



SPONSOR: Sen. Poore & Rep. K. Williams

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 103

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EARLY CHILDHOOD EDUCATION.

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

1 Section 1. Amend § 3001, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3001 State Early Childhood Education Program.

4 (d) The Department of Education shall establish Delaware Stars for Early Success, a quality rating and
5 improvement system. Such rating system shall measure the level of quality of service provided by an early care
6 and education program to safeguard and ensure the growth, development, and learning of the children. The rating
7 and improvement system shall:

8 (1) Establish quality standards that build upon the child care licensing regulations and include
9 quality standards in the categories of learning environment and curriculum, qualifications and
10 professional development, family and community partnerships, and management and administration. The
11 Department of Education shall ensure that Delaware Stars for Early Success standards are consistent with
12 the regulations of the Office of Child Care Licensing.

13 Section 2. Amend Subchapter III of Chapter III of Title 31 by making deletions as shown by strike through and
14 insertions as shown by underline as follows and redesignating accordingly:

15 § 341 ~~Short title~~

16 This act may be referred to and cited as "~~The Delaware Child Care Act.~~"

17 § 342 ~~Definitions.~~

18 For the purpose of this act:

19 (1) "~~Child care~~" means and includes:

20 a. Any person, association, agency or organization which:

21 1. ~~Has in custody or control 1 child or more under the age of 18 years, unattended by parent or~~
22 ~~guardian, for the purpose of providing such child or children with care, education, protection,~~
23 ~~supervision or guidance;~~

54 a. That notice is required when a deficiency is alleged.

55 b. The informal and formal procedures to contest an alleged deficiency.

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

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

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

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

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

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

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

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

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

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

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

72 (4) Sufficient financial backing to ensure effective work;

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

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

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

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

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

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

82 (1) Such revocation or license application denial shall become effective 30 business days after the date of
83 the receipt by certified mail, regular U.S. mail or personal service of the notice, unless the applicant or licensee

84 within 10 business days from the date of the receipt of such notice gives written notice to the Office of Child Care
85 Licensing requesting a hearing, in which case the proposed action shall be deemed to be suspended.

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

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

91 (f) The procedure governing hearings authorized by this section shall be in accordance with § 10125 of Title
92 29 and regulations promulgated by the Department of Services for Children, Youth and Their Families.

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

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

99 (1) A brief summary of the evidence and recommended findings of fact based upon the evidence;

100 (2) Recommended conclusions of law; and

101 (3) Recommended decision.

102 (i) The Secretary of the Department of Services for Children, Youth and Their Families shall accept, deny, or
103 accept in part, and/or deny in part, the recommendations of the hearing officer in the case and issue a final decision within
104 10 business days of the date of mailing of the recommendations.

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

110 (k) Any applicant or licensee who is dissatisfied with the decision of the Department as a result of the hearing
111 provided in this section, may, within 30 business days after the mailing or service of the notice of decision as provided in
112 said section, file a notice of appeal to the Superior Court in the office of the Prothonotary of the Superior Court of the
113 county in which the child care facility is located or to be located, and serve a copy of said notice of appeal upon the

114 Department. The Department shall promptly certify and file with the Court a copy of the record and decision, including the
115 transcript of the hearings on which the decision is based. Proceedings thereafter shall be governed by the Rules of the
116 Superior Court of the State. This review shall be in accordance with the provisions of § 10142 of Title 29.

117 (1) ~~Emergency suspension order.~~ If the health, safety or well-being of children in care of a licensee is in serious or
118 imminent danger, the Office of Child Care Licensing may immediately suspend the license on a temporary basis without
119 notice.

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

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

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

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

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

129 (6) At any time during, or prior to the hearing, the Office of Child Care Licensing may reinstate the
130 license upon being satisfied that the reasons for the emergency suspension order have been removed.

131 § 345. Penalties for violations

132 (a) The Office of Child Care Licensing may impose civil penalties not to exceed \$100 for each violation of §
133 344 of this title.

134 (b) The Office of Child Care Licensing may proceed for the collection of the money civil penalty not otherwise
135 paid through an action brought by the Office of Child Care Licensing in any court of competent jurisdiction.

136 (c) Anyone who violates a provision of this subchapter may be fined not more than \$100 or imprisoned not more
137 than 3 months, or both.

138 § 346. Provider Advisory Board; appointments; composition; terms; vacancies

139 (a) There is hereby established within the Office of Child Care Licensing, a Provider Advisory Board.

140 (b) The Board shall consist of 7 members, who are residents of this State, and are appointed by the Governor. The
141 following shall be members of the Board:

142 (1) One provider from a family child care home from each of New Castle County, Kent County, and
143 Sussex County;

144 (2) One director/owner of a private day care center from each of New Castle County, Kent County, and
145 Sussex County; and

146 (3) One provider from a family child care home or 1 director/owner of a private day care center from the
147 City of Wilmington.

148 Furthermore, at least 1 of the members of the Board appointed pursuant to this subsection (b) shall also be from a
149 Boys and Girls Club within this State. For purposes of this subsection, a day care center at a Boys and Girls Club shall be
150 considered a private day care center.

151 (e) The term of a Board member appointed by the Governor shall be 3 years and shall terminate upon the
152 Governor's appointment of a new member to the Board. A Board member shall continue to serve until his or her successor
153 is duly appointed but a holdover under this provision does not affect the expiration date of a succeeding term.

154 (d) In case of a vacancy on the Board before the expiration of a Board member's term, a successor shall be
155 appointed by the Governor within 30 days of the vacancy for the remainder of the unexpired term.

156 (e) The Board shall elect 1 of its members as Chair to serve for a 1-year term and who shall be eligible for
157 reelection.

158 (f) The Board shall meet at the call of the Chair but no fewer than 4 times a year.

159 ~~§ 347. Provider Advisory Board; powers and duties~~

160 ~~The Board shall have the authority to serve in an advisory capacity to the Office of Child Care Licensing with~~
161 ~~regard to adopting, promulgating and amending such rules and regulations as are required to carry out this chapter with~~
162 ~~respect to early care and education and school-age centers.~~

163 Section 3. Amend Chapter 30A of Title 14 by making deletions as shown by strike through and insertions as
164 shown by underline as follows:

165 § 3001a Short title

166 This act may be referred to and cited as "The Delaware Child Care Act."

167 § 3002a Definitions.

168 For the purpose of this act:

169 (1) "Child care" means and includes:

170 a. Any person, association, agency or organization which:

171 1. Has in custody or control 1 child or more under the age of 18 years, unattended by
172 parent or guardian, for the purpose of providing such child or children with care, education,
173 protection, supervision or guidance;

174 2. Is compensated for their services;

175 3. Advertises or holds himself, herself or itself out as conducting such child care;

176 b. The provision of, or arranging for, the placement of children in foster care homes, adoptive

177 homes or supervised independent living arrangements pursuant to the provisions of Title 31; and

178 c. Family child care homes, large family child care homes, day care centers, child placing

179 agencies, residential child care facilities and day treatment programs as currently defined by regulation.

180 Day-care centers operating part- or full-day are subject to licensure. Homes in which children have been

181 placed by any child placing agency properly licensed to place children in this State shall not be regarded

182 as “child care.”

183 (2) “Office of Child Care Licensing” (or “OCCL”) means the Office of Child Care Licensing within the

184 Department of Education.

185 § 3003a. Powers of the Office of Child Care Licensing with respect to child care

186 (a) Any person or association conducting child care and all institutions, agencies, and associations or organizations

187 receiving and placing or caring for dependent, neglected or delinquent minors, including organizations providing care of

188 children whether dependent or otherwise, in lieu of the care and supervision ordinarily provided by parents in their own

189 homes for periods of less than 24 hours a day, must accord the Office of Child Care Licensing or its authorized agents right

190 of entrance, privilege of inspection, and access to its accounts and reports.

191 (b) A person or association conducting child care and all institutions, agencies, associations, or organizations

192 receiving and placing or caring for dependent, neglected, or delinquent minors shall make reports at such time as is required

193 by the Office of Child Care Licensing as to conditions of such child care, the manner and way in which children are taken

194 care of, former addresses, and such other information as will show the social status of the child, how and to whom

195 dismissed, the extent and source of its income, the cost of maintenance, and such other reasonable information as will

196 enable the Office of Child Care Licensing to promote the general welfare of the children and to work out a general program

197 for their care and protection.

198 (c) The Office of Child Care Licensing may prescribe, by regulation or otherwise, any reasonable standards for the

199 conduct of such child care facilities, institutions, agencies, associations, or organizations and may license such of these as

200 conform to such standards. Regulations promulgated under this subchapter must include all of the following:

201 (1) Any application form required to apply for licensure under this subchapter.

202 (2) All of the specific requirements to obtain, retain, or renew a license under this subchapter.

203 (3) Due process provisions that provide all of the following:

204 a. That notice is required when a deficiency is alleged.

205 b. The informal and formal procedures to contest an alleged deficiency.

206 § 3004a. Child care licenses; investigation; requirements; notice; hearings and appeals

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

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

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

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

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

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

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

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

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

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

222 (4) Sufficient financial backing to ensure effective work;

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

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

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

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

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

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

232 (1) Such revocation or license application denial shall become effective 30 business days after the date of
233 the receipt by certified mail, regular U.S. mail, or personal service of the notice, unless the applicant or

234 licensee within 10 business days from the date of the receipt of such notice gives written notice to the
235 Office of Child Care Licensing requesting a hearing, in which case the proposed action shall be deemed
236 to be suspended.

237 (2) If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt
238 and fair hearing before a hearing officer designated by the Department of Education in accordance with §
239 10125 of Title 29.

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

243 (f) The procedure governing hearings authorized by this section shall be in accordance with § 10125 of Title
244 29 and regulations promulgated by the Department of Education.

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

248 (h) Within 10 business days of the date of the revocation or license application denial hearing, or within 5 business
249 days of the date of a suspension hearing, the hearing officer will issue recommendations to the Secretary of the Department
250 of Education, with a copy to each party, which shall include:

251 (1) A brief summary of the evidence and recommended findings of fact based upon the evidence;

252 (2) Recommended conclusions of law; and

253 (3) Recommended decision.

254 (i) The Secretary of the Department of Education shall accept, deny, accept in part, and/or deny in part the
255 recommendations of the hearing officer in the case and issue a final decision within 10 business days of the date of mailing
256 of the recommendations.

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

262 (k) Any applicant or licensee who is dissatisfied with the decision of the Department as a result of the hearing
263 provided in this section, may, within 30 business days after the mailing or service of the notice of decision as provided in

264 said section, file a notice of appeal to the Superior Court in the office of the Prothonotary of the Superior Court of the
265 county in which the child care facility is located or to be located, and serve a copy of said notice of appeal upon the
266 Department. The Department shall promptly certify and file with the Court a copy of the record and decision, including the
267 transcript of the hearings on which the decision is based. Proceedings thereafter shall be governed by the Rules of the
268 Superior Court of the State. This review shall be in accordance with the provisions of § 10142 of Title 29.

269 (1) Emergency suspension order. If the health, safety, or well-being of children in care of a licensee is in serious or
270 imminent danger, the Office of Child Care Licensing may immediately suspend the license on a temporary basis without
271 notice.

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

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

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

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

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

281 (6) At any time during, or prior to the hearing, the Office of Child Care Licensing may reinstate the license upon
282 being satisfied that the reasons for the emergency suspension order have been removed.

283 § 3005a. Penalties for violations

284 (a) The Office of Child Care Licensing may impose civil penalties not to exceed \$100 for each violation of §
285 3004a of this title.

286 (b) The Office of Child Care Licensing may proceed for the collection of the money civil penalty not otherwise
287 paid through an action brought by the Office of Child Care Licensing in any court of competent jurisdiction.

288 (c) Anyone who violates a provision of this subchapter may be fined not more than \$100 or imprisoned not more
289 than 3 months, or both.

290 § 3006a. Provider Advisory Board; appointments; composition; terms; vacancies

291 (a) There is hereby established within the Office of Child Care Licensing, a Provider Advisory Board.

292 (b) The Board shall consist of 7 members, who are residents of this State and are appointed by the Governor. The
293 following shall be members of the Board:

- 294 (1) One provider from a family child care home from each of New Castle County, Kent County, and
295 Sussex County;
296 (2) One director/owner of a private day care center from each of New Castle County, Kent County, and
297 Sussex County; and
298 (3) One provider from a family child care home or 1 director/owner of a private day care center from the
299 City of Wilmington.

300 Furthermore, at least 1 of the members of the Board appointed pursuant to this subsection (b) shall also be from a
301 Boys and Girls Club within this State. For purposes of this subsection, a day care center at a Boys and Girls Club shall be
302 considered a private day care center.

303 (c) The term of a Board member appointed by the Governor shall be 3 years and shall terminate upon the
304 Governor's appointment of a new member to the Board. A Board member shall continue to serve until his or her successor
305 is duly appointed but a holdover under this provision does not affect the expiration date of a succeeding term.

306 (d) In case of a vacancy on the Board before the expiration of a Board member's term, a successor shall be
307 appointed by the Governor within 30 days of the vacancy for the remainder of the unexpired term.

308 (e) The Board shall elect 1 of its members as Chair to serve for a 1-year term and who shall be eligible for
309 reelection.

310 (f) The Board shall meet at the call of the Chair but no fewer than 4 times a year.

311 § 3007a. Provider Advisory Board; powers and duties

312 The Board shall have the authority to serve in an advisory capacity to the Office of Child Care Licensing with
313 regard to adopting, promulgating, and amending such rules and regulations as are required to carry out this chapter with
314 respect to early care and education and school-age centers.

SYNOPSIS

This Act amends Section 3001(d)(1) of Title 14 to require that the Department of Education ensure that the standards of the Delaware Stars for Early Success system are consistent with the regulations of the Office of Child Care Licensing. It also removes the Office of Child Care Licensing from the Department of Services for Children, Youth and Their Families and puts it within the Department of Education to facilitate that consistency.

Author: Senator Poore