

1 AN ACT relating to child care.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 199.894 is amended to read as follows:

4 As used in KRS 199.892 to 199.896, unless the context otherwise requires:

5 (1) "Cabinet" means the Cabinet for Health and Family Services;

6 (2) **"Contract substitute staff member" means a person who temporarily assumes the**  
7 **duties of a regular staff person at a child-care center and receives payment from**  
8 **a temporary contract with the child-care center**~~["Secretary" means secretary for~~  
9 ~~health and family services];~~

10 (3) "Child-care center" means any child-care center that provides full- or part-time  
11 care, day or night, to four (4) or more children in a nonresidential setting who are  
12 not the children, grandchildren, nieces, nephews, or children in legal custody of the  
13 operator. "Child-care center" shall not include any child-care facility operated by a  
14 religious organization while religious services are being conducted, or a youth  
15 development agency. For the purposes of this section, "youth development agency"  
16 means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which  
17 operates continuously throughout the year as an outside-school-hours center for  
18 youth who are six (6) years of age or older, and for which there are no fee or  
19 scheduled-care arrangements with the parent or guardian of the youth served;

20 (4) "Department" means the Department for Community Based Services;~~and~~

21 (5) "Family child-care home" means a private home that is the primary residence of an  
22 individual who provides full or part-time care day or night for six (6) or fewer  
23 children who are not the children, siblings, stepchildren, grandchildren, nieces,  
24 nephews, or children in legal custody of the provider; **and**

25 **(6) "Secretary" means the secretary of the Cabinet for Health and Family Services.**

26 ➔Section 2. KRS 199.8943 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Federally funded time-limited employee" has the same meaning as in KRS  
2 18A.005;
- 3 (b) "Primary school program" has the same meaning as in KRS 158.031(1); and  
4 (c) "Public-funded" means a program which receives local, state, or federal  
5 funding.
- 6 (2) The Early Childhood Advisory Council shall, in consultation with early care and  
7 education providers, the cabinet~~[ for Health and Family Services]~~, and others,  
8 including but not limited to child-care resource and referral agencies and family  
9 resource centers, Head Start agencies, and the Kentucky Department of Education,  
10 develop a quality-based graduated early care and education program rating system  
11 for public-funded licensed child-care and certified family child-care homes, public-  
12 funded preschool, and Head Start, based on but not limited to:
- 13 (a) Classroom and instructional quality;  
14 (b) Administrative and leadership practices;  
15 (c) Staff qualifications and professional development; and  
16 (d) Family and community engagement.
- 17 (3) (a) The cabinet~~[ for Health and Family Services]~~ shall, in consultation with the  
18 Early Childhood Advisory Council, promulgate administrative regulations in  
19 accordance with KRS Chapter 13A to implement the quality-based graduated  
20 early childhood rating system for public-funded child-care and certified  
21 family child-care homes developed under subsection (2) of this section.
- 22 (b) The Kentucky Department of Education shall, in consultation with the Early  
23 Childhood Advisory Council, promulgate administrative regulations in  
24 accordance with KRS Chapter 13A to implement the quality-based graduated  
25 early childhood rating system, developed under subsection (2) of this section,  
26 for public-funded preschool.
- 27 (c) The administrative regulations promulgated in accordance with paragraphs (a)

1 and (b) of this subsection shall include:

- 2 1. Agency time frames of reviews for rating;
- 3 2. An appellate process under KRS Chapter 13B; and
- 4 3. The ability of providers to request reevaluation for rating.

5 **(d) The cabinet shall in consultation with the Early Childhood Advisory**  
6 **Council and as part of the quality-based graduated early childhood rating**  
7 **system developed under subsection (2) of this section, develop and offer**  
8 **school-age training that counts towards quality standards and meets**  
9 **licensing requirements for child-care centers.**

10 (4) The quality-based early childhood rating system shall not be used for enforcement  
11 of compliance or in any punitive manner.

12 (5) The Early Childhood Advisory Council, in consultation with the Kentucky Center  
13 for Education and Workforce Statistics, the Kentucky Department of Education,  
14 and the cabinet~~[for Health and Family Services]~~, shall report by October 1 of each  
15 year to the Interim Joint Committee on Education on the implementation of the  
16 quality-based graduated early childhood rating system. The report shall include the  
17 following quantitative performance measures as data becomes available:

- 18 (a) Program participation in the rating system;
- 19 (b) Ratings of programs by program type;
- 20 (c) Changes in student school-readiness measures;
- 21 (d) Longitudinal student cohort performance data tracked through student  
22 completion of the primary school program; and
- 23 (e) Long-term viability recommendations for sustainability at the end of the Race  
24 to the Top-Early Learning Challenge grant.

25 (6) By November 1, 2017, the Early Childhood Advisory Council and the cabinet~~[for~~  
26 ~~Health and Family Services]~~ shall report on recommendations and plans for  
27 sustaining program quality after the depletion of federal Race to the Top-Early

1 Learning Challenge grant funds.

2 (7) Any federally funded time-limited employee personnel positions created as a result  
3 of the federal Race to the Top-Early Learning Challenge grant shall be eliminated  
4 upon depletion of the grant funds.

5 ➔Section 3. KRS 199.896 is amended to read as follows:

6 (1) No person, association, or organization shall conduct, operate, maintain, or  
7 advertise any child-care center without obtaining a license as provided in KRS  
8 199.892 to 199.896.

9 (2) The cabinet may promulgate administrative regulations pursuant to KRS Chapter  
10 13A relating to license fees and may, in the administrative regulations, establish  
11 standards of care and service for a child-care center, criteria for the denial of a  
12 license if criminal records indicate convictions that may impact the safety and  
13 security of children in care, and procedures for enforcement of penalties which are  
14 not in contravention of this section.

15 (3) Each initial application for a license shall be made to the cabinet and shall be  
16 accompanied by a fee that shall not exceed administrative costs of the program to  
17 the cabinet and shall be renewable annually upon expiration and reapplication when  
18 accompanied by a renewal fee that shall not exceed administrative costs of the  
19 program to the cabinet. Regular licenses and renewals thereof shall expire one (1)  
20 year from their effective date.

21 (4) No child-care center shall be refused a license or have its license revoked for failure  
22 to meet standards set by the secretary until after the expiration of a period not to  
23 exceed six (6) months from the date of the first official notice that the standards  
24 have not been met. If, however, the cabinet has probable cause to believe that an  
25 immediate threat to the public health, safety, or welfare exists, the cabinet may take  
26 emergency action pursuant to KRS 13B.125. All administrative hearings conducted  
27 under authority of KRS 199.892 to 199.896 shall be conducted in accordance with

1 KRS Chapter 13B.

2 (5) If, upon inspection or investigation, the inspector general finds that a child-care  
3 center licensed under this section has violated the administrative regulations,  
4 standards, or requirements of the cabinet, the inspector general shall issue a  
5 statement of deficiency to the center containing:

6 (a) A statement of fact;

7 (b) A statement of how an administrative regulation, standard, or requirement of  
8 the cabinet was violated; and

9 (c) The timeframe, negotiated with the child-care center, within which a violation  
10 is to be corrected, except that a violation that poses an immediate threat to the  
11 health, safety, or welfare of children in the center shall be corrected in no  
12 event later than five (5) working days from the date of the statement of  
13 deficiency.

14 (6) The cabinet~~[ for Health and Family Services]~~, in consultation with the Office of the  
15 Inspector General, shall establish by administrative regulations promulgated in  
16 accordance with KRS Chapter 13A an informal dispute resolution process through  
17 which a child-care provider may dispute licensure deficiencies that have an adverse  
18 effect on the child-care provider's license.

19 (7) A child-care center shall have the right to appeal to the cabinet~~[ for Health and  
20 Family Services]~~ under KRS Chapter 13B any action adverse to its license or the  
21 assessment of a civil penalty issued by the inspector general as the result of a  
22 violation contained in a statement of deficiency within twenty (20) days of the  
23 issuance of the action or assessment of the civil penalty. An appeal shall not act to  
24 stay the correction of a violation.

25 (8) In assessing the civil penalty to be levied against a child-care center for a violation  
26 contained in a statement of deficiency issued under this section, the inspector  
27 general or the inspector general's designee shall take into consideration the

1 following factors:

2 (a) The gravity of the threat to the health, safety, or welfare of children posed by  
3 the violation;

4 (b) The number and type of previous violations of the child-care center;

5 (c) The reasonable diligence exercised by the child-care center and efforts to  
6 correct the violation; and

7 (d) The amount of assessment necessary to assure immediate and continued  
8 compliance.

9 (9) Upon a child-care center's failure to take action to correct a violation of the  
10 administrative regulations, standards, or requirements of the cabinet contained in a  
11 statement of deficiency, or at any time when the operation of a child-care center  
12 poses an immediate threat to the health, safety, or welfare of children in the center,  
13 and the child-care center continues to operate after the cabinet has taken emergency  
14 action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee  
15 shall take at least one (1) of the following actions against the center:

16 (a) Institute proceedings to obtain an order compelling compliance with the  
17 administrative regulations, standards, and requirements of the cabinet;

18 (b) Institute injunctive proceedings in Circuit Court to terminate the operation of  
19 the center;

20 (c) Institute action to discontinue payment of child-care subsidies; or

21 (d) Suspend or revoke the license or impose other penalties provided by law.

22 (10) Upon request of any person, the cabinet shall provide information regarding the  
23 denial, revocation, suspension, or violation of any type of child-care center license  
24 of the operator. Identifying information regarding children and their families shall  
25 remain confidential.

26 (11) The cabinet shall provide, upon request, public information regarding the  
27 inspections of and the plans of correction for the child-care center within the past

- 1 year. All information distributed by the cabinet under this subsection shall include a  
2 statement indicating that the reports as provided under this subsection from the past  
3 five (5) years are available from the child-care center upon the parent's, custodian's,  
4 guardian's, or other interested person's request.
- 5 (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and  
6 certification applications shall be paid into the State Treasury and credited to a  
7 special fund for the purpose of administering KRS 199.892 to 199.896 including the  
8 payment of expenses of and to the participants in child-care workshops. The funds  
9 collected are hereby appropriated for the use of the cabinet. The balance of the  
10 special fund shall lapse to the general fund at the end of each biennium.
- 11 (13) Any advertisement for child-care services shall include the address of where the  
12 service is being provided.
- 13 (14) All inspections of licensed and unlicensed child-care centers by the cabinet ~~for~~  
14 ~~Health and Family Services~~ shall be unannounced.
- 15 (15) All employees and owners of a child-care center who provide care to children shall  
16 demonstrate within the first three (3) months of employment completion of at least  
17 a total of six (6) hours of orientation in the following areas:
- 18 (a) Basic health, safety, and sanitation;
  - 19 (b) Recognizing and reporting child abuse; and
  - 20 (c) Developmentally appropriate child-care practice.
- 21 (16) All employees and owners of a child-care center who provide care to children shall  
22 annually demonstrate to the department completion of at least six (6) hours of  
23 training in child development. These hours shall include but are not limited to one  
24 and one-half (1.5) hours one (1) time every five (5) years of continuing education in  
25 the recognition and prevention of pediatric abusive head trauma, as defined in KRS  
26 620.020. Training in recognizing pediatric abusive head trauma may be designed in  
27 collaboration with organizations and agencies that specialize in the prevention and

1 recognition of pediatric head trauma approved by the secretary of the cabinet, ~~for~~  
2 ~~Health and Family Services~~ The one and one-half (1.5) hours required under this  
3 section relating to pediatric abusive head trauma shall be included in the current  
4 number of required continuing education hours. Contract substitute staff members  
5 shall be exempt from the provisions of this subsection, except for the one and  
6 one-half (1.5) hours required under this subsection relating to pediatric abusive  
7 head trauma. The one and one-half (1.5) hours required under this section shall  
8 count toward the total six (6) hours of orientation required for contract substitute  
9 staff members.

10 (17) The cabinet ~~for Health and Family Services~~ shall make available either through  
11 the development or approval of a model training curriculum and training materials,  
12 including video instructional materials, to cover the areas specified in subsection  
13 (15) of this section. The cabinet shall develop or approve the model training  
14 curriculum and training materials to cover the areas specified in subsection (15) of  
15 this section.

16 (18) Child-care centers licensed pursuant to this section and family child-care homes  
17 certified pursuant to KRS 199.8982 shall not use corporal physical discipline,  
18 including the use of spanking, shaking, or paddling, as a means of punishment,  
19 discipline, behavior modification, or for any other reason. For the purposes of this  
20 section, "corporal physical discipline" means the deliberate infliction of physical  
21 pain and does not include spontaneous physical contact that is intended to protect a  
22 child from immediate danger.

23 (19) Child-care centers that provide instructional and educational programs for  
24 preschool-aged children that operate for a maximum of twenty (20) hours per week  
25 and that a child attends for no more than fifteen (15) hours per week shall:

26 (a) Notify the cabinet in writing that the center is operating;

27 (b) Meet all child-care center licensure requirements and administrative



- 1 regulations related to employee background checks;
- 2 (c) Meet all child-care center licensure requirements and administrative  
3 regulations related to tuberculosis screenings; and
- 4 (d) Be exempt from all other child-care center licensure requirements and  
5 administrative regulations.
- 6 (20) Child-care centers that provide instructional and educational programs for  
7 preschool-aged children that operate for a maximum of twenty (20) hours per week  
8 and that a child attends for no more than ten (10) hours per week shall be exempt  
9 from all child-care licensure requirements and administrative regulations.
- 10 ~~(21) Instructional programs for school-age children shall be exempt from all child-care~~  
11 ~~licensure administrative regulations if the following criteria are met:~~
- 12 ~~(a) The program provides direct instruction in a single skill, talent, ability,~~  
13 ~~expertise, or proficiency;~~
- 14 ~~(b) The program does not provide services or offerings that are not directly~~  
15 ~~related to the single talent, ability, expertise, or proficiency;~~
- 16 ~~(c) The program operates outside the time period when school is in session,~~  
17 ~~including before or after school hours, holidays, school breaks, teaching~~  
18 ~~planning days, or summer vacation;~~
- 19 ~~(d) The program does not advertise or otherwise represent that the program is a~~  
20 ~~licensed child-care center or that the program offers child-care services;~~
- 21 ~~(e) The program informs the parent or guardian:~~
- 22 1. ~~That the program is not licensed by the cabinet; and~~
- 23 2. ~~About the physical risks a child may face while participating in the~~  
24 ~~program; and~~
- 25 ~~(f) The program conducts the following background checks for all program~~  
26 ~~employees and volunteers who work with children:~~
- 27 1. ~~Check of the child abuse and neglect records maintained by the cabinet;~~

1                   and

2                   2. ~~In state criminal background information check from the Justice and~~  
3                   ~~Public Safety Cabinet or Administrative Office of the Courts.~~

4 ~~(22)~~ Directors and employees of child-care centers in a position that involves  
5 supervisory or disciplinary power over a minor, or direct contact with a minor, shall  
6 submit to a criminal record check in accordance with KRS 199.8965.

7 ~~(22)~~~~(23)~~ A director or employee of a child-care center may be employed on a  
8 probationary status pending receipt of the criminal background check. Application  
9 for the criminal record of a probationary employee shall be made no later than the  
10 date probationary employment begins.

11 ~~(23)~~~~(24)~~ **To the extent allowable under federal and other state law, a background**  
12 **check shall only be required once per year for a contract substitute staff member**  
13 **regardless of noncontinuous employment.**

14 ~~(24)~~ The cabinet shall promulgate administrative regulations to identify emergency care  
15 providers who provide essential child-care services during an identified state of  
16 emergency.

17 (25) Notwithstanding any state law, administrative regulation, executive order, or  
18 executive directive to the contrary, during the 2020 or 2021 state of emergency  
19 declared by the Governor in response to COVID-19, including but not limited to  
20 any mutated strain of the COVID-19 virus, the cabinet shall not establish any  
21 restrictions on capacity for class or group size or the ability to combine classes and  
22 groups for capacity limits in the morning or afternoon that is below the number that  
23 was in effect on February 1, 2020.