

## LEGISLATIVE BILL 386

Approved by the Governor February 20, 1987

Introduced by Health & Human Services Committee, Wesely, 26, Chairperson; Lynch, 13; Schellpeper, 18; Goodrich, 20; Morehead, 30; Beyer, 3; Pappas, 42

AN ACT relating to the care of children; to amend sections 71-1901 to 71-1903, 71-1907, and 71-1912, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to eliminate provisions relating to child care centers; to authorize investigation of certain household members; to change a statutory reference; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-1901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1901. As used in sections 71-1901 to 71-1905:

(1) Person shall include a partnership, firm, agency, association, or corporation;

(2) Child shall mean an unemancipated minor;

(3) Child care shall mean engaged in the business of exercising twenty-four hour daily care, supervision, custody, or control over children, under sixteen years of age, for compensation or hire, in lieu of the care or supervision normally exercised by parents in their own home but shall not include casual care at irregular intervals or early childhood programs, as defined in section 71-1910; and

(4) ~~(3)~~ Department shall mean the Department of Social Services of the State of Nebraska.

Sec. 2. That section 71-1902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1902. No person shall furnish, or offer to furnish, child care for two or more children from different families without having in full force and effect a written license issued by the department, upon such terms and conditions as may be prescribed by general rules and regulations adopted and promulgated by the department. All licenses issued under sections

71-1901 to 71-1905 shall expire one year from the date of issuance, and shall be subject to renewal under the same terms and conditions as the original license. For the issuance or renewal of each license, the department shall charge a fee of five dollars for foster family homes, twenty-five dollars for group homes, ~~or child care centers with less than fifty children, fifty dollars for child care centers with fifty or more children,~~ twenty-five dollars for child-caring agencies, and twenty-five dollars for child-placing agencies. A license may be revoked for cause, after notice and hearing, in accordance with such rules and regulations as may be prescribed by the department.

For purposes of this section:

(1) Foster family home shall mean any home which provides twenty-four hour care to children, ~~under sixteen years of age, who are not related to the foster parent, but not including the foster family's own children or relatives' children regularly in the home who are under thirteen years of age by blood or adoption;~~

(2) Group home shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home and which is designed to provide twenty-four hour care for individuals in a residential setting;

(3) ~~Child care center shall mean a facility that provides child care for more than seven children over six weeks of age and under thirteen years of age;~~

(4) Child-caring agency shall mean an organization which is incorporated for the purpose of providing care for children in buildings maintained by the organization for that purpose; and

(4) ~~(5)~~ Child-placing agency shall mean an organization which is authorized by its articles of incorporation and by its license to place children in foster family homes.

Sec. 3. That section 71-1903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1903. ~~The department, before issuance of a license, Before issuance of a license, the department shall cause such investigation to be made, as it shall deem deems necessary, to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the business and the place where the child care is to be furnished are such as to insure the proper care and treatment of children. The~~

department may investigate the character of prospective or existing licensees, any member of such a licensee's household, and the staff and employees of child care facilities by making a national criminal records check. The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and payable by the licensee or applicant for a license. The department may request the Department of Health to inspect such places to determine if they meet sanitation and health standards set by the Department of Health for the care and protection of such children. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or environmental health personnel, as appropriate. The department may also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing child care to see that such business is being properly conducted.

Sec. 4. That section 71-1907, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1907. Any person furnishing child care who is subject to licensure under section 71-1902, when transporting, in a motor vehicle, any children for whom care is being furnished, shall use an approved child passenger restraint system for each child, except that a seat safety belt may be used for any child over age one. Any person violating this section shall be guilty of an infraction as defined in section 39-602 ~~29-431~~ and shall have his or her license to furnish child care revoked or suspended by the Department of Social Services. For purposes of this section, approved child passenger restraint system shall mean a restraint system which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Safety Administration as of July 17, 1982.

Sec. 5. That section 71-1912, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1912. The department shall adopt and promulgate rules and regulations establishing standards for the physical well-being, safety, and protection of children pursuant to the licensing of providers. Such standards shall insure that the provider of a program is providing proper care for, and treatment of, the children served and that such care and treatment is consistent with the children's physical well-being,

safety, and protection. Such standards shall not require the use of any specific instructional materials or affect the contents of any course of instruction which may be offered by a program. Before issuance or renewal of a license, the department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the department. The department may investigate the character of prospective or existing licensees, any member of the licensee's household, and the staff and employees of early childhood programs by making a national criminal records check. The department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

Sec. 6. That original sections 71-1901 to 71-1903, 71-1907, and 71-1912, Reissue Revised Statutes of Nebraska, 1943, are repealed.