
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 163 Session of
2015

INTRODUCED BY TALLMAN, KAUFFMAN, SACONE, DAVIDSON, SAYLOR,
MURT, GILLEN AND KORTZ, JANUARY 22, 2015

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, JANUARY 22, 2015

AN ACT

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

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

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

9 Section 2. Declaration and findings.

10 The General Assembly finds and declares as follows:

11 (1) A significant number of parents choose to obtain
12 child care from religious child-care facilities where
13 training, values and guidance that are consistent with the
14 religious views and beliefs of the parents will be imparted
15 to the child.

16 (2) It is the policy of the Commonwealth to preserve the
17 primary right of parents to choose the education, training
18 and care of their children.

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

5 (4) Because of the religious nature of such facilities,
6 it is the policy of the Commonwealth to refrain from
7 subjecting them to unnecessary regulation and undue
8 governmental intrusion, particularly in religiously sensitive
9 areas relating to the selection of employees, program content
10 and guidance.

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

16 (6) It is the intent of the General Assembly to balance
17 these interests in protecting parental choice, religious
18 freedom and child safety at religious child-care facilities
19 by enacting the following provisions to govern the operation
20 of religious child-care facilities.

21 Section 3. Definitions.

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

25 "Aide." An individual who:

26 (1) assists in the provision of care for children at a
27 facility;

28 (2) is at least 16 years of age;

29 (3) has had at least 12 hours of child-care orientation
30 on facility procedures;

1 (4) has completed general first aid and fire safety
2 training; and

3 (5) is directly supervised by a primary caregiver or
4 director.

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

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

10 "Department." The Department of Human Services of the
11 Commonwealth.

12 "Direct supervision." Oversight of an individual by a
13 supervisor who:

14 (1) is onsite;

15 (2) knows the whereabouts of the supervised individual;
16 and

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

21 "Director." An individual who:

22 (1) is in charge of a facility;

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

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

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

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

1 facility.

2 "Nonfiling religious child-care facility." A religious
3 child-care facility which provides child care:

4 (1) for children who are two years seven months of age
5 and older and who are enrolled in a school which is a
6 nonpublic nonlicensed school that has elected to file an
7 affidavit as described in section 1327(b) of the act of March
8 10, 1949 (P.L.30, No.14), known as the Public School Code of
9 1949;

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

15 (3) to fewer than four children;

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

19 (5) free of charge.

20 "Primary caregiver." An individual who:

21 (1) is responsible for the daily care of children at a
22 facility;

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

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

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

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

29 (1) that is operated or controlled or supervised by a
30 bona fide church, association of churches or other religious

1 body that is exempt from taxation under section 501(c)(3) of
2 the Internal Revenue Code of 1986 (Public Law 99-514, 26
3 U.S.C. § 1 et seq.); and

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

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

13 Section 4. Duties of filing religious child-care facilities.

14 (a) Fire safety requirements.--

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

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

25 (b) Compliance with other laws.--A filing religious child-
26 care facility shall comply with applicable State laws relating
27 to health and safety promulgated by the Department of
28 Agriculture, the Department of Environmental Protection, the
29 Department of Health, the Department of Labor and Industry and
30 the Department of Transportation and shall maintain an approved

1 first-aid kit for emergency treatment that is readily available
2 to staff.

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

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

15 (e) Staffing.--

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

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

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

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

1 who are between one and two years of age; and one staff
2 person for every six children between two and three years of
3 age. All children shall be directly supervised by a staff
4 person.

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

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

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

18 (f) Staff medical examinations.--

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

28 (2) A staff person who is not free of such disease may
29 not be employed or utilized by a filing religious child-care
30 facility unless the health statement indicates that the

1 individual will not pose a serious threat to the health of
2 children in care.

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

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

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

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

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

24 (i) Affidavit from facility.--

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

27 (i) The name, address and telephone number of the
28 facility.

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

1 (iii) The name of the director or chief
2 administrator of the facility.

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

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

9 (j) Facility plan.--

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

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

15 (ii) Program of typical daily activities.

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

19 (iv) Procedures for food handling.

20 (v) Procedures for maintaining sanitary conditions.

21 (vi) Fee schedules.

22 (vii) Staff qualifications.

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

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

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

30 (2) No child may be exposed to hazardous materials and

1 conditions such as toxins and poisons, unprotected electrical
2 outlets and firearms.

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

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

8 (a) Time for filing.--

9 (1) A religious child-care facility which operates on
10 the effective date of this section and does not qualify as a
11 nonfiling religious child-care facility shall file with the
12 department the affidavit required by section 4(i) within 90
13 days.

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

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

26 Section 6. Powers and duties of department.

27 (a) Inspections.--

28 (1) The department shall conduct at least one annual
29 unannounced visit and inspection of each filing religious
30 child-care facility in which care is provided to seven or

1 more children. The inspection shall be conducted during
2 normal operating hours or at other times when children are
3 being cared for at the facility to determine whether the
4 facility is in compliance with the requirements of this act.

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

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

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

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

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

28 (b) Enforcement of substantial compliance.--

29 (1) Whenever, upon visitation and inspection, the
30 department finds that a filing religious child-care facility

1 is in substantial noncompliance with this act, the department
2 shall give written notice to the facility concerning the
3 nature of the alleged noncompliance and shall direct the
4 director or chief administrator of the filing religious
5 child-care facility to comply with this act.

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

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

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

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

26 (d) Filing fee prohibited.--The department may not charge
27 filing religious child-care facilities a fee for filing the
28 affidavit required under section 4(i).

29 Section 7. Autonomy of religious child-care facilities.

30 (a) Program and selection of personnel and children.--The

1 department, any other governmental agency, political subdivision
2 or other governmental entity may not attempt to exercise
3 authority over the program, curriculum, ministry, teaching or
4 instruction offered in a religious child-care facility. Nor
5 shall any such governmental entity attempt to exercise authority
6 over the selection of children who enroll in a religious child-
7 care facility.

8 (b) Other laws preempted.--

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

12 (2) An ordinance, rule, regulation or other requirement
13 of a political subdivision which purports to regulate a
14 religious child-care facility is preempted and superseded,
15 except as provided under section 4(a) or as provided by any
16 generally applicable building code or zoning ordinance.

17 Section 8. Other provisions.

18 (a) Voluntary compliance.--

19 (1) A nonfiling religious child-care facility may
20 voluntarily become a filing religious child-care facility by
21 filing an affidavit with the department pursuant to section
22 4(i) and complying with the provisions of this act.

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

28 (b) Public school code affidavits.--A nonfiling religious
29 child-care facility that provides care for children who are two
30 years seven months and older and are enrolled in a school that

1 is registered as, or is part of, a nonpublic nonlicensed school
2 that files an affidavit as described in section 1327(b) of the
3 act of March 10, 1949 (P.L.30, No.14), known as the Public
4 School Code of 1949, shall comply with health and safety
5 requirements imposed upon nonpublic nonlicensed schools and
6 shall meet the requirements of section 4(g).

7 Section 9. Penalties.

8 A person commits a misdemeanor of the second degree if, with
9 intent to mislead a public servant in performing his official
10 function, the person makes a false statement which the person
11 does not believe to be true in an affidavit required to be filed
12 by section 4(i).

13 Section 10. Eligibility for governmental assistance.

14 (a) General rule.--A religious child-care facility which
15 files an affidavit under section 4(i) and is in substantial
16 compliance with this act, shall be deemed an eligible provider
17 of child-care services for which Federal, State or local
18 assistance is available to parents.

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

26 Section 11. Effective date.

27 This act shall take effect in 90 days.