



KANSAS LAWS AND REGULATIONS FOR ATTENDANT CARE FACILITIES FOR CHILDREN AND YOUTH

July 2015

Foster Care and Residential Facility Division
555 SW Kansas Avenue, 2nd Floor
Topeka, KS 66603
Fax: (785) 296-5937

FosterLicensing.dcf.ks.gov



Strong Families Make a Strong Kansas

KANSAS CHILD CARE LICENSING LAWS

TABLE OF CONTENTS

I. Kansas Child Care Licensing Laws, Revised July 2015

	Page
K.S.A. 65-501	License or temporary permit required; exemptions1
K.S.A. 65-503	Definitions1
K.S.A. 65-504	Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure2
K.S.A. 65-505	License fees; maternity centers and child care licensing fee fund.....4
K.S.A. 65-506	Notice of issuance, limitation, modification, suspension or revocation of license; notice to parents or guardians of enrollees of limitation, modification, suspension, revocation or denial; unlicensed placements prohibited5
K.S.A. 65-507	Records of maternity centers and child care facilities; confidentiality5
K.S.A. 65-508	Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations6
K.S.A. 65-510	Unlawful for child care facility to care for adults; exceptions7
K.S.A. 65-512	Inspections7
K.S.A. 65-513	Changes or alterations required to comply with law; notice; duty of licensee.....8
K.S.A. 65-514	Violations of article 5 of chapter 65; penalties; notice and hearing.....9
K.S.A. 65-515	Prosecutions9
K.S.A. 65-516	Restrictions on persons maintaining or residing, working or volunteering at child care facility; criminal history check by secretary of health and environment; information to be provided sponsoring child placement agency9
K.S.A. 65-523	Grounds for limitation, modification or suspension of license or temporary permit13
K.S.A. 65-524	Suspension, limitation or modification of license or temporary permit prior to hearing; procedure14
K.S.A. 65-525	Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required14
K.S.A. 65-526	Civil fine assessed against licensee; limitations15
K.S.A. 65-527	Child care programs in recreation centers and schools; licensing of.....15
K.S.A. 65-528	Child care policy of state; desired outcome16
K.S.A. 65-529	Continuation of effect of license, registration or permit17
K.S.A. 65-530	Smoking prohibited in day care homes17
K.S.A. 65-531	Immunization information and records; disclosure18
K.S.A. 65-532	Lexie’s law18
K.S.A. 65-534	Online information dissemination system; rules and regulations19
K.S.A. 65-535	Staff secure facility; requirements; services; rules and regulations ..19

Other Related Laws

K.S.A. 59-2123	Certain advertisements and offers relating to adopting and placing children prohibited; licensure of person placing advertisement; definitions	21
K.S.A. 72-8236	Child care facilities; authority to establish, operate, and maintain; fees, collection and disposition	22
K.S.A. 72-8237	Summer programs; establishment; fees, limitation; summer program fund; use of money, unencumbered balance in fund.....	22
K.S.A. 72-8238	Extraordinary school programs; authority to establish, operate and maintain; fees, collection, limitations, disposition; fund	23

II. General Regulations, Amended December 2010

K.A.R. 28-4-92	License fees.....	25
----------------	-------------------	----

III. Attendant Care Regulations

K.A.R. 28-4-285	Definitions	26
K.A.R. 28-4-286	Licensing procedures	26
K.A.R. 28-4-287	Terms of license.....	27
K.A.R. 28-4-288	Administration, personnel and records	27
K.A.R. 28-4-289	Admission policies and procedures	30
K.A.R. 28-4-290	Program	31
K.A.R. 28-4-291	Health care policies.....	33
K.A.R. 28-4-292	Safety procedures	34
K.A.R. 28-4-293	Physical plant	34
K.A.R. 28-4-294	Transportation	35

KANSAS CHILD CARE LICENSING LAWS

Chapter 65. PUBLIC HEALTH

Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

K.S.A. 65-501. License or temporary permit required; exemptions.

It shall be unlawful for any person, firm, corporation or association to conduct or maintain a maternity center or a child care facility for children under 16 years of age without having a license or temporary permit therefor from the secretary of health and environment. Nothing in this act shall apply to:

- (a) A residential facility or hospital that is operated and maintained by a state agency as defined in K.S.A. 75-3701 and amendments thereto; or
- (b) a summer instructional camp that:
 - (1) Is operated by a Kansas educational institution as defined in K.S.A. 74-32,120, and amendments thereto, or a postsecondary educational institution as defined in K.S.A. 74-3201b, and amendments thereto;
 - (2) is operated for not more than five weeks;
 - (3) provides instruction to children, all of whom are 10 years of age and older; and
 - (4) is accredited by an agency or organization acceptable to the secretary of health and environment.

History: L. 1919, ch. 210, § 1; R.S. 1923, 65-501; L. 1974, ch. 352, § 85; L. 1978, ch. 236, § 1; L. 1985, ch. 209, § 1; L. 1994, ch. 279, § 4; L. 2001, ch. 101, § 1; April 26.

K.S.A. 65-503. Definitions. As used in this act:

- (a) “Child placement agency” means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.
- (b) “Child care resource and referral agency” means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.
- (c) “Child care facility” means:
 - (1) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the secretary for children and families who are placed with a prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;

- (2) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;
 - (3) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or
 - (4) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.
- (d) "Day care facility" means a child care facility that includes a day care home, preschool, child care center, school-age program or other facility of a type determined by the secretary to require regulation under the provisions of K.S.A. 65-501 et seq., and amendments thereto.
 - (e) "Person" means any individual, association, partnership, corporation, government, governmental subdivision or other entity.
 - (f) "Boarding school" means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.
 - (g) "Maternity center" means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

History: L. 1919, ch. 210, § 3; R.S. 1923, 65-503; L. 1978, ch. 236, § 2; L. 1978, ch. 237, § 2; L. 1980, ch. 184, § 1; L. 1983, ch. 140, § 45; L. 1994, ch. 279, § 6; L. 1998, ch. 166, § 1; L. 2007, ch. 130, § 1; L. 2010, ch. 161, § 4; L. 2012, ch. 99, § 1; L. 2014, ch. 115, § 248; July 1.

K.S.A. 65-504. Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure.

- (a) The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of age. A license granted to maintain a maternity center or child care facility shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is conducted. A license granted to maintain a day care facility shall have on its face an expiration sticker stating the date of expiration of the license. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has

complied with all the requirements of this act. Except as provided by this subsection, no license shall be granted without the approval of the secretary for children and families. The secretary of health and environment may issue, without the approval of the secretary for children and families, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary for children and families, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

- (b)
 - (1) In all cases where the secretary for children and families deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary for children and families or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.
 - (2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the center or facility.
- (c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.
- (d) When the secretary of health and environment finds upon investigation or is advised by the secretary for children and families that any of the provisions of this act or the provisions of K.S.A. 59-2123, and amendments thereto, are being violated, or that the maternity center or child care facility is maintained without due regard to the health, safety or welfare of any woman or child, the secretary of health and environment may issue an order revoking such license after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act. The order shall clearly state the reason for the revocation.
- (e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license for a period of one year subsequent to the date such revocation or refusal to renew becomes final. If the secretary revokes or refuses to renew a license of a licensee who is a repeat, three or more times, violator of statutory requirements or rules and regulations or is found to have contributed to the death or serious bodily harm of a child under such licensee's care, such licensee shall be permanently prohibited from applying for a new license to provide child care or from seeking employment under another licensee.

- (f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the Kansas judicial review act.

History: L. 1919, ch. 210, § 4; R.S. 1923, 65-504; L. 1951, ch. 358, § 1; L. 1961, ch. 285, § 1; L. 1974, ch. 352, § 86; L. 1978, ch. 236, § 3; L. 1982, ch. 258, § 3; L. 1983, ch. 147, § 2; L. 1984, ch. 313, § 93; L. 1985, ch. 209, § 2; L. 1988, ch. 239, § 1; L. 1989, ch. 188, § 1; L. 1990, ch. 145, § 37; L. 1991, ch. 184, § 1; L. 1994, ch. 279, § 7; L. 2000, ch. 137, § 1; L. 2010, ch. 161, § 5; L. 2012, ch. 99, § 2; L. 2014, ch. 115, § 249; July 1.

K.S.A. 65-505. License fees; maternity centers and child care licensing fee fund.

- (a) The annual fee for a license to conduct a maternity center or child care facility shall be fixed by the secretary of health and environment by rules and regulations in an amount not exceeding the following:

- (1) For a maternity center, \$150;
- (2) for a child placement agency, \$150;
- (3) for a child care resource and referral agency, \$150; and
- (4) for any other child care facility, \$75 plus \$1 times the maximum number of children authorized under the license to be on the premises at any one time.

The license fee shall be paid to the secretary of health and environment when the license is applied for and annually thereafter. The fee shall not be refundable. No fee shall be charged for a license to conduct a home for children which is a family foster home as defined in K.A.R. 28-4-311, and amendments thereto. Fees in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

- (b) Any licensee who fails to renew such license within 30 days after the expiration of the license shall pay to the secretary the renewal fee plus a late fee in an amount equal to the fee for the renewal of a license.
- (c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding \$35.
- (d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer, notwithstanding any other law to the contrary, shall deposit the entire amount in the state treasury to the credit of the maternity centers and child care licensing fee fund. All expenditures from the maternity centers and child care licensing fee fund shall be made only for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated in accordance with appropriation acts upon warrants of the director of

accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or by a person or persons designated by the secretary. Notwithstanding any other law to the contrary, no moneys shall be transferred or otherwise revert from this fund to the state general fund by appropriation act or other act of the legislature. Moneys available under this section by the creation of the maternity centers and child care licensing fee fund shall not be substituted for or used to reduce or eliminate moneys available to the department of health and environment to administer the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated. Nothing in this act shall be construed to authorize a reduction or elimination of moneys made available by the state to local units of government for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated.

History: L. 1919, ch. 210, § 5; R.S. 1923, 65-505; L. 1974, ch. 352, § 87; L. 1978, ch. 236, § 4; L. 1982, ch. 259, § 1; L. 1985, ch. 210, § 2; L. 1986, ch. 230, § 1; L. 1991, ch. 184, § 2; L. 1994, ch. 279, § 8; L. 2001, ch. 5, § 217; L. 2010, ch. 161, § 6; July 1.

K.S.A. 65-506. Notice of issuance, limitation, modification, suspension or revocation of license; notice to parents or guardians of enrollees of limitation, modification, suspension, revocation or denial; unlicensed placements prohibited.

The secretary of health and environment shall serve notice of the issuance, limitation, modification, suspension or revocation of a license to conduct a maternity center or child care facility to the secretary for children and families, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license limited, modified, suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the limitation, modification, suspension, revocation or denial. Neither the secretary for children and families nor any other person shall place or cause to be placed any woman or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment.

History: L. 1919, ch. 210, § 6; R.S. 1923, 65-506; L. 1951, ch. 358, § 2; L. 1974, ch. 352, § 88; L. 1976, ch. 145, § 211; L. 1978, ch. 236, § 5; L. 1986, ch. 230, § 2; L. 1994, ch. 279, § 9; L. 2000, ch. 127, § 1; L. 2010, ch. 161, § 7; L. 2012, ch. 99, § 3; L. 2014, ch. 115, § 250; July 1.

K.S.A. 65-507. Records of maternity centers and child care facilities; confidentiality.

- (a) Each maternity center licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment and the secretary for children and families which shall include the name of every patient, together with the patient's place of residence during the year preceding admission to the center and the name and address of the attending physician. Each child care facility licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment which shall include the name and age of each child received and cared for in the facility; the name of the physician who attended any sick children in the facility, together with the names and addresses of the parents or guardians of such children; and such other information as the secretary of health and environment or secretary for children and families may require. Each maternity center licensee and each child care facility licensee shall apply to and

shall receive without charge from the secretary of health and environment and the secretary for children and families forms for such records as may be required, which forms shall contain a copy of this act.

- (b) Information obtained under this section shall be confidential and shall not be made public in a manner which would identify individuals.

History: L. 1919, ch. 210, § 7; R.S. 1923, 65-507; L. 1951, ch. 358, § 3; L. 1974, ch. 352, § 89; L. 1978, ch. 236, § 6; L. 1994, ch. 279, § 10; L. 2014, ch. 115, § 251; July 1.

K.S.A. 65-508. Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations.

- (a) Any maternity center or child care facility subject to the provisions of this act shall:
 - (1) Be properly heated, plumbed, lighted and ventilated;
 - (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and
 - (3) be operated with strict regard to the health, safety and welfare of any woman or child.
- (b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.
- (c) (1) The secretary of health and environment with the cooperation of the secretary for children and families shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

- (2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.
- (d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.
- (e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:
 - (1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or
 - (2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

History: L. 1919, ch. 210, § 8; R.S. 1923, 65-508; L. 1951, ch. 358, § 4; L. 1974, ch. 352, § 90; L. 1978, ch. 236, § 7; L. 1992, ch. 55, § 2; L. 1994, ch. 279, § 11; L. 1995, ch. 183, § 9; L. 1998, ch. 166, § 2; L. 2010, ch. 161, § 8; L. 2012, ch. 99, § 4; L. 2014, ch. 115, § 252; July 1.

K.S.A. 65-510. Unlawful for child care facility to care for adults; exceptions.

It shall be unlawful for any child care facility to receive or care for any adult except as authorized by rules and regulations adopted by the secretary of health and environment.

History: L. 1919, ch. 210, § 10; R.S. 1923, 65-510; L. 1965, ch. 369, § 2; L. 1972, ch. 228, § 17; L. 1978, ch. 236, § 8; L. 1988, ch. 240, § 1; L. 1994, ch. 279, § 12; July 1.

K.S.A. 65-512. Inspections.

- (a) It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 15 months prior to July 1, 2012, and once every 12 months thereafter, every maternity center or child care facility, unless otherwise provided in subsections (b) and (c). For the purpose of inspection the secretary or the secretary's authorized agent shall have the right of entry and access thereto in every department and

to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or children therein. No such patient or child without the consent of the patient or child shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.

- (b) (1) On or after the effective date of this act, the secretary of health and environment shall commence the inspection of registered family day care homes pursuant to K.S.A. 2012 Supp. 65-533, and amendments thereto.
 - (2) The secretary of health and environment shall conduct an inspection of any child care facility upon receiving a complaint. Any new child care facility shall be inspected prior to issuance of a license. The secretary may conduct an inspection of any child care facility that has a record of repeated complaints or serious violations at any time. The secretary shall inspect any child care facility that provides services to military families receiving military assistance for child care every 12 months.
- (c) (1) Except as provided in subsection (b)(2), the following categories of child care facilities which were in compliance on the effective date of this act are not required to be inspected until July 1, 2011: Day care homes, as defined in K.A.R. 28-4-113; group day care homes, as defined in K.A.R. 28-4-113; child care centers, as defined in K.A.R. 28-4-420; preschools, as defined in K.A.R. 28-4-420; school-age programs, as defined in K.A.R. 28-4-576; and drop-in programs, as defined in K.A.R. 28-4-700.
 - (2) The provisions of this subsection shall expire on July 1, 2011.

History: L. 1919, ch. 210, § 12; R.S. 1923, 65-512; L. 1974, ch. 352, § 91; L. 1975, ch. 52, § 22; L. 1978, ch. 236, § 9; L. 1986, ch. 230, § 5; L. 1994, ch. 279, § 13; L. 2010, ch. 161, § 9; July 1.

K.S.A. 65-513. Changes or alterations required to comply with law; notice; duty of licensee.

Whenever an authorized agent of the secretary of health and environment or secretary for children and families finds a maternity center or child care facility is not being conducted according to law, it shall be the duty of such agent to notify the licensee in writing of such changes or alterations as the agent determines necessary in order to comply with the requirements of the law, and the agent shall file a copy of such notice with the secretary of health and environment. It shall thereupon be the duty of the licensee to make such changes or alterations as are contained in the written notice within five days from the receipt of such notice. Notice shall be given in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1919, ch. 210, § 13; R.S. 1923, 65-513; L. 1951, ch. 358, § 5; L. 1974, ch. 352, § 92; L. 1978, ch. 236, § 10; L. 1984, ch. 313, § 94; L. 1994, ch. 279, § 14; L. 2014, ch. 115, § 253; July 1.

K.S.A. 65-514. Violations of article 5 of chapter 65; penalties; notice and hearing.

Any person, firm, corporation or association who violates the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50. Each and every day that the person fails or refuses to comply shall be deemed a separate offense under the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto. If for 30 days after any final conviction for such violation or revocation of license the person still fails or refuses to comply with the orders in the notice under K.S.A. 65-513 and amendments thereto, upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the building or premises where such home is conducted may be closed until all provisions of this act shall have been complied with.

History: L. 1919, ch. 210, § 14; R.S. 1923, 65-514; L. 1974, ch. 352, § 93; L. 1984, ch. 313, § 95; L. 1989, ch. 189, § 1; July 1.

K.S.A. 65-515. Prosecutions.

The county attorney of each county in this state is hereby authorized and required, upon complaint of any authorized agent of the secretary of health and environment, to file complaint and prosecute to the final determination all actions or proceedings against any person under the provisions of this act.

History: L. 1919, ch. 210, § 15; R.S. 1923, 65-515; L. 1974, ch. 352, § 94; July 1.

K.S.A. 65-516. Restrictions on persons maintaining or residing, working or volunteering at child care facility; criminal history check by secretary of health and environment; information to be provided sponsoring child placement agency.

- (a) No person shall knowingly maintain a child care facility if, there resides, works or regularly volunteers any person who in this state or in other states or the federal government:
 - (1) (A) Has a felony conviction for a crime against persons;
 - (B) has a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009;
 - (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and

amendments thereto, to commit any such act or a conviction of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2013 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or

- (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;
- (2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;
- (3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 2013 Supp. 38-2226, and amendments thereto, and
 - (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the Kansas department for children and families, or
 - (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families;
- (4) has had a child removed from home based on a court order pursuant to K.S.A. 2013 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan approved by the department of health and environment;
- (5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2013 Supp. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;

- (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2013 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or
 - (7) has an infectious or contagious disease.
- (b) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.
 - (c) Any person who resides in a child care facility and who has been found to be a person in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.
 - (d) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of investigation and any report of investigations as authorized by K.S.A. 2013 Supp. 38-2226, and amendments thereto, in the possession of the Kansas department for children and families or court of this state concerning persons working, regularly volunteering or residing in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.
 - (e) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on persons residing, working or regularly volunteering in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history record check to determine such person's fitness to reside, work or regularly volunteer in a child care facility.
 - (f) The secretary shall notify the child care applicant or licensee, within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in subsection (a)(1) through (7) with regard to the person who is the subject of the review.
 - (g) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

- (h) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:
- (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and
 - (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.
- (i) In regard to Kansas issued criminal history records:
- (1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.
 - (2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.
 - (3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.
 - (4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history or record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.
 - (5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to:
 - (A) The person who is the subject of the request for information;
 - (B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;
 - (C) the department of health and environment;
 - (D) the Kansas department for children and families;
 - (E) the juvenile justice authority; and
 - (F) the courts.

- (6) A violation of the provisions of subsection (i)(5) shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.
- (j) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any person who was maintaining a day care facility on the day immediately prior to July 1, 2010 or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.

History: L. 1980, ch. 184, § 2; L. 1982, ch. 259, § 2; L. 1983, ch. 140, § 46; L. 1984, ch. 225, § 1; L. 1985, ch. 210, § 1; L. 1987, ch. 233, § 1; L. 1988, ch. 232, § 10; L. 1991, ch. 185, § 1; L. 1994, ch. 279, § 15; L. 1996, ch. 229, § 117; L. 2002, ch. 114, § 74; L. 2006, ch. 169, § 116; L. 2007, ch. 147, § 1; L. 2009, ch. 32, § 53; L. 2010, ch. 74, § 13; L. 2010, ch. 155, § 18; L. 2011, ch. 30, § 235; L. 2012, ch. 99, § 5; L. 2012, ch. 166, § 10; L. 2014, ch. 115, § 254; July 1.

K.S.A. 65-523. Grounds for limitation, modification or suspension of license or temporary permit.

The secretary may limit, modify or suspend any license or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516, and amendments thereto, upon any of the following grounds and in the manner provided in this act:

- (a) Violation by the licensee or holder of a temporary permit of any provision of this act or of the rules and regulations promulgated under this act;
- (b) aiding, abetting or permitting the violating of any provision of this act or of the rules and regulations promulgated under this act;
- (c) conduct in the operation or maintenance, or both the operation and maintenance, of a maternity center or child care facility which is inimical to the health, safety or welfare of any woman or child receiving services from such maternity center or child care facility, or the public;
- (d) the conviction of a licensee or holder of a temporary permit, at any time during licensure or during the time the temporary permit is in effect, of crimes as defined in K.S.A. 65-516, and amendments thereto; and
- (e) a third or subsequent violation by the licensee or holder of a temporary permit of subsection (b) of K.S.A. 65-530, and amendments thereto.

History: L. 1985, ch. 209, § 3; L. 1994, ch. 279, § 20; L. 2010, ch. 161, § 11; L. 2012, ch. 99, § 6; July 1.

K.S.A. 65-524. Suspension, limitation or modification of license or temporary permit prior to hearing; procedure.

The secretary may limit, modify or suspend any license or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516, and amendments thereto, prior to any hearing when, in the opinion of the secretary, the action is necessary to protect any child in the child care facility from physical or mental abuse, abandonment or any other substantial threat to health, safety or welfare. Administrative proceedings under this section shall be conducted in accordance with the emergency adjudicative proceedings of the Kansas administrative procedure act and in accordance with other relevant provisions of the Kansas administrative procedure act.

History: L. 1985, ch. 209, § 4; L. 1994, ch. 279, § 21; L. 2010, ch. 161, § 12; L. 2012, ch. 99, § 7; July 1.

K.S.A. 65-525. Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required.

- (a) Records in the possession of the department of health environment or its agents regarding child care facilities or maternity centers shall not be released publicly in a manner that would identify individuals, except individual names of licensees, applicants, facilities and maternity centers may be released. Nothing in this section prohibits release of any information as required by law.
- (b) Records in the possession of the department of health and environment or its agents regarding child care facilities or maternity centers may be released to:
 - (1) An agency or organization authorized to receive notice under K.S.A. 65-506, and amendments thereto;
 - (2) any local, state or federal government entity or subdivision thereof;
 - (3) any child and adult care food program sponsoring agency; or
 - (4) any disaster or emergency entity.
- (c) The secretary of health and environment shall prohibit the release of the name, address and telephone number of a maternity center or child care facility when the secretary determines that prohibition of the release of the information is necessary to protect the health, safety or welfare of the public or the patients or children enrolled in the maternity center or child care facility.
- (d) Any records under subsection (a), (b) or (c) shall be available to any member of the standing committee on appropriations of the house of representatives or the standing committee on ways and means of the senate carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. Such records shall not identify individuals but shall include data and contract information concerning specific facilities.

- (e) In any hearings conducted under the licensing or regulation provisions of K.S.A. 65-501 et seq., and amendments thereto, the presiding officer may close the hearing to the public to prevent public disclosure of matters relating to persons restricted by other laws.

History: L. 1985, ch. 201, § 1; L. 1996, ch. 229, § 157; L. 2000, ch. 127, § 2; L. 2001, ch. 190, § 1; L. 2004, ch. 145, § 19; L. 2010, ch. 161, § 13; July 1, 2011.

K.S.A. 65-526. Civil fine assessed against licensee; limitations.

- (a) The secretary of health and environment, in addition to any other penalty prescribed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against a licensee for each violation of such provisions or rules and regulations adopted pursuant thereto which affect significantly and adversely the health, safety or sanitation of children in a child care facility. Each civil fine assessed under this section shall not exceed \$500. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.
- (b) All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

History: L. 1988, ch. 239, § 3; L. 1994, ch. 279, § 22; L. 1999, ch. 19, § 1; L. 2001, ch. 5, § 219; L. 2004, ch. 145, § 20; L. 2010, ch. 161, § 14; July 1.

K.S.A. 65-527. Child care programs in recreation centers and schools; licensing of.

- (a) As used in this section:
 - (1) “Child care program” means a day care center, group day care home or day care home.
 - (2) “Recreation center” means any building used by a political or taxing subdivision of this state, or by an agency thereof, for recreation programs which serve children who are 16 years of age or younger.
 - (3) “School” means any building used by a unified school district or an accredited nonpublic school for student instruction or attendance of pupils enrolled in kindergarten or any of the grades 1 through 6.
- (b) No license for a child care program for school age children shall be denied on the basis that the building does not meet requirements for licensure if the building:
 - (1) Is a recreation center or school;
 - (2) complies, during all hours of operation of the child care program, with the Kansas fire prevention code or a building code compliance with which is by law deemed to be compliance with the Kansas fire prevention code;

- (3) subject to subsection (c), complies, during all hours of operation of the child care program, with all local building code provisions that apply to recreation centers, if the building is a recreation center, or schools, if the building is a school; and
 - (4) as a recreation center or school, is used by school age children and the same age children are cared for in the child care program.
- (c) In the case of an inconsistency in standards with which a building is required to comply pursuant to subsections (b)(2) and (b)(3), the standards provided by subsection (b)(2) shall control.

History: L. 1992, ch. 125, § 1; July 1.

K.S.A. 65-528. Child care policy of state; desired outcome.

- (a) The desired outcome of the child care policy of the state of Kansas is that families be able to fulfill their roles as primary child care givers and educators of young children by having access to high quality, affordable child care. The following principles shall guide development and implementation of state policy to achieve that outcome:
- (1) Family self-sufficiency. A stable source of child care is a critical ingredient to economic self-sufficiency. Child care policies and programs must facilitate a smooth transition into the work force for parents and a rich and stable environment for children.
 - (2) Investment in children. Child care is a critical investment that affects a child's readiness to learn. High quality child care programs recognize and implement good early childhood practices.
 - (3) Consumer orientation and education. Child care policies and programs must be responsive to the changing needs of families and educate families about available options, identifying quality programs and selecting appropriate care.
 - (4) Accessibility. High quality child care must be available to any family seeking care regardless of where the family lives or the special needs of the child. A centralized place in local communities must be available to facilitate parents' access to child care.
 - (5) Affordability. High quality child care must be available on a sliding scale basis, with families contributing based on ability to pay.
 - (6) Diversity. It is the goal of the state to strive wherever possible to provide child care in an integrated setting where children with various needs and of various income levels and cultures are cared for together.

(7) Efficient, coordinated administration and support for infrastructure. Child care programs must be coordinated to ensure the most effective use of federal, state, local and private funds. State child care agencies and policies must support the orderly development of a high quality child care system working with local and private providers.

(b) Any state agency involved in implementing any part of the state's child care policy shall develop appropriate measures of progress toward achievement of the stated outcome under the oversight of the joint committee on children and families in accordance with K.S.A. 46-2001 et seq. and amendments thereto.

History: L. 1994, ch. 279, § 1; July 1.

K.S.A. 65-529. Continuation of effect of license, registration or permit.

Any license, certificate of registration or temporary permit which was issued prior to the effective date of this act and which is in effect on the effective date of this act shall continue in effect until the expiration thereof, unless suspended or revoked prior to such time.

History: L. 1994, ch. 279, § 23; July 1.

K.S.A. 65-530. Smoking prohibited in day care homes.

(a) As used in this section:

(1) “Day care home” means a day care home as defined under Kansas administrative regulation 28-4-113 and a group day care home as defined under Kansas administrative regulation 28-4-113.

(2) “Smoking” means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.

(b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages.

(c) Each child care license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). The statement shall be phrased in substantially the same language as subsection (b). The license shall be posted in a conspicuous place in the facility or facilities.

(d) Each day care home shall be equipped with a fire extinguisher which shall be maintained in an operable condition in a readily accessible location.

- (e) The secretary of health and environment may levy a civil fine under K.S.A. 65-526, and amendments thereto, against any day care home for a first or second violation of this section. A third or subsequent violation shall be subject to the provisions of K.S.A. 65-523, and amendments thereto.
- (f) In addition to any civil fine which may be levied pursuant to subsection (d), any day care home that violates any provision of this section may also be subject to criminal punishment pursuant to K.S.A. 21-4012 and amendments thereto.

History: L. 1994, ch. 279, § 26; L. 2010, ch. 8, § 7; L. 2011, ch. 91, § 28; July 1.

K.S.A. 65-531. Immunization information and records; disclosure. On and after July 1, 1996:

- (a) Except as provided further, information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508, and amendments thereto, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:
 - (1) Employees of public agencies or departments;
 - (2) health records staff of child care facilities, including, but not limited to, facilities licensed by the secretary of health and environment;
 - (3) persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster homes; and
 - (4) health care professionals.
- (b) Notwithstanding K.S.A. 60-427, and amendments thereto, or any other Kansas statute which provides for privileged information between a patient and a health care provider, there shall be no privilege preventing the furnishing of information and records as authorized by this section by any health care provider.
- (c) Information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508, and amendments thereto, whose parent or guardian has submitted a written statement of religious objection to immunization as provided in K.S.A. 65-508, and amendments thereto, may not be disclosed or exchanged without a parent or guardian's written release authorizing such disclosure.

History: L. 1996, ch. 229, § 156; L. 2010, ch. 161, § 16; July 1.

K.S.A. 65-532. Lexie's law. The changes to law in this act shall be known as Lexie's law.

History: L. 2010, ch. 161, § 1; July 1.

K.S.A. 65-534. Online information dissemination system; rules and regulations. On or before July 1, 2011, the secretary of health and environment shall establish or cause to be established an online information dissemination system that is accessible to the public, including names of licensees, applicants and history of citations and substantiated findings. The secretary of health and environment shall adopt rules and regulations which are consistent with the requirements for the receipt of child care ARRA funds and which provide for the establishment of an online information dissemination system in accordance with the provisions of this subsection. The notice of hearing on the initial rules and regulations proposed to be adopted under this subsection shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.

History: L. 2010, ch. 161, § 18; July 1.

K.S.A. 65-535. Staff secure facility; requirements; services; rules and regulations.

- (a) A staff secure facility shall:
- (1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents;
 - (2) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations;
 - (3) rely on locked entrances and delayed-exit mechanisms to secure the facility, and implement reasonable rules restricting entrance to and egress from the facility;
 - (4) implement written policies and procedures for 24-hour-a-day staff observation of all facility entrances and exits;
 - (5) implement written policies and procedures for the screening and searching of both residents and visitors;
 - (6) implement written policies and procedures for knowing the whereabouts of all residents at all times and for handling runaways and unauthorized absences; and
 - (7) implement written policies and procedures for determining when the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.
- (b) A staff secure facility shall provide the following services to children placed in such facility:
- (1) Case management;
 - (2) life skills training;

- (3) health care;
 - (4) mental health counseling;
 - (5) substance abuse screening and treatment; and
 - (6) any other appropriate services.
- (c) Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.
- (d) If the staff secure facility is on the same premises as that of another licensed facility, the living unit of the staff secure facility shall be maintained in a separate, self-contained unit. No staff secure facility shall be in a city or county jail.
- (e) The secretary of health and environment, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2014.
- (f) This section shall be part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

History: L. 2013, ch. 120, § 6; L. 2014, ch. 28, § 7; July 1.

OTHER RELATED LAWS

Chapter 59. PROBATE CODE Article 21. ADOPTION

K.S.A. 59-2123. Certain advertisements and offers relating to adopting and placing children prohibited; licensure of person placing advertisement; definitions.

- (a) Except as otherwise provided in this section:
 - (1) Any person who advertises that such person will adopt, find an adoptive home for a child or otherwise place a child for adoption shall state in such advertisement whether or not such person is licensed and if licensed, under what authority such license is issued and in what profession;
 - (2) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to a woman to come to such person's maternity center during pregnancy or after delivery; and
 - (3) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to any parent, guardian or custodian of a child to place such child in such person's home, institution or establishment.
- (b) The provisions of subsection (a)(1) shall not apply to the Kansas department for children and families or to an individual seeking to adopt a child.
- (c) As used in this section:
 - (1) "Advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast, telephone directory or electronic medium.
 - (2) "Person" means an individual, firm, partnership, corporation, joint venture or other association or entity.
 - (3) "Maternity center" means the same as provided in K.S.A. 65-502, and amendments thereto.
- (d) Any person who violates the provisions of this section shall be guilty of an unclassified misdemeanor and shall be fined not more than \$1,000 for each violation.

History: L. 1990, ch. 145, § 13; L. 1994, ch. 279, § 3; L. 2008, ch. 140, § 1; L. 2014, ch. 115, § 202; July 1.

Chapter 72. SCHOOLS
Article 82. ORGANIZATION, POWERS AND FINANCES OF BOARDS OF
EDUCATION

K.S.A. 72-8236. Child care facilities; authority to establish, operate, and maintain; fees, collection and disposition.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain a child care facility;
 - (2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility;
 - (3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and
 - (4) prescribe and collect fees for providing care at a child care facility.
- (b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the classroom learning assuring student success act, section 4 et seq., and amendments thereto, and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.
- (c) Every school district which establishes, operates and maintains a child care facility shall be subject to the provisions contained in article 5 of chapter 65 of Kansas Statutes Annotated, and amendments thereto.
- (d) As used in this section, the term “child” means any child who is three years of age or older, and any infant or toddler whose parent or parents are pupils or employees of a school district which establishes, operates and maintains, or cooperates in the establishment, operation and maintenance of, a child care facility under authority of this act.

History: L. 1993, ch. 186, § 1; L. 2015, ch. 4, § 53; July 1.

K.S.A. 72-8237. Summer programs; establishment; fees, limitation; summer program fund; use of money, unencumbered balance in fund.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain a summer program for pupils;

- (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of a summer program for pupils; and
 - (3) prescribe and collect fees for providing a summer program for pupils or provide such program without charge.
- (b) Fees for providing a summer program for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.
 - (c) No school district may collect fees for providing a summer program for pupils required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child.
 - (d) There is hereby established in every district which establishes, operates and maintains a summer program a fund which shall be called the summer program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for summer programs shall be credited to the summer program fund. Amounts deposited in the summer program fund may be used for the payment of expenses directly attributable to the program or may be transferred to the general fund of the school district as approved by the board of education.
 - (e) As used in this section, the term “summer program” means a program which is established by the board of education of a school district and operated during the summer months for the purpose of giving remedial instruction to pupils or for the purpose of conducting special projects and activities designed to enrich and enhance the educational experience of pupils, or for both such purposes.

History: L. 1993, ch. 264, § 15; L. 2011, ch. 107, § 12; L. 2012, ch. 155, § 14; L. 2013, ch. 121, § 13; L. 2015, ch. 4, § 54; July 1.

K.S.A. 72-8238. Extraordinary school programs; authority to establish, operate and maintain; fees, collection, limitations, disposition; fund.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain an extraordinary school program for pupils who meet the district's criteria for attendance of such programs;
 - (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of an extraordinary school program for pupils; and
 - (3) prescribe and collect fees for providing an extraordinary school program for pupils or provide such program without charge.

- (b) Fees for providing an extraordinary school program for pupils shall be prescribed and collected only to recover the cost incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.
- (c) No school district may collect fees for providing an extraordinary school program for pupils who are required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child or who are eligible for free or reduced price meals under the national school lunch act.
- (d) There is hereby established in every district which establishes, operates and maintains an extraordinary school program a fund which shall be called the extraordinary school program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for extraordinary school programs shall be credited to the extraordinary school program fund. The expenses of a district directly attributable to extraordinary school programs shall be paid from the extraordinary school program fund.
- (e) As used in this section, the term “extraordinary school program” means a program which is established by the board of education of a school district, operated before or after regular school hours during the regular school term, and maintained for any or all of the following purposes:
 - (1) Providing pupils with additional time to achieve learner exit or improvement plan outcomes;
 - (2) giving pupils remedial instruction or independent study assistance;
 - (3) affording pupils an opportunity to strengthen or attain mastery of basic or higher order thinking skills; and
 - (4) conducting special projects and activities designed to enrich and enhance the educational experience of pupils.

History: L. 1994, ch. 310, § 1; July 1.

GENERAL REGULATION

K.A.R. 28-4-92. License fees. When an applicant or licensee submits an application for a license or for the renewal of a license, the applicant or licensee shall submit to the secretary the appropriate nonrefundable license fee specified in this regulation:

- (a) For each maternity center as defined in K.S.A. 65-502 and amendments thereto, \$75;
- (b) for each child placement agency as defined in K.S.A. 65-503 and amendments thereto, \$75;
- (c) for each child care resource and referral agency as defined in K.S.A. 65-503 and amendments thereto, \$75;
- (d) for each of the following child care facilities, \$75 plus \$1 times the maximum number of children to be authorized under the license:
 - (1) Day care home or group day care home, as defined in K.A.R. 28-4-113; and
 - (2) child care center, as defined in K.A.R. 28-4-420; and
- (e) for each of the following child care facilities with a license capacity of 13 or more children, \$35 plus \$1 for each child included in the license capacity, with the total not to exceed \$75, and for each of the following child care facilities with a license capacity of 12 or fewer children, \$15:
 - (1) Attendant care facility, as defined in K.A.R. 28-4-285;
 - (2) detention center or secure care center, as defined in K.A.R. 28-4-350;
 - (3) preschool, as defined in K.A.R. 28-4-420;
 - (4) psychiatric residential treatment facility, as defined in K.A.R. 28-4-1200;
 - (5) residential center or group boarding home, as defined in K.A.R. 28-4-268; and
 - (6) secure residential treatment facility, as defined in K.A.R. 28-4-330.

(Authorized by and implementing K.S.A. 65-505, as amended by L. 2010, ch. 161, sec. 6; effective, T-83-24, Aug. 25, 1982; effective May 1, 1983; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended, T-87-22, Aug. 21, 1986; amended May 1, 1987; amended, T-28-8-16-10, Aug. 16, 2010; amended Dec. 17, 2010.)

REGULATIONS FOR LICENSING ATTENDANT CARE FACILITIES FOR CHILDREN AND YOUTH

K.A.R. 28-4-285. Definitions.

- (a) “Attendant” means a staff person or volunteer who provides direct supervision of a juvenile.
- (b) “Attendant care” means one-on-one direct supervision of a juvenile who has been taken into custody. Attendant care shall not exceed 24 hours exclusive of weekends and court holidays.
- (c) “Attendant care facility,” herein after referred to as the facility, means a boarding home for children at which attendant care is provided.
- (d) “Corporal punishment” means activity directed toward modifying a juvenile's behavior by means of physical contact such as hitting with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity.
- (e) “Juvenile” means a person between the ages of 10 and 18 years of age.
- (f) “License” means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain an attendant care facility.
- (g) “Non-secure facility” means a facility not characterized by the use of physically restricting construction, hardware and procedures.
- (h) “Public agency” means any branch of city, county, or state government.

(Authorized by K.S.A. 65-508; and implementing K.S.A. 65-501, 65-503, and 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

K.A.R. 28-4-286. Licensing procedures.

- (a) Any person, corporation, firm, association or other organization who desires to conduct an attendant care facility shall apply for a license on forms provided by the Kansas department of health and environment. The application shall include a KBI/ SRS child abuse registry form supplied by the Kansas department of health and environment.
- (b) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 et seq. and amendments of them and the regulations adopted as required by those statutes, and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments of it.
- (c) The Kansas department of health and environment shall revoke a license or deny any application in any case in which there is a failure to comply with the provisions of the regulations for attendant care.

- (d) A copy of “regulations for licensing attendant care facilities,” provided by the Kansas department of health and environment shall be kept on the premises at all times.

(Authorized by K.S.A. 65-508; and implementing K.S.A 65-501, 65-503, and 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

K.A.R. 28-4-287. Terms of license.

- (a) The maximum number and age range of juveniles who may be cared for in each living unit shall be specified on the license.
- (b) Each facility license shall be valid only for the licensee and the address appearing on the license. A new application shall be required for each change of ownership, sponsor, or address of the facility.
- (c) Each license shall not give the attendant care facility permission to place children.
- (d) Claims as to specialized services shall not be made unless the facility is staffed and equipped to offer such services.
- (e) Each applicant or licensee shall inform the licensing authority when the application is to be withdrawn or the license is not to be renewed. The Kansas department of health and environment shall notify the applicant or licensee and other appropriate agencies that the facility is considered closed and the license terminated.
- (f)
 - (1) Any applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a juvenile, and if statutory requirements are not violated.
 - (2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

K.A.R. 28-4-288. Administration, personnel and records.

- (a) Organization. If the facility is operated by a private corporation, the corporation shall be authorized to do business in the state of Kansas.
- (b) Administrative policies.
 - (1) Each facility shall have an organizational chart, and written policies and procedures defining operations and legal responsibilities.
 - (2) Each policy and procedure shall be distributed to staff members as appropriate.

- (3) A KBI/SRS child abuse registry form shall be completed and submitted to the Kansas department of health and environment within two weeks of the time each new person over 10 years of age resides, works or regularly volunteers in the facility, excluding juveniles placed in care.
- (c) Finances.
- (1) The facility shall have sufficient finances to ensure licensing compliance and effective services.
 - (2) Juveniles shall not be exploited in campaigns or publicity efforts to raise funds.
 - (3) Insurance. The facility shall be covered by liability and casualty insurance.
- (d) Personnel policies.
- (1) Each facility shall have written personnel policies including job descriptions that are approved and reviewed annually by licensing staff.
 - (2) A personnel record shall be maintained for each attendant and made available to the attendant on written request.
 - (3) No attendant shall be on duty for more than eight hours.
- (e) Staffing.
- (1) There shall be an attendant for each juvenile.
 - (2) Each attendant shall be the same sex as the juvenile.
 - (3) Exceptions to this regulation may be requested pursuant to K.A.R. 28-4-287.
- (f) Staff qualifications.
- (1) Attendants shall be qualified by temperament, emotional maturity, sound judgment and an understanding of children.
 - (2) Each attendant shall:
 - (A) Be 19 years of age or over;
 - (B) have a high school diploma or its equivalent; and
 - (C) have completed a state-approved training program.

- (g) The following individual personnel records shall be kept on each attendant:
 - (1) Job application, including:
 - (A) Identifying information;
 - (B) qualifications; and
 - (C) character and employment references;
 - (2) record of negative TB test;
 - (3) a statement signed by attendant that discipline policies have been reviewed and will be followed; and
 - (4) documentation of state-approved training.
- (h) Juvenile records.
 - (1) A register shall be kept of all juveniles with name, birthdate, reason for custody, dates of admission and release, and names and addresses of parents, legal guardian or legal custodian.
 - (2) An admission and release form shall be submitted to the Kansas bureau of investigation upon release of a juvenile, on forms supplied by the bureau.
 - (3) A record shall be kept on each juvenile which shall include:
 - (A) Identifying information;
 - (B) arrest record;
 - (C) record of money and personal property, signed by the juvenile and the attendant;
 - (D) statement signed by the juvenile that the rules and regulations of the facility have been reviewed; and
 - (E) health history checklist.
 - (4) A daily log of each juvenile's behavior shall be maintained with notations regarding special problems while in custody and response of staff to problems.
 - (5) Each improper disclosure of records or information regarding juveniles shall be grounds for revocation or suspension of the license.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

K.A.R. 28-4-289. Admission policies and procedures.

- (a) Written admission criteria shall be clearly defined.
- (b) Intake policies.
 - (1) Identifying information shall be obtained to initiate each juvenile's record. This information shall include a description of behavior and obvious physical problems of each juvenile.
 - (2) An arrest record shall accompany each juvenile to the facility. A detention hearing shall be held as designated in the juvenile code.
 - (3) If it is known that the juvenile's parents, guardian or other custodians have not been notified, the facility's staff shall notify such persons of custody.
 - (4) Prior to admission, each juvenile shall be searched and items removed that might be used to injure self or others.
 - (5) Upon admission, if a juvenile surrenders money and personal property, a record of each of these properties shall be signed by both the juvenile and the attendant and placed in the juvenile's record. Each refusal to sign shall be documented.
 - (6) A health history checklist shall be completed for each juvenile at the time of admission. Each checklist shall be completed by the person who admits the juvenile, using the forms supplied by the Kansas department of health and environment.
 - (7) Each juvenile shall not be admitted if he or she shows evidence of being seriously ill or injured until examined by a physician.
 - (8) Upon admission, rules and regulations of the facility shall be discussed with each juvenile, and the juvenile shall sign a statement that the rules and regulations have been reviewed.
- (c) Release policies.
 - (1) Each release shall be approved by the court of jurisdiction or other designated authority.
 - (2) The facility shall provide release forms to be signed by the person to whom the juvenile is released.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective December 12, 1988.)

K.A.R. 28-4-290. Program.

- (a) A written plan and daily routine shall be maintained for all juveniles that shall include supervision, meals, rest and sleep, personal hygiene, physical exercise, work, recreation, visitation and communication.
- (b) Supervision.
 - (1) Each juvenile shall be supervised at all times.
 - (2) Activities that would interfere with the care of a juvenile shall not be carried out by an attendant while on duty.
 - (3) Alcohol or non-prescribed controlled substances as defined in K.S.A. 65-4101 and any amendments of it shall not be consumed by any juvenile or attendant while on duty.
 - (4) Smoking shall be confined to designated smoking areas in the facility.
- (c) Food service.
 - (1) Each juvenile shall receive nutritious meals and snacks at customary times.
 - (2) Food prepared off premises:
 - (A) Shall be obtained from sources licensed by the Kansas department of health and environment;
 - (B) shall be transported in covered containers; and
 - (C) shall not be allowed to stand.
 - (3) Food prepared on the premises shall be prepared, served and stored in a sanitary manner.
 - (4) Only pasteurized milk and government-inspected meat and fowl shall be used. Powdered milk shall be used for cooking only.
 - (5) Home-canned foods shall not be served in the facility.
- (d) Personal hygiene.
 - (1) Each juvenile shall be allowed to bathe and perform bodily functions as necessary.
 - (2) Each juvenile shall be provided soap, toothbrush, toothpaste, other personal care items, and clean, individual bath and face towels.
 - (4) Clothing, if provided, shall be clean and in good condition.

- (e) Each juvenile shall have the opportunity for physical exercise. This activity shall be in an area free of hazards, and outdoors if possible.
- (f) Work.
 - (1) Work assignments shall not be used as a substitute for recreation.
 - (2) Each juvenile shall be prohibited from performing duties including, but not limited to:
 - (A) Personal services for staff;
 - (B) cleaning or maintaining areas away from the attendant care facility;
 - (C) substituting for staff; or
 - (D) any work defined as hazardous by the Kansas department of human resources governing child labor.
- (g) Art and craft supplies, books, current magazines, games and other indoor recreational materials and equipment shall be provided for leisure time activities.
- (h) Visitation and communication.
 - (1) Each facility shall provide juveniles with the opportunity for telephone and visitation contact with parents, legal guardians, and legal representatives.
 - (2) Written visitation policies shall be available to each juvenile, parent, legal guardian and legal representative.
 - (3) Each juvenile shall not be denied the right to contact the juvenile's attorney or court counselor.
- (i) Discipline.
 - (1) There shall be a written discipline policy.
 - (2) Punishment that is humiliating, frightening or physically harmful to the juvenile shall not be used at any time. The juvenile shall be protected against all forms of neglect, exploitation or degrading forms of punishment.
 - (3) Prohibited forms of punishment shall include:
 - (A) Corporal punishment;
 - (B) verbal abuse, threats, or derogatory remarks about the juvenile or the juvenile's family;

- (C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle; or
- (D) deprivation of meals.

(4) Juveniles shall be permitted to be appropriately clothed at all times.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

K.A.R. 28-4-291. Health care.

(a) Health care policies.

(1) Each facility, in consultation with a physician or community health nurse, and using the Kansas department of health and environment health care guidelines as a resource, shall develop written health care guidelines covering the following areas:

- (A) Care of minor illness, including the use of nonprescription drugs;
- (B) care of juveniles under the influence of alcohol and drugs; and
- (C) consultation regarding individual juveniles when indicated.

(2) Each attendant caring for juveniles shall have first aid training.

(b) Health care of juveniles.

(1) A health checklist provided by the Kansas department of health and environment shall serve as guide to determine if a juvenile is in need of medical care.

(2) A physician shall be contacted for any juvenile taking a prescribed medication to prevent interruption of treatment.

(3) A physician shall be contacted for a juvenile who has acute symptoms of illness or who has a chronic illness. Reportable communicable diseases shall be reported immediately to the county health officer.

(c) Health of attendants.

(1) Each attendant shall be free of communicable disease and shall be in such a state of health and freedom from physical or emotional handicaps as is necessary to work with children.

- (2) Each attendant shall present written proof of freedom from active tuberculosis before serving in the facility.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

K.A.R. 28-4-292. Safety procedures.

- (a) Plans shall be developed for the care of juveniles in disasters such as fires, tornadoes, storms, floods, and civil disorders, as well as occurrences of serious illness or injury to staff or juveniles.
- (b) Each disaster plan shall be posted and followed in an emergency.
- (c) Each incident resulting in the death of or serious injury to any staff member of the facility or juvenile admitted to the facility shall be reported to the Kansas department of health and environment. Each incident involving any juvenile shall be reported to the parent or guardian.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

K.A.R. 28-4-293. Physical plant.

- (a) Each facility shall be clean and free from safety hazards.
- (b)
 - (1) Any facility may be located in a nonsecure area at a sheriff's office, state police post, detoxification center, community mental health center, local hospital or similar facility which meets all applicable codes.
 - (2) Community resources including but not limited to health services, police protection, and fire protection shall be available to the attendant care facility.
- (c) Inside area.
 - (1) Each wall and floor shall be in sound condition and easily cleanable. Floor covering shall be required over concrete slab in contact with the ground. The floors shall not be slippery.
 - (2) Each facility shall be limited to ground level and above except basements may be used with fire safety approval. Each room with a floor level more than 30 inches below ground level shall be considered a basement.
 - (3) The minimum square footage of free floor space shall be 120 square feet including activity and sleeping areas. Minimum ceiling height shall be 7 ft. 8 inches over 90% of the room.
 - (4) Each room occupied by a juvenile shall have a source of natural light.

- (5) Each area used for reading shall have a minimum of 35 foot candles of light.
- (6) Each facility shall have adequate storage space for supplies and equipment.
- (7) A separate bed with a level, flat mattress in good condition and adequate, clean bedding shall be provided for each juvenile.
- (8) Medicines, poisons and firearms shall be inaccessible to juveniles.
- (9) A telephone and emergency telephone numbers shall be readily accessible to the attendant.
- (10) The water supply, whether public or private, shall be from a source approved by the local health department or the Kansas department of health and environment.
- (11) There shall be one toilet, one lavatory and one bathtub or shower available to the facility.
- (12) Cold and hot water shall be supplied to each lavatory, bathtub and shower.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

K.A.R. 28-4-294. Transportation. Each facility that provides transportation for juveniles shall meet the following requirements:

- (a) Each driver of the vehicle shall hold an operator's license of a type appropriate for the vehicle being used.
- (b) Each transporting vehicle shall be maintained in safe operating condition.
- (c) Each transporting vehicle shall be equipped with an individual seat belt for the driver, each juvenile passenger and each additional passenger. The driver, each juvenile passenger and each additional passenger shall use the seat belts.

(Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)