

LAWS OF DELAWARE  
VOLUME 83  
CHAPTER 280  
151st GENERAL ASSEMBLY  
FORMERLY  
SENATE BILL NO. 198  
AS AMENDED BY  
SENATE AMENDMENT NO. 1  
AND  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLES 10, 11, 13, 14, 16, 29, AND 31 OF THE DELAWARE CODE RELATING TO THE OFFICE OF CHILD CARE LICENSING.

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

Section 1. Amend Chapter 9, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 901. Definitions.

(8) “Dependency” or “dependent child” means that a person:

a. Is responsible for the care, custody, ~~and~~/or control of the child; and

b. Does not have the ability ~~and~~/or financial means to provide for the care of the child; and

1. Fails to provide necessary care with regard to: food, clothing, shelter, education, health care, medical care or other care necessary for the child’s emotional, physical or mental health, or safety and general well-being; or

2. The child is living in the home of an “adult individual” who fails to meet the definition of “relative” in this section on an extended basis without an assessment by DSCYF, or ~~its licensed agency~~ an agency licensed by the Department of Education, Office of Child Care Licensing; or

3. The child has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.

(13) Institutional child abuse or neglect” ~~is~~ means child abuse or neglect which has occurred to a child in the DSCYF’s custody ~~and/or or placed~~ occurred in a facility, ~~center~~ center, or home ~~operated, contracted or licensed~~ that is operated or contracted by the DSCYF, or licensed by the Department of Education, Office of Child Care Licensing.

Section 2. Amend Chapter 85, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8564. Adult Abuse Registry check.

(a) Definitions. — As used in this section:

(3) “Child care facility” means any child care facility that is required to be licensed by the Department of ~~Services for Children, Youth and Their Families.~~ Education, Office of Child Care Licensing.

Section 3. Amend Chapter 9, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 901. Definitions.

(12) “Licensed agency” means any agency granted a license by the Department of Education, Office of Child Care Licensing to provide adoption services in the State.

Section 4. Amend Chapter 11, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1101. Definitions.

(8) “Licensed agency” means any agency granted a license by the Department of Education, Office of Child Care Licensing to place children for adoption.

Section 5. Amend Chapter 1, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 121. General powers of the Department of Education.

(d) The Department’s Office of Child Care Licensing shall exercise general control and supervision to license, register, and monitor all residential and nonresidential child care facilities, including family child care homes, large family child care homes, child care centers, child placing agencies, residential child care facilities, youth camps that accept Purchase of Care, early education programs for children below the grade of kindergarten that are operated by public or private schools, and day treatment programs unless otherwise exempted by law; provided however, that no license for a residential or nonresidential child care facility to be operated within the corporate limits of the City of Wilmington may be granted until the applicant has provided the Department with verification of licensure by the City of Wilmington to operate a child care facility.

Section 6. Amend Chapter 30, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3003. Organization and composition.

(a) The Delaware Early Childhood Council (ECC) shall be appointed by the Governor upon recommendation by the Interagency Resource Management Committee and shall:

(1) Represent the racial, ~~economic~~ economic, and geographic diversity of the ~~State~~; State.

(2) Serve for staggered, renewable terms of 3 years, except in the case of public employees continuing in the same designated ~~position~~; and position.

(3) Consist of the following members:

a. Two center-based early care and education ~~providers~~; providers.

b. One family-home-based early care and education ~~provider~~; provider.

c. One parent whose child participates in early childhood ~~services~~; services.

d. One Delaware Head Start/Early Childhood Assistance Program Association ~~representative~~; representative.

e. One representative of a statewide early care and education resource and referral ~~agency~~; agency.

f. Two representatives from advocacy organizations focused on children’s health and ~~well-being~~; well-being.

g. One representative of the Delaware Association for the Education of Young ~~Children~~; Children.

h. One public school district ~~superintendent~~; superintendent.

i. One higher education representative who also serves on the P-20 ~~Council~~; Council.

j. One business community ~~representative~~; representative.

k. Two community ~~members~~; members.

l. One representative of the General ~~Assembly~~; Assembly.

m. The State Director of Head Start ~~Collaboration~~; Collaboration.

n. A representative of the Delaware Department of Health and Social Services, representing children’s health, child care subsidy, and Part C of Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1431 et seq.]; seq.

o. A representative of the Delaware Department of Services for Children, Youth and Their Families, representing child mental health, ~~child care licensing~~, and family ~~services~~; services.

p. A representative of the Delaware Department of Education, representing child care licensing, early childhood professional development, § 619 of IDEA [20 U.S.C. § 1419], and State early learning ~~guidelines; and~~ guidelines.

q. Ex officio, nonvoting members shall include the director of the Early Development and Learning Resource Center of the Department of Education, the chair of the Family Support Coordinating Council, and the director of the State's Institute for Excellence in Early Childhood Education. The ECC may appoint ex officio members and advisors to assist them in meeting their responsibilities.

Section 7. Amend Chapter 9, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 929. Removal of name from the Child Protection Registry.

(e) Removal from the Child Protection Registry means only that the person's name has been removed from the Registry and may no longer be reported to employers pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31. Notwithstanding removal from the Registry, the person's name and other case information remains in the Division's internal information system as substantiated for all other purposes, including, ~~but not limited to,~~ the Division's use of the information for historical, ~~treatment~~ treatment, and investigative purposes, ~~child-care licensing decisions,~~ foster and adoptive parent decisions, reporting to law-enforcement authorities, the Department of Education Office of Child Care Licensing's use for child-care licensing decisions, or any other purpose set forth in § 906(e) of this title.

Section 8. Amend Chapter 90, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9003. Powers, ~~duties~~ duties, and functions.

(a) The Department of Services for Children, Youth and Their Families ~~shall have~~ has the following powers, ~~duties~~ duties, and functions:

(1) To provide to children, ~~youth~~ youth, and their families a comprehensive and effective statewide program of services for children and youth who have been committed to the Department or placed in the care of the Department by the Court, referred to the Department by parents, ~~ageneies~~ agencies, or other individuals, or who have otherwise voluntarily applied to the Department for ~~serviees;~~ services.

(2) To provide services to children, ~~youth~~ youth, and their families to prevent children and youth from becoming abused, neglected, ~~dependent~~ dependent, and delinquent, as defined under existing law, and to prevent mental illness and emotional disorders among children and ~~youth;~~ youth.

(3) a. To provide for a variety of facilities and services to children, ~~youth~~ youth, and their families which ~~shall include, but not be limited to~~ includes the following:

1. Protective ~~serviees;~~ services.
2. Preplacement, preventive ~~serviees~~ services, and reunification ~~serviees;~~ services.
3. Home-based ~~serviees;~~ services.
4. Mental health outpatient ~~serviees;~~ services.
5. Drug and alcohol outpatient ~~serviees;~~ services.
6. Residential and institutional ~~facilities;~~ facilities.
7. Probation, ~~aftercare~~ aftercare, and follow-up ~~serviees;~~ services.
8. Adoption and permanent placement ~~serviees;~~ services.
9. Evaluation, ~~diagnostie~~ diagnostic, and treatment ~~serviees;~~ services.

10. Foster care ~~services;~~ services.

11. Independent living ~~services;~~ services.

12. A continuum of residential mental health services, which ~~shall include, but not be limited to,~~ includes inpatient psychiatric hospitalization for all children requiring such care, mental health residential treatment ~~centers~~ centers, and specialized mental health treatment services in other group-care facilities and foster ~~homes;~~ homes.

b. The Division of Family Services will provide family preservation services to those families whose children are at imminent risk of out-of-home placement when it has determined that out-of-home placement can be avoided; provided, however, that the Division's highest priority in cases of abuse and neglect where an investigation is required pursuant to § 906 of Title 16 ~~shall be~~ is the health and safety of the child and nothing herein will prevent the Division from removing a child from the child's home when it has determined that the child's safety and well-being may be jeopardized by remaining in the family ~~home;~~ home.

(4) To prepare and maintain a written case plan for each child under its supervision or custody, which ~~shall~~ must include ~~but not be limited to~~ a description of the child's needs, the care and treatment of the child, and any other services to be provided to the child and the child's family; each case plan must be designed to achieve any placement of the child outside of the child's home in the least restrictive setting available and in close proximity to the child's home, consistent with the best interests and special needs of the ~~child;~~ child.

(5) To conduct a written review at least every 6 months of the case plan for each child under its supervision or custody for the purpose of determining whether the plan is ~~appropriate;~~ appropriate.

(6) To develop a central case management system which ~~will provide~~ provides coordinated information on client progress, including the client's entry and exit from the system, assessment of the client's needs, development and review of the case ~~plan~~ plan, and evaluation and monitoring of the client's ~~progress;~~ progress.

~~(7) To license, register and monitor all residential and nonresidential child care facilities, including but not limited to institutions, child placement and adoption agencies, day care centers, family day care homes, group day care homes, group homes and foster homes unless otherwise exempted by law; provided however, that no license for a residential or nonresidential child care facility to be operated within the corporate limits of the City of Wilmington shall be granted until the applicant has provided the Department with verification of licensure by the City of Wilmington to operate a childcare facility;~~

(7) To approve, license, and monitor foster homes to ensure appropriate care for children and youth in foster care.

(8) To supervise the provision of education in all facilities operated by the Department, with the Education Unit of the Department being considered a local education agency only for purposes of:

a. Any federal, state, or private loan forgiveness programs available to ~~educators;~~ educators.

b. Any federal, state, or private competitive grant made available to, and awarded directly to, local education agencies, provided that any specific qualifying requirements are ~~met;~~ met.

c. Credits issued for youth who complete the requirements for credit-bearing courses provided through the Education Unit in the Department and credits for youth returning from placement by the ~~Department;~~ Department.

(9) To monitor and evaluate all aspects of its service delivery system and document the need for or degree of compliance with standards, ~~polieies~~ policies, and procedures adopted by the ~~Department;~~ Department.

(10) To administer the Interstate Compact on Juveniles and the Interstate Compact on Child ~~Placement;~~ Placement.

(11) To establish, ~~implement~~ implement, and follow procedures and standards compatible with due process of law with respect to the removal of a child from the child's home, a change in the placement of a child who is under the supervision or custody of the Department, and any other actions by the Department that may affect the legal rights of a child and the child's ~~family~~; family.

(12) To provide or contract with public and private agencies in this State and other states for facilities and services necessary to achieve the purposes of this ~~chapter~~; chapter.

(13) To provide or contract for services designed to maintain or provide permanent homes for children who are in out-of-home care, through the provision of adoption services or, whenever feasible, reunification services for children and their ~~families~~; families.

(14) To develop, administer, implement, and provide or contract a developmentally appropriate, comprehensive program that fully integrates independent living services such as financial stability, housing supports, medical, employment and training, education, and connection to resources and individuals, until age 21 and that will assist youth with their successful transition to adulthood, subject to ~~appropriation~~; appropriation.

(15) To develop and implement rules, regulations, ~~standards~~ standards, and policies governing the internal operation and administration of the Department and provision of ~~services~~; services.

(16) To exercise the authority and power to administer protective, mental health, ~~correctional~~ correctional, and probation services to children presently delegated by law to the Department of Health and Social Services, Division of Mental Health; Department of Correction, Bureau of Juvenile Correction; Family Court; and previously delegated by law to the Department of Health and Social Services, Division of Child Protective ~~Services~~; Services.

(17) To certify annually on January 31 to the Governor and the General Assembly that the mixing of adjudicated and nonadjudicated youths shall not take place in the Ferris ~~School~~; School.

(18) Provide feminine hygiene products to youth at no cost in facilities maintained by the Department. For purposes of this paragraph, "feminine hygiene products" means tampons and sanitary napkins, for use in connection with the menstrual ~~eyele~~; cycle.

(19) To exercise all other powers necessary and proper for the discharge of its duties

§ 9015. Budgeting and financing.

(a) The Secretary, in cooperation with the Department directors and office administrators, shall prepare a proposed budget for the operation of the Department to be submitted for the consideration of the Governor and the General Assembly. The Department ~~shall be operated~~ must operate within the limitation of the annual appropriation and any other funds appropriated by the General Assembly.

(b) Each fiscal year, pursuant to established methodology, the Secretary and the Office of Management and Budget shall review projections on the number of child abuse and neglect cases ~~and the number of child care facilities to be licensed and monitored~~ for the next fiscal year. Based on these projections, the General Assembly shall fund, subject to a specific appropriation, funds and positions for the next fiscal year, beginning each July 1, to the Division of Family Services to provide:

(1) An adequate number of child protection investigation workers so that regional caseloads do not exceed 11 cases per fully functioning ~~worker~~; worker.

(2) An adequate number of child protection treatment workers so that regional caseloads do not exceed 18 cases per fully functioning ~~worker~~; worker.

(3) An adequate number of Family Service supervisors so that there is 1 supervisor for every 5 ~~workers~~; workers.

(4) An adequate number of training positions, but not less than 15, to ensure that fully trained staff are always available to fill ~~vacancies~~; vacancies.

(5) ~~An adequate number of licensing specialists for child care centers and family child care homes so that caseloads do not exceed 150 per specialist;~~

(6) ~~An adequate number of licensing specialists for 24-hour residential child care facilities so that caseloads do not exceed 30 per specialist; and~~

(7) ~~An adequate number of licensing supervisors so that there is 1 supervisor for every 5 workers.~~

In the event that regional caseloads exceed the above set standards during any fiscal year, the Office of Management and Budget shall, to the extent moneys are available, authorize the use of casual seasonal positions as a temporary mechanism to ensure that caseloads remain within Delaware standards. Fully functioning workers are workers that are employed and working full-time, and do not include workers on extended medical leave, trainees who have not completed ~~training~~ training, or workers with restricted caseloads.

(c) In order to ensure the standards set forth in subsection (b) of this section are maintained, the Secretary shall submit a quarterly report to the Governor, the Controller ~~General~~ General, and the Director of the Office of Management and Budget, with copies to the Chairpersons of the House of Representatives Committee on Health and Human Development, the Senate Committee on Children, Youth and Their Families, and the Child Protection Accountability Commission that details the above information both statewide and on a regional basis.

(d) For the purpose of retaining and attracting experienced investigation and treatment workers in the Division of Family Services, the Division may competitively recruit for Family Crisis Therapists in their investigation and treatment units. Current Division employees who successfully apply for these positions shall have their position reclassified to Family Crisis Therapist. Such reclassifications or reclassifications of vacant positions to Family Crisis Therapist ~~shall be~~ are effective upon the approval of the Secretary of the Department of Human Resources, the Director of the Office of Management and ~~Budget~~ Budget, and the Controller General. The Division is authorized to transfer positions between budget units in order to adjust its complement to ensure the correct number of fully functioning employees are in each functional unit of the Division. The Division shall submit a quarterly report to the Secretary of the Department of Human Resources, the Director of the Office of Management and ~~Budget~~ Budget, and the Controller General detailing any adjustments to the complement, the number of Family Crisis Therapists ~~hired~~ hired, and retention statistics.

(e) Special funds may be used in accordance with approved programs, ~~grants~~ grants, and appropriations.

(f) The Department is authorized to provide funding for youth who have attained the age of 18 but are less than 21 years of age, by payment of foster care supports specifically related to housing, by direct youth stipends and/or to other public or private agencies to provide independent living services to youth. The Department shall establish policies for eligibility for direct youth stipends that shall require youth accountability, financial literacy, and attainment of self-sufficiency benchmarks. Funds appropriated for the purpose of supporting youth who are eligible for independent living services ~~shall~~ must be used to support those youth.

Section 9. Amend Chapter 3, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 351. DSCYF assessment required; exceptions.

(a) Before any person, institution, agency, association, ~~corporation~~ corporation, or organization shall place or cause to be placed or shall receive or cause to be received or shall keep or retain in custody, for the purpose of continued free or wage

boarding or otherwise, any dependent child residing in the State, such person, institution, agency, association, ~~corporation~~ corporation, or organization must first obtain a written assessment of the proposed placement, conducted by DSCYF, or ~~its licensed agency~~ an agency licensed by the Department of Education, Office of Child Care Licensing.

(b) Subsection (a) of this section ~~shall~~ does not apply to any of the following:

(1) Child placement agencies regularly and duly authorized and licensed to place and receive dependent children in ~~the State;~~ State.

(2) Institutions regularly and duly authorized and licensed to take children under permanent care in the ~~State;~~ State.

(3) The homes in which such authorized and licensed child placement agencies or institutions place ~~children;~~ children.

(4) Privately endowed institutions supported wholly by private endowment and established to provide continued care for dependent children.

(c) An assessment of the proposed placement of a dependent child pursuant to subsection (a) of this section ~~shall not be~~ is not required by DSCYF, or ~~its licensed agency~~ an agency licensed by the Department of Education, Office of Child Care Licensing, if all of the following conditions are met:

(1) When the child is placed in a home of an “adult individual” who fails to meet the definition of “relative” in § 901 of Title 10 but the adult individual is by marriage, ~~blood~~ blood, or adoption the child’s great-grandparent, stepgrandparent, great uncle or great aunt, half brother or half sister, stepbrother or stepsister, stepparent, or stepuncle or steppaunt to the extent not already included in the definition of “relative,” or first cousin once ~~removed;~~ and removed.

(2) When DSCYF has not currently filed, and does not intend to file, for custody of the child on the basis of dependency or ~~neglect;~~ and neglect.

(3) When there have been no prior or present allegations of abuse or neglect regarding the adult individual with whom the child is ~~placed;~~ and placed.

(4) When DSCYF is not currently a party to a custody or visitation dispute regarding the ~~child;~~ and child.

(5) When DSCYF does not hold or seek custody of the ~~child;~~ and child.

(6) When the child meets the definition of “dependent child” solely because the child has been placed on a permanent basis in the home of an adult individual as described above and has been placed with such individual without an assessment by DSCYF, or ~~its licensed agency~~ an agency licensed by the Department of Education, Office of Child Care Licensing.

(d) This section ~~shall~~ does not limit the Family Court’s jurisdiction to hear a petition for guardianship of a child pursuant to Chapter 23 of Title 13, including granting of emergency relief, nor ~~shall~~ does this section limit the Family Court’s determination of appropriate placement for a child in DSCYF custody pursuant to § 2521(1) of Title 13.

Approved February 7, 2022