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A.C.A. T. 20, Subt. 5, Ch. 78, Subch. 2, Refs & Annos
Currentness

A.C.A. T. 20, Subt. 5, Ch. 78, Subch. 2, Refs & Annos, AR ST T. 20, Subt. 5, Ch. 78, Subch. 2, Refs & Annos
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A.C.A. § 20-78-201

§ 20-78-201. Citation

Currentness

This subchapter shall be known and cited as the "Childcare Facility Licensing Act".

Credits
Acts of 1969, Act 434, § 1.

Formerly A.S.A. 1947, § 83-901.

A.C.A. § 20-78-201, AR ST § 20-78-201
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A.C.A. § 20-78-202

§ 20-78-202. Definitions

Currentness

As used in this subchapter, unless the context otherwise requires:

(1)(A) "Child Care Appeal Review Panel" or "panel" means an eleven-member body under the Department of Human Services which shall serve as a review and appeal body regarding licensure or registration actions.

(B)(i) The panel shall consist of eleven (11) members, including the following:

(a) Three (3) early childhood professionals;

(b) One (1) pediatric health professional;

(c) One (1) parent of a child in a licensed early childhood program;

(d) The Director of the Division of Child Care and Early Childhood Education or his or her designee who shall serve as Chair of the Child Care Appeal Review Panel and shall not vote; and

(e) Five (5) licensed childcare providers representing a diversity of childcare settings.

(ii) Legal counsel from the office of the Attorney General shall serve as a facilitator of the panel and shall not serve as a voting member.

(iii) Alternates shall be chosen to serve during times of absence or in cases of conflict of interest. Five (5) alternates shall be chosen as follows:

(a) One (1) early childhood professional;

(b) One (1) pediatric health professional;

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(c) One (1) parent of a child in a licensed early childhood program; and

(d) Two (2) licensed childcare providers.

(iv) Members of the panel shall not be members of the Arkansas Early Childhood Commission.

(C)(i) The commission, from applications submitted, shall make panel selections from persons meeting the qualifications for service and exhibiting a willingness and time commitment to serve on the panel.

(ii) Panel members may be replaced under the same guidelines as commission members.

(D)(i) Members of the panel shall serve for three-year terms, not to exceed six (6) consecutive years of service on the panel.

(ii) Members from the office of the Attorney General and the director shall hold permanent offices.

(E) Members of the panel shall receive no compensation other than normal state reimbursement for travel, meals, and lodging when applicable.

(F) The panel shall schedule monthly meetings and may meet more often as necessary.

(G) A majority of the panel shall constitute a quorum, and a majority of those present may decide any issue before the panel. In the event of a tie vote by the panel, the Division of Child Care and Early Childhood Education decision shall stand.

(H)(i) Decisions of the panel shall be the final administrative appeal.

(ii) Providers or the Division of Child Care and Early Childhood Education may appeal the panel’s findings to the circuit court of the licensee's county of residence or to the Pulaski County Circuit Court.

(I) There shall be no monetary liability on the part of and no cause of action for damages shall arise against any member of the panel for any act or proceeding undertaken or performed within the scope of the functions of the panel if the panel member acts without malice or fraud; and

(2)(A)(i) “Childcare facility” means any facility which provides care, training, education, or supervision for any unrelated minor child, whether or not the facility is operated for profit and whether or not the facility makes a charge for the services offered by it.

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(ii) For the purposes of this subdivision (2), "related minor child" means a minor child related by blood, marriage, or adoption to the owner or operator of the facility or a minor child who is a ward of the owner or operator of the facility pursuant to a guardianship order issued by an Arkansas court of competent jurisdiction.

(B) This definition includes, but is not limited to, a nursery, a nursery school, a kindergarten, a daycare center, or a family daycare home.

(C) In any case where a facility or the owner or operator thereof is appointed guardian of a total of ten (10) or more minors, it shall be presumed that the facility, owner, or operator is engaged in child care and shall be subject to childcare facility licensure.

(D) However, this definition does not include:

(i) Special schools or classes operated solely for religious instruction;

(ii) Facilities operated in connection with a church, shopping center, business, or establishment where children are cared for during short periods of time while parents or persons in charge of the children are attending church services, shopping, or engaging in other activities during the periods;

(iii) Any educational facility, whether private or public, which operates solely for educational purposes in grades one (1) or above and does not provide any custodial care;

(iv) Kindergartens operated as a part of the public schools of this state;

(v) Any situation, arrangement, or agreement by which one (1) or more persons care for fewer than six (6) children from more than one (1) family at the same time;

(vi) Any educational facility, whether public or private, which operates a kindergarten program in conjunction with grades one (1) and above and provides short-term custodial care before or following classes for those students;

(vii)(a) Any recreational facility or program, whether public or private, which operates solely as a place of recreation for minor children.

(b) For purposes of this subdivision (2), a "recreational facility or program" is defined as a facility or program which operates with children arriving and leaving voluntarily for scheduled classes, activities, practice, games, and meetings;

(viii) Any state-operated facility to house juvenile delinquents or any serious offender program facility operated by a state designee to house juvenile delinquents, foster home, group home, or custodial institution. Those facilities shall be subject to program requirements modeled on nationally recognized correctional and child welfare standards, which shall be developed, administered, and monitored by the Division of Youth Services; and

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(ix) The Arkansas School for Mathematics, Sciences, and the Arts.

(3) [Repealed by Acts of 2019, Act 389, § 80, eff. July 24, 2019.]

(4) [Repealed by Acts of 2019, Act 389, § 80, eff. July 24, 2019.]

(5) [Repealed by Acts of 2019, Act 389, § 80, eff. July 24, 2019.]

Credits

Acts of 1969, Act 434, § 2; Acts of 1973, Act 123, § 4; Acts of 1983, Act 331, § 1; Acts of 1989, Act 399, § 1; Acts of 1991, Act 163, § 1; Acts of 1995, Act 1340, § 1; Acts of 1997, Act 1132, § 1; Acts of 1997, Act 948, § 2; Acts of 1999, Act 1222, § 6, eff. April 8, 1999; Acts of 2019, Act 389, § 80, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-902.

A.C.A. § 20-78-202, AR ST § 20-78-202

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A.C.A. § 20-78-203

§ 20-78-203. Penalties

Currentness

(a)(1) Any person violating any provisions of this subchapter and any person assisting any partnership, group, corporation, organization, or association in violating any provisions of this subchapter shall be guilty of a violation and upon conviction shall be fined in any sum not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100).

(2) Each day of the violation shall constitute a separate offense.

(b)(1) The Division of Child Care and Early Childhood Education is authorized to impose monetary fines as civil penalties to be paid for failure to comply with the provisions of this subchapter or the rules promulgated pursuant thereto.

(2) In determining whether a civil penalty is to be imposed, the following factors shall be considered by the division:

(A) The gravity of the violation, including the probability that death or serious physical harm to a child will result or has resulted, the severity and scope of the actual or potential harm, and the extent to which the provisions of the applicable statutes or rules were violated;

(B)(i) The exercise of good faith.

(ii) Indications of good faith include, but are not limited to, awareness of the applicable statutes and rules and reasonable diligence in securing compliance, prior accomplishments manifesting the desire to comply with the requirements, efforts to correct, and any other mitigating factors in favor of the operator;

(C) Any relevant previous violations committed; and

(D) The financial benefit of committing or continuing the violation.

(c) Before the imposition of monetary fines, the division shall provide notice and an opportunity to be heard before the Child Care Appeal Review Panel in accordance with hearing procedures in effect for the revocation or suspension of licenses.

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(d) With the review and approval of the Arkansas Early Childhood Commission, the division shall publish and promulgate rules classifying violations as follows:

(1)(A)(i) Class A violations involve essential standards that must be met for substantial compliance with licensing requirements.

(ii) These standards address fire, health, safety, nutrition, staff-to-child ratio, and space.

(B)(i) Operation of an unlicensed childcare facility shall be considered a Class A violation.

(ii) However, the definition of unlicensed childcare facility shall not be interpreted to include exempt childcare facilities as defined in § 20-78-209.

(C) Class A violations are subject to a civil penalty of one hundred dollars ($100) for each violation; and

(2)(A) Class B violations involve administrative standards and standards that do not directly threaten the immediate health, safety, or welfare of the children.

(B) Class B violations are subject to a civil penalty of fifty dollars ($50.00) for each violation.

(e)(1) Each day of occurrence of a Class A or Class B violation shall constitute a separate violation.

(2) Aggregate fines assessed for violation in any one (1) month shall not exceed five hundred dollars ($500) for Class A violations or two hundred fifty dollars ($250) for Class B violations.

(f)(1) When a childcare facility has been found by the division to have committed Class A or Class B violations, then upon final administrative determination by the panel, notice shall be posted in the childcare facility stating the violations found by the division to have occurred and the current status of the license.

(2) This notice shall be posted in the childcare facility in a conspicuous place clearly visible to all staff, to all other individuals in the childcare facility, and to all visitors to the childcare facility.

(g)(1) Failure to post a proper notice as required by this section shall be considered to be a Class B violation for which civil penalties may be imposed as authorized by this section.

(2) Each day of noncompliance shall constitute a separate offense.

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Credits

Acts of 1969, Act 434, § 14; Acts of 1987, Act 856, § 1; Acts of 1991, Act 888, § 1; Acts of 1997, Act 1132, § 2; Acts of 1999, Act 1222, § 7, eff. April 8, 1999; Acts of 2005, Act 1994, § 140, eff. Aug. 12, 2005; Acts of 2019, Act 315, §§ 2271 to 2274, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-914.

A.C.A. § 20-78-203, AR ST § 20-78-203

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A.C.A. § 20-78-204

§ 20-78-204. Injunction

Currentness

When any person, partnership, group, corporation, organization, or association shall operate or assist in the operation of a childcare facility which has not been licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services or has had the license denied, suspended, or revoked and has been ordered to cease and desist operation, in accordance with the provisions of this subchapter, the division shall have the right to go into the circuit court in the jurisdiction in which the childcare facility is being operated and, upon affidavit, secure a writ of injunction, without bond, restraining and prohibiting the person, partnership, group, corporation, organization, or association from operating the childcare facility.

Credits

Acts of 1969, Act 434, § 15; Acts of 1989, Act 399, § 2; Acts of 1997, Act 1132, § 3; Acts of 1999, Act 1222, § 8, eff. April 8, 1999.

Formerly A.S.A. 1947, § 83-915.

Notes of Decisions (1)

A.C.A. § 20-78-204, AR ST § 20-78-204

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A.C.A. § 20-78-205

§ 20-78-205. Division of Child Care and Early Childhood Education

Currentness

(a) There is created the Division of Child Care and Early Childhood Education within the Department of Human Services. In creating the Division of Child Care and Early Childhood Education, the General Assembly intends for the following to be maintained and enhanced:

(1) Coordination of existing early childhood education and childcare programs;

(2) Placement of children in quality early childhood programs which support their development and readiness for school;

(3) Development of new childcare services under welfare reform which promote the developmental needs of children receiving transitional employment assistance benefits or other forms of public assistance;

(4) Quality program standards for all early childhood and childcare programs;

(5) State support for early childhood and childcare programs to attain quality program standards;

(6) Economic and cultural integration of children in early childhood programs;

(7) Access to additional support services for early childhood and childcare programs, such as healthcare and nutrition services;

(8) Career development opportunities for early childhood program staff;

(9) On-going interagency planning and collaboration in regard to early childhood and child care;

(10) Parent support and education in choosing appropriate early childhood programs for their children; and

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(11) State support for local leadership, program innovation, and excellence in early childhood and care programs.

(b) The Division of Child Care and Early Childhood Education shall have the following duties:

(1) Administration of the Child Care and Development Block Grant and other childcare funds, state and federal, that are available to the department;

(2) Administration of the Arkansas Better Chance Program, under interagency agreement with the Division of Elementary and Secondary Education;

(3) Administration of the Arkansas Special Nutrition Program;

(4) Establishment and promulgation of rules setting standards governing the granting, revocation, refusal, and suspension of licenses for a childcare facility and the operation of childcare facilities in this state, as defined by § 20-78-202;

(5) Staff support for the operation of the Arkansas Early Childhood Commission;

(6) Provide consultative resources for the private sector in developing childcare programs;

(7) Provide consultative resources for the private sector in developing childcare facilities;

(8) Solicit grant funds for exemplary early childhood and childcare programs; and

(9) Administration of the birth through prekindergarten teaching credential and the promulgation of rules to implement the teaching credential program under § 20-78-801 et seq.

(c)(1) In addition to any other rights, powers, functions, and duties granted by law to the Division of Child Care and Early Childhood Education, the department is hereby authorized to promote and cooperate in the establishment of a foundation under the Arkansas nonprofit corporation law and to accept support and assistance in the form of money, property, or otherwise from the foundation to be used to enhance quality, affordability, and availability of child care and early education for all children in the state.

(2) If a foundation is established for the early care and education of children and if the department shares resources or facilities with the foundation or accepts support and assistance from the foundation, the foundation shall file annually a report with the Governor, the Legislative Council, and the Legislative Joint Auditing Committee showing the amount and source of all gifts, grants, and donations of money or property received by the foundation and all expenditures or other dispositions of money or property by the foundation during the preceding year.

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(3) After consultation with the commission, the Director of the Division of Child Care and Early Childhood Education shall prepare rules for the use of foundation funds. The director shall submit the proposed rules to the Legislative Council for its review.

(4) No person over whom the department has day-to-day managerial control shall receive compensation or remuneration from funds not in the State Treasury.

(d)(1) The Division of Child Care and Early Childhood Education shall create and make available on the website of the department a form and graphical chart that concisely explains the:

(A) Minimum licensing requirements for a licensed home;

(B) Minimum licensing requirements for a licensed childcare center;

(C) Procedure for obtaining licensure as a licensed home or licensed childcare center;

(D) Registration requirements for a registered childcare family home;

(E) Procedure for registering as a registered childcare family home;

(F) Voluntary registry of daycare family homes;

(G) Procedure for registering a daycare family home with the voluntary registry;

(H) Availability of federal or state funds, grants, programs, or other financial assistance, including without limitation the:

(i) Community Facilities Guaranteed Loan Program;

(ii) Community Development Block Grant;

(iii) Child and Adult Care Food Program;

(iv) Child Care and Development Block Grant;

(v) Early Head Start-Child Care Partnership Grant;

(vi) Arkansas Better Chance Program; and

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(vii) Arkansas Special Nutrition Program; and

(I) Availability of a federal or state tax credit or other federal or state tax benefit, including without limitation the employer-provided child care credit that is available to taxpayers under §§ 26-51-507 and 26-51-508.

(2) The Division of Child Care and Early Childhood Education shall place a form and graphical chart created in accordance with subdivision (d)(1) of this section in a conspicuous location on the website of the department.

Credits

Acts of 1969, Act 434, § 12; Acts of 1973, Act 123, § 2; Acts of 1979, Act 904, § 1; Acts of 1987, Act 856, § 1; Acts of 1989, Act 400, §§ 1, 2; Acts of 1995, Act 1280, §§ 13, 14, eff. April 13, 1995; Acts of 1997, Act 250, § 205, eff. Feb. 24, 1997; Acts of 1997, Act 1132, § 4; Acts of 1999, Act 1222, § 9, eff. April 8, 1999; Acts of 2001, Act 1271, § 1, eff. Aug. 13, 2001; Acts of 2009, Act 187, § 2, eff. July 31, 2009; Acts of 2011, Act 1121, § 15, eff. July 27, 2011; Acts of 2017, Act 576, § 1, eff. Aug. 1, 2017; Acts of 2019, Act 910, §§ 2304 to 2307, eff. July 1, 2019; Acts of 2019, Act 131, § 2, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-911.

A.C.A. § 20-78-205, AR ST § 20-78-205

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A.C.A. § 20-78-206

§ 20-78-206. Rules

Currentness

(a)(1)(A) The Division of Child Care and Early Childhood Education shall promulgate and publish rules setting minimum standards governing the granting, revocation, refusal, and suspension of licenses for a childcare facility and the operation of a childcare facility.

(B) In developing proposed rules, the division shall consult with the Secretary of the Department of Health or his or her designated representative in regard to rules relating to health.

(2)(A)(i) However, no childcare facility shall continue to admit a child who has not been age-appropriately immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, rubella, and any other diseases as designated by the State Board of Health within fifteen (15) program days after the child's original admission.

(ii) The immunization shall be evidenced by a certificate of a licensed physician or a public health department acknowledging the immunization. The division shall consult with the Secretary of the Department of Education or his or her designated representative in regard to rules relating to education.

(B)(i) The provisions of subdivision (a)(2)(A) of this section pertaining to immunizations shall not apply if the parents or legal guardian of that child object thereto on the grounds that immunization conflicts with the religious or philosophical beliefs of the parent or guardian.

(ii) The parents or legal guardian of the child shall complete an annual application process developed in the rules of the Department of Health for medical, religious, and philosophical exemptions.

(iii) The rules developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(a) A notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

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(b) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(c) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health's refusal-to-vaccinate form; and

(d) A signed statement of understanding that:

(1) At the discretion of the Department of Health, the unimmunized child or individual may be removed from day care or school during an outbreak if the child or individual is not fully vaccinated; and

(2) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(iv) No exemptions may be granted under this subdivision (a)(2)(B) until the application process has been implemented by the Department of Health and completed by the applicant.

(v) Furthermore, the provisions of subdivision (a)(2)(A) of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

(3) The Secretary of the Department of Health and the Secretary of the Department of Education and their designated representatives are directed to cooperate with and assist the division in developing rules in the respective areas of health and education.

(4) In developing these rules, the division shall consult with such other agencies, organizations, or individuals as it shall deem appropriate.

(5) Rules promulgated by the division pursuant to this section may be amended by the division from time to time, provided that any amendment to the rules shall be published and furnished to all licensed childcare facilities and to all applicants for a license at least sixty (60) days before the effective date of the amendment.

(b) In establishing requirements and standards for the granting, revocation, refusal, and suspension of a license for a childcare facility, the division shall adopt such rules as will:

(1) Promote the health, safety, and welfare of children attending a childcare facility;

(2) Promote safe, comfortable, and healthy physical facilities for the children who attend the childcare facility;

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(3) Ensure adequate supervision of the children by capable, qualified, and healthy individuals;

(4) Ensure appropriate educational programs and activities; and

(5) Ensure adequate and healthy food service where food service is offered by the childcare facility.

(c)(1) Questions between providers and the division concerning substantial compliance with the published standards, founded licensing complaints, denials of alternative compliance requests, and adverse actions shall first be appealed through the division's internal appeal process and then may be appealed through the Child Care Appeal Review Panel for determination.

(2) The division shall follow the procedures prescribed for adjudication in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., in exercising any power authorized by § 20-78-213.

(d) If, upon the filing of a petition for a judicial review, the reviewing court enters a stay prohibiting enforcement of a decision of the division, the court shall complete its review of the record and announce its decision within one hundred twenty (120) days of the entry of the stay. If the court does not issue its findings within one hundred twenty (120) days of the issuance of the stay, the stay shall be considered vacated.

(e) All rules promulgated pursuant to this section shall be reviewed by the Senate Interim Committee on Children and Youth or an appropriate subcommittee thereof and the Subcommittee on Children and Youth of the House Committee on Aging, Children and Youth, Legislative and Military Affairs.

(f)(1) Any person with reasonable cause to suspect that a childcare facility has violated any provision of this subchapter or any rule of the division may immediately notify the Department of Human Services.

(2) The Department of Human Services shall not release data that would identify the person who made the report or who cooperated in a subsequent investigation of a childcare facility unless a court of competent jurisdiction orders the release of information for good cause shown.

(3) Following the inspection and investigation of a childcare facility as provided under this subsection, the Department of Human Services shall, upon request, provide information to the person or agency reporting the suspected violation as to whether an investigation has been conducted.

(4) Willfully making false notification pursuant to this subsection shall be a Class C misdemeanor.

Credits

Acts of 1969, Act 434, § 4; Acts of 1977, Act 349, § 2; Acts of 1991, Act 888, §§ 2, 4; Acts of 1995, Act 1280, § 15, eff. April 13, 1995; Acts of 1997, Act 312, § 17, eff. Feb. 28, 1997; Acts of 1997, Act 870, § 1; Acts of 1997, Act 1132, § 5; Acts of 1999, Act 1222, § 10, eff. April 8, 1999; Acts of 2003, Act 999, § 3, eff. April 1, 2003; Acts of 2017, Act 576, §§ 2, 3, eff. Aug. 1, 2017; Acts of 2019, Act 910, §§ 5103, 5104, eff. July 1, 2019; Acts of 2019, Act 315, §§ 2275 to 2280, eff. July 24, 2019.

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Formerly A.S.A. 1947, §§ 83-904, 83-911.1.

A.C.A. § 20-78-206, AR ST § 20-78-206

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A.C.A. § 20-78-207

§ 20-78-207. Declaratory judgments on licensing rules

Currentness

Any rule promulgated by the Division of Child Care and Early Childhood Education under authority of § 20-78-206 or under any other childcare facility licensing law shall, at the suit of any interested person instituted in the Pulaski County Circuit Court, be subject to remedies provided by law for obtaining declaratory judgments. However, the division must be named a party defendant and summoned as in an action by ordinary proceedings.

Credits

Acts of 1971, Act 715, § 1; Acts of 1997, Act 1132, § 6; Acts of 2019, Act 315, § 2281, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-917.

A.C.A. § 20-78-207, AR ST § 20-78-207

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A.C.A. § 20-78-208

§ 20-78-208. Unlicensed facilities prohibited

Currentness

(a) It shall be unlawful for any person, partnership, group, corporation, organization, or association to operate or assist in the operation of a childcare facility which has not been licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services.

(b) It shall be unlawful for any person to falsify an application for licensure, to knowingly circumvent the authority of this subchapter to knowingly violate the orders issued by the division, or to advertise the provision of child care which is not licensed or approved or exempt by the division.

(c) A violation of this section shall be a Class C misdemeanor.

Credits
Acts of 1969, Act 434, § 3; Acts of 1991, Act 888, § 3; Acts of 1997, Act 1132, § 7.

Formerly A.S.A. 1947, § 83-903.

A.C.A. § 20-78-208, AR ST § 20-78-208
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A.C.A. § 20-78-209

§ 20-78-209. Churches exempted from licenses

Currentness

(a) Any church or group of churches exempt from the state income tax levied by the Income Tax Act of 1929, § 26-51-101 et seq., when operating a childcare facility shall be exempt from obtaining a license to operate the childcare facility upon the receipt by the Division of Child Care and Early Childhood Education of written request therefor. A written request shall be made by those churches desiring exemption to the division, which is mandated under the authority of this subchapter to license all childcare facilities.

(b)(1) In order to maintain an exempt status, the childcare facility shall maintain in its files verification that its childcare facility has met the required fire, safety, and health inspections on an annual basis and is in substantial compliance with published standards that similar nonexempt childcare facilities are required to meet.

(2) Visits to review and advise exempt childcare facilities shall be made as deemed necessary by the division to verify and maintain substantial compliance with all published standards for nonexempt childcare facilities.

(3) Standards for substantial compliance shall not include those of a religious or curriculum nature so long as the health, safety, and welfare of the child is not endangered.

(4) Standards for corporal punishment shall be as established by present rules unless alternative compliance is granted by the division.

(c)(1) Any questions of substantial compliance with the published standards, adverse actions, founded licensing complaints, and denied requests for alternative compliance shall be appealed first through the division's internal appeal process and then may be appealed to the Child Care Appeal Review Panel for determination.

(2) Final administrative actions of the division shall be pursued by either party in the court of competent jurisdiction in the resident county of the childcare facility under review.

(3) Challenge to the constitutionality or reasonableness of any rule or statute may be made before any appeal under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

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(d) As used in this section, the term "substantial compliance" and as used in §§ 20-78-201 -- 20-78-206, 20-78-208, 20-78-210 -- 20-78-214, and 20-78-218, the term "is being operated in accordance with this act" shall each mean that a church-operated exempt or a nonexempt childcare facility is being operated within the minimum requirements for substantial compliance as promulgated by the division. It is the intent and purpose of this section that the term "substantial compliance" be applicable to all childcare facilities.

(e) This section is cumulative to all other acts heretofore enacted.

Credits

Acts of 1983, Act 245, §§ 1 to 4, 6; Acts of 1991, Act 627, § 1; Acts of 1997, Act 1132, § 8; Acts of 1999, Act 1222, § 11, eff. April 8, 1999; Acts of 2019, Act 315, §§ 2282, 2283, eff. July 24, 2019.

Formerly A.S.A. 1947, §§ 83-920 to 83-924.

Notes of Decisions (4)

A.C.A. § 20-78-209, AR ST § 20-78-209

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A.C.A. § 20-78-210

§ 20-78-210. Obtaining licenses

Currentness

(a) Any person, partnership, group, corporation, organization, or association desiring to operate a childcare facility shall first make application for a license for a childcare facility to the Division of Child Care and Early Childhood Education on the application forms furnished for this purpose by the division.

(b) The division shall act on any application within sixty (60) days after it has been received by the division.

(c) If an applicant meets the requirements of this subchapter and the published rules of the division regarding minimum standards for a childcare facility, then the applicant shall be granted a license by the division as a childcare facility. This license shall continue in effect until revoked or suspended as provided in this subchapter.

(d) In issuing a license for a childcare facility, the division may limit the number of children who may be served by that childcare facility.

(e) In issuing an initial license or reviewing a current license for a childcare facility, the division shall require that during regular business hours at least one (1) adult member of the staff who is certified in infant and child cardiopulmonary resuscitation shall be present within the physical confines of the childcare facility.

Credits
Acts of 1969, Act 434, § 5; Acts of 1991, Act 627, § 2; Acts of 1993, Act 493, § 1; Acts of 1997, Act 1132, § 9; Acts of 2019, Act 315, § 2284, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-905.

A.C.A. § 20-78-210, AR ST § 20-78-210
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A.C.A. § 20-78-211

§ 20-78-211. Provisional licenses

Currentness

(a) If the Division of Child Care and Early Childhood Education finds that an applicant for a childcare facility meets the licensing requirements for a childcare facility in the main and has a reasonable expectation of correcting deficiencies in a reasonable time, then the division may, in its discretion, issue a provisional license for a childcare facility.

(b) The provisional license shall be in effect for a reasonable time, which time shall be specified in the provisional license.

(c) Issuance of provisional licenses shall be in accordance with the published rules adopted by the division in accordance with this subchapter.

Credits
Acts of 1969, Act 434, § 6; Acts of 1997, Act 1132, § 10; Acts of 2019, Act 315, § 2285, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-906.

A.C.A. § 20-78-211, AR ST § 20-78-211
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A.C.A. § 20-78-212

§ 20-78-212. Licenses revoked upon relocation

Currentness

(a) A license for a childcare facility shall apply only to the address and location stated on the application and license issued, and it shall not be transferable from one holder of the license to another or from one (1) place to another.

(b) If the location of a childcare facility is changed or the owner of the childcare facility is changed, then the license for that childcare facility shall automatically be revoked upon such a change.

Credits
Acts of 1969, Act 434, § 7; Acts of 1997, Act 1132, § 11.

Formerly A.S.A. 1947, § 83-907.

A.C.A. § 20-78-212, AR ST § 20-78-212
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A.C.A. § 20-78-213

§ 20-78-213. Denial, revocation, and suspension of licenses

Currentness

(a) The Division of Child Care and Early Childhood Education shall have the power to deny, revoke, or suspend a license for a childcare facility if an applicant or licensee has failed to comply with the provisions of this subchapter or any published rule of the division, subject to appeal before the Child Care Appeal Review Panel.

(b) If a license is denied, revoked, or suspended, the denial, revocation, or suspension shall be effective when made. The division shall notify the applicant or licensee of the action in writing and set out the basis for the denial, revocation, or suspension of the license.

Credits
Acts of 1969, Act 434, § 10; Acts of 1997, Act 1132, § 12; Acts of 1999, Act 1222, § 12, eff. April 8, 1999; Acts of 2019, Act 315, § 2286, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-910.

Notes of Decisions (6)

A.C.A. § 20-78-213, AR ST § 20-78-213
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A.C.A. § 20-78-214

§ 20-78-214. Investigating childcare facilities

Currentness

(a) The Division of Child Care and Early Childhood Education or any other agency of the State of Arkansas which the division asks to assist it is authorized to make an inspection and investigation of any proposed or operating childcare facility and of any personnel connected with that childcare facility to the extent that an inspection and investigation is required to determine whether this childcare facility will be or is being operated in accordance with this section and with the published rules of the division for childcare facilities.

(b) However, the division or any other public agency having authority or responsibility with respect to child abuse shall have the authority to investigate any alleged or suspected child abuse in any childcare facility. Nothing contained in this section shall be construed to limit or restrict that authority.

Credits
Acts of 1985, Act 697, § 1; Acts of 1997, Act 1132, § 13; Acts of 2019, Act 315, § 2287, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-908.1.

A.C.A. § 20-78-214, AR ST § 20-78-214
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A.C.A. § 20-78-215

§ 20-78-215. Sexual abuse of children

Currentness

(a)(1) By the enactment of this section, it is the specific intent of the General Assembly to ensure that the State of Arkansas may qualify for the maximum amount of federal funds made available through Pub. L. No. 98-473 or any subsequent and related federal legislation enacted for use in reducing the incidence of child sexual abuse.

(2) Specifically, rules promulgated by the Secretary of the Department of Human Services pursuant to this section may address federally mandated requirements for employment history and background checks and nationwide criminal record checks, as may be necessary in accordance with the provisions of Pub. L. No. 92-544, for all operators, staff, or employees, or prospective operators, staff, or employees of the childcare facilities or programs as defined in this section.

(b) In order to enable the State of Arkansas to fully participate and share in federal funds made available to the states through the Social Services Block Grant Act,[1] or otherwise for the purposes of reducing and eliminating the incidence of child sexual abuse in childcare facilities, as defined in § 20-78-202(2), the secretary is authorized at his or her discretion to promulgate, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., rules implementing such federal requirements as may be placed upon the states to qualify for the funds.

(c) Persons, other than the State of Arkansas, shall not acquire actionable right by virtue of this section.

Credits

Acts of 1985, Act 1050, §§ 1 to 3; Acts of 1997, Act 1132, § 14; Acts of 2019, Act 910, §§ 5238, 5239, eff. July 1, 2019; Acts of 2019, Act 315, §§ 2288, 2289, eff. July 24, 2019.

Formerly A.S.A. 1947, §§ 83-927 to 83-929.

Footnotes

1 42 U.S.C.A. § 1397 et seq.

A.C.A. § 20-78-215, AR ST § 20-78-215

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A.C.A. § 20-78-216

§ 20-78-216. Records and reports

Currentness

The Division of Child Care and Early Childhood Education may by published rules require that a licensed childcare facility keep and make available to the division records and periodic reports as shall be necessary to assist the division in determining whether the requirements of this subchapter and of the division's rules regarding childcare facilities are being complied with.

Credits
Acts of 1969, Act 434, § 9; Acts of 1997, Act 1132, § 15; Acts of 2019, Act 315, § 2290, eff. July 24, 2019.

Formerly A.S.A. 1947, § 83-909.

A.C.A. § 20-78-216, AR ST § 20-78-216
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A.C.A. § 20-78-217

§ 20-78-217. Smoking

Currentness

(a) Whereas, health authorities have established that smoking is not conducive to good health and that children exposed to smoking face a potential health hazard, therefore, it is the intent of the Seventy-Fifth General Assembly to ban smoking in the physical confines of the day care centers licensed by the Division of Child Care and Early Childhood Education.

(b) The division is directed to promulgate sufficient rules to ensure that state licensing requirements for day care center operations contain a stipulation which bans smoking within the physical confines of each day care center.

Credits
Acts of 1985, Act 862, §§ 1, 2; Acts of 1997, Act 1132, § 16; Acts of 2019, Act 315, § 2291, eff. July 24, 2019.

Formerly A.S.A. 1947, §§ 83-925, 83-926.

A.C.A. § 20-78-217, AR ST § 20-78-217
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A.C.A. § 20-78-218

§ 20-78-218. Administration of subchapter

Currentness

The Division of Child Care and Early Childhood Education shall continue to be the administrative agency to administer the provisions of this subchapter in accordance with the rules and standards for the licensing and operation of childcare facilities as promulgated by the division.

Credits

Acts of 1987, Act 856, § 1; Acts of 1997, Act 1132, § 17; Acts of 2019, Act 315, § 2292, eff. July 24, 2019.

A.C.A. § 20-78-218, AR ST § 20-78-218

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A.C.A. § 20-78-219

§ 20-78-219. Fines and penalties--Disposition of funds

Currentness

(a) If any licensee fails to pay any monetary fine imposed as a civil penalty within sixty (60) days of the Division of Child Care and Early Childhood Education's decision imposing the penalty, the amount of the fine shall be considered to be a debt owed the State of Arkansas and may be collected by civil action.

(b)(1) All fines and penalties collected under the provisions of this subchapter shall be special revenues to be deposited into the State Treasury to the credit of a special fund to be known as the "Child Care Fund", to be used by the division to meet the costs of conducting the statewide criminal records checks required under § 20-78-606 or to provide grants to childcare facilities for enhancement of the childcare facility or for training of personnel in childcare facilities under the direction of the division.

(2) Subject to those rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Human Services is authorized to transfer all unexpended funds relative to the fines and penalties collected from childcare facilities as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

Credits

Acts of 1987, Act 856, § 1; Acts of 1997, Act 1132, § 18; Acts of 2009, Act 762, § 9, eff. Sept. 1, 2009; Acts of 2019, Act 315, § 2293, eff. July 24, 2019.

A.C.A. § 20-78-219, AR ST § 20-78-219

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A.C.A. § 20-78-220

§ 20-78-220. Child maltreatment

Currentness

(a) If a juvenile is found to be abused or neglected due to the acts or omissions of a person other than the parent or guardian of the juvenile, the court may enter an order restraining or enjoining the person or facility employing that person from providing care, training, education, or supervision of juveniles of whom the person or facility is not the parent or guardian.

(b) If the person or facility restrained or enjoined was not subject to this subchapter, the court may order the person or facility to obtain a license from the Division of Child Care and Early Childhood Education of the Department of Human Services as a condition precedent to the person or facility providing care, training, education, or supervision of any juveniles of which the person or facility is not the parent or guardian. If the court so orders, this subchapter shall thereafter apply to the persons or facility subject to the court order.

(c)(1) Information pertaining to child maltreatment is confidential under the Child Maltreatment Act, § 12-18-101 et seq.

(2) The division may receive information from any investigative agency on child maltreatment cases conducted within a childcare facility and relative to licensure under this subchapter, including specific allegations, a factual description of the investigative findings, and the investigative determination.

(3) The division shall accept the investigative determinations of the appropriate investigative agencies for consideration in any action on childcare facility licenses.

Credits

Acts of 1987, Act 745, § 1; Acts of 1995, Act 1280, § 16, eff. April 13, 1995; Acts of 1997, Act 1132, § 19; Acts of 2009, Act 758, § 28, eff. July 31, 2009.

A.C.A. § 20-78-220, AR ST § 20-78-220

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A.C.A. § 20-78-221

§ 20-78-221. Registry and registration

Currentness

(a) Registry. There shall be created a voluntary registry of day care family homes that are not required by this subchapter to be licensed by the Division of Child Care and Early Childhood Education. The registry shall be maintained by the division.

(b) Procedure for Registration. Day care family homes exempt from licensure may voluntarily register the home with the registry established, operated, and maintained by the division. A person wishing to participate in the voluntary registry shall make an application to the division. Upon receipt of the application, the division shall review the applicant's written application, qualifications, and proposed operation to determine compliance with registry rules. The division shall issue a certificate of registration to the applicant which authorizes the applicant to operate a registered day care family home only upon final determination of an applicant's compliance with the rules established for registration.

(c) Rules.

(1) The division is authorized to establish rules that a day care family home shall meet in order to be registered by the Department of Human Services.

(2) The division shall have the right to enter and inspect a registered day care family home if there is reason to believe that the home is in violation of the registry rules and to ensure compliance with the rules established by the division.

(d) Removal or Denial of Registration. If after review of the submitted application, it is determined that the day care family home is not in compliance with the rules for the registry as established by the division, the division shall immediately deny or remove the home from the registry. Upon removal from the registry, a day care family home may no longer be considered a registered home.

(e) Right to Appeal.

(1) A person whose registration has been denied or who is removed from the voluntary registry due to violation of rules may appeal the action to the department in accordance with Arkansas law and state rules.

(2) The appeal does not stay the denial or removal from the registry.

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(f) Renewal of Registration.

(1) The registration of the day care family home shall continue in effect until removed as provided in this subchapter.

(2) The division shall have the right to investigate and inspect the premises when there is reason to believe that violations exist and to make sure that the home is still in compliance with the rules established for the voluntary registry of day care family homes.

(g) Surrender of Registration. At any time, the owner of the registered day care family home may voluntarily surrender his or her certificate of registration. Upon surrender, that home shall be removed from the registry of day care family homes operated by the division.

Credits

Acts of 1989, Act 46, § 1; Acts of 1997, Act 1132, § 20; Acts of 2019, Act 315, §§ 2294, 2295, eff. July 24, 2019.

A.C.A. § 20-78-221, AR ST § 20-78-221

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A.C.A. § 20-78-222

§ 20-78-222. Continuing education

Currentness

(a)(1) All persons employed by a childcare facility who work directly with children shall receive at least ten (10) hours per year of continuing early childhood education as approved by the Division of Child Care and Early Childhood Education of the Department of Human Services.

(2) Topics appropriate for continuing early childhood education shall include, but not be limited to, the following:

(A) Child growth and development;

(B) Nutrition and food service;

(C) Parental communication and involvement;

(D) Curricula and curriculum development;

(E) Developmentally appropriate practice and learning environments;

(F) Behavior management;

(G) Emergency care and first aid; and

(H) Administration and management of early childhood programs.

(b) Evidence satisfactory to the division of each employee's completion within the past twelve (12) months of continuing education shall be maintained by the childcare facility as part of the childcare facility's personnel records.

(c) The failure of a childcare facility to comply with this requirement shall be grounds for the denial, revocation, or suspension of a license issued pursuant to this subchapter.

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Credits

Acts of 1993, Act 900, § 1; Acts of 1995, Act 594, § 1; Acts of 1997, Act 1132, § 21.

A.C.A. § 20-78-222, AR ST § 20-78-222

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A.C.A. § 20-78-223

§ 20-78-223. License fees--Disposition

Currentness

(a) The Division of Child Care and Early Childhood Education of the Department of Human Services shall not issue or maintain a license to a childcare facility unless the license fee is paid at the annual licensing or renewal date. The license fee is:

(1) Fifteen dollars ($15.00) per year for childcare facilities serving fewer than seventeen (17) children;

(2) Fifty dollars ($50.00) for childcare facilities serving seventeen (17) to ninety-nine (99) children; and

(3) One hundred dollars ($100) per year for childcare facilities serving one hundred (100) or more children.

(b) The division shall transmit the fees monthly to the Treasurer of State to be deposited as special revenues into the Child Care Fund.

Credits
Acts of 1997, Act 1132, § 22.

A.C.A. § 20-78-223, AR ST § 20-78-223
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A.C.A. § 20-78-224

§ 20-78-224. Child Care Fund

Currentness

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, the Child Care Fund, to be administered by the Division of Child Care and Early Childhood Education of the Department of Human Services.

(b) The division shall certify each month the amount of fees collected and deposited to the fund and shall transmit, from funds appropriated for the maintenance and operation of the division, an amount of money equal to one-half (½) of the fees transmitted to the Treasurer of State.

Credits
Acts of 1997, Act 1132, § 22.

A.C.A. § 20-78-224, AR ST § 20-78-224
The constitution and statutes are current through acts passed during the 2025 Regular Session of the 95th Arkansas General Assembly. The general effective date for the session is August 5, 2025. Some statute sections may be more current; see credits for details. Also included are changes made by the Arkansas Code Revision Commission received through November 30, 2025.

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A.C.A. § 20-78-225

§ 20-78-225. Child safety alarm devices

Currentness

(a) All agencies or childcare facilities licensed by the Department of Human Services under this subchapter or the Child Welfare Agency Licensing Act, § 9-28-401 et seq., that transport children shall have approved child safety alarm devices installed on any vehicles designed or used to transport more than seven (7) passengers and one (1) driver.

(b)(1) All such vehicles in active child transportation service before July 1, 2005, shall have a child safety alarm device installed by a qualified technician or mechanic no later than December 31, 2005.

(2) On or after July 1, 2005, each newly acquired vehicle placed in child transportation service shall have a child safety alarm installed before placing the vehicle into service.

(3) Any agencies or childcare facilities required to have approved child safety alarm devices installed in a vehicle shall ensure that the devices are maintained and are in proper working order any time that the vehicle is in use for transporting children.

(c) The department shall:

(1) Maintain a list of approved child safety alarm devices; and

(2) Promulgate rules as necessary for the proper implementation of this section.

(d) Contingent upon the availability of funding for this purpose, the department may provide reimbursement to agencies or childcare facilities required under this section to retrofit vehicles in service before July 1, 2005, but the requirement to have approved child safety alarm devices in vehicles as required under this section shall not be contingent on the availability of funding or upon an agency's or a childcare facility's eligibility for reimbursement.

Credits
Acts of 2005, Act 1979, § 3, eff. April 11, 2005.

A.C.A. § 20-78-225, AR ST § 20-78-225

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A.C.A. § 20-78-226

§ 20-78-226. Violation

Currentness

(a) It shall be unlawful to transport children in a vehicle that is required to have an approved child safety alarm device as provided under § 20-78-225 if the approved child safety alarm device:

(1) Has not been installed;

(2) Is not in proper working condition; or

(3) Has been disconnected.

(b) Any person who knowingly violates the provisions of this section shall be guilty of a Class A misdemeanor.

Credits
Acts of 2005, Act 1979, § 4, eff. April 11, 2005.

A.C.A. § 20-78-226, AR ST § 20-78-226
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A.C.A. § 20-78-227

§ 20-78-227. Liability insurance and driver training requirements

Currentness

(a) The purpose of this section is to enhance safe and responsible passenger transportation of children in child care by requiring appropriate liability insurance and driver training.

(b)(1) The Division of Child Care and Early Childhood Education of the Department of Human Services, in collaboration with the State Insurance Department, shall develop and promulgate rules requiring sufficient and appropriate minimum levels of general liability insurance coverage for licensed childcare centers and licensed and registered childcare family homes, including coverage for transportation services when applicable.

(2) A state institution, political subdivision, or other entity that is entitled to immunity from liability under § 21-9-301 is not required to have general liability insurance coverage in order to be licensed.

(c) The division shall promulgate rules requiring all drivers of vehicles transporting children on behalf of licensed childcare centers and licensed and registered childcare family homes to complete a comprehensive program of driver safety training.

Credits
Acts of 2009, Act 778, §§ 1, 2, eff. April 3, 2009; Acts of 2015, Act 23, § 1, eff. Feb. 6, 2015.

A.C.A. § 20-78-227, AR ST § 20-78-227
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A.C.A. § 20-78-228

§ 20-78-228. Childcare facility floor plan on file with the emergency management coordinator

Currentness

(a)(1) As used in this section, "floor plan" means a document containing:

(A) A schematic drawing of facilities and property used by the childcare facility, including the configuration of rooms, spaces, and other physical features of buildings;

(B) The location or locations where children enrolled in child care spend time regularly;

(C) The escape routes approved by the local fire department for the childcare facility or faculties;

(D) The ages of children served by the childcare facility;

(E) The licensed capacity of children enrolled in the childcare facility; and

(F) The contact information for at least two (2) emergency contacts for the childcare facility.

(2) An aerial view of the childcare facility and property used by the childcare facility shall be included with the floor plan if available.

(b) A childcare facility licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services under this subchapter or the Child Welfare Agency Licensing Act, § 9-28-401 et seq., shall file a copy of the childcare facility's floor plan with the emergency management coordinator through the statewide Smart911 system for the local office of emergency management or the inter-jurisdictional office of emergency management that serves the area where the childcare facility is located within:

(1) Thirty (30) days of receiving a license; and

(2) Thirty (30) days of a change or modification to the floor plan.

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(c) The emergency management coordinator shall ensure that the childcare facility's floor plan submitted under subsection (b) of this section is available at the 911 public safety communications center and the local office of emergency management or the interjurisdictional office of emergency management that serves the area where the childcare facility is located.

(d) The Department of Human Services shall adopt rules as necessary to implement this section.

Credits

Acts of 2013, Act 1159, § 2, eff. Aug. 16, 2013; Acts of 2015, Act 950, § 2, eff. July 22, 2015.

A.C.A. § 20-78-228, AR ST § 20-78-228

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Proposed Legislation

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A.C.A. § 20-78-229

§ 20-78-229. Compliance with local regulations--Childcare family homes--Exceptions

Currentness

(a) As used in this section:

(1) "Childcare family home" means a childcare setting in which the caregiver provides child care in a family residence or a residence with a homelike environment; and

(2) "Local governing authority" means the governing body of the municipality or county where a childcare facility is located.

(b)(1) The Division of Child Care and Early Childhood Education shall require any childcare facility seeking licensure under this subchapter to comply with applicable zoning and land use development regulations of the municipality and county where the childcare facility is located.

(2) Failure to comply with applicable zoning and land use regulations is grounds for the denial of a license of a childcare facility.

(c)(1) A local governing authority shall treat a childcare family home as residential property use in the application of local regulations, including without limitation:

(A) Zoning;

(B) Land use development;

(C) Fire and life safety;

(D) Sanitation; and

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(E) Building codes.

(2) Residential property use for zoning purposes includes without limitation single-family residential zoning.

(d)(1) For a childcare family home, a local governing authority shall not impose:

(A) Any additional regulations that do not also apply to other residential properties; or

(B) Stricter requirements than those in the Arkansas Fire Prevention Code.

(2) However, this section does not restrict a local governing authority from, on a case-by-case basis, managing the flow of traffic and parking related to adjacent childcare family homes.

(e)(1) The Division of Child Care and Early Childhood Education may promulgate rules related to adequate fire protection and prevention in a childcare family home.

(2) As part of developing any proposed rules in accordance with subdivision (e)(1) of this section, the Division of Child Care and Early Childhood Education shall seek the advice and assistance of:

(A) The Department of Health;

(B) The Boiler Inspection Division; and

(C) Councils and associations representing:

(i) Fire marshals; and

(ii) Building code officials.

Credits
Acts of 2023, Act 60, § 1, eff. Aug. 1, 2023.

A.C.A. § 20-78-229, AR ST § 20-78-229
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A.C.A. § 20-78-230

§ 20-78-230. Notice requirement when owner, operator, lessee, or administrator of childcare facility is married to sex offender--Definition

Currentness

(a) As used in this section, "sex offender" means a:

(1) Level 2 sex offender whose information is made public under § 12-12-913(j)(1)(B);

(2) Level 3 sex offender; or

(3) Level 4 sex offender.

(b) If an owner, operator, lessee, or administrator of a childcare facility is married to a sex offender, the owner, operator, lessee, or administrator shall provide notification in writing or by email to the parent, legal guardian, person having lawful control, or person standing in loco parentis of a child who attends the childcare facility that:

(1) The owner, operator, lessee, or administrator is married to a sex offender; and

(2) The sex offender will not be present on the premises of the childcare facility while children are present.

Credits
Acts of 2023, Act 176, § 7, eff. Aug. 1, 2023.

A.C.A. § 20-78-230, AR ST § 20-78-230
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