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**STATUS INFORMATION**

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Summary: DSS; Childcare Licensing Division

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/20/2019 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h:\sj\20190320.docx))

3/20/2019 Senate Referred to Committee on **Family and Veterans' Services** ([Senate Journal‑page 5](file:///h:\sj\20190320.docx))

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**VERSIONS OF THIS BILL**

[3/20/2019](file:///p:\pprever\2019-20\680_20190320.docx)

**A** **BILL**

TO AMEND SECTION 63‑13‑30(A) OF THE 1976 CODE, RELATING TO CAREGIVER REQUIREMENTS, TO PROVIDE THAT A CAREGIVER OVER THE AGE OF EIGHTEEN IN A CHILDCARE FACILITY MAY BE CURRENTLY ENROLLED IN HIGH SCHOOL; TO AMEND SECTION 63-13-70 OF THE 1976 CODE, RELATING TO A REQUIRED REGISTER, TO PROVIDE THAT EVERY CHILDCARE CENTER FACILITY SHALL MAINTAIN A REGISTER; TO AMEND SECTION 63-13-80(B) OF THE 1976 CODE, RELATING TO INVESTIGATIONS AND INSPECTIONS, TO PROVIDE FOR THE ISSUANCE OF A CERTIFICATE OF COMPLIANCE; TO AMEND SECTION 63-13-90 OF THE 1976 CODE, RELATING TO ZONING, TO MAKE CONFORMING CHANGES; TO AMEND SECTION 63-13-100 OF THE 1976 CODE, RELATING TO PROVISIONAL LICENSURE, APPROVAL, AND REGISTRATION, TO REMOVE PROVISIONAL REGISTRATIONS AND TO PROVIDE THAT NO PROVISIONAL LICENSE IS EFFECTIVE FOR A PERIOD GREATER THAN TWO YEARS; TO AMEND SECTION 63-13-110 OF THE 1976 CODE, RELATING TO FIRST AID AND CPR CERTIFICATES, TO PROVIDE THAT ALL CHILDCARE FACILITIES MUST HAVE AT LEAST TWO CAREGIVERS AND TO PROVIDE THAT REGISTERED FAMILY CHILDCARE HOMES MUST HAVE AT LEAST ONE CAREGIVER WHO MEETS CERTAIN CRITERIA; TO AMEND SECTION 63-13-150 OF THE 1976 CODE, RELATING TO VIOLATION CITATIONS, TO MAKE CONFORMING CHANGES; TO AMEND SECTION 63-13-160(1) OF THE 1976 CODE, RELATING TO INJUNCTIONS, TO MAKE CONFORMING CHANGES; TO AMEND SECTION 63-13-210 OF THE 1976 CODE, RELATING TO NOTICE TO PARENTS THAT A CHILDCARE BUSINESS DOES NOT CARRY LIABILITY INSURANCE, TO PROVIDE THAT A CHILDCARE FACILITY MUST CARRY LIABILITY INSURANCE AND TO PROVIDE FOR THE REPORTING OF LIABILITY CLAIMS; TO AMEND ARTICLE 1, CHAPTER 13, TITLE 63 OF THE 1976 CODE, RELATING TO CHILDCARE FACILITIES, BY ADDING SECTION 63‑13‑220 AND SECTION 63‑13‑230, TO PROVIDE THAT THE DEPARTMENT OF SOCIAL SERVICES’S CHILDCARE FACILITY LICENSING DIVISION ADMINISTERS THE ABC CHILDCARE PROGRAM AND TO PROVIDE FOR CONDITIONS FOR CHILDCARE FACILITIES’ OPERATIONS; TO AMEND ARTICLE 3, CHAPTER 13, TITLE 63 OF THE 1976 CODE, RELATING TO PRIVATE CHILDCARE CENTERS AND GROUP CHILDCARE HOMES, TO MAKE CONFORMING CHANGES, TO PROVIDE CONDITIONS UNDER WHICH NO LICENSE MAY BE ISSUED, TO REQUIRE CERTAIN BACKGROUND CHECKS FOR CERTAIN INDIVIDUALS, TO PROVIDE FOR CONDITIONS UNDER WHICH A PARENT OR THE DEPARTMENT OF SOCIAL SERVICES MUST BE NOTIFIED, TO PROVIDE THAT A REGULAR LICENSE OR REGULAR CERTIFICATE OF COMPLIANCE FOR A PRIVATE CHILDCARE CENTER OR GROUP CHILDCARE HOME IS VALID FOR TWO YEARS AND TO PROVIDE EXCEPTIONS, TO PROVIDE FOR APPLICATIONS FOR A CERTIFICATE OF COMPLIANCE, AND TO REQUIRE THAT A CHILDCARE FACILITY MUST BE LICENSED OR HOLD A CERTIFICATE OF COMPLIANCE; TO AMEND SECTION 63-13-825 OF THE 1976 CODE, RELATING TO TRAINING FOR DAYCARE OPERATORS AND WORKERS, TO PROVIDE FOR TRAINING ON SAFE SLEEP FOR INFANTS AND CERTIFICATION; TO AMEND SECTION 63-13-850 OF THE 1976 CODE, RELATING TO APPEALS, TO PROVIDE FOR THE RIGHT TO A HEARING PROCESS FOR A FAMILY CHILDCARE HOME OPERATOR WHOSE APPROVAL HAS BEEN WITHDRAWN; TO DEFINE NECESSARY TERMS; AND TO REPEAL SECTION 63‑13‑610 OF THE 1976 CODE, RELATING TO THE APPROVAL REQUIRED FOR PUBLIC CENTERS AND GROUP HOMES, SECTION 63‑13‑620 OF THE 1976 CODE, RELATING TO STATEMENT OF APPROVAL REQUIREMENTS, SECTION 63‑13‑630 OF THE 1976 CODE, RELATING TO APPROVAL RENEWAL, SECTION 63‑13‑640 OF THE 1976 CODE, RELATING TO DEFICIENCY CORRECTION NOTICES, SECTION 63‑13‑650 OF THE 1976 CODE, RELATING TO REVIEW MEETINGS, SECTION 63‑13‑1010 OF THE 1976 CODE, RELATING TO THE REGISTRATION REQUIRED FOR CHURCHES AND RELIGIOUS CENTERS, SECTION 63‑13‑1020 OF THE 1976 CODE, RELATING TO REGISTRATION AND INSPECTIONS, SECTION 63‑13‑1030 OF THE 1976 CODE, RELATING TO STATEMENTS OF REGISTRATION, SECTION 63‑13‑1050 OF THE 1976 CODE, RELATING TO DEFICIENCY CORRECTION NOTICES, SECTION 63‑13‑1060 OF THE 1976 CODE, RELATING TO INJUNCTIONS, SECTION 63‑13‑1070 OF THE 1976 CODE, RELATING TO APPEALS, AND SECTION 63‑13‑1080 OF THE 1976 CODE, RELATING TO PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑13‑20(2) of the 1976 Code is amended to read:

“(2) ‘Childcare’ means the care, supervision, or guidance of a child or children, unaccompanied by the parent, guardian, or custodian, on a regular basis, for periods of less than twenty‑four hours per day, but more than ~~four~~ three hours, in a place other than the child’s or the children’s own home or homes.”

SECTION 2. Section 63‑13‑20(4) of the 1976 Code is amended to read:

“(4) ‘Childcare ~~facilities~~ facility’ or ‘facility’ means a facility which provides childcare ~~care, supervision, or guidance~~ for a minor child who is not related by blood, marriage, or adoption to the owner or operator of the facility whether or not the facility is operated for profit and whether or not the facility makes a charge for services offered by it. This definition includes, but is not limited to, day nurseries, nursery schools, childcare centers, group childcare homes, and family childcare homes. The term does not include:

(a) an educational facility, whether private or public, which operates solely for educational purposes in grade one or above;

(b) five‑year‑old kindergarten programs;

(c) kindergartens or nursery schools or other daytime programs, with or without stated educational purposes, operating no more than ~~four~~ three hours a day and receiving children younger than ~~lawful school age~~ twelve years of age;

(d) facilities operated for more than ~~four~~ three hours a day in connection with a shopping center or service or other similar facility, where the same children are cared for less than ~~four~~ three hours a day and not on a regular basis as defined in this chapter while parents or custodians of the children are occupied on the premises, and ~~or are in the immediate vicinity and immediately available; however,~~ these facilities must meet local fire and sanitation requirements and maintain documentation on these requirements on file at the facility available for public inspection;

(e) ~~school vacation or school holiday day camps for children operating in distinct sessions running less than three weeks per session unless the day camp permits children to enroll in successive sessions so that their total attendance may exceed three weeks~~ care furnished in places of worship during religious services;

(f) summer resident camps for children;

(g) bible schools normally conducted during vacation periods;

(h) facilities for persons with intellectual disability provided for in Chapter 21, Title 44;

(i) facilities for the mentally ill as provided for in Chapter 17, Title 44;

(j) ~~childcare centers and group childcare homes owned and operated by a local church congregation or an established religious denomination or a religious college or university which does not receive state or federal financial assistance for childcare services; however, these facilities must comply with the provisions of Article 9, and Sections 63‑13‑60 and 63‑13‑110 and that these facilities voluntarily may elect to become licensed according to the process as set forth in Article 3 and Sections 63‑13‑30, 63‑13‑40, 63‑13‑70, 63‑13‑80, 63‑13‑90, 63‑13‑100, 63‑13‑160, and 63‑13‑170~~ school vacation or school holiday daycare with sessions lasting more than ten days per month. This chapter prohibits any business from operating a school vacation or school holiday camp or educational program that cares for children for more than ten days per month without having a childcare license or certificate of compliance. This includes programs that run multiple‑week programs consecutively so that children can attend for more than ten days by stacking programs or themes throughout the summer. Before opening, programs lasting more than ten days must comply with this chapter, including the requirement to be licensed or possess a certificate of compliance issued by the department;

(k) any facility open to the general public that does not charge fees and where open play time that is not a part of a scheduled program is available, in places such as community centers, playgrounds, sports fields, and gymnasiums.”

SECTION 3. Section 63‑13‑20(18) of the 1976 Code is amended to read:

“(18) ‘Provisional approval’ means a written notice issued by the department to a department, agency, or institution of the State, or a county, city, or other political subdivision approving the commencement of the operations of a childcare facility ~~public childcare center or group childcare home~~ although the operator is temporarily unable to comply with all of the requirements for a certificate of compliance ~~approval~~.”

SECTION 4. Section 63‑13‑20(19) of the 1976 Code is amended to read:

“(19) ‘Provisional license’ means a license issued by the department to an operator of a childcare facility ~~private childcare center or group childcare home or a family childcare home~~ which elects to be licensed authorizing the licensee to begin operations although the licensee temporarily is unable to comply with all of the requirements for a license.”

SECTION 5. Section 63‑13‑20(21) of the 1976 Code is amended to read:

“(21) ‘Registration’ means the process whereby ~~childcare centers and group childcare homes owned and operated by a church or a publicly recognized religious educational or religious charitable institution are regulated under this chapter and the process whereby~~ all family childcare homes are regulated under this chapter.”

SECTION 6. Section 63‑13‑20(23) of the 1976 Code is amended to read:

“(23) ‘Regular license’ means a license issued by the department for two years to an operator of a ~~private childcare center or group childcare home or a family childcare home~~ childcare facility which elects to be licensed showing that the licensee is in compliance with the provisions of this chapter and the regulations of the department at the time of issuance and authorizing the licensee to operate in accordance with the license, this chapter, and the regulations of the department.”

SECTION 7. Section 63‑13‑20(26) of the 1976 Code is amended to read:

“(26) ‘Renewal’ means, in regard to childcare facilities ~~centers and group childcare homes~~, to grant an extension of a regular license or ~~regular approval~~ certificate of compliance for another two‑year period provided an investigation of such facilities verifies that they are in compliance with the applicable regulations, in regard to family childcare homes, to place the name of the operator on the registration list for another year provided procedures indicated in this chapter have been completed.”

SECTION 8. Section 63‑13‑20(27) of the 1976 Code is amended to read:

“(27) ‘Revocation’ means to void the regular license or certificate of compliance of a childcare facility ~~center or group childcare home~~.”

SECTION 9. Section 63‑13‑20 of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) ‘Certificate of compliance’ means a written notice of approval issued by the department for a two-year period to a department, agency, or institution of the State; a county; a city; or another political subdivision, approving the operation of a childcare facility in accordance with the provisions of the notice, this chapter, and regulations of the department.”

SECTION 10. Section 63‑13‑30(A) of the 1976 Code is amended to read:

“Section 63‑13‑30. (A) A caregiver over the age of eighteen who begins employment in a licensed or approved childcare ~~center~~ facility in South Carolina after June 30, 1994, must be currently enrolled in high school or have at least a high school diploma or General Educational Development (GED) and at least six months’ experience as a caregiver in a licensed or approved childcare facility. If a caregiver does not meet the experience requirements, the caregiver must be directly supervised for six months by a staff person with at least one year experience as a caregiver in a licensed or approved childcare facility. Within six months of being employed, a caregiver must have six clock hours of training in child growth and development and early childhood education or shall continue to be under the direct supervision of a caregiver who has at least one year of experience as a caregiver in a licensed or approved childcare facility.”

SECTION 11. Section 63‑13‑70 of the 1976 Code is amended to read:

“Section 63‑13‑70. Every childcare center facility ~~or group childcare home~~ shall maintain a register setting forth essential facts concerning each child enrolled under the age of eighteen years.”

SECTION 12. Section 63‑13‑80(B) of the 1976 Code is amended to read:

“(B) Before issuing a license or approval the department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating a childcare center or a group childcare home. If the results of the investigation satisfy the department that the provisions of this chapter and the applicable regulations promulgated by the department are satisfied, a license or ~~approval~~ certificate of compliance must be issued.”

SECTION 13. Section 63‑13‑90 of the 1976 Code is amended to read:

“Section 63‑13‑90. At the time of initial licensing, approval, or registration a childcare facility must provide proof of conformity or authorized nonconformity with county or municipal zoning ordinances or resolutions. The department may impose conditions on the license or certificate of compliance~~, approval, or registration~~ consistent with restrictions imposed by zoning authorities.”

SECTION 14. Section 63‑13‑100 of the 1976 Code is amended to read:

“Section 63‑13‑100. (A) The department has power to issue a ~~provisional registration,~~ provisional license~~,~~ or provisional approval only when the department is satisfied that:

(1) the regulations can and will be met within a reasonable time; and

(2) the deviations do not seriously threaten the health or safety of the children. A ~~provisional registration,~~ provisional license~~,~~ or provisional approval~~,~~ may be extended for a period as may be determined by the department.

(B) Except as noted in subsection (C) of this section, no provisional license or provisional approval may be issued effective for any longer than one year.

(C) Any facility granted a license or exempt from obtaining a license under the act previously in effect in this State and which does not qualify for a regular license under this chapter must be granted a provisional license in accord with subsection a. of this section. The provisional license may be issued without regard to the time limit of subsection (B) of this section. No provisional license issued under subsection (C) is effective, either by its initial issue or by renewal, for a period greater than two ~~three~~ years.”

SECTION 15. Section 63‑13‑110 of the 1976 Code is amended to read:

“Section 63‑13‑110. During ~~the~~ hours of operation, all childcare facilities~~, except registered family childcare homes,~~ must have on the premises at least ~~one caregiver~~ two caregivers with a current certificate for the provision of basic first aid and child‑infant cardiopulmonary resuscitation. Registered family childcare homes must have at least one caregiver on the premises with a current certificate for the provision of basic first aid and child‑infant cardiopulmonary resuscitation.”

SECTION 16. Section 63‑13‑150 of the 1976 Code is amended to read:

“Section 63‑13‑150. At any time the department cites a childcare facility ~~center, group childcare home,~~ or family childcare home for a violation of this chapter or regulations promulgated pursuant to this chapter, the department shall provide the owner and operator of the ~~center~~ facility or family childcare home with a brochure stating, in language easily understood, the rights and procedures available to the owner or operator for a hearing in accordance with the department’s fair hearing regulations and the rights and procedures available to appeal a decision rendered under the department’s fair hearing process.”

SECTION 17. Section 63‑13‑160(1) of the 1976 Code is amended to read:

“(1) when a facility is operating without a license, ~~or~~ statement of registration, or certificate of compliance;”

SECTION 18. Section 63‑13‑210 of the 1976 Code is amended to read:

“Section 63‑13‑210. ~~(A)~~ An owner or operator of a childcare facility ~~center, group childcare home, or family childcare home~~, as defined by Section 63‑13‑20, must carry liability insurance. The owner or operator must report to the department any liability claims brought against the childcare facility or its employees pertaining to capacity at the childcare facility ~~who does not carry liability insurance for the operation of his childcare business, shall, by no later than January 1, 2009, obtain signed statements from the custodial parent or parents or guardian or guardians of each child currently enrolled in the childcare center, group childcare home, or family childcare home indicating that the parent or parents or guardian or guardians have received notice that the childcare center, group childcare home, or family childcare home does not carry liability insurance for the operation of its childcare business~~. ~~The owner or operator of a childcare center, group childcare home, or family childcare home must maintain a file of these signed statements at the home during the period of time a child is enrolled. For new enrollees to a childcare center, group childcare home, or family childcare home, the owner or operator must provide the parent or parents or guardian or guardians of a new enrollee with this information at the time of enrollment, obtain a signed statement from each parent or guardian at the time of enrollment, and maintain these signed statements at the home during the period of time a child is enrolled.~~

~~(B)~~ ~~If an owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63‑13‑20, has liability insurance for the operation of his childcare business that lapses or is canceled and not reinstated or replaced, the owner or operator shall obtain and maintain statements in accordance with subsection (A) from the custodial parent or parents or guardian or guardians of each child enrolled in the childcare center, group childcare home, or family childcare home no later than thirty days after the liability insurance lapses or is canceled.~~

~~(C)~~ ~~The department shall send a letter to each childcare center, group childcare home, and family childcare home licensed or registered as of June 30, 2008, with the department informing each home of the requirements of subsections (A) and (B), that each home must comply with these requirements by no later than January 1, 2009, and that compliance is a requirement for initial licensure and a continuing annual requirement for relicensure. For childcare centers, group childcare homes, and family childcare homes licensed or registered after June 30, 2008, the department shall provide the information contained in subsections (A) and (B) at the time the childcare center, group childcare home, or family childcare home applies for a license or registration.~~”

SECTION 19. Article 1, Chapter 13, Title 63 of the 1976 Code is amended by adding:

“Section 63‑13‑220. The department’s childcare facility licensing division administers the ABC Childcare Program using Child Care and Development Fund Plan funds. The department may issue ABC Childcare Program vouchers only to childcare facilities that are licensed or possess a certificate of compliance issued by the department’s childcare facility licensing division.

Section 63‑13‑230. For any childcare facility defined in Section 63‑13‑20(4):

(1) the facility must adhere to the staff‑to‑child ratio established by the department. The ratio should be determined based on the youngest child present;

(2)  a caregiver who is between the ages of sixteen and eighteen may be employed and may be counted as adult staff for the purposes of a staff‑to‑child ratio as long as the caregiver is continuously supervised by a fully qualified adult caregiver and is in the room at all times. One adult staff person may supervise no more than two caregivers who are between the ages of sixteen and eighteen;

(3)  a volunteer who is at least sixteen years of age may work in the facility; however, the volunteer is not permitted to be counted for the purposes of meeting the staff‑to‑child ratio requirements. In addition, the volunteer must be continuously supervised by a fully qualified caregiver who is in the room at all times. One adult staff person may supervise no more than two volunteers;

(4) all employees and volunteers must undergo a background check, including a Federal Bureau of Investigation fingerprint review, South Carolina Law Enforcement Division review, child abuse registry check, and sex offender registry check;

(5) all caregivers over the age of eighteen years old must have a high school diploma or GED, or be currently enrolled in high school;

(6)  for seasonal employees or after-school employees, the training criteria required by regulation shall be prorated according to the department policy on regulations;

(7) if a childcare facility is part of a multi‑site facility, then employee records may be kept on‑site or, if kept in a central location, must be electronically available at each site;

(8)  a bachelor’s degree or advanced degree from a state‑approved college or university in early childhood education, child development, child psychology, or a related field that includes at least eighteen credit hours in child development or early childhood education required pursuant to regulation must also include any other bachelor’s degrees, such as in recreation, sports management, elementary education, and family and social sciences;

(9) all caregivers should be certified in pediatric first aid and cardiopulmonary resuscitation. Employees should obtain this certification from a program that incorporates the instruction of the psychomotor skills necessary to perform cardiopulmonary resuscitation developed by the American Heart Association, the American Red Cross, or an instructional program that is nationally recognized and based on the most current national, evidence‑based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and awareness in the use of an automated external defibrillator;

(10) a record of all children present must be kept on the premises, including records indicating essential facts required pursuant to Section 63‑13‑70, health concerns, emergency contacts, and other information deemed essential by the department. These records shall be maintained in a confidential manner;

(11) outdoor recreation fields are exempt from any department regulations concerning bathroom and water requirements;

(12) facilities must pass State Fire Marshal Building Inspection and Department of Health and Environmental Control building inspections. The facility must have an evacuation plan with which all staff is familiar;

(13)  background check fees related to employees and volunteers of a governmental agency must be the same as the fees charged to nonprofit or charitable organizations;

(14) any staff that is working with children aged six years and older are exempt from the six month of previous experience requirement as required by regulation;

(15) children aged six years and older may be transported by a facility in any transportation that meets South Carolina Department of Education requirements;

(16) two caregivers must be present at the facility at all times; and

(17) facilities should establish a procedure for the arrival and release of children and train employees on this procedure.”

SECTION 20. Article 3, Chapter 13, Title 63 of the 1976 Code is amended to read:

“ARTICLE 3

~~Private Childcare Centers and Group Childcare Homes~~ Childcare Facilities

Section 63‑13‑410. No person, corporation, partnership, voluntary association, or other organization may operate a childcare facility ~~private childcare center or group childcare home~~ unless licensed or approved to do so by the department.

Section 63‑13‑420. (A) Application for license or certificate of compliance must be made on forms supplied by the department and in the manner it prescribes.

(B) Before issuing a license or certificate of compliance the department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating a ~~private childcare center or group childcare home~~ childcare facility. If the results of the investigation verify that the provisions of this chapter and the applicable regulations promulgated by the department are satisfied, a license or certificate of compliance must be issued. The applicant shall cooperate with the investigation and related inspections by providing access to the physical plant, records, excluding financial records, and staff. Failure to comply with the regulations promulgated by the department within the time period specified in this chapter, if adequate notification of deficiencies has been made, is a ground for denial of application. The investigation and inspections may involve consideration of any facts, conditions, or circumstances relevant to the operation of the childcare center or group childcare home, including references and other information about the character and quality of the personnel.

(C) Each license or certificate of compliance must be conditioned by stating clearly the name and address of the licensee, the address of the childcare facility ~~center or group childcare home~~, and the number of children who may be served.

(D) Failure of the department, except as provided in Section 63‑13‑200, to approve or deny an application within ninety days results in the granting of a provisional license.

(E)(1) No license may be issued to an operator who has been convicted of:

~~(1~~)(a) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;

~~(2~~)(b) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;

~~(3~~)(c) the crime of contributing to the delinquency of a minor, contained in Section 16‑17‑490;

~~(4~~)(d) unlawful conduct toward a child, as provided for in Section 63‑5‑70;

(e) cruelty to children, as provided for in Section 63‑5‑80;

(f) child endangerment, as provided for in Section 56‑5‑2947;

(g) the felonies classified in Section 16‑1‑10(A);

~~(5~~)(h) the offenses enumerated in Section 16‑1‑10(D) if the crime was a felony or if the victim was a minor;

(i) a violent misdemeanor committed as an adult against a child;

(j) a violent crime listed in Section 16‑1‑60 if the crime was a felony or if the victim was a minor;

(k) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law; or

~~(6~~)(l) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

(2) This section does not prohibit licensing when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator.

(F) Application forms for licenses issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (E) who applies for a license as an operator is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(G) Persons eighteen years of age or older living in a group family childcare home, and any person eighteen years of age or older who moves into a group family childcare home after an initial application for licensing is approved, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23‑3‑430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. The fingerprint reviews required by this subsection are required to be repeated every five years.

(H) Persons fifteen through seventeen years of age living in a group family childcare home, and any person fifteen through seventeen years of age who moves into a group family childcare home after an initial application for licensing is approved, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint reviews required by this subsection are required to be repeated every five years.

(I) A person applying for a license as an operator under this section shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history, ~~and~~ a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23‑3‑430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. If a person is not employed or does not provide caregiver services for six months or longer, then the fingerprint reviews must be repeated. The fingerprint reviews required by this subsection are ~~not~~ required ~~upon each renewal~~ to be repeated every five years.

~~(H)~~(J) A person applying for a license as an operator under this section or seeking employment or seeking to provide caregiver services at a facility licensed under this section shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history, ~~and~~ a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23‑3‑430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. If a person is not employed or does not provide caregiver services for six months or longer, then the fingerprint reviews must be repeated. The fingerprint reviews required by this subsection are ~~not~~ required ~~upon each renewal unless the renewal coincides with employment of a new operator, employee, or caregiver~~ to be repeated every five years.

(K) The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain and store fingerprints for further use in the identification of persons, including, but not limited to, use in identifying unsolved latent prints. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to provide the department with current and future information regarding the fingerprints stored, including arrests, convictions, dispositions, warrants, and other information available to the South Carolina Law Enforcement Division and the Federal Bureau of Investigation, such as civil and criminal information. The prospective employee or childcare facility shall be responsible for any fees associated with any and all required background checks. Fees shall not exceed the actual cost of the processing and administration.

Section 63‑13‑430. (A) Regular licenses and certificates of compliance may be renewed upon application and approval. Notification of a childcare facility ~~childcare center or group childcare home~~ regarding renewal is the responsibility of the department.

(B) Application for renewal must be made on forms supplied by the department in the manner it prescribes.

(C) Before renewing a license or certificate of compliance the department shall conduct an investigation of the childcare facility ~~center or group childcare home~~. If the results of the investigation verify that the provisions of this chapter and the applicable regulations promulgated by the department are satisfied, the license or certificate of compliance must be renewed. The licensee shall cooperate with the investigation and related inspections by providing access to the physical plant, records, and staff. Failure to comply with the regulations promulgated by the department within the time period specified in this chapter, if adequate notification of deficiencies has been made, is a ground for revocation of the license or certificate of compliance. The investigation and inspections may involve consideration of any facts, conditions, or circumstances relevant to the operation of the childcare facility ~~center or group childcare home~~.

(D)(1) No license may be renewed for any operator who has been convicted of:

~~(1)~~(a) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;

~~(2)~~(b) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;

~~(3)~~(c) the crime of contributing to the delinquency of a minor, contained in Section 16‑17‑490;

~~(4)~~(d) unlawful conduct toward a child, as provided for in Section 63‑5‑70;

(e) cruelty to children, as provided for in Section 63‑5‑80;

(f) child endangerment, as provided for in Section 56‑5‑2947;

(g) the felonies classified in Section 16‑1‑10(A);

~~(5)~~(h) the offenses enumerated in Section 16‑1‑10(D); or

~~(6)~~(i) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

(2) This section does not prohibit renewal when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator.

(E) Application forms for license and certificate of compliance renewals issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (D) who applies for a license renewal as operator is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(F) A licensee seeking license renewal under this section, its employees, and its caregivers, who have not done so previously, on the first renewal after June 30, 1995, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history, ~~and~~ a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23‑3‑430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years.

(G) No facility may employ or engage the services of an employee or caregiver who has been convicted of one of the crimes listed in this section.

(H) The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain and store fingerprints for further use in the identification of persons, including, but not limited to, use in identifying unsolved latent prints. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to provide the department with current and future information regarding the fingerprints stored, including arrests, convictions, dispositions, warrants, and other information available to the South Carolina Law Enforcement Division and the Federal Bureau of Investigation, such as civil and criminal information. The prospective employee or childcare facility shall be responsible for any fees associated with any and all required background checks. Fees shall not exceed the actual cost of the processing and administration.

Section 63‑13‑440. (A) Each childcare facility ~~center or group childcare home~~ shall maintain its current license or certificate of compliance displayed in a prominent place at all times and must state its license or certificate number in all advertisements of the childcare facility ~~center or group daycare home~~.

(B) No license or certificate of compliance may be transferred nor shall the location of any childcare facility ~~center or group childcare home~~ or place of performance of service be changed without the written consent of the department. The department shall consent to the change for a reasonable period of time when emergency conditions require it, so long as the new location or place of performance substantially conforms to state fire and health requirements.

(C) Upon occurrence of death of a child on the premises of a childcare center or group childcare home in which the child is enrolled or while under the constructive control of the holder of the license or certificate of compliance of the facility, it is the responsibility of the holder of the license or certificate of compliance to notify the department within forty‑eight hours and follow up with a written report as soon as the stated cause of death is certified by the appropriate government official.

Section 63‑13‑450. (A) Whenever the department finds upon inspection that a ~~private~~ childcare facility ~~center or group childcare home~~ is not complying with any applicable ~~licensing~~ regulations, the department shall notify the operator to correct these deficiencies.

(B) Every correction notice must be in writing and must include a statement of the deficiencies found, the period within which the deficiencies must be corrected, and the provision of the chapter and regulations relied upon. The period must be reasonable and, except when the department finds an emergency dangerous to the health or safety of children, not less than thirty days from the receipt of the notice.

(C) Within two weeks of receipt of the notice, the operator of the facility may file a written request with the department for administrative reconsideration of the notice or any portion of the notice.

(D) The department shall grant or deny a written request within seven days of filing and shall notify the operator of the grant or denial.

(E) In the event that the operator of the facility fails to correct deficiencies within the period prescribed, the department may revoke the license or certificate of compliance.

Section 63‑13‑460. (A) An applicant who has been denied a license, approval in the case of a family childcare home, or certificate of compliance by the department must be given prompt written notice by certified or registered mail. The notice shall indicate the reasons for the proposed action and shall inform the applicant of the right to appeal the decision to the director in writing within thirty days after the receipt of notice of denial. An appeal from the final decision of the director may be taken to an administrative law judge pursuant to the Administrative Procedures Act.

(B) A licensee or certificate holder whose application for renewal is denied or whose license approval or certificate of compliance is about to be revoked must be given written notice by certified or registered mail. The notice must contain the reasons for the proposed action and shall inform the licensee or certificate holder of the right to appeal the decision to the director or his designee in writing within thirty calendar days after the receipt of the notice. An appeal from the final decision of the director may be taken to an administrative law judge pursuant to the Administrative Procedures Act.

(C) At the hearing provided for in this section, the applicant or licensee may be represented by counsel and has the right to call, examine, and cross‑examine witnesses and to otherwise introduce evidence. Parents appearing at the hearing may also be represented by counsel. The hearing examiner is empowered to require the presence of witnesses and evidence by subpoena on behalf of the appellant or department. The final decision of the department must be in writing, must contain the department’s findings of fact and rulings of law, and must be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise. A full and complete record must be kept of all proceedings, and all testimony must be reported but need not be transcribed unless the department’s decision is appealed, or a transcript is requested by an interested party. Upon an appeal, the department shall furnish to any appellant, free of charges, a certified copy of the transcript of all evidentiary proceedings before it. Other parties shall pay the cost of transcripts prepared at their request.

(D) The decision of the department is final unless appealed by a party to an administrative law judge pursuant to the Administrative Procedures Act.

Section 63‑13‑465. (A) The owner or operator of a childcare facility or family childcare home shall immediately notify a child’s parents and shall telephone notice to the appropriate regional office of the department within twenty‑four hours if one or more of the following occurs:

(1) inpatient hospitalization or emergency room treatment of a child receiving care at the facility; or

(2) the death of a child receiving care at the facility.

(B) The owner or operator of a childcare facility or family childcare home shall also immediately notify a child’s parents and the department if one or more of the following occurs:

(1) a child receiving care in the facility is lost or missing from the facility;

(2) a child in the care of the facility is left behind on a facility excursion; or

(3) a child receiving care in the facility is left unattended in the facility when the facility is closed.

Section 63‑13‑470. A regular license or regular certificate of compliance by the department to childcare facilities is valid for two years from the date of issuance, unless revoked by the department or voluntarily surrendered by the director of the childcare facility, provided, however, that a change in location, ownership, or sponsorship of the facility automatically voids the license or certificate of compliance. After the childcare facility has been in business for two years, the renewal license or certificate is valid for three years from the date of issuance.

Section 63‑13‑480. A person or legal entity shall obtain a valid certificate of compliance to operate at a specific location. The certificate of compliance shall be issued by the department to a person or legal entity prior to the commencement of operation at a specified location. A facility shall be inspected at least once every twelve months by an agent of the department and is subject to announced and unannounced inspections.

Section 63‑13‑490. All facilities meeting the definition of ‘childcare facility’ in Section 63‑13‑20(4) must be licensed or hold a letter of compliance in accordance with the requirements of this section. A certificate of compliance is nontransferable and is the property of the department. The operator of a childcare facility shall surrender the certificate of compliance to the department immediately if any of the following occurs or becomes effective:

(1) the operator of the childcare facility closes the facility permanently;

(2) the certificate of compliance is suspended;

(3) the certificate of compliance is revoked;

(4) the operator of the childcare facility has not applied for a continuing certificate of compliance before the expiration date of the initial certificate of compliance; or

(5) the certificate of compliance expired, and an application for a continuing certificate of compliance has been denied.”

SECTION 21. Section 63‑13‑825 of the 1976 Code is amended to read:

“Section 63‑13‑825. (A) An operator of a family childcare home and any person employed by or who contracts with an operator of a family childcare home to provide direct childcare, annually shall complete and provide documentation to the Department of Social Services of a minimum of ten hours of training approved by the department. At least one hour of training shall pertain to safe sleep practices for infants.

(B) The department shall indicate on its website those family childcare homes that are, and those that are not, in compliance with this section and may include, but are not limited to, the amount of training the operator and other persons employed by or under contract with a family childcare home have reported to the department.

(C) Family childcare homes where all employees have completed safe sleep training may be designated on the department’s website as ‘Safe Sleep Certified’.”

SECTION 22. Section 63‑13‑850 of the 1976 Code is amended to read:

“Section 63‑13‑850. ~~(A)~~ ~~A registrant whose statement of registration has been withdrawn by the department or whose application for a statement or renewal of registration has been denied by the department must be given written notice of the withdrawal or denial by certified or registered mail. The notice must contain the reasons for the proposed action and must inform the registrant of the right to appeal the decision to the director or his designee in writing within thirty calendar days after the receipt of the notice. Upon receiving a written appeal, the director or his designee shall give the registrant reasonable notice and an opportunity for a prompt hearing before the director or his designee. On the basis of the evidence adduced at the hearing, the director or his designee shall make the final decision of the department as to whether the department shall withdraw the statement of registration or deny the application for a statement or renewal of registration, as applicable. If no written appeal is made, the department shall withdraw a statement of registration or deny the application for a statement or renewal of registration as of the termination of the thirty‑day period.~~

~~(B)~~ ~~At the hearing provided for in this section, the registrant may be represented by counsel, and has the right to call, examine, and cross‑examine witnesses, and to otherwise introduce evidence. Parents appearing at the hearing may also be represented by counsel. The director is empowered to require the presence of witnesses and evidence by subpoena on behalf of the appellant or department. The final decision of the department must be in writing, must contain the department’s findings of fact and rulings of law and must be mailed to the parties to the proceedings by certified or registered mail. A full and complete record must be kept of all proceedings, and all testimony must be reported and need not be transcribed unless the decision is appealed, or a transcript is requested by an interested party. Upon an appeal, the department shall furnish to any appellate, free of charge, a certified copy of the transcript of all evidentiary proceedings before it. Other parties shall pay the cost of transcripts.~~

~~(C)~~ ~~The decision of the department is final unless appealed by a party pursuant to the Administrative Procedures Act.~~ A family childcare home operator whose approval has been withdrawn by the department has the right to a hearing process as provided for in Section 63‑13‑460.”

SECTION 23. Section 63‑13‑20(17), Section 63‑13‑20(20), and Section 63-13-20(22) of the 1976 Code are deleted.

SECTION 24. Section 63‑13‑610, Section 63‑13‑620, Section 63‑13‑630, Section 63‑13‑640, Section 63‑13‑650, Section 63‑13‑1010, Section 63‑13‑1020, Section 63‑13‑1030, Section 63‑13‑1050, Section 63‑13‑1060, Section 63‑13‑1070, and Section 63‑13‑1080 of the 1976 Code are repealed.

SECTION 25. (A) This act takes effect upon approval by the Governor.

(B)  Changes in this act that relate to experience and education requirements do not apply to caregivers employed on or before the effective date of this act. However, those caregivers must comply with any changes to background checks, training, and any other requirements. A caregiver employed on or before the effective date of this act who has more than a twelve‑month break in service after the effective date of this act must meet the regulations and guidelines for reemployment.

(C) In the first full fiscal year after this act is effective, childcare facilities defined by Section 63‑13‑20(4) must submit a letter stating their compliance with this act along with a fee determined by the Department of Social Services. The letter shall include a completed form as provided by the Department of Social Services, including the estimated number of children and staff. In the second fiscal year after this act is effective, the Department of Social Services will issue certificates of compliance to qualifying facilities.

(D) Childcare facilities licensed for at least two years before the effective date of this act are eligible for a three‑year license pursuant to Section 63‑13‑470, as added by this act.

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