

No. 1980-193

AN ACT

HB 2438

Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," excluding certain family residences from the term children's institutions, eliminating licensure of family day care homes and providing for a registration system of family day care homes.

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

Section 1. The definition of "children's institutions" in section 901, the definition of "family day care home" in section 1001 and section 1051, act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," are amended to read:

Section 901. Definitions.—As used in this article—

"Children's institutions" means any incorporated or unincorporated organization, society, corporation or agency, public or private, which may receive or care for children, or place them in foster family homes, either at board, wages or free; or any individual who, for hire, gain or reward, receives for care a child, unless he is related to such child by blood or marriage within the second degree; or any individual, not in the regular employ of the court or of an organization, society, association or agency, duly certified by the department, who in any manner becomes a party to the placing of children in foster homes, unless he is related to such children by blood or marriage within the second degree, or is the duly appointed guardian thereof. *The term shall not include a family day care home in which care is provided in lieu of parental care to six or less children for part of a twenty-four hour day.*

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Section 1001. Definitions.—As used in this article—

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["Family day care home" means any premises operated for profit in which child day care is provided simultaneously to more than three unrelated children and to fewer than seven children who are not relatives of the operator, except such homes operated under social service auspices.]

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Section 1051. Definition.—As used in this subarticle—

"Private institution" means any of the following facilities by whatever term known and irrespective of the age group served: Mental hospital, institution for the mentally defective, day care center, [family day care home,] nursing home, hospital, boarding home, personal care home, and other similar institution which is operated for profit and which requires a license issued by the department.

Section 2. The act is amended by adding to Article X a subarticle to read:

ARTICLE X
DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING

* * *

(c) Registration Provisions

Section 1070. Definitions.—As used in this article.—

“Child day care” means care in lieu of parental care given for part of the twenty-four hour day to children away from their own homes.

“Family day care home” means any home in which child day care is provided at any one time to four through six children who are not relatives of the caregiver.

Section 1071. Operation Without Registration Certificate Prohibited.—No individual shall operate a family day care home without a registration certificate issued therefor by the department.

Section 1072. Application for Registration Certificate.—(a) Any individual desiring to secure a registration certificate shall submit an application therefor to the department upon forms prepared and furnished by the department, and, at the same time, shall certify in writing that he/she and the facility named in the application are in compliance with applicable department regulations.

(b) Application for renewal of the registration certificate shall be made every two years in the same manner as application for the original registration certificate.

(c) No application fee shall be required to register a family day care home.

Section 1073. Issuance of Registration Certificate.—Upon receipt of an application and the applicant’s written certification of compliance with applicable department regulations, the department shall issue a registration certificate to the applicant for the premises named in the application. A registration certificate shall be issued for a period of two years.

Section 1074. Visitation and Inspection.—The department or authorized agent of the department shall have the right to enter, visit and inspect on a random sample basis, upon complaint, or upon request of the caregiver, any family day care home registered or requiring registration under this article and shall have free and full access to the premises, where children are cared for, all records of the premises which relate to the children’s care, and to the children cared for therein and full opportunity to speak with or observe such children.

Section 1075. Records.—Every individual who operates a family day care home registered under this article shall keep and maintain such records as required by the department.

Section 1076. Regulations.—*The department is hereby authorized and empowered to adopt regulations establishing minimum and reasonable standards for the operation of family day care homes and the issuance of registration certificates. These regulations will establish the minimum standards of safety and care which will be required in family day care homes and will recognize the vital role which parents and guardians play in monitoring the care provided in family day care homes.*

Section 1077. Technical Assistance.—*The department may offer and provide upon request technical assistance to caregivers to assist them in complying with department regulations.*

Section 1078. Operation Without Registration Certificate.—*No individual shall operate a family day care home without having a registration certificate. Any individual operating a family day care home without a registration certificate, after being notified that such a registration is required, shall upon conviction pay a fine of not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) and costs of prosecution. Each day of operating without a registration certificate shall constitute a separate offense.*

Section 1079. Denial, Nonrenewal, or Revocation.—*(a) Whenever a caregiver does not certify compliance or whenever upon inspection the department observes noncompliance with applicable department regulations, the department shall give written notice thereof to the offending person. Such notice shall deny issuance of a registration certificate, deny renewal of a registration certificate, or shall require the offending person to take action to bring the facility into compliance with regulations.*

(b) The department shall refuse to issue or renew a registration certificate or shall revoke a registration certificate for any of the following reasons:

(1) Noncompliance with department regulations.

(2) Fraud or deceit in the self-certification process.

(3) Lending, borrowing, or using the registration certificate of another caregiver, or in any way knowingly aiding the improper issuance of a registration certificate.

(4) Gross incompetence, negligence, or misconduct in operating the facility.

(5) Mistreating or abusing children cared for in the facility.

Section 1080. Emergency Closure.—*If the department, or authorized agent of the department observes a condition at a family day care home which places the children cared for therein in immediate life-threatening danger, the department shall maintain an action in the name of the Commonwealth for an injunction or other process restraining or prohibiting the operation of the facility.*

Section 3. This act shall take effect on January 1, 1981.

APPROVED—The 5th day of December, A. D. 1980.

DICK THORNBURGH