

CHAPTER 335
FORMERLY
HOUSE BILL NO. 366
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AS AMENDED BY HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT
NO. 1

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO CHILD CARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 31, § 342 of the Delaware Code by making deletions as shown by strike through and insertions shown by underline as follows:

§ 342 Definitions.

For the purpose of this act:

(2) “Office of Child Care Licensing” ~~(or “OCCL”)~~ means the Office of Child Care Licensing within the Department of Services for Children, Youth and Their Families.

Section 2. Amend Title 31, § 344 of the Delaware Code by making deletions as shown by strike through and insertions shown by underline as follows:

§ 344 Child care licenses; investigations; requirements; notice; hearings and appeals.

(a) No person may conduct child care, nor may any institution, agency, association or organization conduct child care, unless first having obtained a license from the Office of Child Care Licensing. Such license shall expire 1 year from the date it is issued unless renewed.

(b) In the case of a person conducting child care, no license shall be issued to such person until the Office of Child Care Licensing has made a thorough investigation and has determined in accordance with reasonable standards:

(1) The good character and intention of the applicant or applicants;

(2) That the individual home or facility meets the physical, social, moral, mental and educational needs of the average child;

(3) Whether the rules and requirements of the Office of Child Care Licensing are properly met; and

(4) That the required criminal background checks are completed and approved.

(c) In the case of an institution, agency, association or organization, no license shall be issued until the Office of Child Care Licensing has made a thorough investigation and has made a favorable determination of:

(1) The good character and intention of the applicant or applicants;

(2) The present and prospective need of the service rendered;

(3) The employment of capable, trained and experienced workers;

(4) Sufficient financial backing to ensure effective work;

(5) The probability of the service being continued for a reasonable period of time;

(6) Whether the methods used and disposition made of the children served will be to their best interests and that of society;

(7) Whether the rules and requirements of the Office of Child Care Licensing are properly met; and

(8) That the required criminal background checks are completed and approved.

(d) This section shall not apply to any institution, agency, association or organization under state ownership and control, nor shall it apply to any maternity ward of a general hospital.

(e) Before any license issued under this chapter is revoked or a license application is denied, notice shall be given in writing to the holder of the license setting forth the particular reasons for such action.

(1) Such revocation or license application denial shall become effective 30 business days after the date of the receipt by certified mail, regular U.S. mail or personal service of the notice, unless the applicant or licensee within 10 business days from the date of the receipt of such notice gives written notice to the Office of Child Care Licensing requesting a hearing, in which case the proposed action shall be deemed to be suspended.

(2) If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before a hearing officer designated by the Department of Services for Children, Youth and their Families in accordance with §10125 of Title 29.

(3) At any time during, or prior to the hearing, the Office of Child Care Licensing may rescind any notice upon being satisfied that the reasons for revocation or license application denial have been or will be removed.

(f) The procedure governing hearings authorized by this section shall be in accordance with § 10125 of Title 29 and regulations promulgated by the Department of Services for Children, Youth and their Families.

(g) A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to this section. A copy or copies of the transcript may be obtained by a party upon payment of the cost of preparing the transcript. Witnesses may be subpoenaed by either party.

(h) Within 10 business days of the date of the revocation or license application denial hearing, or within 5 business days of the date of a suspension hearing, the hearing officer will issue Recommendations to the Secretary of the Department of Services for Children, Youth and their Families, with a copy to each party, which shall include:

- (1) A brief summary of the evidence and recommended findings of fact based upon the evidence;
- (2) Recommended conclusions of law; and
- (3) Recommended decision.

(i) The Secretary of the Department of Services for Children, Youth and their Families shall accept, deny, or accept in part, and/or deny in part, the Recommendations of the Hearing Officer in the case and issue a final decision within 10 business days of the date of mailing of the Recommendations.

(j) A copy of the decision of the Department setting forth the finding of facts and the particular reasons for the decision shall be sent by certified mail, regular U.S. mail or served personally upon the applicant or licensee. The decision shall become final 10 business days after it is so mailed or served. The applicant or licensee shall have 30 business days in which to appeal the decision to the Superior Court as provided in this section. The final decision of the Secretary will not be stayed pending appeal unless the Court so determines pursuant to § 10144 of Title 29.

(k) Any applicant or licensee who is dissatisfied with the decision of the Department as a result of the hearing provided in this section, may, within 30 business days after the mailing or service of the notice of decision as provided in said section, file a notice of appeal to the Superior Court in the office of the Prothonotary of the Superior Court of the county in which the child care facility is located or to be located, and serve a copy of said notice of appeal upon the Department. The Department shall promptly certify and file with the Court a copy of the record and decision, including the transcript of the hearings on which the decision is based. Proceedings thereafter shall be governed by the Rules of the Superior Court of the State. This review shall be in accordance with the provisions of § 10142 of Title 29.

(l) Emergency Suspension Order: If the health, safety or well-being of children in care of a licensee is in serious or imminent danger, the Office of Child Care Licensing may immediately suspend the license on a temporary basis without notice.

(1) Such emergency suspension may be verbal or written and the licensee shall cease all operation as stated in the emergency suspension order.

(2) Any verbal suspension order shall be followed by a written emergency suspension order within 3 business days.

(3) The order shall be temporary and state the reason(s) for the suspension.

(4) Within 10 business days of the issuance of the suspension order, the licensee may give written notice to the Office of Child Care Licensing requesting a hearing. This hearing will be scheduled within 10 business days of the receipt of the request.

(5) If no hearing is requested as provided above, the temporary order becomes a final order.

(6) At any time during, or prior to the hearing, the Office of Child Care Licensing may reinstate the license upon being satisfied that the reasons for the Emergency Suspension Order have been removed.

Approved July 21, 2014