

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 466

Short Title: Day Care Provider Records.

(Public)

Sponsors: Representatives Thompson; Albertson, Anderson, Brawley, Brown, Brubaker, Buchanan, Colton, Creech, Dawkins, Dickson, Easterling, Ethridge, Flaherty, Holt, Howard, Jack Hunt, James, Jordan, McLaughlin, McLawhorn, Mercer, Morgan, Payne, Privette, Ramsey, Rhodes, Rogers, Smith, Stamey, Stewart, Tallent, Wainwright, Wilson, and Wood.

Referred to: Judiciary III.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO MANDATE CRIMINAL RECORD CHECKS OF CHILD DAY CARE PROVIDERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 110 of the General Statutes is amended by adding a new section to read:

§ 110-90.2. Mandatory day care providers' Criminal Record Checks.

(a) For purposes of this section, 'day care provider' means any employee, prospective employee, or operator, directly providing day care. 'Day care provider' does not mean a day care employer, if that employer does not provide direct day care but employs an operator and employees to provide that care or if the day care is provided in a child day care home that does not receive State purchase-of-care funds.

This section mandates criminal record checks of all day care facilities, including church-sponsored day care facilities and those child day care homes that receive State purchase-of-care funds.

(b) Effective December 1, 1991, the Commission shall ensure that no day care provider may be employed in or may operate a day care facility or a State-subsidized child day care home who has been convicted of the crime of felony or misdemeanor child abuse.

1 (c) All applicants to provide day care in any day care facility or State-subsidized
2 child day care home shall be fingerprinted on two applicant cards by the local sheriff or
3 the municipal police, depending on where the home or facility is located, in the manner
4 prescribed by the State Bureau of Investigation. The local sheriff or the municipal
5 police may charge a fee not to exceed five dollars (\$5.00) for the fingerprinting. The
6 applicant's prospective employer shall pay this cost.

7 Effective November 1, 1991, all providers of day care then employed at or operating
8 any day care facility or any State-subsidized child day care home shall be fingerprinted
9 in the manner prescribed by the first paragraph of this subsection. The employer shall
10 pay the cost. If the employer is the operator, the operator shall pay the cost.

11 The employer, prospective or actual, shall submit to the Commission:

12 (1) The two applicant fingerprint cards; and

13 (2) A completed standardized record check form from the clerk of
14 superior court reflecting a check of any conviction of misdemeanor or
15 felony child abuse within the county of the applicant's residence.

16 (d) Upon receipt of required forms prescribed by subsection (b), the Commission
17 shall:

18 (1) Forward both applicant fingerprint cards, fees required by the State
19 Bureau of Investigation and the Federal Bureau of Investigation, and
20 record check form to the State Bureau of Investigation for a Police
21 Information Network (PIN) check and manual fingerprint check for a
22 conviction of crimes prescribed in subsection (a). The State Bureau of
23 Investigation shall forward one applicant fingerprint card to the
24 Federal Bureau of Investigation for a manual national check for
25 conviction of crimes prescribed in subsection (a); and

26 (2) Notify the employer as to whether the applicant qualifies for
27 continued employment under this section. If the employer is the
28 operator-applicant and if the procedures under this section reveal that
29 the operator-applicant does not qualify for continued employment, the
30 Commission shall remove the day care license, registration, or notice
31 of approval pursuant to G.S. 110-106, or shall refuse to issue such.

32 Fingerprint cards used by the State Bureau of Investigation and the
33 Federal Bureau of Investigation are returned to the Commission after
34 the checks.

35 (e) The employer may employ an otherwise qualified applicant or may continue
36 to employ a provider provisionally for the period of time pending the outcome of the
37 State and federal record checks and of the check of juvenile adjudicatory hearings. The
38 employer shall terminate this provisional employment immediately upon the
39 Commission's notification that the provisional provider has a State or federal record of
40 conviction of a crime prescribed by subsection (a) of this section. If the employer is the
41 operator, the Commission shall terminate the employment and revoke the day care
42 license, registration, or notice of approval pursuant to G.S. 110-106.

43 (f) When a new day care facility seeks a license, or reports pursuant to G.S. 110-
44 106, or a new State-subsidized child day care home seeks registration, or when a facility

1 seeks relicensure or reports annually pursuant to G.S. 110-106, or a new State-
2 subsidized child day care home seeks reregistration, the Commission shall make it a
3 condition of the issuance of the license, of the reporting pursuant to G.S. 110-106,
4 registration, renewal of license, of the reporting pursuant to G.S. 110-106, renewal of
5 registration, that all day care providers have their State and federal records checked
6 pursuant to the process mandated by this section. The Commission shall adopt rules to
7 establish a procedure to permit new providers of day care to receive a provisional
8 license, approval pursuant to G.S. 110-106, or registration pending the outcome of these
9 checks. The Commission shall terminate this license, approval, or registration
10 immediately upon finding that the provisional provider has a State or federal record of a
11 crime prescribed by subsection (a) of this section.

12 (g) Any person who fails to disclose a criminal conviction of misdemeanor or
13 felony child abuse is guilty of a misdemeanor and shall be punished as prescribed by
14 G.S. 110-103."

15 Sec. 2. The North Carolina Child Care Commission shall adopt rules to
16 implement this act, in consultation with the Child Day Care Section of the Division of
17 Facility Services, Department of Human Resources, and the State Bureau of
18 Investigation.

19 Sec. 3. There is appropriated from the General Fund to the North Carolina
20 Child Day Care Commission the sum of \$1,200,000 for the 1991-92 fiscal year and the
21 sum of \$400,000 for the 1992-93 fiscal year to implement Section 1 of this act.

22 Sec. 4. This act becomes effective July 1, 1991.