



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB6722

by Rep. Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

225 ILCS 10/4
225 ILCS 10/5

from Ch. 23, par. 2214
from Ch. 23, par. 2215

Amends the Child Care Act of 1969. Requires the Department of Children and Family Services to send a notice to all parents of children residing within or being cared for by a child care facility upon any indicated finding made by the Department during an examination of the facility. Provides that upon any indicated finding by the Department during an examination of a day care center, day care home, or group day care home, a notice of such finding must be posted upon the main door of the day care center, day care home, or group day care home. Requires the Department to post information concerning any indicated findings made during an examination of a day care center, day care home, or group day care home on its Internet website. Provides that there is no rulemaking authority under the amendatory Act, but that the Governor may suggest rules by filing them with the General Assembly and requesting that the General Assembly authorize such rulemaking by law, enact the suggested rules into law, or take other appropriate action in the General Assembly's discretion.

LRB095 22048 RAS 52322 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Child Care Act of 1969 is amended by
5 changing Sections 4 and 5 as follows:

6 (225 ILCS 10/4) (from Ch. 23, par. 2214)

7 Sec. 4. License requirement; application; notice.

8 (a) Any person, group of persons or corporation who or
9 which receives children or arranges for care or placement of
10 one or more children unrelated to the operator must apply for a
11 license to operate one of the types of facilities defined in
12 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any
13 relative who receives a child or children for placement by the
14 Department on a full-time basis may apply for a license to
15 operate a foster family home as defined in Section 2.17 of this
16 Act.

17 (a-5) Any agency, person, group of persons, association,
18 organization, corporation, institution, center, or group
19 providing adoption services must be licensed by the Department
20 as a child welfare agency as defined in Section 2.08 of this
21 Act. "Providing adoption services" as used in this Act,
22 includes facilitating or engaging in adoption services.

23 (b) Application for a license to operate a child care

1 facility must be made to the Department in the manner and on
2 forms prescribed by it. An application to operate a foster
3 family home shall include, at a minimum: a completed written
4 form; written authorization by the applicant and all adult
5 members of the applicant's household to conduct a criminal
6 background investigation; medical evidence in the form of a
7 medical report, on forms prescribed by the Department, that the
8 applicant and all members of the household are free from
9 communicable diseases or physical and mental conditions that
10 affect their ability to provide care for the child or children;
11 the names and addresses of at least 3 persons not related to
12 the applicant who can attest to the applicant's moral
13 character; and fingerprints submitted by the applicant and all
14 adult members of the applicant's household.

15 (c) The Department shall notify the public when a child
16 care institution, maternity center, or group home licensed by
17 the Department undergoes a change in (i) the range of care or
18 services offered at the facility, (ii) the age or type of
19 children served, or (iii) the area within the facility used by
20 children. The Department shall notify the public of the change
21 in a newspaper of general circulation in the county or
22 municipality in which the applicant's facility is or is
23 proposed to be located.

24 (c-5) Upon any indicated finding by the Department during
25 an examination of a child care facility, the Department must
26 send a notice to all parents of children residing within or

1 being cared for by that facility. This notice must provide the
2 parent with information on the exact nature of the finding, the
3 date the finding was made, and the corrective action that the
4 child care facility is required to take in response to the
5 finding. Notwithstanding any other rulemaking authority that
6 may exist, neither the Governor nor any agency or agency head
7 under the jurisdiction of the Governor has any authority to
8 make or promulgate rules to implement or enforce the provisions
9 of this amendatory Act of the 95th General Assembly. If,
10 however, the Governor believes that rules are necessary to
11 implement or enforce the provisions of this amendatory Act of
12 the 95th General Assembly, the Governor may suggest rules to
13 the General Assembly by filing them with the Clerk of the House
14 and the Secretary of the Senate and by requesting that the
15 General Assembly authorize such rulemaking by law, enact those
16 suggested rules into law, or take any other appropriate action
17 in the General Assembly's discretion. Nothing contained in this
18 amendatory Act of the 95th General Assembly shall be
19 interpreted to grant rulemaking authority under any other
20 Illinois statute where such authority is not otherwise
21 explicitly given. For the purposes of this amendatory Act of
22 the 95th General Assembly, "rules" is given the meaning
23 contained in Section 1-70 of the Illinois Administrative
24 Procedure Act, and "agency" and "agency head" are given the
25 meanings contained in Sections 1-20 and 1-25 of the Illinois
26 Administrative Procedure Act to the extent that such

1 definitions apply to agencies or agency heads under the
2 jurisdiction of the Governor.

3 (d) If, upon examination of the facility and investigation
4 of persons responsible for care of children, the Department is
5 satisfied that the facility and responsible persons reasonably
6 meet standards prescribed for the type of facility for which
7 application is made, it shall issue a license in proper form,
8 designating on that license the type of child care facility
9 and, except for a child welfare agency, the number of children
10 to be served at any one time.

11 (e) The Department shall not issue or renew the license of
12 any child welfare agency providing adoption services, unless
13 the agency (i) is officially recognized by the United States
14 Internal Revenue Service as a tax-exempt organization
15 described in Section 501(c)(3) of the Internal Revenue Code of
16 1986 (or any successor provision of federal tax law) and (ii)
17 is in compliance with all of the standards necessary to
18 maintain its status as an organization described in Section
19 501(c)(3) of the Internal Revenue Code of 1986 (or any
20 successor provision of federal tax law). The Department shall
21 grant a grace period of 24 months from the effective date of
22 this amendatory Act of the 94th General Assembly for existing
23 child welfare agencies providing adoption services to obtain
24 501(c)(3) status. The Department shall permit an existing child
25 welfare agency that converts from its current structure in
26 order to be recognized as a 501(c)(3) organization as required

1 by this Section to either retain its current license or
2 transfer its current license to a newly formed entity, if the
3 creation of a new entity is required in order to comply with
4 this Section, provided that the child welfare agency
5 demonstrates that it continues to meet all other licensing
6 requirements and that the principal officers and directors and
7 programs of the converted child welfare agency or newly
8 organized child welfare agency are substantially the same as
9 the original. The Department shall have the sole discretion to
10 grant a one year extension to any agency unable to obtain
11 501(c)(3) status within the timeframe specified in this
12 subsection (e), provided that such agency has filed an
13 application for 501(c)(3) status with the Internal Revenue
14 Service within the 2-year timeframe specified in this
15 subsection (e).

16 (Source: P.A. 94-586, eff. 8-15-05.)

17 (225 ILCS 10/5) (from Ch. 23, par. 2215)

18 Sec. 5. (a) In respect to child care institutions,
19 maternity centers, child welfare agencies, day care centers,
20 day care agencies and group homes, the Department, upon
21 receiving application filed in proper order, shall examine the
22 facilities and persons responsible for care of children
23 therein.

24 (b) In respect to foster family and day care homes,
25 applications may be filed on behalf of such homes by a licensed

1 child welfare agency, by a State agency authorized to place
2 children in foster care or by out-of-State agencies approved by
3 the Department to place children in this State. In respect to
4 day care homes, applications may be filed on behalf of such
5 homes by a licensed day care agency or licensed child welfare
6 agency. In applying for license in behalf of a home in which
7 children are placed by and remain under supervision of the
8 applicant agency, such agency shall certify that the home and
9 persons responsible for care of unrelated children therein, or
10 the home and relatives responsible for the care of related
11 children therein, were found to be in reasonable compliance
12 with standards prescribed by the Department for the type of
13 care indicated.

14 (c) The Department shall not allow any person to examine
15 facilities under a provision of this Act who has not passed an
16 examination demonstrating that such person is familiar with
17 this Act and with the appropriate standards and regulations of
18 the Department.

19 (d) With the exception of day care centers, day care homes,
20 and group day care homes, licenses shall be issued in such form
21 and manner as prescribed by the Department and are valid for 4
22 years from the date issued, unless revoked by the Department or
23 voluntarily surrendered by the licensee. Licenses issued for
24 day care centers, day care homes, and group day care homes
25 shall be valid for 3 years from the date issued, unless revoked
26 by the Department or voluntarily surrendered by the licensee.

1 When a licensee has made timely and sufficient application for
2 the renewal of a license or a new license with reference to any
3 activity of a continuing nature, the existing license shall
4 continue in full force and effect for up to 30 days until the
5 final agency decision on the application has been made. The
6 Department may further extend the period in which such decision
7 must be made in individual cases for up to 30 days, but such
8 extensions shall be only upon good cause shown.

9 (e) The Department may issue one 6-month permit to a newly
10 established facility for child care to allow that facility
11 reasonable time to become eligible for a full license. If the
12 facility for child care is a foster family home, or day care
13 home the Department may issue one 2-month permit only.

14 (f) The Department may issue an emergency permit to a child
15 care facility taking in children as a result of the temporary
16 closure for more than 2 weeks of a licensed child care facility
17 due to a natural disaster. An emergency permit under this
18 subsection shall be issued to a facility only if the persons
19 providing child care services at the facility were employees of
20 the temporarily closed day care center at the time it was
21 closed. No investigation of an employee of a child care
22 facility receiving an emergency permit under this subsection
23 shall be required if that employee has previously been
24 investigated at another child care facility. No emergency
25 permit issued under this subsection shall be valid for more
26 than 90 days after the date of issuance.

1 (g) During the hours of operation of any licensed child
2 care facility, authorized representatives of the Department
3 may without notice visit the facility for the purpose of
4 determining its continuing compliance with this Act or
5 regulations adopted pursuant thereto.

6 (h) Day care centers, day care homes, and group day care
7 homes shall be monitored at least annually by a licensing
8 representative from the Department or the agency that
9 recommended licensure. Upon any indicated finding by the
10 Department during an examination of a day care center, day care
11 home, or group day care home, a notice of such finding must be
12 posted upon the main door of the day care center, day care
13 home, or group day care home. This notice must remain posted
14 until such time as the Department has deemed the finding
15 cleared or corrected and has instructed the center or home that
16 the notice may be removed. The Department shall post
17 information concerning any indicated findings made during an
18 examination of a day care center, day care home, or group day
19 care home on its Internet website. Notwithstanding any other
20 rulemaking authority that may exist, neither the Governor nor
21 any agency or agency head under the jurisdiction of the
22 Governor has any authority to make or promulgate rules to
23 implement or enforce the provisions of this amendatory Act of
24 the 95th General Assembly. If, however, the Governor believes
25 that rules are necessary to implement or enforce the provisions
26 of this amendatory Act of the 95th General Assembly, the

1 Governor may suggest rules to the General Assembly by filing
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5 or take any other appropriate action in the General Assembly's
6 discretion. Nothing contained in this amendatory Act of the
7 95th General Assembly shall be interpreted to grant rulemaking
8 authority under any other Illinois statute where such authority
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13 are given the meanings contained in Sections 1-20 and 1-25 of
14 the Illinois Administrative Procedure Act to the extent that
15 such definitions apply to agencies or agency heads under the
16 jurisdiction of the Governor.

17 (Source: P.A. 89-21, eff. 7-1-95; 89-263, eff. 8-10-95; 89-626,
18 eff. 8-9-96.)