
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 348 Session of
2013

INTRODUCED BY TALLMAN, SAYLOR, AUMENT, DENLINGER, GABLER,
GIBBONS, GILLEN, HELM, KAUFFMAN, LAWRENCE, MOUL, MURT,
READSHAW, ROCK AND SWANGER, JANUARY 24, 2013

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, JANUARY 24, 2013

AN ACT

1 Regulating religious child-care facilities; providing for the
2 powers and duties of the Department of Public Welfare; and
3 imposing penalties.

4 The General Assembly finds and declares as follows:

5 (1) A significant number of parents choose to obtain
6 child care from religious child-care facilities where
7 training, values and guidance that are consistent with the
8 religious views and beliefs of the parents will be imparted
9 to the child.

10 (2) It is the policy of the Commonwealth to preserve the
11 primary right of parents to choose the education, training
12 and care of their children.

13 (3) Nonprofit religious child-care facilities believe
14 the provision of child care at a reasonable cost to parents
15 to be part of their religious mission to assist parents in
16 the care and upbringing of their children.

17 (4) Because of the religious nature of such facilities,
18 it is the policy of the Commonwealth to refrain from

1 subjecting them to unnecessary regulation and undue
2 governmental intrusion, particularly in religiously sensitive
3 areas relating to the selection of employees, program content
4 and guidance.

5 (5) At the same time, the Commonwealth has a duty to
6 protect the health and safety of children whose parents
7 choose to utilize religious child-care services by assuring
8 that religious child-care providers comply with minimum
9 health and safety requirements.

10 (6) It is the intent of the General Assembly to balance
11 these interests in protecting parental choice, religious
12 freedom and child safety at religious child-care facilities
13 by enacting the following provisions to govern the operation
14 of religious child-care facilities.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Short title.

18 This act shall be known and may be cited as the Religious
19 Child-Care Facilities Act.

20 Section 2. Definitions.

21 The following words and phrases when used in this act shall
22 have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Aide." An individual who:

25 (1) assists in the provision of care for children at a
26 facility, is at least 16 years of age;

27 (2) has had at least 12 hours of child-care orientation
28 on facility procedures;

29 (3) has completed general first aid and fire safety
30 training; and

1 (4) is directly supervised by a primary caregiver or
2 director.

3 "Caregiver." An individual who provides child-care services
4 to children at a facility.

5 "Child care." Care in lieu of parental care given for part
6 of the 24-hour day to children under 16 years of age away from
7 their own homes.

8 "Department." The Department of Public Welfare of the
9 Commonwealth.

10 "Direct supervision." Oversight of an individual by a
11 supervisor who:

12 (1) is onsite;

13 (2) knows the whereabouts of the supervised individual;
14 and

15 (3) is responsible for the proper execution of the
16 supervised individual's duties, regardless of whether the
17 supervisor is physically present with the supervised
18 individual at all times.

19 "Director." An individual who:

20 (1) is in charge of a facility;

21 (2) is at least 21 years of age;

22 (3) has completed a program of instruction in general
23 first aid training, including instruction in childhood injury
24 prevention and infectious diseases; and

25 (4) has had fire safety training and at least 1,040
26 hours of experience in teaching or working with children.

27 "Filing religious child-care facility." A religious child-
28 care facility other than a nonfiling religious child-care
29 facility.

30 "Nonfiling religious child-care facility." A religious

1 child-care facility which provides child care:

2 (1) for children who are two years seven months of age
3 and older and who are enrolled in a school which is a
4 nonpublic nonlicensed school that has elected to file an
5 affidavit as described in section 1327(b) of the act of March
6 10, 1949 (P.L.30, No.14), known as the Public School Code of
7 1949;

8 (2) for children who are two years seven months of age
9 and older who are enrolled in before-or-after school programs
10 or summer school programs offered by nonpublic nonlicensed
11 schools which have elected to file an affidavit as described
12 in section 1327(b) of the Public School Code of 1949;

13 (3) to fewer than four children;

14 (4) to children while their parents are on the premises
15 during religious instruction or during other youth activities
16 sponsored by religious entities; or

17 (5) free of charge.

18 "Primary caregiver." An individual who:

19 (1) is responsible for the daily care of children at a
20 facility;

21 (2) is at least 18 years of age;

22 (3) has had general first aid and fire safety training;

23 and

24 (4) has had at least 520 hours of experience in teaching
25 or working with children.

26 "Religious child-care facility." A premises:

27 (1) that is operated or controlled or supervised by a
28 bona fide church, association of churches or other religious
29 body that is exempt from taxation under § 501(c)(3) of the
30 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §

1 1 et seq.); and

2 (2) in which child care is provided as part of the
3 religious mission of the church, association of churches or
4 other religious body.

5 "Staff person." An individual who may be counted for
6 purposes of compliance with the staff-to-child ratios required
7 by this act. The term includes a director, primary caregiver or
8 aide and may also include an individual who meets those
9 qualifications but does not receive pay for the individual's
10 services.

11 Section 3. Duties of filing religious child-care facilities.

12 (a) Fire safety requirements.--

13 (1) A filing religious child-care facility shall comply
14 with applicable State and local fire safety requirements,
15 shall adopt a written plan for emergency evacuation, conduct
16 a fire drill at least every 60 days and keep a written record
17 thereof on file at the facility.

18 (2) The filing religious child-care facility shall
19 insure that children are able to evacuate the entire building
20 into a public thoroughfare, or to a fire-safe area within two
21 and one-half minutes, unless a fire safety expert has
22 specified in writing that a longer evacuation time is safe.

23 (b) Compliance with other laws.--A filing religious child-
24 care facility shall comply with applicable State laws relating
25 to health and safety promulgated by the Department of
26 Agriculture, the Department of Environmental Protection, the
27 Department of Health, the Department of Labor and Industry and
28 the Department of Transportation and shall maintain an approved
29 first-aid kit for emergency treatment that is readily available
30 to staff.

1 (c) Parental right of access.--A filing religious child-care
2 facility shall allow a parent or guardian of a child for whom it
3 provides care to have access, without prior notice, to the
4 facility during normal hours of operation or whenever the child
5 is in the care of a provider unless a court of competent
6 jurisdiction has limited the parental right of access to the
7 child and a copy of the court order is on file at the facility.

8 (d) Child Protective Services Law.--A filing religious
9 child-care facility shall comply with applicable provisions of
10 23 Pa.C.S. Ch. 63 (relating to child protective services),
11 including requirements for obtaining criminal background and
12 child abuse checks for employees and for reporting child abuse.

13 (e) Staffing.--

14 (1) A filing religious child-care facility shall have:

15 (i) One or more persons who hold a current
16 certificate of completion of pediatric first aid training
17 at the facility when children are in care. The pediatric
18 first aid training must include choke-saving and rescue
19 breathing techniques.

20 (ii) At least one person at the facility who holds a
21 current certificate of completion of training in infant
22 and child cardiopulmonary resuscitation (CPR) when a
23 child, whose physician has determined that the child is
24 at increased risk for needing heart resuscitation, is in
25 care at the facility.

26 (2) A filing religious child-care facility shall provide
27 one staff person for every four children who are from birth
28 to one year of age; one staff person for every five children
29 who are between one and two years of age; and one staff
30 person for every six children between two and three years of

1 age. All children shall be directly supervised by a staff
2 person.

3 (3) (i) When children are swimming or wading, the
4 filing religious child-care facility shall provide one
5 staff person for every child from birth to one year of
6 age; one staff person for every two children who are
7 between one and three years of age; one staff person for
8 every five children between three and six years of age;
9 and one staff person for every eight school-age children.

10 (ii) If children are in mixed age groups with no
11 children younger than three years of age in care, the
12 staff ratio applicable for the majority of children in
13 care shall apply.

14 (iii) Parents and adult volunteers may be counted
15 for purposes of determining water safety ratios.

16 (f) Staff medical examinations.--

17 (1) A filing religious child-care facility shall require
18 that all prospective staff persons, prior to employment,
19 obtain a medical examination and health statement from a
20 licensed physician, certified registered nurse practitioner
21 or licensed physician's assistant. The examination shall
22 include tests to determine whether the individual is free of
23 serious communicable disease that may be spread through
24 casual contact and the health statement shall indicate
25 whether the individual has any such disease.

26 (2) A staff person who is not free of such disease may
27 not be employed or utilized by a filing religious child-care
28 facility unless the health statement indicates that the
29 individual will not pose a serious threat to the health of
30 children in care.

1 (3) The health statement shall be maintained on file at
2 the filing religious child-care facility.

3 (g) Child medical examination and immunization.--

4 (1) A filing religious child-care facility shall require
5 that each child who enrolls in the filing religious child-
6 care facility has obtained a medical examination from a
7 licensed physician, certified registered nurse practitioner
8 or licensed physician's assistant within the 12 months
9 preceding enrollment and has obtained age-appropriate
10 immunizations.

11 (2) A record of the medical examination and immunization
12 shall be maintained on file at the filing religious child-
13 care facility no later than 60 days following enrollment
14 unless the child is exempt from immunization pursuant to 28
15 Pa. Code § 23.84 (relating to exemption from immunization)
16 and the filing religious child-care facility has written
17 documentation of the exemption.

18 (h) Renewal of caregiver training.--A filing religious
19 child-care facility shall require that caregivers renew their
20 required training on or before expiration of any certification
21 for such training, if applicable, or every three years.

22 (i) Affidavit from facility.--

23 (1) A filing religious child-care facility shall file an
24 affidavit with the department which states the following:

25 (i) The name, address and telephone number of the
26 facility.

27 (ii) The name and address of the religious entity or
28 entities that control, operate or supervise the facility.

29 (iii) The name of the director or chief
30 administrator of the facility.

1 (iv) That the facility is in compliance with
2 applicable Federal and State civil rights statutes.

3 (2) A filing religious child-care facility shall file an
4 amended affidavit with the department within 30 days if any
5 information contained in the affidavit, which previously was
6 submitted, changes.

7 (j) Facility plan.--

8 (1) A filing religious child-care facility shall develop
9 a written plan outlining its own:

10 (i) Procedures for handling medical emergencies,
11 including maintenance of emergency contact information
12 for each child in care.

13 (ii) Program of typical daily activities.

14 (iii) Health and safety procedures, including drop-
15 off and pick-up procedures and procedures for dispensing
16 medications.

17 (iv) Procedures for food handling.

18 (v) Procedures for maintaining sanitary conditions.

19 (vi) Fee schedules.

20 (vii) Staff qualifications.

21 (2) The plan shall be provided to parents and guardians
22 prior to enrollment of their children in the facility.

23 (k) General health and safety maintained.--

24 (1) A filing religious child-care facility shall
25 maintain ventilation, temperature, lighting and heat sources
26 so as not to endanger the health or safety of children in
27 care.

28 (2) No child may be exposed to hazardous materials and
29 conditions such as toxins and poisons, unprotected electrical
30 outlets and firearms.

1 (1) Insurance.--A filing religious child-care facility shall
2 maintain comprehensive general liability insurance to cover
3 persons who are on the premises. A current copy of the insurance
4 policy shall be on file at the facility.

5 Section 4. Time for filing and compliance with qualifications.

6 (a) Time for filing.--

7 (1) A religious child-care facility which operates on
8 the effective date of this section and does not qualify as a
9 nonfiling religious child-care facility shall file with the
10 department the affidavit required by section 3(i) within 90
11 days.

12 (2) Any other religious child-care facility which is
13 required to file under this act must do so at least 14 days
14 before commencement of operations.

15 (b) Existing personnel.--The existing director and child
16 caregivers of a religious child-care facility which is required
17 by this act to file and has been in operation prior to the
18 effective date of this section shall be permitted to continue to
19 provide child care at the facility under this act, provided that
20 these individuals satisfy the requirements for their respective
21 duties and obtain required medical examinations and health
22 statements within one year of the effective date of this
23 section.

24 Section 5. Powers and duties of department.

25 (a) Inspections.--

26 (1) The department shall conduct at least one annual
27 unannounced visit and inspection of each filing religious
28 child-care facility in which care is provided to seven or
29 more children. The inspection shall be conducted during
30 normal operating hours or at other times when children are

1 being cared for at the facility to determine whether the
2 facility is in compliance with the requirements of this act.

3 (2) The department shall visit and inspect filing
4 religious child-care facilities in which care is provided to
5 fewer than seven children as deemed appropriate by the
6 department.

7 (3) The department shall conduct additional inspections
8 of a filing religious child-care facility if it has
9 reasonable cause to believe that the inspections are
10 necessary to protect the health and safety of children in
11 care at the facility.

12 (4) (i) The department shall conduct an onsite
13 unannounced inspection, within 24 hours, excluding days
14 that the department has determined a filing religious
15 child-care facility is not in operation, upon receipt of
16 a complaint alleging an immediate and serious risk to the
17 health or safety of a child in care at a filing facility.

18 (ii) Complaints prompting an inspection pursuant to
19 this subsection shall include severe injury or death of a
20 child in care, allegations of child abuse or conditions
21 or practices that create an immediate and serious risk to
22 a child.

23 (5) At its first inspection of a filing religious child-
24 care facility pursuant to this act, the department shall
25 provide the facility with a copy of this act.

26 (b) Enforcement of substantial compliance.--

27 (1) Whenever, upon visitation and inspection, the
28 department finds that a filing religious child-care facility
29 is in substantial noncompliance with this act, the department
30 shall give written notice to the facility concerning the

1 nature of the alleged noncompliance and shall direct the
2 director or chief administrator of the filing religious
3 child-care facility to comply with this act.

4 (2) If substantial compliance does not occur within 30
5 days of the date of the notice, the department may thereafter
6 institute appropriate legal proceedings in the court of
7 common pleas of the county in which the filing religious
8 child-care facility is located to enforce substantial
9 compliance.

10 (c) Emergency closure of dangerous facilities.--

11 (1) If the department finds that conditions exist that
12 pose an immediate and serious risk to the health or safety of
13 children in care at a filing religious child-care facility,
14 the department shall take immediate action necessary to
15 protect the children.

16 (2) The department may also apply to the court of common
17 pleas of the county in which the filing religious child-care
18 facility is located for immediate injunctive relief,
19 including removal of children from the facility or closure of
20 the facility. In such case, the department shall bear the
21 burden of proving that conditions exist that pose an
22 immediate and serious risk to the health or safety of
23 children in care that necessitate the relief requested.

24 (d) Filing fee prohibited.--The department may not charge
25 filing religious child-care facilities a fee for filing the
26 affidavit required under section 3(i).

27 Section 6. Autonomy of religious child-care facilities.

28 (a) Program and selection of personnel and children.--The
29 department, any other governmental agency, political subdivision
30 or other governmental entity may not attempt to exercise

1 authority over the program, curriculum, ministry, teaching or
2 instruction offered in a religious child-care facility. Nor
3 shall any such governmental entity attempt to exercise authority
4 over the selection of children who enroll in a religious child-
5 care facility.

6 (b) Other laws preempted.--

7 (1) The department shall not have any authority over
8 religious child-care facilities, except as specifically
9 provided for in this act.

10 (2) An ordinance, rule, regulation or other requirement
11 of a political subdivision which purports to regulate a
12 religious child-care facility is preempted and superseded,
13 except as provided under section 3(a) or as provided by any
14 generally applicable building code or zoning ordinance.

15 Section 7. Other provisions.

16 (a) Voluntary compliance.--

17 (1) A nonfiling religious child-care facility may
18 voluntarily become a filing religious child-care facility by
19 filing an affidavit with the department pursuant to section
20 3(i) and complying with the provisions of this act.

21 (2) Nothing in this act shall be construed to prevent a
22 religious child-care facility from voluntarily obtaining a
23 certificate of compliance or license from the department in
24 lieu of filing pursuant to this act and of complying with
25 this act.

26 (b) Public school code affidavits.--A nonfiling religious
27 child-care facility that provides care for children who are two
28 years seven months and older and are enrolled in a school that
29 is registered as, or is part of a nonpublic nonlicensed school
30 that files an affidavit as described in section 1327(b) of the

1 act of March 10, 1949 (P.L.30, No.14), known as the Public
2 School Code of 1949, shall comply with health and safety
3 requirements imposed upon nonpublic nonlicensed schools and
4 shall meet the requirements of section 3(g).

5 Section 8. Penalties.

6 A person commits a misdemeanor of the second degree if, with
7 intent to mislead a public servant in performing his official
8 function, the person makes a false statement which the person
9 does not believe to be true in an affidavit required to be filed
10 by section 3(i).

11 Section 9. Eligibility for governmental assistance.

12 (a) General rule.--A religious child-care facility which
13 files an affidavit under section 3(i) and is in substantial
14 compliance with this act, shall be deemed an eligible provider
15 of child-care services for which Federal, State or local
16 assistance is available to parents.

17 (b) Limitation on department.--The department may not submit
18 any State plan to the Federal Government for funding of child-
19 care services which would limit the ability of filing religious
20 child-care facilities to accept certificates, vouchers or other
21 forms of disbursement provided to parents for child-care
22 services unless such limits are expressly required by Federal
23 law.

24 Section 10. Effective date.

25 This act shall take effect in 90 days.