

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

Senate Bill 309

BY SENATOR BLAIR

[Originating in the Committee on Government

Organization; reported on February 5, 2016.]

1 A BILL to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating
2 to child-care center licensing requirements; and exempting county parks and recreation
3 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 and meets all of the following
34 requirements:

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

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

37 (C) The programs' primary source of funding is not from fees for service; ~~and~~

38 (D) The program has a formalized monitoring system in place; and

39 (9) County parks and recreation commissions, boards and municipalities.

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.

NOTE: The purpose of this bill is to exempt county park and recreation commissions, boards and municipalities from child-care center licensure requirements.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.