

HOUSE BILL NO. 301

1/21 Introduced
1/21 Referred to Education & Cultural Resources
1/22 Fiscal Note Requested
1/22 Rereferred to Human Services & Aging
1/28 Fiscal Note Received
2/08 Hearing
2/16 Fiscal Note Requested
2/18 Committee Report-No Recommendation
2/23 Fiscal Note Received
2/23 2nd Reading Indefinitely Postponed

1 HOUSE BILL NO. 301
 2 INTRODUCED BY Bondley, J. B. Brist
 3 O'Donnell
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
 5 REGULATION AND LICENSING OF PRESCHOOL PROGRAMS; REQUIRING
 6 THAT PRESCHOOL PROGRAMS MEET BASIC HEALTH AND SAFETY
 7 STANDARDS AND OTHER REQUIREMENTS; AMENDING SECTIONS 53-4-501
 8 THROUGH 53-4-506, 53-4-508 THROUGH 53-4-511, AND 53-4-515,
 9 MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 53-4-501, MCA, is amended to read:
 13 "53-4-501. Purpose -- definitions. (1) The purpose of
 14 this part is to:
 15 (a) assure that children requiring supplemental
 16 parental care be provided such food, shelter, security and
 17 safety, guidance and direction, nurture and comfort, and
 18 learning experiences commensurate to their ages and
 19 capabilities so as to safeguard the growth and development
 20 of such children, thereby facilitating their proper physical
 21 and emotional maturation; and
 22 (b) guarantee that children enrolled in an
 23 unaccredited preschool program are provided instruction in a
 24 facility that meets basic health and safety standards and
 25 that a preschool program for young children is developed and

1 conducted with proper consideration for the well-being of
 2 the children.
 3 (2) In Unless the context requires otherwise, in this
 4 part, the following definitions apply:
 5 (a) "Child" means a person under 12 years of age.
 6 (b) "Day-care facility" means a person, association,
 7 or place, incorporated or unincorporated, that provides
 8 supplemental parental care on a regular basis. It includes a
 9 family day-care home, a day-care center, or a group day-care
 10 home. It does not include a person who limits care to
 11 children who are related to him by blood or marriage or
 12 under his legal guardianship or any group facility
 13 established chiefly for educational purposes.
 14 (c) "Day-care center" means a place in which
 15 supplemental parental care is provided to 13 or more
 16 children on a regular basis.
 17 (d) "Department" means the department of social and
 18 rehabilitation services provided for in Title 2, chapter 15,
 19 part 22.
 20 (e) "Day care" means supplemental parental child care.
 21 (f) (i) "Preschool program" means any activity or
 22 business established or operated by a person, firm,
 23 corporation, association, or entity, public or private, that
 24 provides educational instruction or supplemental parental
 25 care to children between infancy and the age of compulsory

1 school enrollment provided for in 20-5-102.

2 (ii) However, preschool program does not include:

3 (A) any schooling or preschool program accredited or
4 established pursuant to 20-7-102 or 20-7-117;

5 (B) any educational activity conducted by a person
6 acting in the capacity of a legal parent, guardian, or
7 relative; or

8 (C) an educational program established primarily for
9 the purpose of providing religious education to the children
10 of a religious congregation.

11 {f}(g) "Supplemental parental child care" means the
12 provision of food, shelter, and learning experiences
13 commensurate with a child's age and capabilities so as to
14 safeguard the child's growth and development on a
15 supplemental basis outside of the child's home by an adult
16 other than a parent, guardian, person in loco parentis, or
17 relative on a regular basis for daily periods of less than
18 24 hours.

19 {g}(h) "Regular basis" means providing supplemental
20 parental care to children of separate families for any daily
21 periods of less than 24 hours and within 3 or more
22 consecutive weeks.

23 {h}(i) "Family day-care home" means a private
24 residence in which supplemental parental care is provided to
25 three to six children from separate families on a regular

1 basis.

2 {i}(j) "Group day-care home" means a private residence
3 in which supplemental parental care is provided to 7 to 12
4 children on a regular basis.

5 {j}(k) "Registration" means the process whereby the
6 department maintains a record of all family day-care homes
7 and group day-care homes, prescribes standards, promulgates
8 rules, and requires the operator of a family day-care home
9 or a group day-care home to certify that he has complied
10 with the prescribed standards and promulgated rules.

11 {k}(l) "Registrant" means the holder of a registration
12 certificate issued by the department in accordance with the
13 provisions of this part.

14 {l}(m) "Registration certificate" means a written
15 instrument issued by the department to publicly document
16 that the certificate holder has, in writing, certified to
17 the department his compliance with this part and the
18 applicable standards for family day-care homes and group
19 day-care homes.

20 {m}(n) "License" means a written document issued by
21 the department that the license holder has complied with
22 this part and the applicable standards and rules for
23 day-care centers or preschool programs.

24 {n}(o) "Licensee" means the holder of a license issued
25 by the department in accordance with the provisions of this

1 part."

2 Section 2. Section 53-4-502, MCA, is amended to read:

3 "53-4-502. License required -- registration required
4 -- term of license or registration certificate -- no fee
5 charged. (1) No person, group of persons, or corporation
6 shall:

7 (a) establish or maintain a day-care center or
8 preschool program for children unless licensed to do so by
9 the department;

10 (b) operate a family day-care home or group day-care
11 home without first procuring a family day-care or group
12 day-care registration certificate from the department.

13 (2) The license and registration certificate shall set
14 forth the ages and numbers of children for whom supplemental
15 parental care or preschool instruction may be provided.

16 (3) The applicant's own children must be included in
17 the manner provided for in department regulations in the
18 total number of children to be cared for under the license
19 or registration certificate.

20 (4) Licenses or registration certificates shall be
21 issued for periods not to exceed 1 year. The department
22 shall charge no a fee to issue a license or registration
23 certificate. Such fee must be commensurate with the cost of
24 licensing and registration as required by this section."

25 Section 3. Section 53-4-503, MCA, is amended to read:

1 "53-4-503. Powers and duties of the department. The
2 department shall:

3 (1) issue licenses to persons to receive children into
4 a day-care center or preschool program on a regular basis;

5 (2) prescribe the conditions and publish minimum
6 standards upon which licenses and registration certificates
7 are issued;

8 (3) adopt rules for day-care facilities and preschool
9 programs consistent with the purposes of this part; and

10 (4) issue registration certificates to a person or
11 persons to receive children into a family day-care home or
12 group day-care home on a regular basis."

13 Section 4. Section 53-4-504, MCA, is amended to read:

14 "53-4-504. Standards for day care and preschool. In
15 developing standards, the department shall seek the advice
16 and assistance of the department of health and environmental
17 sciences and superintendent of public instruction,
18 representatives of day-care facilities and preschool
19 programs, specialists in child care and preschool education,
20 and representatives of parent groups who use the services of
21 day-care facilities or enroll their children in preschool
22 programs. The standards may pertain to:

23 (1) character, suitability, and qualifications of an
24 applicant and other persons directly responsible for the
25 care or education of children;

1 (2) the number of individuals or staff required for
2 adequate supervision and care of children in day-care
3 facilities or preschool programs;

4 (3) child-care programs and practices necessary to
5 ensure the health, safety, safety in transportation,
6 development, and well-being of children;

7 (4) adequate and appropriate admission policies;

8 (5) adequacy of physical facilities and equipment;

9 (6) general financial ability and competence of an
10 applicant to provide necessary care or preschool training
11 for children and maintain prescribed standards;

12 (7) the ages and numbers of children that may be cared
13 for in a day-care facility or enrolled in a preschool
14 program."

15 Section 5. Section 53-4-505, MCA, is amended to read:

16 "53-4-505. Fire safety -- certification required. (1)
17 The state fire marshal of the department of justice shall
18 adopt and enforce rules for the protection of children in
19 day-care centers and preschool programs from fire hazards
20 and arrange for such inspections and investigations as it
21 considers necessary.

22 (2) Before a license can be issued to operate a
23 day-care center or preschool program, each applicant shall
24 submit to the department a certificate of approval from the
25 fire marshal bureau of the department of justice or its

1 designee, indicating that fire safety rules have been met."

2 Section 6. Section 53-4-506, MCA, is amended to read:

3 "53-4-506. Health protection -- certification
4 required. (1) The department of health and environmental
5 sciences shall adopt rules for the protection of children in
6 day-care centers and preschool programs from the health
7 hazards of inadequate food preparation, poor nutrition, and
8 communicable diseases.

9 (2) Local public health authorities shall arrange to
10 provide training to day-care center and preschool program
11 providers and employees regarding health hazards. Upon
12 successful completion of the training the local public
13 health authorities shall issue certificates to the providers
14 and employees.

15 (3) In lieu of training, local public health
16 authorities may elect to inspect facilities and issue
17 certificates of approval to child-care center and preschool
18 program providers.

19 (4) Each applicant for a license to operate a day-care
20 center or preschool program shall submit to the department a
21 certificate issued pursuant to subsection (2) or (3) before
22 the department will issue a license.

23 (5) The local public health authority may charge the
24 applicant a reasonable fee, not to exceed \$25, for any
25 inspection necessary to issue a certificate of approval, or

1 a fee not to exceed the documented cost for training it
2 provides under this section."

3 Section 7. Section 53-4-508, MCA, is amended to read:

4 "53-4-508. Requirements for licensure. (1) The As part
5 of its minimum standards for day-care centers and preschool
6 programs, the department shall include--in--the--minimum
7 standards--for--day-care--centers--the--following--requirements
8 require the day-care facility or preschool program to show
9 that:

10 (a) ~~The~~ the applicant, his employees, and all those
11 persons who will come in direct contact with the children
12 are of good character.;

13 (b) ~~The~~ the staff of the day-care facility or
14 preschool program is sufficient in number as provided by
15 rule to provide adequate supervision and care of the
16 children in the facility or program.;

17 (c) ~~Essential~~ essential programs and practices carried
18 on by the facility or program staff are developed and
19 carried out with due regard for the protection of the
20 health, safety, development, and well-being of the
21 children.;

22 (d) ~~Applicant~~ applicant and staff are qualified by
23 practical experience or education or training to give good
24 care and treatment to the children.;

25 (e) Intake intake or enrollment records are kept on

1 each child admitted ~~for-care~~.;

2 (f) ~~The~~ the applicant and staff limit admissions to
3 the maximum number indicated on the current license.;

4 (g) ~~The~~ the applicant will arrange for the necessary
5 precautions to guard against communicable diseases.;

6 (h) ~~Public~~ public liability insurance and fire
7 insurance are currently in force for the protection of the
8 operator, his staff, and the facility.;

9 (i) Specify the ages and numbers of children that may
10 be cared for in a day-care day-care facility or enrolled in
11 a preschool program comply with the standards established by
12 the department.

13 (2) It is the duty of the department or its authorized
14 representative to assist applicants in meeting the minimum
15 requirements."

16 Section 8. Section 53-4-509, MCA, is amended to read:

17 "53-4-509. Provisional license -- provisional
18 registration certificate. (1) The department may issue a
19 provisional license or provisional registration certificate
20 for a period which may not exceed 6 months if it finds that
21 a day-care facility, preschool program, or applicant does
22 not meet all standards established by the department, as
23 long as the facility, program, or applicant is attempting to
24 meet the minimum standards.

25 (2) The department may not waive the requirement that

1 a day-care center or preschool program be certified under
2 the provisions of 53-4-505 and 53-4-506.

3 (3) The department may not waive the requirement that
4 a day-care facility or preschool program have current and
5 adequate public liability insurance and fire insurance."

6 Section 9. Section 53-4-510, MCA, is amended to read:

7 "53-4-510. Renewal license -- registration
8 certificate. If a licensed or registered day-care facility
9 or preschool program desires to renew a license or
10 registration certificate, the request for renewal shall be
11 made in writing, on forms prescribed by the department, in
12 the county in which the applicant lives, 30 days prior to
13 the expiration of its license or registration certificate."

14 Section 10. Section 53-4-511, MCA, is amended to read:

15 "53-4-511. Periodic visits to facilities by department
16 -- investigations -- consultation with licensees and
17 registrants. (1) The department or its authorized
18 representative shall make periodic visits to all licensed
19 day-care centers and preschool programs to ensure that
20 minimum standards are maintained.

21 (2) The department may investigate and inspect the
22 conditions and qualifications of any day-care center, group
23 day-care home, or family day-care home, or preschool program
24 seeking or holding a license or registration certificate
25 under the provisions of this part.

1 (3) The department must visit and inspect at least 15%
2 of all registered family day-care homes and group day-care
3 homes in each of the governor's planning regions annually.

4 (4) Upon request of the department, the department of
5 health and environmental sciences or the state fire marshal
6 or his designee shall inspect any day-care day-care facility
7 or preschool program for which a license or registration
8 certificate is applied for or issued and shall report its
9 findings to the department.

10 (5) Upon request, the department shall give
11 consultation to every licensee and registrant who desires to
12 upgrade the services of his program."

13 Section 11. Section 53-4-515, MCA, is amended to read:

14 "53-4-515. Penalty -- remedies. (1) A person, group of
15 persons, or corporation who establishes or maintains a
16 day-care center or preschool program or assists in
17 conducting or maintaining a day-care center or a preschool
18 program without first obtaining a license from the
19 department as provided for in this part is guilty of a
20 misdemeanor and upon conviction is punishable by a fine not
21 to exceed \$500.

22 (2) (a) If the department is advised or has reason to
23 believe that a person, group of persons, or corporation is
24 operating a day-care facility or preschool program without a
25 license or registration certificate, it shall make an

1 investigation to ascertain the facts. If the department
2 finds that the day-care facility or preschool program is
3 being or has been operated without a license or registration
4 certificate, it may report the results of its investigation
5 to the attorney general or the county attorney of the county
6 where the day-care facility or preschool program is being
7 operated for prosecution and request that an injunction be
8 issued against the facility or program until a license or
9 certificate is issued.

10 (b) The department may institute any action necessary
11 to enforce compliance with this part or any order or rule of
12 the department under this part or to obtain a judicial
13 interpretation of any of the foregoing.

14 (c) The department may, by its own attorney or
15 counsel, any county attorney, or the attorney general,
16 initiate an action in the district court of the appropriate
17 county and be represented by such representative on appeal
18 to the supreme court of Montana."

19 NEW SECTION. Section 12. Extension of authority. Any
20 existing authority of the department of social and
21 rehabilitation services to make rules on the subject of the
22 provisions of this act is extended to the provisions of this
23 act.

-End-

F I S C A L N O T E

In compliance with a written request received January 23, 19 85 , there is hereby submitted a Fiscal Note for House Bill 301 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 301 provides for regulation and licensing of preschool programs; requiring that preschool programs meet basic health and safety standards and other requirements.

ASSUMPTIONS:

Department of Social and Rehabilitative Services:

1. 400 preschools would need to be licensed statewide approximately.
2. 6.5 additional staff, 4.5 professional and 2 clerical to cover 8 district offices around the state would be required.
3. It is assumed that the bill would only charge a licensing fee for the additional preschool facilities. This may not be a valid assumption since it may apply to day care centers which SRS currently licenses but does not charge a fee.
4. Clerical and program support for the central administration of the program would be absorbed.
5. The same licensing standards and function for Daycare Centers would apply to preschools.
6. License fee of \$370/year if 400 preschools, license fee would have to be adjusted if fewer preschools.

Department of Justice:

1. There will be approximately 400 additional fire safety inspections to be performed throughout the state each year.
2. It is assumed that the additional workload can be assumed by contracting with a special deputy fire marshal.
3. License fee revenue cannot be utilized for these fire safety inspections.

Department of Health:

1. Advisory time for rule adoption could be absorbed within the Department's existing budget.
2. Secretary of State filing fee would need to be paid from General Fund.
3. All costs first year only.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 28, 1985

FISCAL IMPACT:

Department of Social and Rehabilitative Services:

	<u>Current Law 1986</u>	<u>Proposed Law 1986</u>	<u>Current Law 1987</u>	<u>Proposed Law 1987</u>
<u>Revenue</u> Licensing Fee	-0-	\$ <u>148,173</u>	-0-	\$ <u>148,173</u>
FTE	-0-	6.5	-0-	6.5
Personal Services	-0-	\$ 133,671	-0-	\$ 136,341
Operating Expenses	-0-	14,502	-0-	\$ 11,832
Total Expenditures	-0-	\$ <u>148,173</u>	-0-	\$ <u>148,173</u>

Department of Justice:

If the proposed legislation is adopted, the Department of Justice, Fire Marshal's Bureau, would need the following funds:

Operating Expense:

Contracted Services	\$ 9,070	\$ 9,070	\$ 18,140
Postage & Communications	200	200	400
Supplies & Materials	600	600	1,200
Travel	<u>3,726</u>	<u>3,726</u>	<u>7,452</u>
Total General Fund Required	\$ <u>13,796</u>	\$ <u>13,796</u>	\$ <u>27,592</u>

Department of Health:

	<u>FY 1986</u>	<u>FY 1987</u>
Revenue	\$ -0-	\$ -0-
Expenditures	\$ <u>300.00</u>	\$ -0-
Total General Fund Required	\$ <u>300.00</u>	\$ -0-

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Not clear if section 2-(4) of the bill requires that a fee on the licensing of daycare centers be implemented. SRS currently does not charge for this licensing.

FISCAL NOTE

In compliance with a written request received February 18, 19 85, there is hereby submitted a Fiscal Note for Amended House Bill 301 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 301 amended provides for regulation and licensing of preschool programs; requiring that preschool programs meet basic health and safety standards and other requirements; providing for assessment of fees for licensing daycare and preschool programs.

ASSUMPTIONS:DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES:

1. 4 additional staff, 2 professional and 2 clerical to cover 8 district offices around the state.
2. Only those daycare centers and preschools with 13 children and over will be licensed. The others will only need to be registered.
3. Of the 400 estimated preschools about 100 of those would need to be licensed.
4. SRS currently licenses daycare centers.
5. The county welfare departments do not have the administrative structure to license daycare or preschools. The district offices do the licensing functions. It is assumed that county offices would refer the licensing to the district offices.
6. Clerical and program support for the central administration of the program would be absorbed.
7. The fee, no more than \$25, would apply to about 100 preschools per year and about 130 daycare centers.
8. Funding for the positions would be the license fee plus general fund would make up any difference.

DEPARTMENT OF JUSTICE:

1. There will be approximately 400 additional fire safety inspections to be performed throughout the state each year.
2. It is assumed that the additional workload can be assumed by contracting with a special deputy fire marshal.
3. License fee revenue cannot be utilized for these fire safety inspections.

DEPARTMENT OF HEALTH:

1. Advisory time for rule adoption could be absorbed within the Department's existing budget.
2. Secretary of State filing fee would need to be paid from General Fund.
3. All costs first year only.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 22, 1985

AMENDED HB 301

FISCAL IMPACT:

	<u>1986</u>	<u>1987</u>
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES:		
	4 FTE	4 FTE
Expenditures:		
Personal Services	\$ 71,226	\$ 71,226
Operating Expenses	<u>6,000</u>	<u>6,000</u>
Total Expenditures	\$ <u>77,226</u>	\$ <u>77,226</u>
Revenue:		
License Revenue	\$ 5,750	\$ 5,750
General Fund	<u>71,476</u>	<u>71,476</u>
Total	\$ <u>77,226</u>	\$ <u>77,226</u>

DEPARTMENT OF JUSTICE:

If the proposed legislation is adopted, the Department of Justice, Fire Marshal's Bureau, would need the following funds:

Operating Expense:		
Contracted Services	\$ 9,070	\$ 9,070
Postage & Communications	200	200
Supplies & Materials	600	600
Travel	<u>3,726</u>	<u>3,726</u>
General Fund Required	\$ 13,796	\$ 13,796

DEPARTMENT OF HEALTH:

Revenue	\$ -0-	\$ -0-
Expenditures	\$ <u>300.00</u>	\$ -0-
General Fund Required	\$ 300.00	\$ -0-

All Departments		
General Fund Required	\$ 85,572	\$ 85,272

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 10 new number (6) seems to conflict with Section 10 number (1).

Rereferred to Committee on
Human Services & Aging-
as amended-without recommendation

HOUSE BILL NO. 301

INTRODUCED BY BRADLEY, GOULD, J. BROWN, O'CONNELL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
REGULATION AND LICENSING OF PRESCHOOL PROGRAMS; REQUIRING
THAT PRESCHOOL PROGRAMS MEET BASIC HEALTH AND SAFETY
STANDARDS AND OTHER REQUIREMENTS; PROVIDING FOR ASSESSMENT
OF FEES FOR LICENSING DAY-CARE AND PRESCHOOL PROGRAMS;
AMENDING SECTIONS 53-4-501 THROUGH 53-4-506,--53-4-508
THROUGH 53-4-511, AND 53-4-515, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-4-501, MCA, is amended to read:

"53-4-501. Purpose -- definitions. (1) The purpose of
this part is to:

(a) assure that children requiring supplemental
parental care be provided such food, shelter, security and
safety, guidance and direction, nurture and comfort, and
learning experiences commensurate to their ages and
capabilities so as to safeguard the growth and development
of such children, thereby facilitating their proper physical
and emotional maturation; and

(b) guarantee that children enrolled in an
unaccredited preschool program are provided instruction in a
facility that meets basic health and safety standards and

that a preschool program for young children is developed and
conducted with proper consideration for the well-being of
the children.

(2) ~~In~~ Unless the context requires otherwise, in this
part, the following definitions apply:

(a) "Child" means a person under 12 years of age.

(b) "Day-care facility" means a person, association,
or place, incorporated or unincorporated, that provides
supplemental parental care on a regular basis. It includes a
family day-care home, a day-care center, or a group day-care
home. It does not include a person who limits care to
children who are related to him by blood or marriage or
under his legal guardianship or any group facility
established chiefly for educational purposes.

(c) "Day-care center" means a place in which
supplemental parental care is provided to 13 or more
children on a regular basis.

(d) "Department" means the department of social and
rehabilitation services provided for in Title 2, chapter 15,
part 22.

(e) "Day care" means supplemental parental child care.

(f) (i) "Preschool program" means any activity or
business PRIMARILY established or operated by a person,
firm, corporation, association, or entity, public or
private, ~~that provides~~ TO PROVIDE educational instruction or

1 ~~supplemental-parental-care~~ to children between infancy and
 2 ~~the age of compulsory school enrollment provided for in~~
 3 ~~20-5-102.~~

4 (ii) However, preschool program does not include:

5 (A) ~~any schooling or preschool program accredited or~~
 6 ~~established pursuant to 20-7-102 or 20-7-117;~~

7 (B) ~~any educational activity conducted by a person~~
 8 ~~acting in the capacity of a legal parent, guardian, or~~
 9 ~~relative; or~~

10 (C) ~~an educational program established BY A RELIGIOUS~~
 11 ~~CONGREGATION primarily for the purpose of providing~~
 12 ~~religious education to---the---children---of---a---religious~~
 13 ~~congregation.~~

14 {f}(g) "Supplemental parental child care" means the
 15 provision of food, shelter, and learning experiences
 16 commensurate with a child's age and capabilities so as to
 17 safeguard the child's growth and development on a
 18 supplemental basis outside of the child's home by an adult
 19 other than a parent, guardian, person in loco parentis, or
 20 relative on a regular basis for daily periods of less than
 21 24 hours.

22 {g}(h) "Regular basis" means providing supplemental
 23 parental care to children of separate families for any daily
 24 periods of less than 24 hours and within 3 or more
 25 consecutive weeks.

1 {h}(i) "Family day-care home" means a private
 2 residence in which supplemental parental care is provided to
 3 three to six children from separate families on a regular
 4 basis.

5 {i}(j) "Group day-care home" means a private residence
 6 in which supplemental parental care is provided to 7 to 12
 7 children on a regular basis.

8 {j}(k) "Registration" means the process whereby the
 9 department maintains a record of all family day-care homes
 10 and group day-care homes, prescribes standards, promulgates
 11 rules, and requires the operator of a family day-care home
 12 or a group day-care home to certify that he has complied
 13 with the prescribed standards and promulgated rules.

14 {k}(l) "Registrant" means the holder of a registration
 15 certificate issued by the department in accordance with the
 16 provisions of this part.

17 {l}(m) "Registration certificate" means a written
 18 instrument issued by the department to publicly document
 19 that the certificate holder has, in writing, certified to
 20 the department his compliance with this part and the
 21 applicable standards for family day-care homes and group
 22 day-care homes.

23 {m}(n) "License" means a written document issued by
 24 the department that the license holder has complied with
 25 this part and the applicable standards and rules for

1 day-care centers or preschool programs.

2 ~~fn}(c)~~ "Licensee" means the holder of a license issued
3 by the department in accordance with the provisions of this
4 part."

5 Section 2. Section 53-4-502, MCA, is amended to read:

6 "53-4-502. License required -- registration required
7 -- term of license or registration certificate -- no fee
8 charged. (1) No person, group of persons, or corporation
9 shall:

10 (a) establish or maintain a day-care center or
11 preschool program for children unless licensed to do so by
12 the department;

13 (b) operate a family day-care home or group day-care
14 home without first procuring a family day-care or group
15 day-care registration certificate from the department.

16 (2) The license and registration certificate shall set
17 forth the ages and numbers of children for whom supplemental
18 parental care or preschool instruction may be provided.

19 (3) The applicant's own children must be included in
20 the manner provided for in department regulations in the
21 total number of children to be cared for under the license
22 or registration certificate.

23 (4) Licenses or registration certificates shall be
24 issued for periods not to exceed 1 year. The department
25 shall charge no a fee to issue a license ~~or--registration~~

1 certificate. Such fee ~~must--be--commensurate-with~~ MAY NOT
2 EXCEED \$25 OR the cost of licensing ~~and--registration~~ as
3 required by this section, WHICHEVER IS LESS."

4 Section 3. Section 53-4-503, MCA, is amended to read:
5 "53-4-503. Powers and duties of the department. The
6 department shall:

7 (1) issue licenses to persons to receive children into
8 a day-care center or preschool program on a regular basis;

9 (2) prescribe the conditions and publish minimum
10 standards upon which licenses and registration certificates
11 are issued;

12 (3) adopt rules for day-care facilities and preschool
13 programs consistent with the purposes of this part; and

14 (4) issue registration certificates to a person or
15 persons to receive children into a family day-care home or
16 group day-care home on a regular basis."

17 Section 4. Section 53-4-504, MCA, is amended to read:

18 "53-4-504. Standards for day care and preschool. In
19 developing standards, the department shall seek the advice
20 and assistance of the department of health and environmental
21 sciences and superintendent of public instruction,
22 representatives of day-care facilities and preschool
23 programs, specialists in child care and preschool education,
24 and representatives of parent groups who use the services of
25 day-care facilities or enroll their children in preschool

1 programs. The standards may pertain to:

2 (1) character, suitability, and qualifications of an
3 applicant and other persons directly responsible for the
4 care or education of children;

5 (2) the number of individuals or staff required for
6 adequate supervision and care of children in day-care
7 facilities or preschool programs;

8 (3) child-care programs and practices necessary to
9 ensure the health, safety, safety in transportation,
10 development, and well-being of children;

11 (4) adequate and appropriate admission policies;

12 (5) adequacy of physical facilities and equipment;

13 (6) general financial ability and competence of an
14 applicant to provide necessary care or preschool training
15 for children and maintain prescribed standards;

16 (7) the ages and numbers of children that may be cared
17 for in a day-care facility or enrolled in a preschool
18 program."

19 Section 5. Section 53-4-505, MCA, is amended to read:

20 "53-4-505. Fire safety -- certification required. (1)
21 The state fire marshal of the department of justice shall
22 adopt and enforce rules for the protection of children in
23 day-care centers and preschool programs from fire hazards
24 and arrange for such inspections and investigations as it
25 considers necessary.

1 (2) Before a license can be issued to operate a
2 day-care center or preschool program, each applicant shall
3 submit to the department a certificate of approval from the
4 fire marshal bureau of the department of justice or its
5 designee, indicating that fire safety rules have been met."

6 Section 6. Section 53-4-506, MCA, is amended to read:

7 "53-4-506. Health protection -- certification
8 required. (1) The department of health and environmental
9 sciences shall adopt rules for the protection of children in
10 day-care centers and preschool programs from the health
11 hazards of inadequate food preparation, poor nutrition, and
12 communicable diseases.

13 (2) Local public health authorities shall arrange to
14 provide training to day-care center and preschool program
15 providers and employees regarding health hazards. Upon
16 successful completion of the training the local public
17 health authorities shall issue certificates to the providers
18 and employees.

19 (3) In lieu of training, local public health
20 authorities may elect to inspect facilities and issue
21 certificates of approval to child-care center and preschool
22 program providers.

23 (4) Each applicant for a license to operate a day-care
24 center or preschool program shall submit to the department a
25 certificate issued pursuant to subsection (2) or (3) before

1 the department will issue a license.

2 (5) The local public health authority may charge the
 3 applicant a reasonable fee, not to exceed \$25, for any
 4 inspection necessary to issue a certificate of approval, or
 5 a fee not to exceed the documented cost for training it
 6 provides under this section."

7 SECTION 7. SECTION 53-4-507, MCA, IS AMENDED TO READ:

8 "53-4-507. Application for a license or registration
 9 certificate. (1) Application for a license or registration
 10 certificate shall be made to the department through the
 11 local department of public welfare in the county in which
 12 the applicant lives on forms prescribed by the department.

13 (2) Applications for a license or registration
 14 certificate by Indians residing on Indian reservations shall
 15 be made through the tribal governing body on forms
 16 prescribed by the department. Applications made through a
 17 tribal governing body shall be accompanied by a request by
 18 the tribal governing body that the department investigate to
 19 determine whether a license or registration certificate
 20 should be granted.

21 (3) Within 30 days of receipt of the application, the
 22 department, through the local county department of public
 23 welfare, shall ~~investigate to~~ determine whether a license or
 24 registration certificate should be issued."

25 Section 8. Section 53-4-508, MCA, is amended to read:

1 "53-4-508. Requirements for licensure. (1) ~~The As-part~~
 2 ~~of-its-minimum-standards-for-day-care-centers-and--preschool~~
 3 ~~programs;--the~~ department ~~shall--include--in--the--minimum~~
 4 ~~standards-for-day-care-centers--the--following--requirements~~
 5 ~~require--the--day-care-facility-or-preschool-program-to-show~~
 6 THE DEPARTMENT SHALL INCLUDE IN THE STANDARDS FOR DAY-CARE
 7 CENTERS AND PRESCHOOL PROGRAMS A REQUIREMENT that:

8 (a) ~~The~~ the applicant, his employees, and all those
 9 persons who will come in direct contact with the children
 10 are of good character;:

11 (b) ~~The~~ the staff of the day-care facility or
 12 preschool program is sufficient in number as provided by
 13 rule to provide adequate supervision and care of the
 14 children in the facility or program;

15 (c) ~~Essential~~ essential programs and practices carried
 16 on by the facility or program staff are developed and
 17 carried out with due regard for the protection of the
 18 health, safety, development, and well-being of the
 19 children;

20 (d) ~~Applicant~~ applicant and staff are qualified by
 21 practical experience or education or training to give good
 22 care and treatment to the children;

23 (e) ~~Intake~~ intake or enrollment records are kept on
 24 each child admitted ~~for-care~~;

25 (f) ~~The~~ the applicant and staff limit admissions to

1 the maximum number indicated on the current license;
 2 (g) ~~The~~ the applicant will arrange for the necessary
 3 precautions to guard against communicable diseases;
 4 (h) ~~Public~~ public liability insurance and fire
 5 insurance are currently in force for the protection of the
 6 operator, his staff, and the facility;
 7 (i) Specify THE APPLICANT SPECIFY the ages and numbers
 8 of children that may be cared for in a day--care day-care
 9 facility or enrolled in a preschool program comply-with-the
 10 standards-established-by-the-department.
 11 (2) It is the duty of the department or its authorized
 12 representative to assist applicants in meeting the minimum
 13 requirements."
 14 Section 9. Section 53-4-509, MCA, is amended to read:
 15 "53-4-509. Provisional license -- provisional
 16 registration certificate. (1) The department may issue a
 17 provisional license or provisional registration certificate
 18 for a period which may not exceed 6 months if it finds that
 19 a day-care facility, preschool program, or applicant does
 20 not meet all standards established by the department, as
 21 long as the facility, program, or applicant is attempting to
 22 meet the minimum standards.
 23 (2) The department may not waive the requirement that
 24 a day-care center or preschool program be certified under
 25 the provisions of 53-4-505 and 53-4-506.

1 (3) The department may not waive the requirement that
 2 a day-care facility or preschool program have current and
 3 adequate public liability insurance and fire insurance."
 4 Section 10. Section 53-4-510, MCA, is amended to read:
 5 "53-4-510. Renewal license -- registration
 6 certificate. If a licensed or registered day-care facility
 7 or preschool program desires to renew a license or
 8 registration certificate, the request for renewal shall be
 9 made in writing, on forms prescribed by the department, in
 10 the county in which the applicant lives, 30 days prior to
 11 the expiration of its license or registration certificate."
 12 Section 11. Section 53-4-511, MCA, is amended to read:
 13 "53-4-511. Periodic visits to facilities by department
 14 -- investigations -- consultation with licensees and
 15 registrants. (1) The department or its authorized
 16 representative shall make periodic visits to all licensed
 17 day-care centers and preschool programs to ensure that
 18 minimum standards are maintained.
 19 (2) The department may investigate and inspect the
 20 conditions and qualifications of any day-care center, group
 21 day-care home, or family day-care home, or preschool program
 22 seeking or holding a license or registration certificate
 23 under the provisions of this part. FOR THIS PURPOSE, THE
 24 DEPARTMENT MAY UTILIZE THE PERSONNEL OF THE COUNTY
 25 DEPARTMENTS OF PUBLIC WELFARE TO CONDUCT INSPECTIONS THAT IT

1 CONSIDERS NECESSARY TO ENSURE THAT THE MINIMUM STANDARDS ARE
2 SATISFIED.

3 (3) The department must visit and inspect at least 15%
4 of all registered family day-care homes and group day-care
5 homes in each of the governor's planning regions annually.

6 (4) Upon request of the department, the department of
7 health and environmental sciences or the state fire marshal
8 or his designee shall inspect any day-care day-care facility
9 or preschool program for which a license or registration
10 certificate is applied for or issued and shall report its
11 findings to the department.

12 (5) Upon request, the department shall give
13 consultation to every licensee and registrant who desires to
14 upgrade the services of his program.

15 (6) NOTHING IN THIS SECTION MAY BE CONSTRUED TO
16 REQUIRE THE DEPARTMENT TO CONDUCT AN INSPECTION OF EACH
17 DAY-CARE OR PRESCHOOL PROGRAM FOR WHICH A LICENSE IS APPLIED
18 FOR UNDER THE PROVISIONS OF THIS PART."

19 Section 12. Section 53-4-515, MCA, is amended to read:

20 "53-4-515. Penalty -- remedies. (1) A person, group of
21 persons, or corporation who establishes or maintains a
22 day-care center or preschool program or assists in
23 conducting or maintaining a day-care center or a preschool
24 program without first obtaining a license from the
25 department as provided for in this part is guilty of a

1 misdemeanor and upon conviction is punishable by a fine not
2 to exceed \$500.

3 (2) (a) If the department is advised or has reason to
4 believe that a person, group of persons, or corporation is
5 operating a day-care facility or preschool program without a
6 license or registration certificate, it shall make an
7 investigation to ascertain the facts. If the department
8 finds that the day-care facility or preschool program is
9 being or has been operated without a license or registration
10 certificate, it may report the results of its investigation
11 to the attorney general or the county attorney of the county
12 where the day-care facility or preschool program is being
13 operated for prosecution and request that an injunction be
14 issued against the facility or program until a license or
15 certificate is issued.

16 (b) The department may institute any action necessary
17 to enforce compliance with this part or any order or rule of
18 the department under this part or to obtain a judicial
19 interpretation of any of the foregoing.

20 (c) The department may, by its own attorney or
21 counsel, any county attorney, or the attorney general,
22 initiate an action in the district court of the appropriate
23 county and be represented by such representative on appeal
24 to the supreme court of Montana."

25 NEW SECTION. SECTION 13. DEPOSIT OF LICENSING FEES.

1 THERE IS CREATED AN ACCOUNT IN THE STATE SPECIAL REVENUE
2 FUND ESTABLISHED IN 17-2-102. ALL MONEY RECEIVED FROM
3 DAY-CARE AND PRESCHOOL PROGRAM LICENSING FEES MUST BE
4 DEPOSITED IN THE ACCOUNT FOR USE OF THE DEPARTMENT IN
5 ADMINISTERING THIS PART.

6 NEW SECTION. SECTION 14. CODIFICATION INSTRUCTION.
7 SECTION 13 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
8 TITLE 53, CHAPTER 4, PART 5.

9 NEW SECTION. Section 15. Extension of authority. Any
10 existing authority of the department of social and
11 rehabilitation services to make rules on the subject of the
12 provisions of this act is extended to the provisions of this
13 act.

-End-