

**Testimony on Senate Bill 282  
Presented to Senate Committee on Commerce**

**By  
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Chairman Erickson and members of the Committee, I am Ashley Goss, Deputy Secretary for Public Health with the Kansas Department of Health and Environment (KDHE). A proposed, SB 282 amends the Child Care Act, including portions commonly referred to as Lexie's Law (2010). KDHE stands today in opposition to SB 282. We share the desire to increase the availability of high-quality child care services to Kansans, but, as currently written, this bill creates new challenges that will impact the state's ability to continue streamlining the delivery of these services. KDHE is currently engaged in multiple efforts to assist in improving the delivery of early childhood services. We are currently undertaking a thorough review of our regulatory structure and identifying areas where we could improve, streamline, and innovate our current regulations. Acting on this bill will negatively impact this effort and prevent the agency from moving forward in this work.

Additionally, we are concerned that the unclear language changes may lead to confusion from the licensed child care community. The bill currently mixes terms and requirements for several facility types. It presents new terms for facilities that are not defined in regulation. As written this bill fails to consider national health and safety standards which are critical to children's health. Most importantly, these changes were not requested by the child care community or child care advocates. Any effort to improve our regulatory structure must include collaboration from stakeholders and policy experts who understand the community and facility-level impacts changes would have on the provision of childcare services. It is vital that these changes are made in collaboration and consultation with licensed child care facilities in a transparent and open process. We suggest that any effort to review current regulatory structure should be done later this year during the interim period so that we can complete our internal review and include more stakeholders in the process.

The Child Care Licensing (CCL) program is administered by KDHE pursuant to the Child Care Act (K.S.A. 65-501 *et seq.*), originally signed into law in 1919. The purpose of the CCL program is to reduce the risk of preventable harm to children receiving out-of-home care. The CCL program provides a foundational level of protection for all children while ensuring a standard for health and safety in child care facilities across the state. Furthermore, compliance with regulations is an effective risk management tool for licensees and an important consumer protection for families. KDHE coordinates with the Department for Children and Families to carry out the program as required by the Child Care Development Block Grant and Child Care Development Fund. In addition, KDHE partners directly with licensed facilities and a statewide network of child care stakeholders.

There are approximately 4,500 licensed child care facilities in Kansas serving more than 140,000 children birth to school age. Child care facilities include Licensed Day Care Homes (LDCH), Group Day Care Homes (GDCH), Child Care Centers (CCC), Preschools, School Age Programs, and Child Care Resource and Referral Agencies. Approximately 23,000 individuals are actively working in licensed facilities, serving in a variety of roles related to program administration, direct care, and support services. The CCL program is responsible for processing all licensing applications, conducting name-based and comprehensive background checks, issuing temporary permits and licenses, and facilitating supports for child care facilities and families at the local level. Inspection activity is

carried out by KDHE staff located in district offices across the state and through long-standing contracts with local health departments.

In response to a review of SB 282, KDHE respectfully highlights the following concerns. Please note that this list is not comprehensive and does not directly address structural issues identified in the bill.

1. As proposed, the bill amends the Child Care Act to add language pertaining to staff qualifications, group size and staff-to-child ratios, and square footage; all of which are currently found in regulation. In some instances, language no longer aligns with life safety codes or national health and safety standards. Once in statute, any future changes would require the passage of new legislation. This approach to child care oversight prevents the State from being nimble and responsive to the changing of federal requirements in the Child Care Development Fund (CCDF) State Plan for 2022-2023, early childhood research, national guidance, and evolving needs of the child care system (workforce, facilities), children, and families. Revisions to current regulations in the proposed bill may be completed through the rules and regulation process.
2. New Sections duplicate a large amount of existing KDHE Secretary authority, child care statutes, and language in regulations for facilities such as Licensed Day Care Homes, Group Day Care Homes, Child Care Centers, and School Age Programs. New Section 1 minimum qualifications for CCC staff mirror existing regulations (K.A.R. 28-4-429) in many areas, and minor changes could be addressed through the rules and regulations process. New Section 4 duplicates existing statutory requirements in K.S.A. 65-508 for fire protection, sewage disposal, and water supply. New Section 5 prohibits the Secretary of KDHE from requiring a LDCH or GDCH licensee from living in the facility, which is not a requirement for KDHE licensure and never has been required by regulation.
3. Proposed language in New Section 1 reflects staff qualifications outlined in current regulations for CCC that date back to the 1980s (K.A.R. 28-4-429). This puts outdated practices and language in statute and reintroduces barriers for the child care workforce that KDHE has already addressed through regulation policy exceptions.
  - Requirements for CCC program directors and staff were modified by policy exception to allow program directors to have additional duties (February 2022), increase the number of individuals qualified for facilities serving more than 100 children (January 2022), and expand the type of experience that counts toward CCC qualifications (April 2022).
  - KDHE has already drafted additional recommendations for changes that will remove burden (e.g., observations) and streamline staff qualification requirements (e.g., eliminate tiered approach to qualifications by number of children).
4. The Secretary of KDHE currently has the authority to operate pilot programs, embedding this operation in statute would complicate the process. The department needs to have the authority to adapt to on-the-ground conditions as evidenced by the design of a small center pilot. By design, the pilot is intended to address workforce shortages and the demand for care in rural areas, remove burden for small programs/operations (especially those that do not want to operate in a residential setting), and support expansion from a LDCH or GDCH to a CCC serving 13 to 23 children. The small center model supports providers in identifying customized solutions tailored to meet the child care needs of families and their communities.
5. The Secretary of KDHE has the authority to grant exceptions to regulations. The agency has been responsive to the changing needs of facilities and remains committed to balancing health and safety with the realities of child care, especially in rural areas of the state. Exceptions can be granted statewide for a certain facility type or by request from a licensed facility for a short-term period to support unique needs and compliance with regulations (e.g., staff qualifications, license capacity).
  - Statewide policy exceptions issued by KDHE are available on the CCL website: <https://www.kdhe.ks.gov/342/Child-Care-Licensing-Regulations-Policy->

- KDHE has granted 615 exceptions to licensed facilities since
6. The proposed bill conflicts with Kansas Fire Code. New Section 2 increases total capacity allowed with one adult in a LDCH from 10 to 12 children and with two adults in a GDCH from 12 to 15. Most of these facilities are operated in residential (noncommercial) settings, and state fire code limits the number of non-resident children in a single-family dwelling to 12. As proposed, 15 or more children could be present based on capacity tables and allowances for additional children, depending on number and ages of children in care.
  7. The proposed changes do not protect the health and safety of children in out of home care and reverse prior legislative action resulting in changes to the Child Care Act (Lexie's Law, 2010). Several examples include but are not limited to:
    - Reduces the minimum age for sole responsibility in a CCC unit from 18 to 16 years when all children are at least 12 months of age. Minimum age for primary caregivers and lead staff in child care facilities is based on the age of legal consent, maturity necessary to meet responsibilities required to care for young children that are not your own (accountability to consumers), and cognitive development that requires sound judgment.
    - Increases total number of children allowed with one adult (staff to child ratio) and group size. Existing regulations reflect the number of children one adult can safely care for and the maximum number of children that should be together in one group to support strong developmental health.
      - The proposed changes allow one adult to care for four children under 12 months of age. This reduces adult to child interaction and negatively impacts quality of care. It increases the risk of harm to children in case of an emergency or evacuation and places child care providers in a challenging situation when faced with safeguarding and protecting children in their care. Health and safety regulations protect children, providers, and the public.
      - CCC and LDCH/GDCH regulations are under review, and recommended changes to capacity tables and staff to child ratios are forthcoming.
    - Reduces the required annual training hours for program directors, administrators, and other identified staff from 16 to 8 hours. Existing regulation requires 16 hours, adopted in 2017 in response to federal requirements and public input. National recommendations from the Caring for Our Children standards far exceed 16 hours. Having properly trained and licensed child care professionals is essential to promoting optimal health and development of Kansas children receiving care away from their home and parents.
      - [CFOC Standards Database | National Resource Center \(nrckids.org\)](#)
    - Reduces required space per child under CCC regulations from 35 sq ft to 25 sq ft. This is only a 5 ft by 5 ft space for every child in care to play, move, and interact with other children.
  8. New Section 10 amends K.S.A. 65-505 related to licensing application fees and the child care licensing fee fund. The proposed changes negatively affect the program budget by significantly reducing licensing fees for child care facilities. Fees were previously increased by the Kansas Legislature in 2010 (Lexie's Law) to ensure critical program supports. Licensing fees are deposited into the Lexie's Law Fee Fund, and that fund currently supports essential local licensing surveyor (inspector) positions.
  9. New Section 12 amends K.S.A. 65-512. Proposed language requires all inspections to be conducted by KDHE employees. This proposed change has a significant fiscal impact and does not support an effective child care licensing program.
    - KDHE implements a hybrid model for facility inspections. Some of the local surveyors are KDHE employees and others are contracted through local agencies, depending on what is best for the community. As of March 2023, 43 of 105 (41%) Kansas counties are already covered by a KDHE surveyor compared to 62 covered by a contracted local agency inspector.
    - Local licensing surveyors are embedded in the community whenever possible, as part of the broader

public health system for reasons that are beneficial to facilities, children, and families, and they are more than a regulatory program inspector. Contracted local licensing agencies and surveying staff are most familiar with the community and serve as the connector for facilities and families. Referrals and connections are timely, efficient, and stronger when handled at the local level vs. top down.

KDHE is committed to working collaboratively with state agencies, licensed facilities, families, local organizations, and child care advocates. We respectfully request that you do not act on SB 282. Instead, we request your support as we continue working transparently with partners to address the child care system needs comprehensively and thoroughly. KDHE is currently undertaking a thorough review of our current regulatory structures to determine how best to innovate and streamline current regulations. This review intends to ease the burden placed on providers and expand access for families. Acting on this bill will negatively impact the work currently being done and limit our ability to properly address the needs of communities, providers, and families. Should the Legislature want to study the issue further, we would look forward to collaborating through more robust review process during the interim. This approach is truly in the best interest of licensed facilities, children, and their families.

Thank you for the opportunity to appear before you. I will now stand for questions.