

biennial report required under section 10, subdivision 8, recommendations regarding the necessity for continuing this exception beyond July 1, 1989.

Sec. 23. **SUNSET.**

The new sections and subdivisions and amendments enacted by sections 1 to 22 are repealed July 1, 1987, unless adequate funding is made available to meet the cash-flow and capital needs of the regional treatment center chemical dependency units as determined by the commissioner in consultation with the chief executive officers of those units.

Sec. 24. **EFFECTIVE DATE.**

Section 10, subdivision 6, and section 15 are effective the day following final enactment. Sections 1 to 9; 10, subdivisions 1 to 5, 7, and 8; 11 to 14; and 16 to 23 are effective July 1, 1987.

Approved March 21, 1986

CHAPTER 395—S.F.No. 1581

An act relating to human services; setting forth legislative direction for child care services; excluding certain programs from licensing requirements; authorizing a study; ensuring safe, affordable, quality child care; directing the commissioner of human services to provide information to providers and consumers of day care; suspending administrative authority until further consideration by the legislature; indemnifying counties; amending Minnesota Statutes 1984, sections 245.791; 466.01, by adding subdivisions; 466.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 245 and 466.

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

Section 1. Minnesota Statutes 1984, section 245.791, is amended to read:

245.791 **EXCLUSIONS.**

Sections 245.781 to 245.812 shall not apply to:

- (1) Day care or residential care provided by a relative to related persons;
- (2) Day care or residential care provided for a cumulative total of less than 30 days in any 12-month period;
- (3) Day care provided for persons from a single unrelated family for any length of time;
- (4) A home caring for a person placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years after placement;

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(5) A licensed hospital whose psychiatric or chemical dependency program is located within the hospital;

(6) A nursing home, hospital, or boarding care home, licensed by the state commissioner of health, except that an identifiable unit of such a facility which regularly provides care for more than five adults defined as persons in Minnesota Statutes, section 245.782, subdivision 2, who are not residents or patients of the nursing home, hospital, or boarding care home, must be licensed under sections 245.781 to 245.812;

(7) A day care or residential program serving any number of adults who are not defined as persons under Minnesota Statutes, section 245.782, subdivision 2;

(8) A sheltered workshop day program, certified by the state board of education;

(9) A work activity day program, certified by the state board of education;

(10) A work-wage home providing care for one nonrelated child who has reached his sixteenth birthday and who has been independently placed for purposes of education or employment;

(11) A school under the general supervision of the commissioner of education or a local education agency;

(12) A residential or day care facility under the direct control and supervision of a local education agency or a state agency other than the commissioner;

(13) Day care provided for periods of no more than three hours per day for any person while his relatives are in the same building, or can be present in the same building within 30 minutes;

(14) Facilities which in the judgment of the commissioner of education are operated for the primary purpose of educating children shall be exempt from these rules and regulations except insofar as the regulations affect the health and safety of the children therein. The classrooms shall meet the applicable standards of the commissioner of public safety and state commissioner of health;

(15) Programs not located in family or group family day care homes and whose primary purpose is to provide activities outside the regular school day for children age five and over.

Sec. 2. ~~[245.88]~~ CITATION.

Sections 3 to 15 may be cited as the "child care services act." The child care services act is to be read in conjunction with the public welfare licensing act and with sections 245.83 to 245.87.

Sec. 3. ~~[245.881]~~ PURPOSE.

The legislature recognizes that the availability of child care is essential to

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the welfare of the state. Further, the legislature recognizes that the regulation of child care services affects the availability of child care. It is the intent of the legislature that child care standards and regulatory methods facilitate the availability of safe, affordable, quality child care throughout the state.

Sec. 4. [245.882] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 3 to 15.

Subd. 2. AGENCY. "Agency" means the county social or human service agency governed by the board of county commissioners.

Subd. 3. APPLICANT. "Applicant" means an applicant for licensure as a day care provider under Minnesota Rules, parts 9545.0315 to 9545.0445.

Subd. 4. CHILD. "Child" has the definition given in section 245.83, subdivision 3.

Subd. 5. CHILD CARE SERVICES. "Child care services" has the definition given in section 245.83, subdivision 2.

Subd. 6. COMMISSIONER. "Commissioner" means the commissioner of human services.

Subd. 7. DAY CARE. "Day care" means the care of a child outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subd. 8. DAY CARE RULE. "Day care rule" means any rule promulgated under section 245.802 to regulate day care as defined in this section.

Subd. 9. CONSUMER. "Consumer" means a parent who places a child in day care.

Subd. 10. DEPARTMENT. "Department" means the department of human services.

Subd. 11. PARENT. "Parent" means a person who has the legal responsibility for a child such as the child's mother, father, or legally appointed guardian.

Subd. 12. PROVIDER. "Provider" means the day care license holder and primary caregiver in a family or group family facility.

Sec. 5. [245.883] RULES.

Rules for family day care and group family day care homes must be adopted in consultation with representatives of counties and with families who reflect the diversity of families who use day care, including families from urban, suburban, and rural communities, and with representatives of those who operate day care

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homes in urban, suburban, and rural communities. In addition, the commissioner shall:

(1) summarize day care rules in language understandable to the general public and provide a copy of each rule and its summary to each agency and provider;

(2) develop and distribute to providers and applicants information, in language understandable to the general public, that:

(i) describes services offered to applicants by the department under section 245.783, subdivision 1;

(ii) summarizes procedures for appealing a denial, revocation, suspension, or nonrenewal of license as set forth in section 245.801 and in rules promulgated by the commissioner;

(iii) explains penalties for failure to license a day care facility or failure to take corrective action as set forth in section 245.803; and

(iv) explains the necessity of maintaining and providing access to records as set forth in section 245.804;

(3) provide an information service to consumers and providers that interprets day care rules;

(4) ensure that day care rules are interpreted uniformly throughout the state by providing information, training, and technical assistance to licensing agencies prior to implementing a day care rule or any revision to a day care rule, and by developing and implementing certification standards and reviewing annually each county agency for compliance with certification standards; and

(5) conduct a thorough review of the relevant professional literature, identify objectively validated predictors of service outcomes, and incorporate these predictors in rules adopted under this section, to the extent feasible and appropriate.

Sec. 6. [245.884] STANDARDS AND REGULATORY METHODS.

In writing and enforcing day care rules, the commissioner shall identify, and when feasible and appropriate, incorporate objectively validated indicators of quality day care; methods for establishing child/staff ratios that take into consideration the age distribution of children in day care; and methods for establishing safety standards for day care facilities that take into consideration the findings of empirical studies of fire detection factors, fire spread factors, and evacuation of day care homes in case of fire. The commissioner shall provide an information service that will interpret day care rules and provide assistance to consumers and providers. To the extent feasible and appropriate, the commissioner shall identify and incorporate alternative methods of day care regulation that:

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(1) increase the variety of day care available to consumers by expanding the types and categories of licensure, including the use of conditional and restricted licenses;

(2) establish a substantial compliance standard rather than a full or absolute compliance standard;

(3) include providers, consumers, advocacy groups, and experts in relevant professional fields in establishing weighted values that describe the relative importance of compliance with each provision of a day care rule;

(4) incorporate the use of national accreditation as a partial substitute for state licensing;

(5) when appropriate, incorporate performance standards in place of specification standards to allow flexibility in regulation;

(6) set minimum standards for safety, sanitation, and meeting the developmental needs of children; and

(7) use graded licenses as a means of informing consumers about the quality of day care delivered by a provider.

Sec. 7. REPORT.

By January 1, 1987, the commissioner shall submit to the health and human services committees of the legislature a report on the activities and progress undertaken in implementing sections 5 and 6.

Sec. 8. ACTIONS SUSPENDED.

Until July 1, 1987, the commissioner shall adopt no additional rules governing family day care and group family day care except those for which notice was published in the State Register on January 27, 1986.

Sec. 9. CONDITIONAL LICENSE.

Until July 1, 1987, no provider or applicant is required to spend more than \$100 to meet fire safety rules in excess of those required to meet Group "R" occupancies under the Uniform Building Code, chapter 12, as incorporated by reference in Minnesota Rules, part 1305.0100.

When the commissioner determines that an applicant or provider would be required to spend over \$100 for physical changes to ensure fire safety, the commissioner may issue a conditional license when all of the following conditions have been met:

(a) The commissioner shall notify the provider or applicant in writing of the fire safety deficiencies.

(b) The commissioner shall notify the provider or applicant in writing of alternative compliance standards that would correct deficiencies, if available.

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(c) The provider or applicant agrees in writing to notify each parent, on a form prescribed by the commissioner that requires the signature of the parent, of the fire safety deficiencies and the existence of the conditional license.

Sec. 10. [245.885] REGULATION BY LOCAL GOVERNMENT.

The authority of local units of government to establish requirements for day care facilities is limited by Minnesota Statutes, section 299F.011, subdivision 4a, clauses (1) and (2).

Sec. 11. STUDY OF CHILD CARE.

Subdivision 1. TASK FORCE. The commissioner shall establish a task force under the auspices of the council on children, youth, and families to study child care services. The task force must include elected representatives from rural and urban counties, the legislature, rural and urban providers and consumers, advocacy groups, and appropriate state agencies.

Subd. 2. FOCUS OF STUDY. The task force shall consider at least the following matters related to day care:

(1) availability of liability insurance for providers;

(2) administration of the federal department of agriculture child care food program, including guidelines for administering the program in a manner that minimizes financial burdens on providers;

(3) identification of objectively validated indicators of quality day care;

(4) methods for establishing child/staff ratios that take into consideration the age distribution of children in day care;

(5) methods for establishing safety standards for day care facilities that consider the findings of empirical studies of fire detection factors, fire spread factors, and evacuation of day care homes in case of fire; and

(6) alternative methods of day care regulation that increase the variety of day care available to consumers and increase the types and categories of licensure, including conditional and restricted licenses.

Subd. 3. REPORT ON STUDY OF CHILD CARE. By January 1, 1987, the council on children, youth, and families shall submit to the health and human services committees of the legislature a report containing the findings and recommendations of the task force and proposals for legislative action. To the extent possible, the task force shall use existing research and published information in conducting the study and compiling the report.

Subd. 4. ASSISTANCE TO THE TASK FORCE. At the request of the council on children, youth, and families, state agencies and legislative research offices shall provide assistance to the task force.

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Sec. 12. Minnesota Statutes 1984, section 466.01, is amended by adding a subdivision to read:

Subd. 4. For the purposes of sections 466.01 to 466.15, "day care facility" has the meaning given it in section 245.782, subdivision 5.

Sec. 13. Minnesota Statutes 1984, section 466.01, is amended by adding a subdivision to read:

Subd. 5. For the purposes of sections 466.01 to 466.15, "provider" has the meaning given it in section 4, subdivision 12.

Sec. 14. Minnesota Statutes 1984, section 466.03, is amended by adding a subdivision to read:

Subd. 6d. LICENSING OF PROVIDERS. A claim against a municipality based on the failure of a provider to meet the standards needed for a license to operate a day care facility, as defined in section 245.782, subdivision 5, for children, unless the municipality had actual knowledge of a failure to meet licensing standards that resulted in a dangerous condition that foreseeably threatened the plaintiff.

Sec. 15. [466.131] INDEMNIFICATION BY STATE.

Until July 1, 1987, a municipality is an employee of the state for purposes of the indemnification provisions of section 3.736, subdivision 9, when the municipality is required by the public welfare licensing act and rules promulgated under it to inspect or investigate a provider. After July 1, 1987, a municipality is an employee of the state for purposes of the indemnification provisions of section 3.736, subdivision 9, when the municipality is required by the public welfare licensing act and rules adopted under it to inspect or investigate a provider, and the municipality has been duly certified under standards for certification developed by the commissioner of human services.

Sec. 16. EFFECTIVE DATE.

Sections 1 to 15 are effective the day following final enactment.

Sec. 17. SUNSET.

The changes made in section 1 are repealed effective June 30, 1987.

Approved March 21, 1986

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