



SPONSOR: Sen. Poore & Rep. K. Williams  
Sens. Ennis, Sturgeon

DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE BILL NO. 198

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:

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

3 § 901. Definitions.

4 (8) "Dependency" or "dependent child" means that a person:

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

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

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

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

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

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

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

20 § 8564. Adult Abuse Registry check.

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

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

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

26 § 901. Definitions.

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

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

31 § 1101. Definitions.

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

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

36 § 121. General powers of the Department of Education.

37 (d) The Department shall exercise general control and supervision to license, register, and monitor all residential  
38 and nonresidential child care facilities, including family child care homes, large family child care homes, child care  
39 centers, child placing agencies, residential child care facilities, and day treatment programs unless otherwise exempted  
40 by law; provided however, that no license for a residential or nonresidential child care facility to be operated within the  
41 corporate limits of the City of Wilmington may be granted until the applicant has provided the Department with  
42 verification of licensure by the City of Wilmington to operate a child care facility.

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

45 § 3003. Organization and composition.

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

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

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

51 (3) Consist of the following members:

- 52 a. Two center-based early care and education ~~providers;~~ providers.
- 53 b. One family-home-based early care and education ~~provider;~~ provider.
- 54 c. One parent whose child participates in early childhood ~~services;~~ services.
- 55 d. One Delaware Head Start/Early Childhood Assistance Program Association ~~representative;~~
- 56 representative.
- 57 e. One representative of a statewide early care and education resource and referral ~~agency;~~ agency.
- 58 f. Two representatives from advocacy organizations focused on children's health and ~~well-being;~~ well-
- 59 being.
- 60 g. One representative of the Delaware Association for the Education of Young ~~Children;~~ Children.
- 61 h. One public school district ~~superintendent;~~ superintendent.
- 62 i. One higher education representative who also serves on the P-20 ~~Council;~~ Council.
- 63 j. One business community ~~representative;~~ representative.
- 64 k. Two community ~~members;~~ members.
- 65 l. One representative of the General ~~Assembly;~~ Assembly.
- 66 m. The State Director of Head Start ~~Collaboration;~~ Collaboration.
- 67 n. A representative of the Delaware Department of Health and Social Services, representing children's
- 68 health, child cares subsidy, and Part C of Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1431 et
- 69 ~~seq.];~~ seq.].
- 70 o. A representative of the Delaware Department of Services to Children, Youth and Their Families,
- 71 representing child mental health, ~~child care licensing,~~ and family ~~services;~~ services.
- 72 p. A representative of the Delaware Department of Education, representing child care licensing, early
- 73 childhood professional development, § 619 of IDEA [20 U.S.C. § 1419], and State early learning ~~guidelines;~~ and
- 74 guidelines.
- 75 q. Ex officio, nonvoting members shall include the director of the Early Development and Learning
- 76 Resource Center of the Department of Education, the chair of the Family Support Coordinating Council, and the
- 77 director of the State's Institute for Excellence in Early Childhood Education. The ECC may appoint ex officio
- 78 members and advisors to assist them in meeting their responsibilities.

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

80 insertions as shown by underline as follows:

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

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

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

91 § 9003. Powers, ~~duties~~ duties, and functions.

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

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

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

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

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

112 10. Foster care ~~services;~~ services.  
113 11. Independent living ~~services;~~ services.  
114 12. A continuum of residential mental health services, which ~~shall include, but not be limited to,~~  
115 includes inpatient psychiatric hospitalization for all children requiring such care, mental health residential  
116 treatment ~~centers~~ centers, and specialized mental health treatment services in other group-care facilities and  
117 foster ~~homes;~~ homes.

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

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

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

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

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

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

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

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

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

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

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

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

153 (11) To establish, ~~implement~~ implement, and follow procedures and standards compatible with due process of  
154 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  
155 supervision or custody of the Department, and any other actions by the Department that may affect the legal rights of a  
156 child and the child's ~~family~~; family.

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

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

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

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

168 (16) To exercise the authority and power to administer protective, mental health, ~~correctional~~ correctional, and  
169 probation services to children presently delegated by law to the Department of Health and Social Services, Division of

170 Mental Health; Department of Correction, Bureau of Juvenile Correction; Family Court; and previously delegated by  
171 law to the Department of Health and Social Services, Division of Child Protective ~~Services;~~ Services.

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

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

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

178 § 9015. Budgeting and financing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

230 § 351. DSCYF assessment required; exceptions.

231 (a) Before any person, institution, agency, association, ~~corporation~~ corporation, or organization shall place or  
232 cause to be placed or shall receive or cause to be received or shall keep or retain in custody, for the purpose of continued  
233 free or wage boarding or otherwise, any dependent child residing in the State, such person, institution, agency, association,  
234 ~~corporation~~ corporation, or organization must first obtain a written assessment of the proposed placement, conducted by  
235 DSCYF, or ~~its licensed agency~~ an agency licensed by the Department of Education, Office of Child Care Licensing.

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

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

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

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

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

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

248 (1) When the child is placed in a home of an “adult individual” who fails to meet the definition of “relative” in  
249 § 901 of Title 10 but the adult individual is by marriage, ~~blood~~ blood, or adoption the child’s great-grandparent,  
250 stepgrandparent, great uncle or great aunt, half brother or half sister, stepbrother or stepsister, stepparent, or stepuncle  
251 or steppaunt to the extent not already included in the definition of “relative,” or first cousin once ~~removed;~~ and removed.

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

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

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

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

258 (6) When the child meets the definition of “dependent child” solely because the child has been placed on a  
259 permanent basis in the home of an adult individual as described above and has been placed with such individual

260 without an assessment by DSCYF, or ~~its licensed agency~~ an agency licensed by the Department of Education, Office of  
261 Child Care Licensing.

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

#### SYNOPSIS

SB 187 passed by the 150th General Assembly moved the Office of Child Care Licensing ("OCCL") from the Department of Services for Children, Youth and Their Families ("DSCYF") to the Department of Education ("DOE"). This Act cleans up references in the Code that still refer to the OCCL and its responsibilities as part of DSCYF and changes the references to reflect its status and responsibilities as part of DOE.

This bill also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Poore