WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED

Senate Bill No. 610
(By Senators Helmick, McCabe, Bowman, Edgell, D. Facemire, Fanning, Green, Prezioso, Unger, Wells, White, Boley, K. Facemyer, Guills and Sypolt)

[Passed March 13, 2010; in effect ninety days from passage.]
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Senate Bill No. 610

(BY SENATORS HELMICK, MCCABE, BOWMAN, EDGELL,
D. FACEMIRE, FANNING, GREEN, PREZIOSO, UNGER,
WELLS, WHITE, BOLEY, K. FACEMYER, GUILLS AND SYPOLT)

(Passed March 13, 2010; in effect ninety days from passage.)

AN ACT to amend and reenact §49-2B-3 of the Code of West Virginia, 1931, as amended, relating to child care services; providing requirements for out-of-school time programs; exempting certain programs; requiring registration of certain programs; requiring licensed or registered child care centers to have an annually updated written plan for evacuation in the event of an emergency; providing for plan requirements; providing for plan distribution and availability requirements; and making the evacuation plan a point of investigation before a new license is received.

Be it enacted by the Legislature of West Virginia:

That §49-2B-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2B. DUTIES OF SECRETARY OF HEALTH AND HUMAN RESOURCES FOR CHILD WELFARE.

§49-2B-3. Licensure, certification, approval and registration requirements.
(a) Any person, corporation or child welfare agency, other than a state agency, which operates a residential child care center shall obtain a license from the department.

(b) Any residential child care facility, day care center or any child-placing agency operated by the state shall obtain approval of its operations from the secretary: Provided, That this requirement does not apply to any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Juvenile Services, created pursuant to section two, article five-e of this chapter, for the secure housing or holding of juveniles committed to its custody. The facilities and placing agencies shall maintain the same standards of care applicable to licensed facilities, centers or placing agencies of the same category.

(c) Any family day care facility which operates in this state, including family day care facilities approved by the department for receipt of funding, shall obtain a statement of certification from the department.

(d) Every family day care home which operates in this state, including family day care homes approved by the department for receipt of funding, shall obtain a certificate of registration from the department.

(e) This section does not apply to:

(1) A kindergarten, preschool or school education program which is operated by a public school or which is accredited by the state Department of Education, or any other kindergarten, preschool or school programs which operate with sessions not exceeding four hours per day for any child;

(2) An individual or facility which offers occasional care of children for brief periods while parents are shopping,
(3) Summer recreation camps operated for children attending sessions for periods not exceeding thirty days;

(4) Hospitals or other medical facilities which are primarily used for temporary residential care of children for treatment, convalescence or testing;

(5) Persons providing family day care solely for children related to them;

(6) Any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Juvenile Services, created pursuant to section two, article five-e of this chapter, for the secure housing or holding of juveniles committed to its custody.

(7) Any out-of-school time program that has been awarded a grant by the West Virginia Department of Education to provide out-of-school time programs to kindergarten through twelfth grade students when the program is monitored by the West Virginia Department of Education; or

(8) Any out-of-school time program serving children six years of age or older and meets all of the following requirements, or is an out-of-school time program that is affiliated and in good standing with a national Congressionally chartered organization and meets all of the following requirements:

(i) The program is located in a facility that meets all fire and health codes;

(ii) The program performs background checks on all volunteers and staff;

(iii) The program’s primary source of funding is not from fees for service; and,
(iv) The program has a formalized monitoring system in place.

(f) The secretary is authorized to issue an emergency rule relating to conducting a survey of existing facilities in this state in which children reside on a temporary basis in order to ascertain whether they should be subject to licensing under this article or applicable licensing provisions relating to behavioral health treatment providers.

(g) Any informal family child care home or relative family child care home may voluntarily register and obtain a certificate of registration from the department.

(h) All facilities or programs that provide out-of-school time care shall register with the department upon commencement of operations and on an annual basis thereafter. The department shall obtain information such as the name of the facility or program, the description of the services provided and any other information relevant to the determination by the department as to whether the facility or program meets the criteria for exemption under this section.

(i) Any child care service that is licensed or receives a certificate of registration shall have a written plan for evacuation in the event of fire, natural disaster or other threatening situation that may pose a health or safety hazard to the children in the child care service.

(1) The plan shall include, but not be limited to:

(A) A designated relocation site and evacuation;

(B) Procedures for notifying parents of the relocation and ensuring family reunification;

(C) Procedures to address the needs of individual children including children with special needs;
(D) Instructions relating to the training of staff or the reassignment of staff duties, as appropriate;

(E) Coordination with local emergency management officials; and

(F) A program to ensure that appropriate staff are familiar with the components of the plan.

(2) A child care service shall update the evacuation plan by December 31, of each year. If a child care service fails to update the plan, no action shall be taken against the child care service's license or registration until notice is provided and the child care service is given thirty days after the receipt of notice to provide an updated plan.

(3) A child care service shall retain an updated copy of the plan for evacuation and shall provide notice of the plan and notification that a copy of the plan will be provided upon request to any parent, custodian or guardian of each child at the time of the child's enrollment in the child care service and when the plan is updated.

(4) All child care centers and family child care facilities shall provide the plan and each updated copy of the plan to the Director of the Office of Emergency Services in the county where the center or facility is located.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd Day of ......................................, 2010.

Governor
PRESENTED TO THE
GOVERNOR

APR 01 2018

Time 11:30 a.m.