changes is enlightening.

KDHE responded to a question about the businesses that would be impacted by the proposed changes: “In general, the proposed amendments would increase availability of care for children under 12 months of age. The availability of additional spots helps more families return to work and stay in their communities.”

Asked about the benefits vs. the costs of the proposed regulation changes, KDHE’s response stated: “There are no costs to parents associated with the changes to regulations. **Parents will benefit with more infant care available, enabling them to go back to work.** There would be no additional costs. **Licensees would benefit as they would be empowered to care for more infants than they could previously legally, which could thereby help them stay in business and meet community needs for child care.**”

In response to the form’s question about measures taken by the agency to minimize costs, the agency responded: “No cost or negative impact would occur with the proposed amendments to the regulation.”

¹⁰ <https://www.mercatus.org/system/files/Thomas-Regulation-Child-Care.pdf>

¹¹ <https://www.stlouisfed.org/on-the-economy/2022/oct/estimating-affordability-child-care-us-states>

¹² https://www.youtube.com/live/sYaYd4y_vkM?feature=share&t=15555

¹³ The KDHE Economic Impact Statement from May of 2022 is no longer easily accessible on their website, but the pdf can be made available to the committee upon request.

Finally, when asked how the agency solicited feedback from impacted businesses and stakeholders about their proposed regulation change, KDHE stated: “The proposed amendments are requested because of conversations had with **child care providers** concerning barriers, and they **responded stating the current ratios and age ranges were barriers to their work**; they suggested the ratio and age range changes reflected in this document. The University of Kansas Center for Public Partnerships and Research (KU CPPR) performed a survey that confirmed these findings...”

Admittedly, the ratios and group size limits in SB 282 are even more provider- and family-friendly (i.e., less strict) than KDHE proposed. However, they are moving in the same direction. The same rationale that KDHE used applies here as well. I believe that KDHE was on the right track with their proposed regulation change last year before they elected to change course. Reducing regulations by relaxing staff ratios will let providers earn more money to pay child care staff and keep their doors open. Making the staff ratios and group size limits less strict will help parents “go back to work” and help providers “stay in business and meet community needs for child care.”

It bears mentioning that these ratios are drafted as maximums. No child care center or day care home is required to watch more children than they are comfortable watching. If a program director feels their staff cannot handle additional children, the center is not required to take additional children. Said another way, if you like your current ratios, you can keep your current ratios.

So yes, it is true that “Increasing licensee capacity will not necessarily correspond to an increase in available child care slots if providers choose not to increase their desired capacity either.”¹⁴ That is because this bill does not force providers to increase their desired capacity. It simply allows it. Some providers will choose to increase their ratios and some will not.

SB 282 **relaxes ratios and group size limits in meaningful but reasonable increments**. Figures A and B provide visual depictions of the changes proposed for day care homes (one provider) and group day care homes (two providers). Please note that the changes in these tables are compared to KDHE’s proposed regulation changes last year, not compared to current regulations. As you can see, these are modest increases compared to the agency’s own proposal in 2022.

¹⁴ https://www.kac.org/turnaround_2023

Figure A:

Table I, License capacity, One Provider

Max children under 18 months. Proposed change: 12 months	Max children at least 18 months, but under 5 years. Proposed change: 12 months	Max children at least 5 years old, but under 11 years. Proposed change: 16 years	License capacity
0	7 8	3 4	10 12
1	5	4 6	10 12
2	4	3 4	9 10
3	3	2 3	8 9
4	2	1 2	6 8

Figure B:

Table II, License capacity, Two providers

Max children under 18 months. Proposed change: 12 months	Max children at least 18 months, but under 5 years. Proposed change: 12 months	Max children at least 5 years, but under 11 years. Proposed change: 16 years	License capacity
0	10	2 5	12 15
1	8	3 5	12 14
2	7	3 4	12 13
3	6	3 4	12 13
4	4 (Proposed change to 5)	2 (Proposed change to 3)	10 (Proposed change to 12)

Figure C provides a visual depiction of the changes proposed for child care centers compared to current regulation, since KDHE did not propose changing ratios for child care centers last year.

Figure C:

Age of children	Minimum staff-child ratio	Maximum number of children per unit
Infants	1 to 3 ⁴	9 ¹²
Infants and other children under the age of 6	1 to 4 ⁶ (including not more than 2 ³ infants)	8 ¹² (including not more than 4 ⁶ infants)
Toddlers	1 to 5 ⁷	10 ¹⁴
Children at least 2 years of age but under the age of 3	1 to 7 ⁸	14 ¹⁶
Children at least 2½ years of age but under school-age	1 to 10 ¹²	20 ²⁴
Children at least 3 years of age but under school-age	1 to 12 ¹⁵	24 ³⁰
Kindergarten enrollees	1 to 14 ¹⁸	28 ³⁶
School-age	1 to 16 ²⁰	32 ⁴⁰

It is worth noting that Kansas is particularly misaligned with other states in our infant-to-staff ratio for child care centers. According to the Administration for Children and Families National Database of Childcare Licensing Regulations¹⁵, **we are only one of three states (the others being Maryland and Massachusetts) that have a 3-to-1 infant-to-staff ratio in child care centers.**¹⁶ Other states have a 4-to-1, 5-to-1, or even 6-to-1 ratio.

The legislation also **makes a common-sense change to the definition of “toddler”**. For purposes of the licensing capacity and staff ratios, a child who has learned to walk and is at least nine months of age can be counted as a toddler (if such child's parent consents to this change). This allows children who can walk to join their walking peers sooner than their one-year birthday. For example, an 11-month-old child would be able to move beyond the “infant” room at a child care facility by joining the “toddler” room. This can provide a substantive change in affordability and availability (some providers don’t offer infant care) to families, if offered by a facility and consented to by the parents.

SB 282 also states that **local units of government can’t be more restrictive than the state regarding staffing ratios** and children per unit in a day care facility. Recently, the city of Wichita changed local code¹⁷ to align with the state requirements and provide the potential for more slots in the city.

¹⁵ <https://licensingregulations.acf.hhs.gov/>

¹⁶ https://www.wichitachamber.org/clientuploads/Government_Relations/Childcare_Tax_Credit_Resources/cidf_le5tg5151_Ratios_by_State.pdf

¹⁷ <https://www.ksn.com/news/local/wichita-takes-action-to-ease-day-care-issues/>

Overall, these sensible changes to ratios can improve the child care environment in Kansas. Allowing the same number of staff to watch additional children, if the provider so desires, could positively impact the number of available child care slots, staff wages, and potentially even affordability for families.

Child Care Talent Pipeline:

SB 282 also proposes several changes to help fill the child care talent pipeline. The legislation **proposes some reasonable changes that will make it easier for well-qualified professionals to become child care program directors.** Figure D provides a visual depiction of the staff qualification changes proposed.

Figure D:

STAFF QUALIFICATIONS KAR 28-4-429(h)			
Unit Size	KAR 28-4-429(b) - fewer than 13	KAR 28-4-429(c) - 13-24	KAR 28-4-429(d) - 24+
Option 1	6 months' teaching experience in any licensed facility with children of the same age 3	5 sessions of 2.5 hours of observation in licensed preschool or center at different times of day (use form CCL 207) AND 6 months 1 year teaching experience in licensed center or preschool or 1 year of practicum	12 semester hours of college credit in early childhood 7-9 AND 6 months' teaching experience in licensed center or preschool
Option 2	5 sessions of 2.5 hours of observation in any licensed facility with children of the same age at different times of day (use form CCL 207) AND 10 hours of KDHE-approved in-service	7-9 semester hours of college credit in early childhood AND 3 months' teaching experience in licensed center or preschool or 1 year of practicum	Child Development Associate Credential (CDA) AND 1 year teaching experience in licensed center or preschool or supervised practicum
Option 3	3 semester hours of college credit in early childhood AND Supervised observation in high school or college or any 3 months' work experience with children of the same age	Child Development Associate Credential (CDA)	AA or 2-year certificate in child development AND 1 year teaching experience in licensed center or preschool or supervised practicum
Option 4	Child Development Associate Credential (CDA)		BA or BS in child development or early childhood education including a practicum AND 3 months teaching experience in licensed center or preschool
Option 5			BA or BS in related field plus 12 hours of college credit in early childhood AND 6 months' teaching experience in licensed center or preschool

The legislation also **utilizes youth talent to supplement our child care workforce.** SB 282 allows 16-year-olds to work independently in child care centers, except in rooms with at least one infant, in which case they would need to work under the direct supervision of an individual who is at least 18 years old with a high school diploma/equivalent and training. SB 282 also allows 14-year-olds to work as staff in any room without infants, as long as they are under the direct supervision of an individual who is at least 18 years old with a high school diploma/equivalent and training. All staff members must be at least three years older than the oldest child in their unit as well.

Allowing talented youths who are trained and providing care in the proper setting will supplement our existing child care workforce. It also gives these young people a leg up in the future job market, whether in the child care industry or elsewhere. These common-sense measures also match the experience of many parents, who often hire teenagers from age 13 to 19 to babysit their children.

This bill also **reduces the number of clock hours of annual in-service training required for child care staff**, not to exceed eight clock hours per licensure year. While 16 hours is currently required, required training was five clock hours for program directors and ten clock hours for staff as recently as 2018. This reduces a barrier for child care staff.

Child Care Licensing Fee Reduction:

SB 282 **proposes a reduction of annual state child care licensing fees to \$0**. This will reduce barriers to entry for prospective child care providers and reduce expenses for existing providers.

Other Reforms:

SB 282 also **reduces the space requirements for children's activities at a child care center**, proposing a reduction from 35 square feet to 25 square feet of floor space per child, exclusive of kitchens, passageways, storage areas and bathrooms. This of course would not be required, but could provide more opportunities for existing and older buildings to be used as child care facilities. This space requirement aligns with Kansas requirements for day care homes.

The legislation also states that **KDHE shall not require that a licensee live in the day care home or group day care home**. This could open up opportunities for innovative use of houses to provide child care even if the licensee doesn't live in the home.

SB 282 also cleans up language to **clarify the Legislature's intent that all KDHE-licensed occupations are subject to occupational licensing reciprocity** for military and non-military members passed by this body in 2021.

This legislation states that **toothbrushes in a day care facility may be used after meals or as appropriate**. Current regulation requires their use after every meal, which, as most parents will tell you, does not happen at home. We should eliminate regulations like this and instead make it easier for providers to offer care.

SB 282 **allows KDHE to grant waiver applications from child care licensing requirements and to operate pilot programs designed to increase the availability or capacity of day care facilities in the state**. These provisions should provide the agency

with enough flexibility to collaborate with providers, businesses, and stakeholders to improve the environment for child care in the state.

The legislation also requires that, after July 1, 2026, **all inspections of child care facilities shall be conducted by KDHE employees**. Many of these inspections are currently conducted by employees of local units of government. SB 282 states that KDHE may transition these employees into state employment. The goal of this provision is to ensure consistent inspections.

Conclusion:

Some parents simply want a safe place for their child to stay, play, read, eat, sleep, and learn while the parents are at work or in school. We should reduce regulations and allow for a wide variety of different child care settings in Kansas, including those that are more curriculum-heavy that may cost parents more and those focused on taking care of the basics. Of course it would be great if every child care center and day care home in the state could teach your toddler to do algebra by age four, but that isn't realistic. If a provider wants to offer those services and charge families accordingly, they should be allowed to do so. Parents should have more latitude to make child care decisions, whether based on affordability, teacher quality, proximity to home or work, or personal relationships.

The child care crisis in Kansas is more than just data and numbers on a page. It is an issue that is affecting real Kansans all across our state. The folks that are most severely impacted by this crisis are lower-income, blue collar, hourly shift workers that have to show up to their job every day to get paid. They can't work from home. They need to have a safe place for their children to go while they are at work. More and more, these folks are struggling to find available child care slots for their children near their home, and sometimes even if they can find slots they have trouble paying for them. It's time to give these folks some relief.

This legislation is not a fix-all that will magically wipe away all of these issues and solve our child care crisis overnight. However, SB 282 is solutions-oriented—it **attempts to tackle real-life barriers for child care providers that are slowly but surely constricting this industry and forcing parents to either stay out of the workforce or find less formal child care arrangements whenever and wherever they can get it**. Thank you for the opportunity to testify and I urge your favorable consideration of SB 282.