
Be it enacted by the Legislature of the State of Kansas:

New Section. 1. (a) "Family daycare home" means a place maintained for the purpose of providing children with food or lodging, or both, away from such children's home or homes, for less than 24 hours a day, if:

(1) Not more than six of the children cared for at such place are less than 16 years of age; and
(2) not more than three of the children cared for at such place are less than 18 months of age.

(b) Any child of a person maintaining such a place referred to in subsection (a) shall count toward the limitations of subsection (a) if such child is less than 12 years of age and is cared for at such place.

(c) A person shall not be considered to be maintaining a family day care home as defined in subsection (a), if only children who are related by blood, marriage or legal adoption to such person are cared for.

New Sec. 2. Any person maintaining a family day care home shall register such home with the secretary of health and environment on forms furnished by the secretary. In lieu of registration, a person maintaining a family day care home may seek licensure for such home as a child care facility under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 3. (a) The secretary shall issue a certificate of registration to any person who: (1) Applies for registration on forms furnished by the secretary; (2) attests to the safety of the family day care home for the care of children; (3) submits a fee not to exceed $15 as established by rules and regulations of the secretary of health and environment payable to the secretary of health and environment; and (4) certifies that no person described in subsection (a)(1), (2), (3), (4), (5) or (6) of K.S.A. 65-516,
and amendments thereto, resides, works or volunteers in the family day
care home. The fee in effect under this subsection immediately prior to
the effective date of this act shall continue in effect on and after the
effective date of this act until a different fee is established by the
secretary of health and environment by rules and regulations under this
subsection.

(b) The secretary shall furnish each applicant for registration a
family day care home safety evaluation form to be completed by the
applicant and submitted with the registration of the application.

(c) (1) Each child cared for in a family day care home, including
children of the person maintaining the home, shall be required to have
current such immunizations as the secretary of health and environment
considers necessary. The person maintaining a family day care home
shall maintain a record of each child's immunizations, and shall provide
to the secretary of health and environment such information relating
thereto, in accordance with the rules and regulations of the secretary, but
the person maintaining a family day care home shall not have such
person's certificate of registration revoked solely for the failure to have or
maintain the immunization records required by this subsection.

(2) The immunization requirement of subsection (c)(1) shall not
apply if one of the following is obtained:

(A) Certification from a licensed physician stating that the physical
condition of the child is such that immunization would endanger the
child's life or health; or

(B) a written statement signed by a parent or guardian that the parent
or guardian is an adherent of a religious denomination whose teachings
are opposed to immunizations.

(d) The secretary of health and environment shall provide to each
person maintaining a registered family day care home a list of the
requirements for registration of family day care homes. The person
maintaining a family day care home shall provide a copy of such list to
the parent or guardian of each child cared for in such home and shall
maintain on the premises a copy of the list which has been signed and
dated by the parent or guardian.

(e) The certificate of registration shall be renewed annually in the
same manner provided for in this section.

(f) The secretary of health and environment shall remit all moneys
received by the secretary from fees under the provisions of this act to the
state treasurer in accordance with the provisions of K.S.A. 75-4215, and
amendments thereto. Upon receipt of each such remittance, the state
treasurer shall deposit the entire amount in the state treasury to the credit
of the state general fund.

New Sec. 4. A certificate of registration shall be in force for one
year after the date of issuance unless revoked pursuant to section 5, and
amendments thereto. The certificate shall specify that the registrant may
operate a family day care home for six or fewer children. This section
shall not be construed to limit the right of the secretary to enter a
registered family day care home for the purpose of assessing compliance
with K.S.A. 65-516 and sections 1 through 6, and amendments thereto,
after receiving a complaint against the registrant of such home.

New Sec. 5. (a) The secretary may deny, revoke or refuse to renew a
certificate of registration upon a determination by the secretary that the
registrant falsified information on the application or willfully and
substantially has violated K.S.A. 65-516 and sections 1 through 6, and
amendments thereto. The secretary shall not revoke nor refuse to renew
any certificate without first giving notice and conducting a hearing in
accordance with the provisions of the Kansas administrative procedure
act.

(b) If the secretary revokes or refuses to renew a certificate of
registration, the registrant who has had a certificate of registration
revoked or not renewed shall not be eligible to apply for a certificate of
registration nor for a license to maintain a child care facility under K.S.A.
65-504, and amendments thereto, for a period of one year subsequent to
the date such revocation or refusal to renew becomes final.

New Sec. 6. The secretary shall adopt rules and regulations to
implement the registration provisions of K.S.A. 65-516 and sections 1
through 6, and amendments thereto.

Sec. 7. K.S.A. 2010 Supp. 39-7,129 is hereby amended to read as
follows: 39-7,129. The secretary of social and rehabilitation services shall
adjust, by rules and regulations, the program requirements for aid to
families with dependent children provided through the department of
social and rehabilitation services to include requirements that, as a
condition for continued eligibility for aid to families with dependent
children, the family comply with laws providing for immunization and
vaccination of children attending school or, a child care facility or a
family day care home. The secretary of health and environment shall
provide to the secretary of social and rehabilitation services current
information on the requirements of these laws which relate to the
immunization and vaccination of children.

Sec. 8. K.S.A. 2010 Supp. 59-29a11 is hereby amended to read as
follows: 59-29a11. (a) Nothing in this act shall prohibit a person from
filing a petition for transitional release, conditional release or final
discharge pursuant to this act. However, if a person has previously filed a
petition for transitional release, conditional release or final discharge
without the secretary of the department of social and rehabilitation
services approval and the court determined either upon review of the
petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from committed persons without the secretary's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

(b) No transitional release or conditional release facility or building shall be located within 2,000 feet of a licensed child care facility, registered family day care home, an established place of worship, any residence in which a child under 18 years of age resides, or the real property of any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12. This subsection shall not apply to any state institution or facility.

(c) Transitional release or conditional release facilities or buildings shall be subject to all regulations applicable to other property and buildings located in the zone or area that are imposed by any municipality through zoning ordinance, resolution or regulation, such municipality's building regulatory codes, subdivision regulations or other nondiscriminatory regulations.

(d) On and after January 1, 2009, the secretary of social and rehabilitation services shall place no more than eight sexually violent predators in any one county on transitional release or conditional release.

(e) The secretary of social and rehabilitation services shall submit an annual report to the governor and the legislature during the first week of the regular legislative session detailing activities related to the transitional release and conditional release of sexually violent predators. The report shall include the status of such predators who have been placed in transitional release or conditional release including the number of any such predators and their locations; information regarding the number of predators who have been returned to the sexually violent predator treatment program at Larned state hospital along with the reasons for such return; and any plans for the development of additional transitional release or conditional release facilities.

Sec. 9. K.S.A. 2010 Supp. 65-503 is hereby amended to read as follows: 65-503. As used in this act:

(a) "Child placement agency" means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children
for adoption or foster care.

(b) "Child care resource and referral agency" means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.

(c) (1) "Child care facility" means:

(A) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the secretary of social and rehabilitation services who are placed with a prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;

(B) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;

(C) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or

(D) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.

(2) "Child care facility" shall not include a family day care home defined in section 1, and amendments thereto.

(d) "Person" means any individual, association, partnership, corporation, government, governmental subdivision or other entity.

(e) "Boarding school" means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.

Sec. 10. K.S.A. 2010 Supp. 65-504 is hereby amended to read as follows: 65-504. (a) The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of age. The license shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is
conducted. The license shall have on its face an expiration sticker stating the date of expiration of the license. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has complied with all the requirements of this act. Except as provided by this subsection, no license shall be granted without the approval of the secretary of social and rehabilitation services. The secretary of health and environment may issue, without the approval of the secretary of social and rehabilitation services, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary of social and rehabilitation services, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

(b) (1) In all cases where the secretary of social and rehabilitation services deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary of social and rehabilitation services or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.

(2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the center or facility.

(c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.

(d) When the secretary of health and environment finds upon investigation or is advised by the secretary of social and rehabilitation services that any of the provisions of this act or the provisions of K.S.A. 59-2123, and amendments thereto, are being violated, or that the maternity center or child care facility is maintained without due regard to the health, comfort or welfare of the residents, the secretary of health and
environment, after giving notice and conducting a hearing in accordance
with the provisions of the Kansas administrative procedure act, shall issue
an order revoking such license. The order shall clearly state the reason for
the revocation.

(e) If the secretary revokes or refuses to renew a license, the licensee
who had a license revoked or not renewed shall not be eligible to apply
for a license or for a certificate of registration to maintain a family day
child care home under section 2, and amendments thereto, for a period of one
year subsequent to the date such revocation or refusal to renew becomes
final. If the secretary revokes or refuses to renew a license of a licensee
who is a repeat, three or more times, violator of statutory requirements or
rules and regulations or is found to have contributed to the death or
serious bodily harm of a child under such licensee's care, such licensee
shall be permanently prohibited from applying for a new license to
provide child care or from seeking employment under another licensee.

(f) Any applicant or licensee aggrieved by a final order of the
secretary of health and environment denying or revoking a license under
this act may appeal the order in accordance with the Kansas judicial
review act.

Sec. 11. K.S.A. 2010 Supp. 65-505 is hereby amended to read as
follows: 65-505. (a) The annual fee for a license to conduct a maternity
center or child care facility shall be fixed by the secretary of health and
environment by rules and regulations in an amount not exceeding the
following:

(1) For a maternity center, $150 $75;
(2) for a child placement agency, $150 $75;
(3) for a child care resource and referral agency, $150 $75; and
(4) for any other child care facility, $75 $35 plus $1 times the
maximum number of children authorized under the license to be on the
premises at any one time.

The license fee shall be paid to the secretary of health and
environment when the license is applied for and annually thereafter. The
fee shall not be refundable. No fee shall be charged for a license to
conduct a home for children which is a family foster home as defined in
K.A.R. 28-4-311, and amendments thereto. Fees in effect under this
subsection (a) immediately prior to the effective date of this act shall
continue in effect on and after the effective date of this act until a
different fee is established by the secretary of health and environment by
rules and regulations under this subsection.

(b) Any licensee person who fails to renew such the person's license
within 30 days after the expiration of the license shall pay to the secretary
the renewal fee plus the time required by rules and regulations of the
secretary shall pay a late fee in an amount equal to the fee for the renewal
of a license renewal fee of $10.

(c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding $35.

(d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer, notwithstanding any other law to the contrary, shall deposit the entire amount in the state treasury to the credit of the maternity centers and child care licensing fee fund. All expenditures from the maternity centers and child care licensing fee fund shall be made only for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or by a person or persons designated by the secretary. Notwithstanding any other law to the contrary, no moneys shall be transferred or otherwise revert from this fund to the state general fund by appropriation act or other act of the legislature. Moneys available under this section by the creation of the maternity centers and child care licensing fee fund shall not be substituted for or used to reduce or eliminate moneys available to the department of health and environment to administer the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated. Nothing in this act shall be construed to authorize a reduction or elimination of moneys made available by the state to local units of government for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated. state general fund.

Sec. 12. K.S.A. 2010 Supp. 65-506 is hereby amended to read as follows: 65-506. The secretary of health and environment shall serve notice of the issuance, suspension or revocation of a license to conduct a maternity center or child care facility or the issuance, suspension or revocation of a certificate of registration for a family day care home to the secretary of social and rehabilitation services, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license suspended, revoked or denied by the secretary of health and environment or a family day care home that has had a certificate of registration suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the suspension, revocation or denial. Neither the secretary of social and rehabilitation...
services nor any other person shall place or cause to be placed any
maternity patient or child under 16 years of age in any maternity center or
child care facility not licensed by the secretary of health and environment
or family day care home not holding a certificate of registration from the
secretary of health and environment.

Sec. 13. K.S.A. 2010 Supp. 65-508 is hereby amended to read as
follows: 65-508. (a) Any maternity center or child care facility subject to
the provisions of this act shall: (1) Be properly heated, plumbed, lighted
and ventilated; (2) have plumbing, water and sewerage systems which
conform to all applicable state and local laws; and (3) be operated with
strict regard to the health, comfort, safety and social welfare of the
residents.

(b) Every maternity center or child care facility shall furnish or
cause to be furnished for the use of each resident and employee
individual towel, wash cloth, comb and individual drinking cup or
sanitary bubbling fountain, and toothbrushes for all other than infants,
and shall keep or require such articles to be kept at all times in a clean
and sanitary condition. Every maternity center or child care facility shall
comply with all applicable fire codes and rules and regulations of the
state fire marshal.

(c) (1) The secretary of health and environment with the cooperation
of the secretary of social and rehabilitation services shall develop and
adopt rules and regulations for the operation and maintenance of
maternity centers and child care facilities. The rules and regulations for
operating and maintaining maternity centers and child care facilities shall
be designed to promote the health, safety and welfare of the residents
who are to be served in such facilities by ensuring safe and adequate
physical surroundings, healthful food, adequate handwashing, safe
storage of toxic substances and hazardous chemicals, sanitary diapering
and toileting, home sanitation, supervision and care of the residents by
capable, qualified persons of sufficient number, after hour care, an
adequate program of activities and services, sudden infant death
syndrome and safe sleep practices training, prohibition on corporal
punishment, crib safety, protection from electrical hazards, protection
from swimming pools and other water sources, fire drills, emergency
plans, safety of outdoor playground surfaces, door locks, safety gates and
transportation and such appropriate parental participation as may be
feasible under the circumstances. Boarding schools are excluded from
requirements regarding the number of qualified persons who must
supervise and provide care to residents. The notice of hearing on initial
rules and regulations proposed to be adopted to carry out the amendments
to this subsection (c)(1) by this act shall be published in the Kansas
register after February 14, 2011, but prior to March 11, 2011.
(2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in child care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices. The notice of hearing on initial rules and regulations proposed to be adopted under this subsection (c)(2) shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

Sec. 14. K.S.A. 2010 Supp. 65-512 is hereby amended to read as follows: 65-512. (a) It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 12 months prior to July 1, 2012, and once every 12 months thereafter, every maternity center or child care facility, unless otherwise provided in subsections (b) and (c). For the purpose of inspection the secretary or the secretary's authorized agent and for that purpose it shall have the right of entry and access thereto in every department and to every place in the premises, shall call for and examine the records which are required to be
kept by the provisions of this act and shall make and preserve a record of
every inspection. The licensee shall give all reasonable information to the
authorized agent of the secretary of health and environment and shall
afford every reasonable facility for viewing the premises and seeing the
patients or children therein. No such patient or child without the consent
of the patient or child shall be required to be interviewed by any agent
unlessthe agent is an authorized person or a licensed physician.

(b) (1) On or after the effective date of this act, the secretary of
health and environment shall commence the inspection of registered
family day care homes pursuant to K.S.A. 2010 Supp. 65-533 and
amendments thereto.

(2) The secretary of health and environment shall conduct an
inspection of any child care facility upon receiving a complaint. Any new
child care facility shall be inspected prior to issuance of a license. The
secretary may conduct an inspection of any child care facility that has a
record of repeated complaints or serious violations at any time. The
secretary shall inspect any child care facility that provides services to
military families receiving military assistance for child care every 12
months.

(c) (1) Except as provided in subsection (b)(2), the following
categories of child care facilities which were in compliance on the
effective date of this act are not required to be inspected until July 1,
2011: Day care homes, as defined in K.A.R. 28-4-113; group day care
homes, as defined in K.A.R. 28-4-113; child care centers, as defined in
K.A.R. 28-4-420; preschools, as defined in K.A.R. 28-4-420; school-age
programs, as defined in K.A.R. 28-4-576; and drop-in programs, as
defined in K.A.R. 28-4-700.

(2) The provisions of this subsection shall expire on July 1, 2011.

Sec. 15. K.S.A. 2010 Supp. 65-516 is hereby amended to read as
follows:

(a) No person shall knowingly maintain a child care facility or
maintain a family day care home if, in the child care facility or family day
care home, there resides, works or regularly volunteers any person who in
this state or in other states or the federal government:

(1) (A) Has a felony conviction for a crime against persons (B) has
a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-
36a17, and amendments thereto, or any felony violation of any provision
of the uniform controlled substances act prior to July 1, 2009 (C) has a
conviction of any act which is described in articles 34, 35 or 36 of chapter
21 of the Kansas Statutes Annotated, and amendments thereto, or a
conviction of an attempt under K.S.A. 21-3301, and amendments thereto,
to commit any such act or a conviction of conspiracy under K.S.A. 21-
3302, and amendments thereto, to commit such act, or similar statutes of
other states or the federal government; or (D) has been convicted of any
act which is described in K.S.A. 21-4301 or 21-4301a, and amendments
thereto, or similar statutes of other states or the federal government;
(2) has been adjudicated a juvenile offender because of having
committed an act which if done by an adult would constitute the
commission of a felony and which is a crime against persons, is any act
described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes
Annotated, and amendments thereto, or similar statutes of other states or
the federal government, or is any act described in K.S.A. 21-4301 or 21-
4301a, and amendments thereto, or similar statutes of other states or the
federal government;
(3) has committed an act of physical, mental or emotional abuse or
neglect or sexual abuse and who is listed in the child abuse and neglect
registry maintained by the department of social and rehabilitation services
pursuant to K.S.A. 2010 Supp. 38-2226, and amendments thereto, and:
(A) The person has failed to successfully complete a corrective action
plan which had been deemed appropriate and approved by the department
of social and rehabilitation services; or (B) the record has not been
expunged pursuant to rules and regulations adopted by the secretary of
social and rehabilitation services;
(4) has had a child removed from home based on a court order
pursuant to K.S.A. 2010 Supp. 38-2251, and amendments thereto, in this
state, or a court order in any other state based upon a similar statute that
finds the child to be deprived or a child in need of care based on a finding
of physical, mental or emotional abuse or neglect or sexual abuse and the
child has not been returned to the home or the child reaches majority
before being returned to the home and the person has failed to
satisfactorily complete a corrective action plan approved by the
department of health and environment;
(5) has had parental rights terminated pursuant to the Kansas
juvenile code or K.S.A. 2010 Supp. 38-2266 through 38-2270, and
amendments thereto, or a similar statute of other states;
(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
seq., and amendments thereto, or an immediate intervention agreement
pursuant to K.S.A. 2010 Supp. 38-2346, and amendments thereto,
involving a charge of child abuse or a sexual offense; or
(7) has an infectious or contagious disease.
(b) No person shall maintain a child care facility or a family day
care home if such person has been found to be a person in need of a
guardian or a conservator, or both, as provided in K.S.A. 59-3050 through
59-3095, and amendments thereto.
(c) Any person who resides in a child care facility or family day care
home and who has been found to be in need of a guardian or a
conservator, or both, shall be counted in the total number of children
allowed in care.

(d) In accordance with the provisions of this subsection, the
secretary of health and environment shall have access to any court orders
or adjudications of any court of record, any records of such orders or
adjudications, criminal history record information including, but not
limited to, diversion agreements, in the possession of the Kansas bureau
of investigation and any report of investigations as authorized by K.S.A.
2010 Supp. 38-2226, and amendments thereto, in the possession of the
department of social and rehabilitation services or court of this state
concerning persons working, regularly volunteering or residing in a child
care facility or a family day care home. The secretary shall have access to
these records for the purpose of determining whether or not the home
meets the requirements of K.S.A. 59-2132, 65-503, 65-508, 65-516 and
65-519 section 3, and amendments thereto.

(e) In accordance with the provisions of this subsection, the
secretary is authorized to conduct national criminal history record checks
to determine criminal history on persons residing, working or regularly
volunteering in a child care facility or family day care home. In order to
conduct a national criminal history check the secretary shall require
fingerprinting for identification and determination of criminal history.
The secretary shall submit the fingerprints to the Kansas bureau of
investigation and to the federal bureau of investigation and receive a
reply to enable the secretary to verify the identity of such person and
whether such person has been convicted of any crime that would prohibit
such person from residing, working or regularly volunteering in a child
care facility or family day care home. The secretary is authorized to use
information obtained from the national criminal history record check to
determine such person's fitness to reside, work or regularly volunteer in a
child care facility or family day care home.

(f) The secretary shall notify the child care applicant, licensee or
registrant, within seven days by certified mail with return receipt
requested, when the result of the national criminal history record check or
other appropriate review reveals unfitness specified in subsection (a)(1)
through (7) with regard to the person who is the subject of the review.

(g) No child care facility or family day care home or the employees
thereof, shall be liable for civil damages to any person refused
employment or discharged from employment by reason of such facility's
or home's compliance with the provisions of this section if such home
acts in good faith to comply with this section.

(h) For the purpose of subsection (a)(3), a person listed in the child
abuse and neglect central registry shall not be prohibited from residing,
working or volunteering in a child care facility or family day care home
unless such person has: (1) Had an opportunity to be interviewed and
present information during the investigation of the alleged act of abuse or
neglect; and (2) been given notice of the agency decision and an
opportunity to appeal such decision to the secretary and to the courts
pursuant to the Kansas judicial review act.

   (i) In regard to Kansas issued criminal history records:

   (1) The secretary of health and environment shall provide in writing
information available to the secretary to each child placement agency
requesting information under this section, including the information
provided by the Kansas bureau of investigation pursuant to this section,
for the purpose of assessing the fitness of persons living, working or
regularly volunteering in a family foster home under the child placement
agency's sponsorship.

   (2) The child placement agency is considered to be a governmental
entity and the designee of the secretary of health and environment for the
purposes of obtaining, using and disseminating information obtained
under this section.

   (3) The information shall be provided to the child placement agency
regardless of whether the information discloses that the subject of the
request has been convicted of any offense.

   (4) Whenever the information available to the secretary reveals that
the subject of the request has no criminal history on record, the secretary
shall provide notice thereof in writing to each child placement agency
requesting information under this section.

   (5) Any staff person of a child placement agency who receives
information under this subsection shall keep such information
confidential, except that the staff person may disclose such information
on a need-to-know basis to: (A) The person who is the subject of the
request for information; (B) the applicant or operator of the family foster
home in which the person lives, works or regularly volunteers; (C) the
department of health and environment; (D) the department of social and
rehabilitation services; (E) the juvenile justice authority; and (F) the
courts.

   (6) A violation of the provisions of subsection (i)(5) shall be an
unclassified misdemeanor punishable by a fine of $100 for each violation.

Sec. 16. On and after July 1, 2011, K.S.A. 2010 Supp. 65-516, as
amended by section 15 of this act is hereby amended to read as follows:
65-516. (a) No person shall knowingly maintain a child care facility or
maintain a family day care home if, in the child care facility or family day
care home, there resides, works or regularly volunteers any person who in
this state or in other states or the federal government:

   (1) (A) Has a felony conviction for a crime against persons; (B) has
a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-
36a17, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or sections 36 through 86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or section 33 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or section 212 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or sections 36 through 86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or section 212 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the department of social and rehabilitation services pursuant to K.S.A. 2010 Supp. 38-2226, and amendments thereto, and:

(A) The person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the department of social and rehabilitation services; or (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary of social and rehabilitation services;

(4) has had a child removed from home based on a court order pursuant to K.S.A. 2010 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to
satisfactorily complete a corrective action plan approved by the
department of health and environment;
(5) has had parental rights terminated pursuant to the Kansas
juvenile code or K.S.A. 2010 Supp. 38-2266 through 38-2270, and
amendments thereto, or a similar statute of other states;
(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
seq., and amendments thereto, or an immediate intervention agreement
pursuant to K.S.A. 2010 Supp. 38-2346, and amendments thereto,
involve a charge of child abuse or a sexual offense; or
(7) has an infectious or contagious disease.
(b) No person shall maintain a child care facility or a family day
care home if such person has been found to be a person in need of a
guardian or a conservator, or both, as provided in K.S.A. 59-3050 through
59-3095, and amendments thereto.
(c) Any person who resides in a child care facility or family day care
home and who has been found to be in need of a guardian or a
conservator, or both, shall be counted in the total number of children
allowed in care.
(d) In accordance with the provisions of this subsection, the
secretary of health and environment shall have access to any court orders
or adjudications of any court of record, any records of such orders or
adjudications, criminal history record information including, but not
limited to, diversion agreements, in the possession of the Kansas bureau
of investigation and any report of investigations as authorized by K.S.A.
2010 Supp. 38-2226, and amendments thereto, in the possession of the
department of social and rehabilitation services or court of this state
concerning persons working, regularly volunteering or residing in a child
care facility or a family day care home. The secretary shall have access to
these records for the purpose of determining whether or not the home
meets the requirements of K.S.A. 59-2132, 65-503, 65-508, 65-516 and
section 3, and amendments thereto.
(e) In accordance with the provisions of this subsection, the
secretary is authorized to conduct national criminal history record checks
to determine criminal history on persons residing, working or regularly
volunteering in a child care facility or family day care home. In order to
conduct a national criminal history check the secretary shall require
fingerprinting for identification and determination of criminal history.
The secretary shall submit the fingerprints to the Kansas bureau of
investigation and to the federal bureau of investigation and receive a
reply to enable the secretary to verify the identity of such person and
whether such person has been convicted of any crime that would prohibit
such person from residing, working or regularly volunteering in a child
care facility or family day care home. The secretary is authorized to use
information obtained from the national criminal history record check to
determine such person's fitness to reside, work or regularly volunteer in a
child care facility or family day care home.

(f) The secretary shall notify the child care applicant, licensee or
registrant, within seven days by certified mail with return receipt
requested, when the result of the national criminal history record check or
other appropriate review reveals unfitness specified in subsection (a)(1)
through (7) with regard to the person who is the subject of the review.

(g) No child care facility or family day care home or the employees
thereof, shall be liable for civil damages to any person refused
employment or discharged from employment by reason of such facility's
or home's compliance with the provisions of this section if such home
acts in good faith to comply with this section.

(h) For the purpose of subsection (a)(3), a person listed in the child
abuse and neglect central registry shall not be prohibited from residing,
working or volunteering in a child care facility or family day care home
unless such person has: (1) Had an opportunity to be interviewed and
present information during the investigation of the alleged act of abuse or
neglect; and (2) been given notice of the agency decision and an
opportunity to appeal such decision to the secretary and to the courts
pursuant to the Kansas judicial review act.

(i) In regard to Kansas issued criminal history records:

(1) The secretary of health and environment shall provide in writing
information available to the secretary to each child placement agency
requesting information under this section, including the information
provided by the Kansas bureau of investigation pursuant to this section,
for the purpose of assessing the fitness of persons living, working or
regularly volunteering in a family foster home under the child placement
agency's sponsorship.

(2) The child placement agency is considered to be a governmental
entity and the designee of the secretary of health and environment for the
purposes of obtaining, using and disseminating information obtained
under this section.

(3) The information shall be provided to the child placement agency
regardless of whether the information discloses that the subject of the
request has been convicted of any offense.

(4) Whenever the information available to the secretary reveals that
the subject of the request has no criminal history on record, the secretary
shall provide notice thereof in writing to each child placement agency
requesting information under this section.

(5) Any staff person of a child placement agency who receives
information under this subsection shall keep such information
confidential, except that the staff person may disclose such information
on a need-to-know basis to: (A) The person who is the subject of the request for information; (B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers; (C) the department of health and environment; (D) the department of social and rehabilitation services; (E) the juvenile justice authority; and (F) the courts.

(6) A violation of the provisions of subsection (i)(5) shall be an unclassified misdemeanor punishable by a fine of $100 for each violation.

Sec. 17. K.S.A. 2010 Supp. 65-523 is hereby amended to read as follows: 65-523. The secretary may suspend any license, certificate of registration or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516 and sections 1 through 6, and amendments thereto, upon any of the following grounds and in the manner provided in this act:

(a) Violation by the licensee, registrant or holder of a temporary permit of any provision of this act or of the rules and regulations promulgated under this act;
(b) aiding, abetting or permitting the violating of any provision of this act or of the rules and regulations promulgated under this act;
(c) conduct in the operation or maintenance, or both the operation and maintenance, of a child care facility or family day care home which is inimical to health, welfare or safety of either an individual in or receiving services from the facility or home or the people of this state;
(d) the conviction of a licensee, registrant or holder of a temporary permit, at any time during licensure or registration or during the time the temporary permit is in effect, of crimes as defined in K.S.A. 65-516, and amendments thereto; and
(e) a third or subsequent violation by the licensee, registrant or holder of a temporary permit of subsection (b) of K.S.A. 65-530, and amendments thereto.

Sec. 18. K.S.A. 2010 Supp. 65-524 is hereby amended to read as follows: 65-524. The secretary may suspend any license, certificate of registration or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516 and sections 1 through 6, and amendments thereto, prior to any hearing when, in the opinion of the secretary, the action is necessary to protect any child in the child care facility or family day care home from physical or mental abuse, abandonment or any other substantial threat to health or safety. Administrative proceedings under this section shall be conducted in accordance with the emergency adjudicative proceedings of the Kansas administrative procedure act and in accordance with other relevant provisions of the Kansas administrative procedure act.

Sec. 19. K.S.A. 2010 Supp. 65-526 is hereby amended to read as
follows: 65-526. (a) The secretary of health and environment, in addition to any other penalty prescribed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against a licensee or registrant for each violation of such provisions or rules and regulations adopted pursuant thereto which affect significantly and adversely the health, safety or sanitation of children in a child care facility or family day care home. Each civil fine assessed under this section shall not exceed $500. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 20. K.S.A. 2010 Supp. 65-530 is hereby amended to read as follows: 65-530. (a) As used in this section:

(1) "Day care home" means a day care home as defined under Kansas administrative regulation 28-4-113, a group day care home as defined under Kansas administrative regulation 28-4-113 and a family day care home as defined under K.S.A. 65-517 section 1, and amendments thereto.

(2) "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.

(b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages.

(c) Each day care home registration certificate or license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). The statement shall be phrased in substantially the same language as subsection (b). The registration certificate or license shall be posted in a conspicuous place in the facility or facilities.

(d) The secretary of health and environment may levy a civil fine under K.S.A. 65-526, and amendments thereto, against any day care
home for a first or second violation of this section. A third or subsequent violation shall be subject to the provisions of K.S.A. 65-523, and amendments thereto.

(e) In addition to any civil fine which may be levied pursuant to subsection (d), any day care home that violates any provision of this section may also be subject to criminal punishment pursuant to K.S.A. 21-4012, and amendments thereto.

Sec. 21. K.S.A. 2010 Supp. 65-531 is hereby amended to read as follows: 65-531. On and after July 1, 1996: (a) Except as provided further, information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508 and section 3, and amendments thereto, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:

(1) Employees of public agencies or departments;

(2) Health records staff of child care facilities and family day care homes, including, but not limited to, facilities licensed by the secretary of health and environment;

(3) Persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster homes; and

(4) Health care professionals.

(b) Notwithstanding K.S.A. 60-427, and amendments thereto, or any other Kansas statute which provides for privileged information between a patient and a health care provider, there shall be no privilege preventing the furnishing of information and records as authorized by this section by any health care provider.

(c) Information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508 and section 3, and amendments thereto, whose parent or guardian has submitted a written statement of religious objection to immunization as provided in K.S.A. 65-508 or section 3, and amendments thereto, may not be disclosed or exchanged without a parent or guardian's written release authorizing such disclosure.


Sec. 23. On and after July 1, 2011, K.S.A. 2010 Supp. 65-516, as
amended by section 15 of this act is hereby repealed.

Sec. 24. This act shall take effect and be in force from and after its publication in the Kansas register.