

HOUSE BILL No. 2851

By Representative M. Holmes

2-12

9 AN ACT concerning child care facilities and family day care homes; in-
10 spections and assessments; amending K.S.A. 65-508, 65-512, 65-513,
11 65-517, 65-520 and 65-522 and K.S.A. 2007 Supp. 65-503 and repeal-
12 ing the existing sections.
13

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

15 Section 1. K.S.A. 2007 Supp. 65-503 is hereby amended to read as
16 follows: 65-503. As used in this act:

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

21 (b) “Child care resource and referral agency” means a business or
22 service conducted, maintained or operated by a person engaged in pro-
23 viding resource and referral services, including information of specific
24 services provided by child care facilities, to assist parents to find child
25 care.

26 (c) (1) “Child care facility” means:

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

34 (B) a children’s home, orphanage, maternity home, day care facility
35 or other facility of a type determined by the secretary to require regula-
36 tion under the provisions of this act;

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

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

43 (2) “Child care facility” shall not include a family day care home de-

1 fined in K.S.A. 65-517 and amendments thereto.

2 (d) "Person" means any individual, association, partnership, corpo-
3 ration, government, governmental subdivision or other entity.

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

8 (f) *Any limitation on the number of children in a child care facility*
9 *shall be increased by two children in temporary situations involving*
10 *school closures, vacations or emergencies of other child care facilities.*

11 Sec. 2. K.S.A. 65-508 is hereby amended to read as follows: 65-508.

12 (a) Any maternity center or child care facility subject to the provisions of
13 this act shall: (1) Be properly heated, plumbed, lighted and ventilated;
14 (2) have plumbing, water and sewerage systems which conform to all
15 applicable state and local laws; and (3) be operated with strict regard to
16 the health, comfort, safety and social welfare of the residents.

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

24 (c) The secretary of health and environment with the cooperation of
25 the secretary of social and rehabilitation services shall develop and adopt
26 rules and regulations for the operation and maintenance of maternity
27 centers and child care facilities. The rules and regulations for operating
28 and maintaining maternity centers and child care facilities shall be de-
29 signed to promote the health, safety and welfare of the residents who are
30 to be served in such facilities by ensuring safe and adequate physical
31 surroundings, healthful food, supervision and care of the residents by
32 capable, qualified persons of sufficient number, an adequate program of
33 activities and services and such appropriate parental participation as may
34 be feasible under the circumstances. Boarding schools are excluded from
35 requirements regarding the number of qualified persons who must su-
36 pervise and provide care to residents. *Any limitations on sleeping distance*
37 *for children in child care facilities shall not apply to twins or other mul-*
38 *tiple birth children.*

39 (d) Each child cared for in a child care facility, including children of
40 the person maintaining the facility, shall be required to have current such
41 immunizations as the secretary of health and environment considers nec-
42 essary. The person maintaining a child care facility shall maintain a record
43 of each child's immunizations and shall provide to the secretary of health

1 and environment such information relating thereto, in accordance with
2 rules and regulations of the secretary, but the person maintaining a child
3 care facility shall not have such person's license revoked solely for the
4 failure to have or to maintain the immunization records required by this
5 subsection.

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

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

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

14 Sec. 3. K.S.A. 65-512 is hereby amended to read as follows: 65-512.
15 ~~It is hereby made the duty of~~ (a) The secretary of health and environment
16 ~~to shall~~ inspect or cause to be inspected at least once every 12 months
17 every maternity center or child care facility, and for that purpose ~~it~~ shall
18 have the right of entry and access thereto in every department and, *except*
19 *as provided in subsection (b)*, to every place in the premises, shall call for
20 and examine the records which are required to be kept by the provisions
21 of this act and shall make and preserve a record of every inspection. The
22 licensee shall give all reasonable information to the authorized agent of
23 the secretary of health and environment and shall afford every reasonable
24 facility for viewing the premises and seeing the patients or children
25 therein. No such patient or child without the consent of the patient or
26 child shall be required to be interviewed by any agent unless the agent is
27 an authorized person or a licensed physician.

28 (b) (1) *Every inspection of a child care facility under this section shall*
29 *be conducted in a courteous and professional manner. Inspections shall*
30 *be administered in a manner so that all facilities inspected are treated*
31 *fairly and inspected on an equal basis without a quota for citations. No*
32 *inspection shall be conducted in areas of the facility not used for business*
33 *purposes, unless the inspector is accompanied by the licensee or person*
34 *in charge of the facility. Personal belongings of the owner and persons*
35 *employed in the facility shall not be subject to inspection. If any deficien-*
36 *cies are cited in the first inspection report of the facility after the facility*
37 *commences operation, the inspection report shall be considered a warn-*
38 *ing. Subsequent inspection reports and any deficiencies listed therein shall*
39 *be subject to the provisions of this act and rules and regulations adopted*
40 *thereunder.*

41 (2) *After completion of each inspection of a child care facility, a writ-*
42 *ten report of the findings with respect to compliance or noncompliance*
43 *with the provisions of this act relating to child care facilities and the*

1 standards established hereunder as well as a list of deficiencies found, if
2 any, shall be prepared. The list of deficiencies, if any, shall specifically
3 state the statute or rule and regulation which the child care facility is
4 alleged to have violated. A copy of the inspection report shall be furnished
5 to the licensee, except that a copy of the preliminary inspection report
6 signed jointly by a representative of the child care facility and the in-
7 spector shall be left with the child care facility when an inspection is
8 completed. This preliminary inspection report shall constitute the final
9 record of deficiencies, if any, assessed against the child care facility during
10 the inspection. All deficiencies, if any, shall be specifically listed and no
11 additional deficiencies based upon the data developed at that time shall
12 be assessed at a later time. An exit interview shall be conducted in con-
13 junction with the joint signing of the preliminary inspection report. Not-
14 withstanding any other law to the contrary, except as provided in K.S.A.
15 65-524, and amendments thereto, the licensee may appeal any deficiencies
16 listed in an inspection report to the secretary and such appeal shall be
17 conducted in an informal manner without a formal administrative
18 hearing.

19 (3) Any inspector who violates a provision of this subsection (b) shall
20 be subject to termination from employment.

21 Sec. 4. K.S.A. 65-513 is hereby amended to read as follows: 65-513.
22 Whenever an authorized agent of the secretary of health and environment
23 or secretary of social and rehabilitation services finds a maternity center
24 or child care facility is not being conducted according to law, it shall be
25 the duty of such agent to notify the licensee in writing of such changes
26 or alterations as the agent determines necessary in order to comply with
27 the requirements of the law, and the agent shall file a copy of such notice
28 with the secretary of health and environment. It shall thereupon be the
29 duty of the licensee to make such changes or alterations as are contained
30 in the written notice within five days from the receipt of such notice,
31 except that any appeal to the secretary of a licensed child care facility
32 under subsection (b)(2) of K.S.A. 65-512, and amendments thereto, shall
33 toll the running of the five-day period. Notice shall be given in accordance
34 with the provisions of the Kansas administrative procedure act.

35 Sec. 5. K.S.A. 65-517 is hereby amended to read as follows: 65-517.

36 (a) "Family day care home" means a place maintained for the purpose of
37 providing children with food or lodging, or both, away from such chil-
38 dren's home or homes, for less than 24 hours a day, if:

39 (1) Not more than six of the children cared for at such place are less
40 than 16 years of age; and

41 (2) not more than three of the children cared for at such place are
42 less than 18 months of age.

43 (b) Any child of a person maintaining a place referred to in subsection

1 (a) shall count toward the limitations of subsection (a) if such child is less
2 than 12 years of age and is cared for at such place. *The limitations in*
3 *subsection (a) shall be increased by two children in temporary situations*
4 *involving school closures, vacations or emergencies of other family day*
5 *care homes or child care facilities.*

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

9 Sec. 6. K.S.A. 65-520 is hereby amended to read as follows: 65-520.

10 (a) A certificate of registration shall be in force for one year after the date
11 of issuance unless revoked pursuant to K.S.A. 65-521. The certificate shall
12 specify that the registrant may operate a family day care home for six or
13 fewer children. This section shall not be construed to limit the right of
14 the secretary to enter a registered family day care home for the purpose
15 of assessing compliance with K.S.A. 65-516 to 65-522, inclusive, after
16 receiving a complaint against the registrant of such home.

17 (b) (1) *Every assessment of a family day care home under this section*
18 *shall be conducted in a courteous and professional manner. Assessments*
19 *shall be administered in a manner so that all homes assessed are treated*
20 *fairly and assessed on an equal basis without a quota for citations. No*
21 *assessments shall be conducted in areas of the home not used for business*
22 *purposes, unless the person conducting the assessment is accompanied by*
23 *the person registered to operate the home or person in charge of the home.*
24 *Personal belongings of the registrant and persons employed in the home*
25 *shall not be subject to the assessment. If any deficiencies are cited in the*
26 *first assessment of the home after the home commences operation, the*
27 *assessment shall be considered a warning. Subsequent assessments and*
28 *any deficiencies listed therein shall be subject to the provisions of this act*
29 *and rules and regulations adopted thereunder.*

30 (2) *After completion of each assessment of a family day care home, a*
31 *written report of the findings with respect to compliance or noncompli-*
32 *ance with the provisions of this act relating to family day care homes and*
33 *the standards established hereunder as well as a list of deficiencies found,*
34 *if any, shall be prepared. The list of deficiencies, if any, shall specifically*
35 *state the statute or rule and regulation which the family day care home*
36 *is alleged to have violated. A copy of the assessment report shall be fur-*
37 *nished to the registrant, except that a copy of the preliminary assessment*
38 *report signed jointly by a representative of the family day care home and*
39 *the person conducting the assessment shall be left with the family day*
40 *care home when an assessment is completed. This preliminary assessment*
41 *report shall constitute the final record of deficiencies, if any, assessed*
42 *against the family day care home during the assessment. All deficiencies,*
43 *if any, shall be specifically listed and no additional deficiencies based upon*

1 *the data developed at that time shall be assessed at a later time. An exit*
2 *interview shall be conducted in conjunction with the joint signing of the*
3 *preliminary assessment report. Notwithstanding any other law to the con-*
4 *trary, except as provided in K.S.A. 65-524, and amendments thereto, the*
5 *home may appeal any deficiencies listed in an assessment report to the*
6 *secretary and such appeal shall be conducted in an informal manner with-*
7 *out a formal administrative hearing.*

8 (3) *Any person conducting an assessment who violates a provision of*
9 *this subsection (b) shall be subject to termination from employment.*

10 Sec. 7. K.S.A. 65-522 is hereby amended to read as follows: 65-522.
11 The secretary shall adopt rules and regulations to implement the regis-
12 tration provisions of K.S.A. 65-516 to 65-522, inclusive. *Any limitation on*
13 *sleeping distances for children in family day care homes shall not apply*
14 *to twins or other multiple birth children.*

15 Sec. 8. K.S.A. 65-508, 65-512, 65-513, 65-517, 65-520 and 65-522
16 and K.S.A. 2007 Supp. 65-503 are hereby repealed.

17 Sec. 9. This act shall take effect and be in force from and after its
18 publication in the statute book.