

GENERAL ASSEMBLY OF NORTH CAROLINA  
1997 SESSION

SESSION LAW 1997-506  
SENATE BILL 929

AN ACT TO ENHANCE AND IMPROVE CHILD CARE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**PART 1. ENHANCE AND IMPROVE CHILD CARE.**

Section 1. The heading for Article 7, Chapter 110 of the General Statutes, reads as rewritten:

"ARTICLE 7.  
Day Care Child Care Facilities."

Section 2. G.S. 110-85 reads as rewritten:

**"§ 110-85. Legislative intent and purpose.**

The Recognizing the importance of the early years of life to a child's development,  
the General Assembly hereby declares its intent with respect to day the early care and  
education of children:

- (1) The State should protect the growing number of children who are placed in day care child care facilities or in child care arrangements when these children are under the supervision and in the care of persons other than their parents, grandparents, guardians or full time custodians during the day. by ensuring that these facilities provide a physically safe and healthy environment where the developmental needs of these children are met and where these children are cared for by qualified persons of good moral character.
- (2) This protection should assure that such children are cared for by persons of good moral character, that their physical safety and moral environment are protected, and that the day care resources conform to minimum standards relating to the health and safety of the children receiving day care.
- (3) This Achieving this level of protection and early education requires the following elements for a comprehensive approach: elements:mandatory licensing of day care child care facilities under minimum standards; facilities;promotion of higher levels of day care than required for a license quality child care through the development of higher enhanced standards which operators may comply with on a voluntary basis; registration of child day care homes which are too small to be regulated through licensing; and a program of education to

help operators improve their programs and to develop—deepen public understanding of day care child care needs and problems—issues."

Section 3. G.S. 110-86 reads as rewritten:

**"§ 110-86. Definitions.**

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

- (1) Commission. The Child Day Care-Care Commission created under this Article.
- (2) Child day-care. Any child care—A program or arrangement wherein where three or more children less than 13 years old—old, who do not reside where the care is provided, receive care away from their own home by on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care. or from persons not related to them by birth, marriage, or adoption. Child day-care does not include seasonal recreational programs operated for less than four consecutive months in a year. Child day care also does not include arrangements that provide only drop in or short term child care for parents participating in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop in or short term child care offered in health spas, bowling alleys, shopping malls, resort hotels, and churches. the following:
  - a. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
  - b. Recreational programs operated for less than four consecutive months in a year;
  - c. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
  - d. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
  - e. Public schools;
  - f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less

- than six and one-half hours per day either on or off the school site;
- g. Bible schools conducted during vacation periods;
  - h. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;
  - i. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
  - j. Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.
- (3) Child day-care facility. Includes any child day care center centers, family child care homes, and any other~~or~~ child care arrangement not excluded by G.S. 110-86(2), which that provides day childeare for more than five children, not including the operator's own school aged children, under the age of 13 years, on a regular basis of at least once per week for more than four hours but less than 24 hours per day, care, regardless of the time of day day, and regardless of whether the same or different children attend. wherever operated, and whether or not operated for profit. The following are not included: public schools; nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes and accredited by the Southern Association of Colleges and Schools, which regularly provide a course of grade school instruction and which do not provide child day care as defined in subdivision (2) of this section or operate a child day care facility as defined herein for children under five years of age for more than six and one half hours per day either on or off the school site; summer camps having children in full time residence; Bible schools conducted during vacation periods; facilities licensed under Article 2 of Chapter 122C of the General Statutes; and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment.

Child day care facilities are separated by capacity into the following categories which determine applicable requirements and standards as established by the Commission pursuant to G.S. 110-88:

Facility Type

Large Home

Small Center

Medium Center

Large Center

The Commission shall establish the maximum capacity for each of the four categories of facilities.

- a. A child care center is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
  - b. A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.
- (4) Child day care home. Any day care program or child care arrangement wherein any person not excluded in G.S. 110-86(2) provides day care on a regular basis of at least once per week for more than four hours per day for more than two children under 13 years of age, but not to exceed a maximum of eight children at any one time, wherever operated, and whether or not operated for profit. Of the children present at any one time, no more than five children shall be preschool aged, as defined in rules adopted by the Commission. The four hour limit applies regardless of the time of day and regardless of whether the same or different children attend. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included.  
To determine whether a child care arrangement is a child day care home, all children shall be counted except the operator's own school-aged children and school aged children who reside at the location of the day care home.
- (4.1) Department. Department of Human Resources.
  - (5) Repealed by Session Laws 1975, c. 879, s. 15.
  - (6) License. A license permit issued by the Secretary to any day care child care facility which meets the statutory standards established under this Article.
  - (7) Operator. Includes the owner, director or other person having primary responsibility for operation of a child day care facility subject to licensing.
  - (8) Secretary. The Secretary of the Department of Human Resources.
  - (9) Lead teacher. An individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility.
  - (10) Child care administrator. A person who is responsible for the operation of a child care facility and is on-site on a regular basis."

Section 4. (a) G.S. 110-88 reads as rewritten:

#### "**§ 110-88. Powers and duties of the Commission.**

The Commission shall have the following powers and duties:

- (1) To develop policies and procedures for the issuance of a license to any child day care facility which that meets all applicable standards established under this Article.

- (1a) To adopt applicable rules and standards based upon the capacity of a child care facility.
  - (2) To require inspections by and satisfactory written reports from representatives of local or State health agencies and fire and building inspection agencies and from representatives of the Department prior to the issuance of a license to any child day care facility. center.
  - (2a) To require annually, inspections by and satisfactory written reports from representatives of local or State health agencies and fire inspection agencies after a license is issued.
  - ~~(3) To make rules establishing minimum and reasonable standards for the operation of child day care homes and the issuance of registration certificates. These rules shall establish minimum standards of health and safety that will be required in child day care homes and will recognize the vital role that parents and guardians play in the monitoring of the care provided in child day care homes.~~
  - (4) Repealed by Session Laws 1975, c. 879, s. 15.
  - ~~(5) To make adopt rules and develop policies for implementation of this Article, including procedures for application, approval, renewal annual compliance visits for centers, and revocation of licenses.~~
  - ~~(6) To make adopt rules for the issuance of a provisional license that shall be in effect for no more than 12 consecutive months to a child day care facility and a provisional registration certificate to a child day care home that does not conform in every respect with the standards established in this Article and rules adopted by the Commission pursuant to this Article, provided that the Secretary finds that Article but that the operator is making a reasonable effort to conform to the standards, except that a provisional license or provisional registration certificate shall not be issued for more than 12 consecutive months and shall not be renewed. standards.~~
  - ~~(6a) To make adopt rules for administrative action against a child day care facility or child day care home when the Secretary's investigations pursuant to G.S. 110-105(a)(3) or G.S. 110-105.1(a)(4) substantiate that child abuse or neglect did occur in the facility or home. facility. The rules shall provide for type types of sanction shall be determined by sanctions which shall depend upon the severity of the incident and the probability of reoccurrence. The administrative actions shall include rules shall also provide for written warnings and special provisional licenses or registration certificates. licenses.~~
- ~~A written warning may be issued which shall specify any corrective action to be taken by the operator. The Department shall make an unannounced visit within one month after issuance of the written warning to determine whether the corrective action has~~

~~occurred. If the corrective action has not occurred, a special provisional license or registration certificate may be issued.~~

~~When a special provisional license or registration certificate is issued, it shall require specific corrective action. It shall be in effect for no more than six months from imposition and shall not be renewed. The special provisional license or registration certificate and the letter which clearly states the reasons for the special provisional status shall be posted where parents can see them. Under the terms of the special provisional license or registration, the facility or home shall not enroll any new children until notified by the Department that it is satisfied the abusive or neglectful situation no longer exists. The Department shall make an unannounced visit at least every eight weeks during the period the special provisional license or registration certificate is in effect. Specific corrective action required by a written warning, special provisional license or special provisional registration certificate, or any other administrative penalty authorized by this Article may include the permanent removal from day care of the substantiated abuser or neglecter.~~

~~Nothing in this subdivision shall restrict the Secretary from using any other statutory or administrative remedies available.~~

- (7) To develop and ~~promulgate~~ adopt voluntary enhanced program standards which reflect higher levels of ~~day quality child~~ care than required by the standards established by this Article, which will recognize better physical facilities, more qualified personnel, and higher quality programs. The Commission may adopt rules for the issuance of two grades of licenses: an "A" license for compliance with the provisions of the Article, and an "AA" license for those licensees meeting the voluntary higher standards promulgated by the Commission. The mandatory standards established by this Article. These enhanced program standards must address, at a minimum, staff/child ratios, staff qualifications, parent involvement, operational and personnel policies, developmentally appropriate curricula, and facility square footage.
- (8) To develop a procedure by which the Department shall furnish those forms as may be required for implementation of this Article.
- (9) Repealed by Session Laws 1985, c. 757, s. 156(66).
- (10) To ~~develop~~ adopt rules for the issuance of a temporary license which shall expire in ~~90 days~~ ~~six months~~ and which may be issued to the operator of a new ~~facility center~~ or to the operator of a previously licensed ~~facility center~~ when a change in ownership or location occurs.
- (11) To ~~develop~~ adopt rules for the care of sick ~~child~~ care facilities which provide care for children in facilities and homes who are mildly sick.

(12) To adopt rules regulating the amount of time a child care administrator shall be on-site at a child care center."

(b) The enhanced program standards adopted by the Commission pursuant to G.S. 110-88(7) shall expire July 1, 1999.

Section 5. G.S. 110-90 reads as rewritten:

**"§ 110-90. Powers and duties of Secretary of Human Resources.**

The Secretary of Human Resources shall have the following powers and duties under the policies and rules of the Commission:

- (1) To administer the licensing program for child day-care facilities and the registration system for child day-care homes facilities.
- (2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.
- (3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or reports are not available from existing State agencies and units of local government.
- (4) To issue a rated license effective for one year to any child day-care facility which meets the standards established by this Article. The rating shall be based on program standards, education levels of staff, and compliance history of the child care facility.
- (5) To revoke the license of any child day-care facility or the registration certificate of any child day care home which that ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or which that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license or registration certificate to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.
- (7) To promote and coordinate educational programs and materials for operators of child day-care facilities and child day-care homes which are designed to improve the quality of day child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.
- (8) To issue a rated license when any operator of a child day care facility required to be licensed hereunder or requiring licensure pursuant to subdivision (11) of this section has satisfied the Secretary that it has met the voluntary standards developed and adopted by the Commission.

- (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license or registration license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation—revocation, or suspension of a license or the levying of a civil or administrative penalty.
- (11) To issue a license or registration certificate to any child care arrangement that does not meet the definition of child day care facility or child day care home in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission, Commission and voluntarily applies for a child day care facility license or child day care home registration certificate—license. The Commission shall adopt rules for the issuance or removal of the licenses or registration certificates. licenses."

Section 6. G.S. 110-90.1 is repealed.

Section 7. G.S. 110-90.2 reads as rewritten:

**"§ 110-90.2. Mandatory day child care providers' criminal history checks.**

- (a) For purposes of this section:
  - (1) 'Child day care', notwithstanding the definition in G.S. 110-86, means any child day care provided in child day care facilities and child day care homes, including child day care facilities and child day care homes required to be licensed or registered under this Article and nonregistered nonlicensed child day care homes approved to receive or receiving State or federal funds for providing child day care.
  - (2) 'Child day care provider' means a person who:
    - a. Is employed by or seeks to be employed by a child day care facility or child day care home providing child day care as defined in subdivision (1) of this subsection; subsection and has contact with the children; or
    - b. Owns or operates or seeks to own or operate a child day care facility or child day care home or nonlicensed child care home providing child day care as defined in subdivision (1) of this subsection; subsection; or
    - c. Is a member of the household in a family child care home or nonlicensed child care home and is over 15 years old and is present when children are in care. This subdivision shall apply only to new family child care homes and nonlicensed homes beginning March 1, 1998.

(3) 'Criminal history' means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children as set forth in ~~G.S. 110-90.1.~~G.S. 110-91(8). Such crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) Effective January 1, 1996, the Department shall ensure that the criminal history of all child day-care providers is checked and a determination is made of the child day-care provider's fitness to have responsibility for the safety and well-being of children based on the criminal history. The Department shall ensure that child day-care providers who have lived in North Carolina continuously for the previous five years are checked for county and State criminal histories. The Department shall ensure that all other child day-care providers are checked for county, State, and national criminal histories. The Department may prohibit a child day-care provider from providing child day-care if the Department determines that the child day-care provider is unfit to have responsibility for the safety and well-being of children based on the criminal history, in accordance with ~~G.S. 110-90.1.~~G.S. 110-91(8).

(c) The Department of Justice shall provide to the Division of Child Development, Department of Human Resources, the criminal history from the State and National Repositories of Criminal Histories of any child day-care provider as requested by the Division.

The Division shall provide to the Department of Justice, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories signed by the child day-care provider to be checked. The fingerprints of the provider shall be forwarded to the State Bureau of Investigation for a search of their criminal history record file and the State Bureau of Investigation shall forward a set of

fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

At the time of application the ~~day~~ child care provider whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

**'NOTICE**  
**CHILD ~~DAY~~-CARE PROVIDER**  
**MANDATORY CRIMINAL HISTORY CHECK**

NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED ON ALL PERSONS WHO PROVIDE CHILD ~~DAY~~ CARE IN A LICENSED ~~OR REGISTERED~~ CHILD ~~DAY~~-CARE FACILITY, AND ALL PERSONS PROVIDING CHILD ~~DAY~~-CARE IN ~~NONREGISTERED~~ ~~NONLICENSED~~ CHILD ~~DAY~~-CARE HOMES THAT RECEIVE STATE OR FEDERAL FUNDS.

'Criminal history' includes county, state, and federal convictions or pending indictments of any of the following crimes: the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication; violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have responsibility for the safety and well-being of children, you shall have the opportunity to complete, or challenge the accuracy of, the information contained in the SBI or FBI identification records.

If you disagree with the determination of the North Carolina Department of Human Resources on your fitness to provide child ~~day~~-care, you may file a civil lawsuit within 60 days after receiving written notification of disqualification in the district court in the county where you live.

Any child ~~day~~-care provider who intentionally falsifies any information required to be furnished to conduct the criminal history shall be guilty of a Class 2 misdemeanor.'

Refusal to consent to a criminal history check is grounds for the Department to prohibit the child ~~day~~-care provider from providing child ~~day~~-care. Any child ~~day~~-care provider who intentionally falsifies any information required to be furnished to conduct the criminal history shall be guilty of a Class 2 misdemeanor.

(d) The Department shall notify in writing the child ~~day~~-care provider, and the child ~~day~~-care provider's employer, if any, or for nonlicensed child care homes the local

purchasing agency, of the determination by the Department whether the ~~day~~child care provider is qualified to provide child ~~day~~ care based on the child ~~day~~ care provider's criminal history. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the Department shall not release nor disclose any portion of the child ~~day~~ care provider's criminal history to the child ~~day~~ care provider or the child ~~day~~ care provider's ~~employer~~  
~~employer or local purchasing agency~~. The Department shall also notify the child ~~day~~ care provider of the procedure for completing or challenging the accuracy of the criminal history and the child ~~day~~ care provider's right to contest the Department's determination in court.

A child ~~day~~ care provider who disagrees with the Department's decision may file a civil action in the district court of the county of residence of the child ~~day~~ care provider provider within 60 days after receiving written notification of disqualification.

(e) All the information that the Department receives through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the Department and those persons authorized under this section to receive the information. The Department may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(f) There shall be no liability for negligence on the part of an employer of a child ~~day~~ care provider, an owner or operator of a child ~~day~~ care ~~home or~~ facility, a State or local agency, or the employees of a State or local agency, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection ~~shall be deemed to have been~~is waived to the extent of indemnification by insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Torts Claim Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(g) The child ~~day~~ care provider who seeks to be employed in child day care and the child ~~day~~ care provider who seeks to own or operate child day care shall pay the cost of the fingerprinting and the local check at the time the child ~~day~~ care provider seeks to provide child day care. ~~check~~. The Department of Justice shall perform the State criminal history check. If the Department determines that a ~~day~~child care provider who has lived continuously in the State less than five years is not disqualified based on the local and State criminal history record check, the Department shall request a criminal history check from the National Repository of Criminal History from the Department of Justice. The Department of Human Resources shall pay the cost for the national criminal history record check."

Section 8. (a) G.S. 110-91 reads as rewritten:

**"§ 110-91. Mandatory standards for a license.**

All child care facilities shall comply with all State laws and federal laws and local ordinances that pertain to child health, safety, and welfare. The Except as otherwise provided in this Article, the following standards in this section shall be complied with by

~~all child day-care facilities, except as otherwise provided in this Article.~~  
facilities. However, none of the standards in this section apply to the school-age children of the operator of a child care facility but do apply to the preschool-age children of the operator. Children 13 years of age or older may receive child care on a voluntary basis provided all applicable required standards are met. These  
The standards in this section, along with any other applicable State laws and federal laws or local ordinances, shall be the only required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for the licensing of facilities subject to licensing but which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

(1) Medical Care and Sanitation. -- The Commission for Health Services shall adopt rules which establish minimum sanitation standards for child day-care facilitiescenters and their personnel. The sanitation rules adopted by the Commission for Health Services shall cover such matters as the cleanliness of floors, walls, ceilings, storage spaces, utensils, and other facilities; adequacy of ventilation; sanitation of water supply, lavatory facilities, toilet facilities, sewage disposal, food protection facilities, bactericidal treatment of eating and drinking utensils, and solid-waste storage and disposal; methods of food preparation and serving; infectious disease control; sleeping facilities; and other items and facilities as are necessary in the interest of the public health. The Commission for Health Services shall allow child care facilities to use domestic kitchen equipment, provided appropriate temperature levels for heating, cooling, and storing are maintained. Child care centers that fry foods shall use commercial hoods. These rules shall be developed in consultation with the Department.

The Commission shall adopt rules for child care facilities to establish minimum requirements for child and staff health assessments and medical care procedures. These rules shall be developed in consultation with the Department of Environment, Health, and Natural Resources. Each child shall have a health assessment before being admitted or within 30 days following admission to a child day-care facility. The assessment shall be done by: (i) a licensed physician, (ii) the physician's authorized agent who is currently approved by the North Carolina Medical Board, or comparable certifying board in any state contiguous to North Carolina, (iii) a certified nurse practitioner, or (iv) a public health nurse meeting the Department of Environment, Health, and Natural Resources' Standards for Early Periodic Screening, Diagnosis, and Treatment Program. A record of each child's assessment shall be on file in the records of the facility. However, no health assessment shall be required of any staff or child who is and has been in normal health and whose when the staff, or the child's

parent, guardian, or full-time custodian objects in writing to a health assessment on religious grounds which conform to the teachings and practice of any recognized church or religious denomination.

~~Each child shall be immunized in a manner that meets the requirements of Article 6 of Chapter 130A of the General Statutes and the pertinent rules adopted by the Commission for Health Services.~~

~~Each child day care facility shall have a plan of emergency medical care which shall include provisions for communication with and transportation to a specified medical resource, unless otherwise previously instructed. No child receiving day care shall be administered any drug or other medication without specific written instructions from a physician or the child's parent, guardian or full time custodian. Emergency information on each child in care, including the names, addresses, and telephone numbers of the child's physician and parents, legal guardian or full time custodian shall be readily available to the staff of the child day care facility while children are in care.~~

~~Nonprofit, tax exempt organizations~~ Organizations that provide prepared meals to ~~day~~ child care centers only are considered ~~day~~ child care centers for purposes of compliance with appropriate sanitation standards.

(2) Health-Related Activities. -- ~~Each child in a child day care facility shall receive nutritious food and refreshments under rules to be adopted by the Commission. The Commission shall adopt rules for child care facilities to ensure that all children receive nutritious food and beverages according to their developmental needs. After consultation with the State Health Director, nutrition standards shall provide for specific requirements appropriate for infants, children of different ages. Nutrition standards shall provide for specific requirements for children older than infants, including a daily food plan for meals and snacks served that shall be adequate for good nutrition. The number and size of servings and snacks shall be appropriate for the ages of the children and shall be planned according to the number of hours the child is in care. Menus for meals and snacks shall be planned at least one week in advance, dated, and posted where they can be seen by parents.~~

~~Each child day care facility shall have a rest period for each child in care after lunch or at some other appropriate time and arrange for each child in care to be out-of-doors each day if weather conditions permit.~~

~~Each child day care facility shall have a rest period for each child in care after lunch or at some other appropriate time.~~

~~No child day care facility shall care for more than 25 children in one group. Facilities providing care for 26 or more children shall provide for two or more groups according to the ages of children and shall provide separate supervisory personnel for each group.~~

- (3) Location. -- Each child day-care facility shall be located in an area which is free from conditions which are ~~deemed~~ considered hazardous to the physical and moral welfare of the children in care in the opinion of the ~~Commission~~ Secretary.
- (4) Building. -- Each child day-care facility shall be located in a building which meets the appropriate requirements of the North Carolina Building Code under standards which shall be developed by the Building Code Council, subject to adoption by the Commission specifically for child day-care facilities, including facilities operated in a private residence. These standards shall be consistent with the provisions of this Article. A local building code enforcement officer shall approve any proposed alternate material, design, or method of construction, provided the building code enforcement officer finds that the alternate, for the purpose intended, is at least the equivalent of that prescribed in the technical building codes in quality, strength, effectiveness, fire resistance, durability, or safety. A local building code enforcement officer shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate. The Child Care Commission may request changes to the Building Code to suit the special needs of preschool children. Satisfactorily written reports from representatives of building inspection agencies shall be required prior to the issuance of a license and whenever renovations are made to a child care center, or when the operator requests licensure of space not previously approved for child care.
- (5) Fire Prevention. -- Each child day-care facility shall be located in a building that meets ~~the appropriate~~ requirements for fire prevention and safe evacuation that apply to child day-care facilities as established by the Department of Insurance, ~~subject to adoption by the Commission~~ Insurance in consultation with the Department. ~~Each Except for child care centers located on State property, each child day care facility center~~ shall be inspected at least annually by a local fire department or volunteer fire department for compliance with these requirements, ~~except that child day requirements~~. Child care facilities ~~centers~~ located on State property shall be inspected at least annually by an official designated by the Department of Insurance.
- (6) Space and Equipment Requirements. -- There shall be no less than 25 square feet of indoor space for each child for which a child day-care facility center is licensed, exclusive of closets, passageways, kitchens, and bathrooms, and this floor space shall provide during rest periods

200 cubic feet of airspace per child for which the facility center is licensed. There shall be adequate outdoor play area for each child under rules adopted by the Commission which shall be related to the size and type of facility, center and the availability and location of outside land area, except in area. In no event shall the minimum required exceed 75 square feet per child, which child. The outdoor area shall be protected to assure the safety of the children receiving day child care by an adequate fence or other protection; provided, however, that a protection. A facility center operated in a public school shall be deemed to have adequate fencing protection; provided, also, that a facility protection. A center operating exclusively during the evening and early morning hours, between 6:00 P.M. and 6:00 A.M., need not meet the outdoor play area requirements mandated by this subdivision.

Each child day care facility shall provide indoor area equipment and furnishings that are child size, sturdy, safe, and in good repair. Each child care facility that provides outdoor area equipment and furnishings shall provide outdoor area equipment and furnishings that are child size, sturdy, free of hazards that pose a threat of serious injury to children while engaged in normal play activities, and in good repair. The Commission shall adopt standards to establish minimum requirements for equipment appropriate for the size of child care facility being operated pursuant to G.S. 110-86(3). facility. Space shall be available for proper storage of beds, cribs, mats, cots, sleeping garments, and linens as well as designated space for each child's personal belongings.

(7) Staff-Child Ratio. Ratio and Capacity for Child Care Facilities.-- In determining the staff-child ratio, ratio in child care facilities, all children younger than 13 years old shall be counted.

a. The Commission shall adopt rules for child care centers regarding staff-child ratios, group sizes and multi-age groupings for each category of facility other than for infants and toddlers, provided that these rules shall be no less stringent than those currently required for staff-child ratios as enacted in Section 156(e) of Chapter 757 of the 1985 Session Laws.

1. Except as otherwise provided in this subdivision, The the staff-child ratios and group sizes for infants and toddlers in child care centers shall be no less stringent than as follows:

Age	Ratio Staff/Children	Group Size
0 to 12 months	<u>1/5</u>	10
12 to 24 months	<u>1/6</u>	12
2 to 3 years	<u>1/10</u>	20.

No child care center shall care for more than 25 children in one group. Child care centers providing care for 26 or more children shall provide for two or more groups according to the ages of children and shall provide separate supervisory personnel and separate identifiable space for each group.

2. When any preschool-aged child is enrolled in a child care center and the licensed capacity of the center is six through 12 children, the staff-child ratios shall be no less stringent than as follows:

<u>Age</u>	<u>Ratio Staff/Children</u>
<u>0 to 12 months</u>	<u>1/5 preschool children plus 3 additional school-aged children</u>
<u>12 to 24 months</u>	<u>1/6 preschool children plus 2 additional school-aged children.</u>

The following shall also apply:

- I. There is no specific group size.
  - II. When only one caregiver is required to meet the staff-child ratio, the operator shall make available to parents the name, address, and phone number of an adult who is nearby and available for emergency relief.
  - III. Children shall be supervised at all times. All children who are not asleep or resting shall be visually supervised. Children may sleep or rest in another room as long as a caregiver can hear them and respond immediately.
- b. Family Child Care Home Capacity. -- Of the children present at any one time in a family child care home, no more than five children shall be preschool-aged, including the operator's own preschool-age children.
- (8) Qualifications for Staff. -- All child care center administrators shall be at least 21 years of age. All child care center administrators shall have the North Carolina Early Childhood Administration Credential or its equivalent as determined by the Department. All child care administrators performing administrative duties as of the date this act becomes law and child care administrators who assume administrative duties at any time after this act becomes law and until September 1, 1998, shall obtain the required credential by September 1, 2000. Child care administrators who assume administrative duties after September 1, 1998, shall begin working toward the completion of the North Carolina Early Childhood Administration Credential or its equivalent within six months after assuming administrative duties and shall

complete the credential or its equivalent within two years after beginning work to complete the credential. Each child day care facility center shall be under the direction or supervision of a literate person at least 21 years of age meeting these requirements. All staff counted in determining toward meeting the required staff-child ratio shall be at least 16 years of age, provided that persons younger than 18 years of age work under the direct supervision of a literate credentialed staff person who is at least 21 years of age. All lead teachers in a child care center shall have at least a North Carolina Early Childhood Credential or its equivalent as determined by the Department. Lead teachers shall be enrolled in the North Carolina Early Childhood Credential coursework or its equivalent as determined by the Department within six months after becoming employed as a lead teacher or within six months after this act becomes law, whichever is later, and shall complete the credential or its equivalent within 18 months after enrollment.

For child care centers licensed to care for 200 or more children, the Department, in collaboration with the North Carolina Institute for Early Childhood Professional Development, shall establish categories to recognize the levels of education achieved by child care center administrators and teachers who perform administrative functions. The Department shall use these categories to establish appropriate staffing based on the size of the center and the individual staff responsibilities.

Effective January 1, 1998, an operator of a licensed family child care home shall be at least 21 years old and have a high school diploma or its equivalent. Operators of a family child care home licensed prior to January 1, 1998, shall be at least 18 years of age and literate. Literate is defined as understanding licensing requirements and having the ability to communicate with the family and relevant emergency personnel. Any operator of a licensed family child care home shall be the person on-site providing child care.

No person shall be an operator of nor be employed in a child day care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

The Commission shall adopt standards to establish minimum appropriate qualifications for operators, supervisors, caregivers and all other staff who have direct contact with the children in child care centers. These standards shall reflect training, experience, education or and credentialing and shall be appropriate for the size facility being

~~operated according to the categories defined in G.S. 110-86(3), center and the level of individual staff responsibilities. It is the intent of this provision to guarantee that all children in day child care are cared for by qualified people but also to recognize that qualifications for good child care may not be limited to formal education or training standards. To this end, the standards adopted by the Commission pertaining to training and educational requirements shall include provision that these requirements may be met by informal as well as formal training and educational experience people.~~ No requirements may interfere with the teachings or doctrine of any established religious organization.

- (9) Records. -- Each child day care facility shall keep accurate records on each child receiving care in the child day care facility ~~and on each staff member or other person delegated responsibility for the care of children~~ in accordance with a form furnished or approved by the Commission, and shall submit attendance reports ~~records~~ as required by the Department.

~~Each child day care facility shall keep accurate records on each staff member or other person delegated responsibility for the care of children in accordance with a form approved by the Commission.~~

All records of any child day care facility, except financial records, shall be ~~subject to available for~~ review by the Secretary or by duly authorized representatives of the Department or a cooperating agency who shall be designated by the Secretary. ~~Secretary and shall be submitted as required by the Department.~~

~~Any effort to falsify information provided to the Department shall be deemed by the Secretary to be evidence of violation of this Article on the part of the operator or sponsor of the child day care facility and shall constitute a cause for revoking or denying a license to this child day care facility.~~

- (10) Each operator or staff member shall truly and honestly show each attend to any child in that person's care true love, devotion and tender care. ~~a nurturing and appropriate manner, and in keeping with the child's developmental needs.~~

Each day child care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in day child care facilities and may not be used by any

operator or staff member of any day child care facility, except that corporal punishment may be used in church religious sponsored child~~day~~ care facilities as defined in G.S. 110-106, only if (i) the church religious sponsored child~~day~~ care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the church religious sponsored child~~day~~ care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of nonchurch nonreligious sponsored child~~day~~ care facilities shall clearly state the prohibition on corporal punishment.

- (11) Staff Development. -- The Commission shall adopt minimum standards for ongoing staff development for ~~facilities~~facilities but limited to the following topic areas:

- a. Planning a safe, healthy learning environment;
- b. Steps to advance children's physical and intellectual development;
- c. Positive ways to support children's social and emotional development;
- d. Strategies to establish productive relationships with families;
- e. Strategies to manage an effective program operation;
- f. Maintaining a commitment to professionalism;
- g. Observing and recording children's behavior;
- h. Principles of child growth and development; and
- i. Learning activities that promote inclusion of children with special needs.

These standards shall include annual requirements for ongoing in-service training for all staff. staff development appropriate to job responsibilities. A person may carry forward in-service training hours that are in excess of the previous year's requirement to meet up to one-half of the current year's required in-service training hours.

- (12) Planned Age Developmentally Appropriate Activities. -- Each ~~child day care facility shall have a planned schedule of activities posted in a prominent place to enable parents to review it, and a written plan of age developmentally appropriate activities available to parents. Each facility shall have age appropriate activities and play materials to implement the written plan and play materials.~~ The Commission shall establish minimum standards for age appropriate developmentally appropriate activities appropriate for each category of facility as defined in G.S. 110-86(3). child care facilities. Each child care facility shall have a planned schedule of developmentally appropriate activities displayed in a prominent place for parents to review and the appropriate materials and equipment available to implement the

scheduled activities. Each child care center shall make four of the following activity areas available daily: art and other creative play, children's books, blocks and block building, manipulatives, and family living and dramatic play.

- (13) Transportation. -- All child day care facilities shall abide by North Carolina law regulating the use of seat belts and child passenger restraint devices. All vehicles operated by any facility staff person or volunteer to transport children shall be properly equipped with appropriate seat belts or child restraint devices as approved by the Commissioner of Motor Vehicles. Each When a child care facility staff person or a volunteer of a child care facility transports children in a vehicle, each adult and child shall be restrained by an appropriate seat safety belt or restraint device when the vehicle is in motion. These restraint regulations do not apply to vehicles not required by federal law to be equipped with seat restraints. All vehicles used to transport children shall meet and maintain the safety inspection standards of the Division of Motor Vehicles of the Department of Transportation and the facility shall comply with all other applicable State and federal laws and regulations concerning the operation of a motor vehicle. Children may never be left unattended in a vehicle.

The ratio of adults to children in child day-care vehicles may not be less than the staff/child ratios prescribed by G.S. 110-91(7). The Commission shall adopt standards for transporting children under the age of two, including standards addressing this particular age's staff/child ratio during transportation.

- (14) Any effort to falsify information provided to the Department shall be considered by the Secretary to be evidence of violation of this Article on the part of the operator or sponsor of the child care facility and shall constitute a cause for revoking or denying a license to such child care facility."

Section 9. G.S. 110-92 reads as rewritten:

**"§ 110-92. Duties of State and local agencies.**

When requested by an operator of a day care facility child care center or by the Secretary, it shall be the duty of local and district health departments to visit and inspect a day care facility child care center to determine whether the facility center complies with the health and sanitation standards required by this Article and with the minimum sanitation standards adopted as rules by the Commission for Health Services as authorized by G.S. 110-91(1), and to submit written reports on such these visits or inspections to the Department on forms approved and provided by the Department of Environment, Health, and Natural Resources.

When requested by an operator of a day care facility child care center or by the Secretary, it shall be the duty of the local and district health departments, and any building inspector, fire prevention inspector, or fireman employed by local government,

or any fireman having jurisdiction, or other officials or personnel of local government to visit and inspect a ~~day care facility~~ child care center for the purposes specified in this Article, including plans for evacuation of the premises and protection of children in case of fire, and to report on ~~such these~~ visits or inspections in writing to the Secretary so that ~~such these~~ reports may serve as the basis for action or decisions by the Secretary or Department as authorized by this Article."

Section 10. G.S. 110-93 reads as rewritten:

**"§ 110-93. Licensing procedure. Application for a license.**

(a) Each ~~operator of person who seeks to operate~~ a ~~day care~~ child care facility shall ~~annually~~ apply to the Department for a license. The application shall be in ~~such the~~ form ~~as is~~ required by the Department. Each operator seeking a license shall be responsible for ~~accompanying his application with~~ ~~supplying with the application~~ the necessary supporting data and reports to show conformity with rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article, including any required reports from the local and district health departments, local building inspectors, local firemen, voluntary firemen, and others, on forms which shall be provided by the Department.

(b) If an operator conforms to the rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article as shown in ~~his the~~ application and other supporting data, the Secretary of Human Resources shall issue a license ~~for no more than 12 months that shall remain valid until the Secretary notifies the licensee otherwise pursuant to G.S. 150B-3 or other provisions of this Article,~~ subject to suspension or revocation for cause as provided in this Article. If the applicant fails to conform to the required rules and standards, the Secretary may issue a provisional license under the policies of the Commission ~~provided that the Commission~~. The Department shall notify the operator ~~shall be notified~~ in writing by registered or certified mail of the reasons ~~the Department issued for issuance~~ of a provisional license.

(c) Each licensed operator of a child day care facility must annually apply in order to renew the license and must accompany such renewal application with such supporting data and reports as are required to show conformity with the standards established under this Article.

(d) Repealed by Session Laws 1977, c. 929, s. 1."

Section 11. G.S. 110-94 reads as rewritten:

**"§ 110-94. Administrative Procedure Act.**

The provisions of General Statutes Chapter 150B of the General Statutes known as the Administrative Procedure Act shall be applicable to the Commission and Commission, to the rules it the Commission adopts. The Administrative Procedure Act shall also apply adopts, and to child day care contested cases. However, a child day care operator shall have 30 days to file a petition for a contested case pursuant to G.S. 150B-23. The contested case hearing shall be scheduled to be held within 120 days of the date the petition for a hearing is received, pursuant to G.S. 150B-23(a), in any contested case resulting from administrative action taken by the Department Secretary

to revoke a license, registration certificate, license or Letter of Compliance or from administrative action taken in a situation in which child abuse or neglect in a child day care facility or home has been substantiated. A request for continuance of a hearing shall be granted upon a showing of good cause by either party."

Section 12. G.S. 110-98 reads as rewritten:

**"§ 110-98. Mandatory compliance.**

It shall be unlawful for any operator or employee of a day care facility or day care home person to:

- (1) offer Offer or provide day child care without complying with the provisions of this Article; or
- (2) Advertise without disclosing the child care facility's identifying number that is on the license or the letter of compliance."

Section 13. G.S. 110-98.1 reads as rewritten:

**"§ 110-98.1. Prima facie evidence of existence of day care.**

A child care child care arrangement providing day child care for more than two children for more than four hours per day on two or more consecutive days shall be prima facie evidence of the existence of a day care child care facility or day care home facility."

Section 14. G.S. 110-99 reads as rewritten:

**"§ 110-99. Display of license.**

(a) Each day care child care facility shall maintain display its current license displayed in a prominent place at all times so that the public may be on notice that the facility is licensed and may observe any grade or rating which may appear on the license. Any license issued to a child care facility under this Article shall remain the property of the State and may be removed by persons employed or designated by the Secretary in the event that the license is revoked or suspended, or in the event that the rating is changed.

(b) A person who provides only drop-in or short-term child care as described in G.S. 110-86(2)(d) shall notify the Department that the person is providing only drop-in or short-term child care. Any person providing only drop-in or short-term child care as described in G.S. 110-86(2)(d) shall display in a prominent place at all times a notice that the child care arrangement is not required to be licensed and regulated by the Department and is not licensed and regulated by the Department."

Section 15. G.S. 110-100 is repealed.

Section 16. G.S. 110-101 is repealed.

Section 17. G.S. 110-101.1 reads as rewritten:

**"§ 110-101.1. Corporal punishment banned in certain 'nonregistered' 'nonlicensed' homes.**

The use of corporal punishment as a form of discipline is prohibited in those day child care homes that are not required to be registered licensed under this Article but that receive State or federal subsidies for child day care unless this care is provided to children by their parents, stepparents, grandparents, aunts, uncles, step-grandparents, or great-grandparents. Care provided children by their parents, stepparents, grandparents,

aunts, uncles, step-grandparents, or great-grandparents is not subject to this section. Religious sponsored ~~nonregistered~~~~nonlicensed~~ homes are also exempt from this section."

Section 18. G.S. 110-102 reads as rewritten:

**"§ 110-102. Information for parents.**

The Secretary of Human Resources shall provide to each operator of a day care child care facility a summary of this Article for the parents, guardian, or full-time custodian of each child receiving day child care in the facility to be distributed by the operator. The summary shall include the name and address of the Secretary of Human Resources and the address of the Commission. The summary shall also include a statement regarding the mandatory duty prescribed in G.S. 7A-543 of any person suspecting child abuse or neglect has taken place in day child care, or elsewhere, to report to the county Department of Social Services. The statement shall include the definitions of child abuse and neglect described in the Juvenile Code in G.S. 7A-517 and of child abuse described in the Criminal Code in G.S. 14-318.2 and G.S. 14-318.4. The statement shall stress that this reporting law does not require that the person reporting reveal his/the person's identity."

Section 19. G.S. 110-102.1 reads as rewritten:

**"§ 110-102.1. Reporting of missing or deceased children.**

(a) Operators and staff, as defined in G.S. 110-86(7), ~~110-90.1~~ and G.S. 110-91(8), or any adult present with the approval of the care provider in a day care child care facility ~~or home~~, as defined in G.S. 110-86(3), ~~(4)~~ G.S. 110-86(3) and G.S. 110-106, upon learning that a child which has been placed in their care or presence is missing, shall immediately report the missing child to law enforcement. For purposes of this Article, a child is anyone under the age of 18.

(b) If a child dies while in day child care, or of injuries sustained in day child care, a report of the death must be made by the day child care operator to the Secretary within 24 hours of the child's death or on the next working day."

Section 20. G.S. 110-103 reads as rewritten:

**"§ 110-103. Criminal penalty.**

Any person who violates the provisions of G.S. 110-98 through G.S. ~~110-100-110-99~~ or G.S. 110-102 shall be guilty of a Class 1 misdemeanor, ~~misdemeanor~~, except that ~~any~~ any person operating a family child care home as defined in G.S. 110-86(3) who violates G.S. ~~110-101~~ the provisions of G.S. 110-98 through G.S. 110-99 or G.S. 110-102 shall be guilty of a Class 3 misdemeanor."

Section 21. G.S. 110-103.1(a) reads as rewritten:

"(a) A civil penalty may be levied against any operator of any child day care facility ~~or home~~ who violates any provision of this Article. The penalty shall not exceed one thousand dollars (\$1,000) for each violation documented on any given date. Every operator shall be provided a schedule of the civil penalties established by the Commission pursuant to this Article."

Section 22. G.S. 110-104 reads as rewritten:

**"§ 110-104. Injunctive relief.**

The Secretary or ~~his~~the Secretary's designee may seek injunctive relief in the district court of the county in which a ~~day care~~ child care facility ~~or day care home~~ is located against the continuing operation of that ~~day care~~ child care facility ~~or day care home~~ at any time, whether or not any administrative proceedings are pending. The district court may grant injunctive relief, temporary, preliminary, or permanent, when there is any violation of this Article or of the rules promulgated by the Commission or the Commission for Health Services that threatens serious harm to children in the ~~day care~~ child care facility ~~or day care home~~, facility, or when a final order to deny or revoke a license ~~or registration~~ has been violated, or when a ~~day care~~ child care facility is operating without a ~~license or a day care home is operating without being registered~~, license, or when a ~~day care~~ child care facility ~~or day care home~~ repeatedly violates the provisions of this Article or rules adopted pursuant to it after having been notified of the violation."

Section 23. G.S. 110-105 reads as rewritten:

**"§ 110-105. Authority to inspect facilities.**

(a) The Commission shall adopt standards and rules under this subsection which provide for the following types of inspections:

- (1) An initial licensing ~~or certification~~ inspection, which shall not occur until the administrator of the facility receives prior notice of the initial inspection ~~or certification~~ visit;
- (2) A plan for ~~routine inspections of visits to all facilities, including announced and unannounced visits~~, which shall be confidential unless a court orders its disclosure, and which shall be conducted ~~without prior notice to the facility; disclosure~~;
- (3) An inspection that may be conducted without notice, if there is probable cause to believe that an emergency situation exists or there is a complaint alleging a violation of licensure law. When the Department is notified by the county director of social services that the director has received a report of child abuse or neglect in a child ~~day care~~ care facility, or when the Department is notified by any other person that alleged abuse or neglect has occurred in a facility, the Commission's rules shall provide for an inspection conducted without notice to the child ~~day care~~ care facility to determine whether the alleged abuse or neglect has occurred. This inspection shall be conducted within seven calendar days of receipt of the report, and when circumstances ~~warrant warrant~~, additional ~~visits, the second inspection shall be conducted within one month of the first visit. visits shall be conducted~~.

The Secretary or the Secretary's designee, upon presenting appropriate credentials to the operator of the child ~~day care~~ care facility, ~~is authorized to~~ may perform inspections in accordance with the standards and rules promulgated under this subsection. The Secretary or the Secretary's designee may inspect any area of a building in which there is reasonable evidence that children are in care.

(b) If an operator refuses to allow the Secretary or his the Secretary's designee to inspect the ~~day care~~ child care facility, the Secretary shall seek an administrative warrant in accordance with G.S. 15-27.2."

Section 24. G.S. 110-105.1 is repealed.

Section 25. G.S. 110-105.2 reads as rewritten:

**"§ 110-105.2. Abuse and neglect violations.**

(a) For purposes of this Article, child abuse and neglect, as defined in G.S. 7A-517 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in ~~day care~~ child care facilities ~~facilities and homes~~, are violations of the licensure and registration standards and of the licensure and registration law.

(b) When an investigation pursuant to G.S. 110-105(a)(3) substantiates that child abuse or neglect did occur in a child care facility, the Department may issue a written warning which shall specify any corrective action to be taken by the operator. The Department shall make an unannounced visit within one month after issuance of the written warning to determine whether the corrective action has occurred. If the corrective action has not occurred, then the Department may issue a special provisional license.

(c) When the Department issues a special provisional license pursuant to this section, the Department shall send a letter which states the reasons for the special provisional status, and the license shall specify corrective action that shall be taken by the operator. A special provisional license issued pursuant to this section shall be in effect for no more than six months from issuance. The operator shall post, where parents can see them, the letter stating the reasons for the special provisional status and the special provisional license. Under the terms of the special provisional license, the Secretary may limit enrollment of new children until satisfied the abusive or neglectful situation no longer exists. The Department shall make unannounced visits as often as the Department believes it is necessary during the period the special provisional license is in effect.

(d) Specific corrective action required by a written warning, special provisional license, or any other administrative penalty authorized by this Article may include the permanent removal of the substantiated abuser or neglecter from child care.

(e) Nothing in this section shall restrict the Secretary from using any other statutory or administrative remedies available."

Section 26. G.S. 110-106 reads as rewritten:

**"§ 110-106. Religious sponsored day-care child care facilities.**

(a) The term '~~church day care~~ religious sponsored child care facility' as used herein in this section shall include any ~~day care~~ child care facility or summer day camp operated by a church, synagogue or school of religious charter.

(b) Reporting Procedure Regarding Church Day Care Religious Sponsored Child Care Facilities. --

(1) Church day Religious sponsored child care facilities shall file with the Department a notice of intent to operate a ~~day~~ child care facility and the date it will begin operation at least 30 days prior to that date.

Within 30 days after beginning operation, the facility shall provide to the Department written reports and supporting data which show the facility is in compliance with applicable provisions of G.S 110-91. After the ~~church day religious sponsored child care~~ facility has filed this information with the Department, the facility shall be visited by a representative of the Department to ~~assure ensure~~ compliance with the applicable provisions of G.S. 110-91.

- (2) Each ~~church day care religious sponsored child care~~ facility shall ~~annually~~ file with the Department a report indicating that it meets the minimum standards for facilities as provided in the applicable provisions of G.S. ~~110-91~~110-91 as required by the Department. The reports shall be in accordance with rules adopted by the Commission. Each ~~church day care religious sponsored child care~~ facility shall be responsible for ~~accompanying supplying with~~ its report ~~with~~ the necessary supporting data to show conformity with those minimum standards, including reports from the local and district health departments, local building inspectors, local firemen, volunteer firemen, and other, on forms which shall be provided by the Department.
- (3) It shall be the responsibility of the Department to notify the facility if it fails to meet the minimum requirements. The Secretary shall be responsible for carrying out the enforcement provisions provided by the General Assembly in Article 7 of Chapter 110 including inspection to ~~insure ensure~~ compliance. The Secretary ~~shall be empowered to~~ ~~may~~ issue an order requiring a ~~church day care religious sponsored child care~~ facility which fails to meet the standards established pursuant to this Article to cease operating. A ~~church day care religious sponsored child care~~ facility may request a hearing to determine if it is in compliance with the applicable provisions of G.S. 110-91. If the Secretary determines that it is not, ~~it the Secretary~~ ~~may~~ order the facility to cease operation until it is in compliance.
- (4) ~~Church day care Religious sponsored child care~~ facilities including summer day camps shall be exempt from the requirement that they obtain a license and that the license be displayed and shall be exempt from any subsequent rule or regulatory program not dealing specifically with the minimum standards as provided in the applicable provisions of G.S. 110-91. Nothing in this Article shall be interpreted to allow the State to regulate or otherwise interfere with the religious training offered as a part of any ~~church day care religious sponsored child care~~ program. Nothing in this Article shall prohibit any ~~church operated, synagogue operated, or religious affiliated religious sponsored child care~~ facility from becoming licensed by the State if it so chooses.

(5) ~~Church day care~~ Religious sponsored child care facilities found to be in violation of the applicable provisions of G.S. 110-91 shall be subject to the injunctive provisions of G.S. 110-104, except that they may not be enjoined for operating without a license. The Secretary is empowered to ~~may~~ seek an injunction against any such ~~religious sponsored child care~~ facility under the conditions specified in G.S. 110-104 with the above exception and when any such ~~religious sponsored child care~~ facility operates without submitting the required forms and following the procedures required by this Article.

(c) ~~G.S. 110-91(8), G.S. 110-91(11), G.S. 110-91(12), 110-91(12) and the second paragraph of G.S. 110-91(8)~~ do not apply to religious sponsored ~~day care~~ ~~child care~~ facilities, and these facilities are exempt from any requirements prescribed by subsection (b) of this section that arise out of these provisions. ~~No staff qualifications other than those prescribed by the first paragraph of G.S. 110-91(8) shall apply to religious sponsored day care facilities~~.

(d) ~~No person shall be an operator of nor be employed in a religious sponsored child care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is a habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.~~

(e) ~~Each religious sponsored child care facility shall be under the direction or supervision of a literate person at least 21 years of age. All staff counted toward meeting the required staff/child ratio shall be at least 16 years old, provided that persons younger than 18 years old work under the direct supervision of a literate staff person at least 21 years old. Effective January 1, 1998, a person operating a religious sponsored child care home must be at least 21 years old and literate. Persons operating religious sponsored child care homes prior to January 1, 1998, shall be at least 18 years old and literate. The definition of literate in G.S. 110-91(8) shall apply to this subsection."~~

Section 27. G.S. 110-106.1 is repealed.

Section 28. G.S. 110-91(6) limits the authority of the Child Care Commission to adopt rules to ensure that outdoor play area equipment and furnishings at child care facilities are free of hazards that pose a threat of serious injury to children while engaged in normal supervised play activities. Accordingly, pursuant to G.S. 150B-21.7, rules adopted by the Child Care Commission requiring conformance to United States Consumer Product Safety Commission guidelines for playground safety, including amendments thereto, are repealed.

Section 28.1. The following rules are repealed:

10 NCAC 3U .0510(e), Activity Areas: Preschool Children Two Years and Older; and  
10 NCAC 3U .0714(g), Other Staffing Requirements.

Section 28.2. (a) There is established the Legislative Study Commission on Child Care. The Commission shall study the substantive issues contained in Part 1 of this act. There shall be 20 members of the Commission as follows:

- (1) Ten members appointed by the Speaker of the House of Representatives, seven of whom shall be members of the House of Representatives at the time of their appointment, and three of whom shall be members of the general public interested in child care;
  - (2) Ten members appointed by the President Pro Tempore of the Senate, seven of whom shall be members of the Senate at the time of their appointment, and three of whom shall be members of the general public interested in child care.
- (b) Commission members shall receive no salary for serving, but shall receive necessary subsistence and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6 as applicable. Staff to the Commission shall be provided as authorized by the Legislative Services Commission. The Commission may meet in the Legislative Building or the Legislative Office Building upon approval of the Legislative Services Officer.
- (c) The Commission shall report its findings and recommendations, including proposed legislation, to the 1997 General Assembly, Regular Session 1998, and shall make its final report to the 1999 General Assembly upon its convening. Upon issuing its final report, the Commission shall expire.

Section 28.3. The Department of Human Resources, Division of Child Development and the Child Care Commission shall not promote or require the utilization of training materials, curriculum, or policy developed or provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development. The Division and the Commission shall permit individual facilities to make curriculum decisions.

## **PART 2. STATUTORY TECHNICAL AND CONFORMING CHANGES.**

Section 29. G.S. 7A-474.3(b) reads as rewritten:

"(b) Eligible Cases. Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

- (1) Family violence or spouse abuse;
- (2) Assistance for the disabled in obtaining federal Social Security benefits;
- (3) Representation of eligible farmers faced with the potential of farm foreclosure;
- (4) Representation of eligible clients over the age of 60 regarding the following matters:
  - a. Wills and estates;
  - b. Safe and sanitary housing;
  - c. Pensions and retirement rights;
  - d. Social Security and Medicare rights;
  - e. Access to health care;
  - f. Food and nutrition; and
  - g. Transportation.

- (5) Representation of eligible clients designed to enable them to obtain the necessary skills and means to obtain meaningful employment at a decent wage and reduce the public welfare rolls; and
- (6) Representation of eligible clients under the age of 21 or eligible families with legal problems affecting persons under the age of 21 regarding the following matters:
  - a. Financial support and custody of children;
  - b. Day Child care;
  - c. Child abuse or neglect;
  - d. Safe and sanitary housing;
  - e. Food and nutrition; and
  - f. Access to health care."

Section 30. G.S. 7A-517(5) reads as rewritten:

"(5) **Caretaker.** -- Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility. 'Caretaker' also means any person who has the responsibility for the care of a juvenile in a ~~child day care home~~ or child day care facility as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of Chapter 7A of the General Statutes only."

Section 31. G.S. 7A-542 reads as rewritten:

**"§ 7A-542. Protective services.**

The Director of the Department of Social Services in each county of the State shall establish protective services for juveniles alleged to be abused, neglected, or dependent.

Protective services shall include the investigation and screening of complaints, casework or other counseling services to parents or other caretakers as provided by the director to help the parents or other caretakers and the court to prevent abuse or neglect, to improve the quality of child care, to be more adequate parents or caretakers, and to preserve and stabilize family life.

The provisions of this Article shall also apply to child day care facilities ~~and child day care homes~~ as defined in G.S. 110-86."

Section 32. G.S. 7A-543 reads as rewritten:

**"§ 7A-543. Duty to report child abuse, neglect, dependency, or death due to maltreatment.**

Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7A-517, or has died as the result of maltreatment, shall report the case of that juvenile to the Director of the Department of Social Services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the Department's investigation of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

Upon receipt of any report of child sexual abuse in a ~~day child care facility or day care home, facility~~, the Director shall notify the State Bureau of Investigation within 24 hours or on the next work day. If child sexual abuse in a ~~day child care facility or day care home~~ is not alleged in the initial report, but during the course of the investigation there is reason to suspect that child sexual abuse has occurred, the Director shall immediately notify the State Bureau of Investigation. Upon notification that child sexual abuse may have occurred in a ~~day child care facility or day care home, facility~~, the State Bureau of Investigation may form a task force to investigate the report."

Section 33. G.S. 7A-548 reads as rewritten:

**"§ 7A-548. Duty of Director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Human Resources and State Bureau of Investigation.**

(a) If the Director finds evidence that a juvenile may have been abused as defined by G.S. 7A-517(1), the Director shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law enforcement agency within 48 hours after receipt of the report. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate and coordinate a criminal investigation with the protective services investigation being conducted by the county Department of Social Services. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate and may request the Director or the Director's designee to appear before a magistrate.

If the Director receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the Director shall make an immediate oral and

subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a juvenile in ~~day child care, either in a day care facility or a day care home~~, the Director shall notify the Department of Human Resources within 24 hours or on the next working day of receipt of the report.

(a1) If the Director finds evidence that a juvenile has been abused or neglected as defined by G.S. 7A-517 in a ~~day child care facility or day care home~~, ~~facility, he~~ the Director shall immediately so notify the Department of Human Resources and, in the case of child sexual abuse, the State Bureau of Investigation, in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services.

(a2) Upon completion of the investigation, the Director shall give the Department written notification of the results of the investigation required by G.S. 7A-544. Upon completion of an investigation of child sexual abuse in a ~~day child care facility or day care home~~, ~~facility,~~ the Director shall also make written notification of the results of the investigation to the State Bureau of Investigation.

The Director of the Department of Social Services shall submit a report of alleged abuse, neglect, or dependency cases or child fatalities that are the result of alleged maltreatment to the central registry under the policies adopted by the Social Services Commission.

(b) Repealed by Session Laws 1991, (Reg. Sess., 1992), c. 923, s. 4."

Section 34. G.S. 95-28.3(a) reads as rewritten:

"(a) It is the belief of the General Assembly that parent involvement is an essential component of school success and positive student outcomes. Therefore, employers shall grant four hours per year leave to any employee who is a parent, guardian, or person standing in loco parentis of a school-aged child so that the employee may attend or otherwise be involved at that child's school. However, any leave under this section is subject to the following conditions:

- (1) The leave shall be at a mutually agreed upon time between the employer and the employee.
- (2) The employer may require an employee to provide the employer with a written request for the leave at least 48 hours before the time desired for the leave.
- (3) The employer may require that the employee furnish written verification from the child's school that the employee attended or was otherwise involved at that school during the time of the leave.

For the purpose of this section, 'school' means any (i) public school, (ii) private church school, church of religious charter, or nonpublic school described in Parts 1 and

2 of Article 39 of Chapter 115C of the General Statutes that regularly provides a course of grade school instruction, (iii) preschool, and (iv) child day-care facility as defined in G.S. 110-86(3)."

Section 36. G.S. 105-164.13(26a) reads as rewritten:

- "(26a) Food sold not for profit by a public school cafeteria to a child day care center that participates in the Child and Adult Care Food Program of the Department of Public Instruction."

Section 37. G.S. 114-15.3 reads as rewritten:

**"§ 114-15.3. Investigations of child sexual abuse in ~~day~~child care.**

The Director of the Bureau may form a task force to investigate and gather evidence following a notification by the director of a county department of social services, pursuant to G.S. 7A-543, that child sexual abuse may have occurred in a ~~day~~child care facility or ~~day~~ care home.facility."

Section 38. G.S. 114-19.3(a) reads as rewritten:

"(a) Authority. -- The Department of Justice may provide to any of the following entities a criminal record check of an individual who is employed by that entity, has applied for employment with that entity, or has volunteered to provide direct care on behalf of that entity:

- (1) Hospitals licensed under Chapter 131E of the General Statutes.
- (2) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.
- (3) Adult care homes licensed under Chapter 131D of the General Statutes.
- (4) Home care agencies or hospices licensed under Chapter 131E of the General Statutes.
- (5) Child placing agencies licensed under Chapter 131D of the General Statutes.
- (6) Residential child care facilities licensed under Chapter 131D of the General Statutes.
- (7) Hospitals licensed under Chapter 122C of the General Statutes.
- (8) Area mental health, developmental disabilities, and substance abuse authorities licensed under Chapter 122C of the General Statutes, including a contract agency of an area authority that is subject to the provisions of Article 4 of that Chapter.
- (9) Licensed child day-care facilities ~~and registered and nonregistered~~ nonlicensed child day-care homes regulated by the State.
- (10) Any other organization or corporation, whether for profit or nonprofit, that provides direct care or services to children, the sick, the disabled, or the elderly."

Section 39. G.S. 114-19.5 reads as rewritten:

**"§ 114-19.5. Criminal record checks of child day-care providers.**

The Department of Justice may provide to the Division of Child Development, Department of Human Resources, the criminal history from the State and National

Repositories of Criminal Histories in accordance with G.S. 110-90.2, of any child day care provider, as defined in G.S. 110-90.2. The Division shall provide to the Department of Justice, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the child day-care provider to be checked. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 110-90.2(e). The Department of Justice shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section."

Section 40. G.S. 115C-468(c) reads as rewritten:

"(c) The Superintendent of Public Instruction may earmark up to twenty percent (20%) of the funds available for scholarship loans each year for awards to applicants who have been employed for at least one year as teacher assistants and who are currently employed as teacher assistants. Preference for these scholarship loans from funds earmarked for teacher assistants shall be given first to applicants who worked as teacher assistants for at least five years and whose positions as teacher assistants were abolished and then to applicants who already hold a baccalaureate degree or who have already been formally admitted to an approved teacher education program in North Carolina. The criteria for awarding scholarship loans to applicants who worked as teacher assistants for at least five years and whose positions as teacher assistants were abolished shall include whether the teacher assistant has been admitted to an approved teacher education program in North Carolina.

The Superintendent of Public Instruction may further earmark a portion of these funds each year for two-year awards to applicants who have been employed for at least one year as teacher assistants to attend community colleges to get other skills of use in public schools or to get an early childhood associate degree. The provisions of this Article shall apply to these scholarship loans except that a recipient of one of these scholarship loans may receive credit upon the amount due by reason of the loan as provided in G.S. 115C-471(5) or by working in a nonteaching position in the North Carolina public schools or by working in a licensed day-child care center in North Carolina."

Section 41. G.S. 120-70.71 reads as rewritten:

**"§ 120-70.71. Powers and duties.**

The Commission shall study State government policy and programs affecting the family, specifically addressing family issues from the point of existing laws, governmental programs needed or already functioning, and current family life issues. The Commission shall work in close collaboration with various agencies and programs dealing with the family. Among the issues the Commission may consider studying are the following:

- (1) The feasibility of establishing model projects that would be located primarily in low-income, high dropout rate communities in North Carolina:

- a. To teach adults in the family to read; and
  - b. To provide after school care for school-aged children using volunteers who could be retirees in the provision of services;
- (2) The fiscal impact of a cash stipend created by a tax deduction or by industry dollars to promote literacy or the obtainment of a General Education Development Degree for persons who are presently illiterate or outside the school system;
- (3) The need for day-care for children and senior citizens, an increase in Aid to Families with Dependent Children payments and eligibility requirements, coordination of State law with federal welfare reform programs, in-home services for the elderly, additional funding for adult day care, and incentives for industries to develop day child care programs;
- (4) The relationship between the decline of real income and the tax structure, college tax credits, the minimum wage, and welfare support systems;
- (5) The State's efforts in the areas of adolescent pregnancy and teaching about adolescent sexuality;
- (6) A comprehensive review of State and federal programs encouraging business and industry to provide adequate child care for their employees;
- (7) An analysis of what the State is currently doing to encourage North Carolina businesses and industry to provide adequate child care for their employees;
- (8) A survey of North Carolina employers that presently provide child care options for their employees and what types of options they provide;
- (9) A comprehensive study of the types of tax incentives and other incentives that would encourage North Carolina businesses -- especially those that have 50 or more employees -- to either provide on-site child care facilities or provide other child care options and the cost to the State of these tax incentives;
- (10) Recommendations of what the State could be doing to encourage North Carolina businesses to provide on-site child care facilities or other child care options for their employees;
- (11) Recommendations of a comprehensive policy for North Carolina to encourage businesses within the State to provide on-site child care facilities or other child care options for their employees;
- (12) The concept of requiring coverage of child health supervision services in all health insurance policies sold or delivered within the State;
- (13) The issue of domestic violence; and
- (14) The problem of suicide among the youth of the State."

Section 42. G.S. 120-123(44) reads as rewritten:

"(44) The Child Day Care Commission, as established by G.S. 143B-168.3."

Section 43. G.S. 122C-22(a) reads as rewritten:

"(a) The following are excluded from the provisions of this Article and are not required to obtain licensure under this Article:

- (1) Physicians and psychologists engaged in private office practice;
- (2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;
- (3) State and ~~federally operated~~ facilities;
- (4) Adult care homes licensed under Chapter 131D of the General Statutes;
- (5) Developmental child day-care centers licensed under Article 7 of Chapter 110 of the General Statutes;
- (6) Persons subject to licensure under rules of the Social Services Commission;
- (7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services; and
- (8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14)."

Section 44. G.S. 122E-8(d) reads as rewritten:

"(d) The Agency shall also give priority to applications which include provisions such as:

- (1) Interest rates and loan terms more favorable than those conventionally offered;
- (2) Developer contributions to project costs;
- (3) Local government contributions to project costs, including infrastructure improvements, contributions of publicly owned land for housing development, and the provision of funds for such services as day-child care and job training;
- (4) Coordination with other housing and/or infrastructure investments in the community;
- (5) Provision of housing to the disabled, single parent households, or rurally isolated households; or
- (6) Provision of housing to persons whose current housing fails to meet basic standards of health and safety and who have little prospect of improving the condition of their housing except by residing in an eligible project receiving assistance under this Chapter."

Section 45. G.S. 130A-131.5 reads as rewritten:

**"§ 130A-131.5. Commission to adopt rules.**

(a) For the protection of the public health, the Commission shall adopt rules for the prevention and control of lead poisoning in children. The rules shall include provisions for:

- (1) Reporting by laboratories of elevated blood lead levels in children less than six years of age; the rules shall specify the public health agency to which reports shall be made, and shall establish when a blood lead level is considered to be elevated. The rules shall further provide the specific information to be included in the reports, the time limits for reporting, and the form in which reports shall be submitted;
- (2) Investigation by the Department to determine the source of elevated blood lead levels;
- (3) Identification of lead poisoning hazards;
- (4) Examination and testing of children less than six years of age who are reasonably suspected of having elevated blood lead levels; and
- (5) Abatement of lead poisoning hazards in dwellings, schools and ~~day child care facilities centers~~ determined by the Department to be a potential source of an elevated blood lead level in a child less than six years of age.

(b) Abatement orders issued by the Department pursuant to this section shall require elimination of the lead poisoning hazard. Removal of children from the dwelling, school, or ~~day child care facility center~~ shall not constitute abatement if the property continues to be used for a dwelling, school, or ~~day child care facility center~~."

Section 46. G.S. 130A-136 reads as rewritten:

**"§ 130A-136. School principals and ~~day-care~~ child care operators to report.**

A principal of a school and an operator of a ~~day-care~~ child care facility, as defined in G.S. 110-86(3), who has reason to suspect that a person within the school or ~~day-care~~ child care facility has a communicable disease or communicable condition declared by the Commission to be reported, shall report information required by the Commission to the local health director of the county or district in which the school or facility is located."

Section 47. G.S. 130A-155 reads as rewritten:

**"§ 130A-155. Submission of certificate to ~~day-care~~ child care facility and school authorities; record maintenance; reporting.**

(a) No child shall attend a school (K-12), whether public, private or religious, or a ~~day-care~~ child care facility as defined in G.S. 110-86(3), unless a certificate of immunization indicating that the child has received the immunizations required by G.S. 130A-152 is presented to the school or facility. The parent, guardian, or responsible person must present a certificate of immunization on the child's first day of attendance to the principal of the school or operator of the facility, as defined in G.S. 110-86(7). If a certificate of immunization is not presented on the first day, the principal or operator shall present a notice of deficiency to the parent, guardian or responsible person. The parent, guardian or responsible person shall have 30 calendar days from the first day of attendance to obtain the required immunization for the child. If the administration of

vaccine in a series of doses given at medically approved intervals requires a period in excess of 30 calendar days, additional days upon certification by a physician may be allowed to obtain the required immunization. Upon termination of 30 calendar days or the extended period, the principal or operator shall not permit the child to attend the school or facility unless the required immunization has been obtained.

(b) The school or ~~day care~~ child care facility shall maintain on file immunization records for all children attending the school or facility which contain the information required for a certificate of immunization as specified in G.S. 130A-154. These certificates shall be open to inspection by the Department and the local health department during normal business hours. When a child transfers to another school or facility, the school or facility which the child previously attended shall, upon request, send a copy of the child's immunization record at no charge to the school or facility to which the child has transferred.

(c) Within 60 calendar days after the commencement of a new school year, the school shall file an immunization report with the Department. The ~~day care~~ child care facility shall file an immunization report annually with the Department. The report shall be filed on forms prepared by the Department and shall state the number of children attending the school or facility, the number of children who had not obtained the required immunization within 30 days of their first attendance, the number of children who received a medical exemption and the number of children who received a religious exemption.

(d) Any adult who attends school (K-12), whether public, private or religious, shall obtain the immunizations required in G.S. 130A-152 and shall present to the school a certificate in accordance with this section. The physician or local health department administering a required vaccine to the adult shall give a certificate of immunization to the person. The certificate shall state the person's name, address, date of birth and sex; the number of doses of the vaccine given; the date the doses were given; the name and addresses of the physician or local health department administering the required immunization; and other relevant information required by the Commission."

Section 48. The heading for Article 3E, Chapter 143 of the General Statutes, reads as rewritten:

### "ARTICLE 3E.

State/Public School Child ~~Day~~-Care Contracts."

Section 49. G.S. 143-64.50 reads as rewritten:

### **"§ 143-64.50. State/public school-contracted on-, near-site ~~day~~ child care facilities; location authorization; contract for program services authorization.**

State agencies and local boards of education may contract with any city, county, or other political subdivision of the State, governmental or private agency, person, association, or corporation to establish child ~~day~~-care services in State buildings and public schools. If the child ~~day~~-care program is located in a State building that is not used for legislative activity, the procedure for approving the location of the program shall be pursuant to G.S. 143-341(4). If the child ~~day~~-care program is located in a State building used for legislative activity, the procedure for approving the location of the

program shall be pursuant to G.S. 120-32.1. If the child day-care program is located in any other State building, the procedure for contracting for child day-care services shall be pursuant to G.S. 143-49(3). If the child day-care program is located in a State building used for legislative activity, the procedure for contracting for child day-care services shall be pursuant to G.S. 120-32(4).

Contracts for services awarded pursuant to this section are exempt from the provisions of G.S. 66-58(a) and the contract may provide for payment of rent by the lessee or the operator of the facility."

Section 50. G.S. 143-64.51 reads as rewritten:

**"§ 143-64.51. State/public school-contracted child day-care facilities; licensing requirements.**

All child day-care facilities established pursuant to this Article shall be licensed and regulated under the provisions of Article 7 of Chapter 110 of the General Statutes, entitled "Day Care Facilities."

Section 51. G.S. 143-64.52 reads as rewritten:

**"§ 143-64.52. State/public school-contracted child day-care facilities; limitation of State/local board liability.**

The operators of the child day-care facilities established pursuant to this Article shall assume all financial and legal responsibility for the operation of the programs and shall maintain adequate insurance coverage for the operations taking place in the facilities. Neither the operator or any of the staff of the facilities are considered State employees or local board of education employees by virtue of this Article alone. The State or the local boards of education are financially and legally responsible only for the maintenance of the building."

Section 52. G.S. 143-576.2(b) reads as rewritten:

"(b) Each Local Team shall consist of the following persons:

- (1) The director of the county department of social services, and a member of the director's staff;
- (2) A local law enforcement officer, appointed by the board of county commissioners;
- (3) An attorney from the district attorney's office, appointed by the district attorney;
- (4) The executive director of the local community action agency, as defined by the Division of Economic Opportunity, Department of Human Resources, or the executive director's designee;
- (5) The superintendent of each local school administrative unit located in the county, or the superintendent's designee;
- (6) A member of the county board of social services, appointed by the chair of that board;
- (7) A local mental health professional, appointed by the director of the area authority established under Chapter 122C of the General Statutes;
- (8) The local guardian ad litem coordinator, or the coordinator's designee;
- (9) The director of the local department of public health; and

(10) A local health care provider, appointed by the local board of health. In addition, a Local Team that reviews the records of additional child fatalities shall include the following four additional members:

- (1) An emergency medical services provider or firefighter, appointed by the board of county commissioners;
- (2) A district court judge, appointed by the chief district judge in that district;
- (3) A county medical examiner, appointed by the Chief Medical Examiner;
- (4) A representative of a local ~~day~~child care facility or Head Start program, appointed by the director of the county department of social services; and
- (5) A parent of a child who died before reaching the child's eighteenth birthday, to be appointed by the board of county commissioners.

The Team Coordinator shall serve as an ex officio member of each Local Team that reviews the records of additional child fatalities. The board of county commissioners may appoint a maximum of five additional members to represent county agencies or the community at large to serve on any Local Team. Vacancies on a Local Team shall be filled by the original appointing authority."

Section 53. G.S. 143-599 reads as rewritten:

**"§ 143-599. Exemptions.**

All of the following facilities shall be exempt from the provisions of this Article:

- (1) Any primary or secondary school or ~~day~~child care center, except for a teacher's lounge.
- (2) An enclosed elevator.
- (3) Public school bus.
- (4) Hospital, nursing home, rest home, and State facility operated under the authority of G.S. 122C-181.
- (5) Local health department.
- (6) Any nonprofit organization or corporation whose primary purpose is to discourage the use of tobacco products by the general public.
- (7) Tobacco manufacturing, processing, and administrative facilities."

Section 54. G.S. 143B-138 reads as rewritten:

**"§ 143B-138. Department of Human Resources -- functions and organization.**

- (a) Repealed by Session Laws 1989, c. 727, s. 5.
- (b) All functions, powers, duties, and obligations heretofore vested in commissions, boards, councils, committees, or subunits of the Department of Human Resources which are not transferred by G.S. 143B-279.3 shall continue to be vested in the Department of Human Resources. These shall include, but are not limited to, the following:

- (1) Division of Aging.
- (2) Respite Care Program.
- (3) Governor's Advisory Council on Aging.

- (4) Division of Services for the Blind.
- (5) Commission for the Blind.
- (6) Professional Advisory Committee.
- (7) Consumer and Advocacy Advisory Committee for the Blind.
- (8) Division of Medical Assistance.
- (9) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (10) Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (11) Division of Social Services.
- (12) Social Services Commission.
- (13) Division of Facility Services.
- (14) Medical Care Commission.
- (15) Child ~~Day~~ Care ~~Care~~ Commission.
- (16) Emergency Medical Services Advisory Council.
- (17) Division of Vocational Rehabilitation.
- (18) Division of Youth Services.
- (19) Division of Schools for the Deaf and the Blind.
- (20) Board of Directors of the Governor Morehead School.
- (21) Board of Directors for the North Carolina Schools for the Deaf.
- (22) North Carolina Council for the Hearing Impaired.
- (23) Council on Developmental Disabilities.
- (24) North Carolina Council on the Holocaust.

(c) All functions, powers, duties, and obligations heretofore vested in the Economic Opportunity Division of the Department of Natural Resources and Community Development are hereby transferred to and vested in the Department of Human Resources by a Type I transfer as defined in G.S. 143A-6.

(d) The Department of Human Resources is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State."

Section 55. G.S. 143B-153(8) reads as rewritten:

- "(8) The Commission may establish by regulation, except for Title XX services provided solely through the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, rates or fees for:
  - a. A fee schedule for the payment of the costs of necessary ~~day~~ child care in licensed facilities and registered plans for minor children of needy families.
  - b. A fee schedule for the payment by recipients for services which are established in accordance with Title XX of the Social Security Act and implementing regulations; and
  - c. The payment of an administrative fee not to exceed two hundred dollars (\$200.00) to be paid by public or nonprofit

agencies which employ students under the Plan Assuring College Education (PACE) program.

- d. Child support enforcement services as defined by G.S. 110-130.1."

Section 56. G.S. 143B-168.3 reads as rewritten:

**"§ 143B-168.3. Child Day-Care Care Commission powers and duties.**

The Child Day-Care Licensing Commission of the Department of Administration is transferred, recodified, and renamed the Child ~~Day-Care~~ Care Commission of the Department of Human Resources with the power and duty to adopt rules to be followed in the licensing and operation of child ~~day~~-care facilities ~~and child day care homes~~ as provided by Article 7 of Chapter 110 of the General Statutes.

- (a) The Child ~~Day-Care~~ Care Commission shall adopt rules:

- (1) For the issuance of licenses to any ~~day~~child care facility; and
- (2) To ~~register child day care homes and to~~ adopt rules as provided by Article 7 of Chapter 110 of the General Statutes of the State of North Carolina, and to establish standards for '~~AA~~' enhanced program licenses, as authorized by G.S. 110-88(7).

(b) The Commission shall adopt rules consistent with the provisions of this Chapter. All rules not inconsistent with the provisions of this Chapter heretofore adopted by the Child Day-Care Licensing Commission shall remain in full force and effect unless and until repealed or superseded by action of the Child ~~Day-Care~~ Care Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Human Resources."

Section 57. G.S. 143B-168.4(a) reads as rewritten:

**"§ 143B-168.4. Child Day-Care Care Commission -- members; selection; quorum.**

(a) The Child ~~Day-Care~~ Care Commission of the Department of Human Resources shall consist of 15 members. Seven of the members shall be appointed by the Governor and eight by the General Assembly, four upon the recommendation of the President Pro Tempore of the Senate, and four upon the recommendation of the Speaker of the House of Representatives. Four of the members appointed by the Governor, two by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and two by the General Assembly on the recommendation of the Speaker of the House of Representatives, shall be members of the public who are not employed in, or providing, ~~day~~child care and who have no financial interest in a ~~day~~child care facility ~~or home~~facility. Two of the foregoing public members appointed by the Governor, one of the foregoing public members recommended by the President Pro Tempore of the Senate, and one of the foregoing public members recommended by the Speaker of the House of Representatives shall be parents of children receiving ~~day~~child care services. Of the remaining two public members appointed by the Governor, one shall be a pediatrician currently licensed to practice in North Carolina. Three of the members appointed by the Governor shall be ~~day~~child care providers, one of whom shall be affiliated with a for profit ~~day~~child care facility, center, one of whom shall be affiliated with a for profit ~~day~~family child care home, and one of whom shall be affiliated with a

nonprofit ~~home or~~ facility. Two of the members appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and two by the General Assembly on recommendation of the Speaker of the House of Representatives, shall be ~~day child~~ care providers, one affiliated with a for profit ~~day child~~ care facility or ~~home, facility,~~ and one affiliated with a nonprofit ~~day child~~ care facility or ~~home facility.~~ None may be employees of the State."

Section 58. G.S. 143B-168.5 reads as rewritten:

**"§ 143B-168.5. Child Day Care--Care -- special unit.**

There is established within the Department of Human Resources a special unit to deal primarily with violations involving child abuse and neglect in child ~~day~~-care arrangements. The Child ~~Day~~-Care Commission shall make rules for the investigation of reports of child abuse or neglect and for administrative action when child abuse or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, and ~~110-105.1.~~ 110-105.2.

Section 59. G.S. 143B-168.14 reads as rewritten:

**"§ 143B-168.14. Local partnerships; conditions.**

- (a) In order to receive State funds, the following conditions shall be met:
  - (1) Each local demonstration project shall be coordinated by a new local partnership responsible for developing a comprehensive, collaborative, long-range plan of services to children and families in the service-delivery area. The board of directors of each local partnership shall consist of members including representatives of public and private nonprofit health and human service agencies, ~~day child~~ care providers, the business community, foundations, county and municipal governments, local education units, and families. The Department, in cooperation with the North Carolina Partnership, may specify in its requests for applications the local agencies that shall be represented on a local board of directors. No existing local, private, nonprofit 501(c)(3) organization, other than one established on or after July 1, 1993, and that meets the guidelines for local partnerships as established under this Part, shall be eligible to apply to serve as the local partnership for the purpose of this Part.
  - (2) Each local partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.
  - (3) Each local partnership shall adopt procedures to ensure that all personnel who provide services to young children and their families under this Part know and understand their responsibility to report suspected child abuse, neglect, or dependency, as defined in G.S. 7A-517.

- (4) Each local partnership shall participate in the uniform, standard fiscal accountability plan developed and adopted by the North Carolina Partnership.
- (b) Each local partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of the local partnerships."

Section 60. G.S. 143B-168.15 reads as rewritten:

**"§ 143B-168.15. Use of State funds.**

(a) State funds allocated to local projects for services to children and families shall be used to meet assessed needs, expand coverage, and improve the quality of these services. The local plan shall address the assessed needs of all children to the extent feasible. It is the intent of the General Assembly that the needs of both young children below poverty who remain in the home, as well as the needs of young children below poverty who require services beyond those offered in child care settings, be addressed. Therefore, as local partnerships address the assessed needs of all children, they should devote an appropriate amount of their State allocations, considering these needs and other available resources, to meet the needs of children below poverty and their families.

(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the funds allocated to local partnerships that are designated by the Secretary for direct services, seventy-five percent (75%) shall be used for any one or more of the following activities and services:

- (1) Child day-care services, including:
- a. Child day-care subsidies to reduce waiting lists;
  - b. Raising the county child day-care subsidy rate to the State market rate, if applicable, in return for improvements in the quality of child day-care services;
  - c. Raising the income eligibility for child day care subsidies to seventy-five percent (75%) of the State median family income;
  - d. Start-up funding for child day-care providers;
  - e. Assistance to enable child day-care providers to conform to licensing and building code requirements;
  - f. Child day-care resources and referral services;
  - g. Enhancement of the quality of child day-care provided;
  - h. Technical assistance for child day-care providers;
  - i. Quality grants for child day-care centers or family child day care homes;
  - j. Expanded services or enhanced rates for children with special needs;
  - k. Head Start services;
  - l. Development of comprehensive child day-care services that include child health and family support;

- m. Activities to reduce staff turnover;
  - n. Activities to serve children with special needs;
  - o. Transportation services related to providing child day-care services;
  - p. Evaluation of plan implementation of child day-care services; and
  - q. Needs and resources assessments for child day-care services.
- (2) Family - and child-centered services, including early childhood education and child development services, including:
- a. Enhancement of the quality of family- and child-centered services provided;
  - b. Technical assistance for family- and child-centered services;
  - c. Needs and resource assessments for family- and child-centered services;
  - d. Home-centered services; and
  - e. Evaluation of plan implementation of family- and child-centered services.
- (3) Other appropriate activities and services for child day-care providers and for family- and child-centered services, including:
- a. Staff and organizational development, leadership and administrative development, technology assisted education, and long-range planning; and
  - b. Procedures to ensure that infants and young children receive needed health, immunization, and related services.

(c) Long-term plans for local projects that do not receive their full allocation in the first year, other than those selected in 1993, should consider how to meet the assessed needs of low-income children and families within their neighborhoods or communities. These plans also should reflect a process to meet these needs as additional allocations and other resources are received.

(d) State funds designated for start-up and related activities may be used for capital expenses or to support activities and services for children, families, and providers. State funds designated to support direct services for children, families, and providers shall not be used for major capital expenses unless the North Carolina Partnership approves this use of State funds based upon a finding that a local partnership has demonstrated that (i) this use is a clear priority need for the local plan, (ii) it is necessary to enable the local partnership to provide services and activities to underserved children and families, and (iii) the local partnership will not otherwise be able to meet this priority need by using State or federal funds available to that local partnership. The funds approved for capital projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total funds for direct services allocated to a local partnership in those two consecutive fiscal years.

(e) State funds allocated to local partnerships shall not supplant current expenditures by counties on behalf of young children and their families, and

maintenance of current efforts on behalf of these children and families shall be sustained. State funds shall not be applied without the Secretary's approval where State or federal funding sources, such as Head Start, are available or could be made available to that county.

(f) Local partnerships may carry over funds from one fiscal year to the next, subject to the following conditions:

- (1) Local partnerships in their first year of receiving direct services funding may, on a one-time basis only, carry over any unspent funds to the subsequent fiscal year.
- (2) Any local partnership may carry over any unspent funds to the subsequent fiscal year, subject to the limitation that funds carried over may not exceed the increase in funding the local partnership received during the current fiscal year over the prior fiscal year.

(g) Not less than thirty percent (30%) of each local partnership's direct services allocation shall be used to expand child day-care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child day-care services as described in this section."

Section 61. G.S. 143B-178 reads as rewritten:

**"§ 143B-178. Council on Developmental Disabilities -- definitions.**

The following definitions apply to this Chapter:

- (1) The term 'developmental disability' means a severe, chronic disability of a person which:
  - a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - b. Is manifested before the person attains age 22, unless the disability is caused by a traumatic head injury and is manifested after age 22;
  - c. Is likely to continue indefinitely;
  - d. Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and
  - e. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.
- (2) The term 'services for persons with developmental disabilities,' as it is used in this Article, means:
  - a. Alternative community living arrangement services, employment related activities, child development services, and case management services; and

- b. Any other specialized services or special adaptations of generic services including diagnosis, evaluation, treatment, personal care, ~~day-child~~ care, adult care, special living arrangements, training, education, sheltered employment, recreation and socialization, counseling of the individual with such a disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, nonvocational social-developmental services, and transportation services necessary to assure delivery of services to persons with developmental disabilities, and services to promote and coordinate activities to prevent developmental disabilities."

Section 62. G.S. 153A-234 reads as rewritten:

**"§ 153A-234. Fire marshal.**

A county may appoint a fire marshal and employ persons as his assistants. A county may also impose any duty that might be imposed on a fire marshal on any other officer or employee of the county. The board of commissioners shall set the duties of the fire marshal, which may include but are not limited to:

- (1) Advising the board on improvements in the fire-fighting or fire prevention activities under the county's supervision or control.
- (2) Coordinating fire-fighting and training activities under the county's supervision or control.
- (3) Coordinating fire prevention activities under the county's supervision or control.
- (4) Assisting incorporated volunteer fire departments in developing and improving their fire-fighting or fire prevention capabilities.
- (5) Making fire prevention inspections, including the periodic inspections and reports of school buildings required by Chapter 115 and the inspections of ~~day-care-child~~ care facilities required by Chapter 110. A fire marshal shall not make electrical inspections unless he is qualified to do so under G.S. 153A-351."

Section 63. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ Harold J. Brubaker  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 11:04 a.m. this 16th day of September, 1997