

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 309**

By Senator Blair

[Passed February 19, 2016; in effect 90 days from passage.]



1 AN ACT to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended,  
2 relating to child-care center licensing requirements; and exempting county parks and  
3 recreation commissions, boards and municipalities from licensure.

*Be it enacted by the Legislature of West Virginia:*

1 That §49-2-113 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

PART 1. GENERAL AUTHORITY AND DUTIES OF THE DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES.

**§49-2-113. Residential child-care centers; licensure, certification, approval and  
registration; requirements.**

1 (a) Any person, corporation or child welfare agency, other than a state agency, which  
2 operates a residential child-care center shall obtain a license from the department.

3 (b) Any residential child-care facility, day-care center or any child-placing agency operated  
4 by the state shall obtain approval of its operations from the secretary.

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

8 (d) Every family day-care home which operates in this state, including family day-care  
9 homes approved by the department for receipt of funding, shall obtain a certificate of registration  
10 from the department. The facilities and placing agencies shall maintain the same standards of  
11 care applicable to licensed facilities, centers or placing agencies of the same category.

12 (e) This section does not apply to:

13 (1) A kindergarten, preschool or school education program which is operated by a public  
14 school or which is accredited by the state Department of Education or any other kindergarten,

15 preschool or school programs which operate with sessions not exceeding four hours per day for  
16 any child;

17 (2) An individual or facility which offers occasional care of children for brief periods while  
18 parents are shopping, engaging in recreational activities, attending religious services or engaging  
19 in other business or personal affairs;

20 (3) Summer recreation camps operated for children attending sessions for periods not  
21 exceeding thirty days;

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

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

25 (6) Any juvenile detention facility or juvenile correctional facility operated by or under  
26 contract with the Division of Juvenile Services for the secure housing or holding of juveniles  
27 committed to its custody;

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

31 (8) Any out-of-school time program serving children six years of age or older and meets  
32 all of the following requirements, or is an out-of-school time program that is affiliated and in good  
33 standing with a national congressionally chartered organization or is operated by a county parks  
34 and recreation commission, boards and municipalities and meets all of the following requirements:

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

36 (B) The program performs state and federal background checks on all volunteers and staff;

37 (C) The programs' primary source of funding is not from fees for service except for  
38 programs operated by county parks and recreation commissions, boards and municipalities;

39 (D) The program has a formalized monitoring system in place.

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

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

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

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

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

55 (A) A designated relocation site and evacuation;

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

57 (C) Procedures to address the needs of individual children including children with special  
58 needs;

59 (D) Instructions relating to the training of staff or the reassignment of staff duties, as  
60 appropriate;

61 (E) Coordination with local emergency management officials; and

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

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

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

71           (4) All child-care centers and family child-care facilities shall provide the plan and each  
72 updated copy of the plan to the Director of the Office of Emergency Services in the county where  
73 the center or facility is located.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2016.

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*Governor*