

MINUTES

JOINT COMMITTEE ON CHILDREN'S ISSUES

September 18, 2007
Room 313-S—Statehouse

Members Present

Representative Mike Kiegerl, Chairperson
Senator Julia Lynn, Vice Chairperson
Senator David Haley
Senator Laura Kelly
Senator Roger Reitz
Senator Susan Wagle
Representative Marti Crow
Representative Bill Otto
Representative Sue Storm

Member Absent

Representative Brenda Landwehr

Staff Present

Terri Weber, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Tatiana Lin, Kansas Legislative Research Department
Nobuko Folmsbee, Office of the Revisor of Statutes
Renaë Jefferies, Office of the Revisor of Statutes
Florence Deeter, Committee Secretary

Conferees

Dr. Howard Rodenberg, Director of Health, Kansas Department of Health and Environment
Tanya Keys, Director of Children and Family Services, Kansas Department of Social and Rehabilitation Services
Bobbi Mariani, Director of Economic and Employment Support, Kansas Department of Social and Rehabilitation Services
Ann Craven, Surveyor, Child Care Licensing and Registration Program, Wichita
Luci Monares, Director of Foster Care Services, United Methodist Youthville

Leadell Ediger, Executive Director, Kansas Association of Child Care Resource and Referral Agencies
Christine Birney, Day Care Provider/Operator, Dighton
Dr. Kim Engleman, Parent, Johnson County
Eric Bolling, Board Member, Faith Early Childhood Center, Topeka
Craig Barbee, Board Chairman of Emporia Christian School
Kelly Hall, Day Care Provider/Operator, Kiddie Corral Day Care, Mound City and Fort Scott
Deb Crowl, Center Director, Emporia
Elaine Edwards, Center Director, Salina
Phyllis Mosher, Shawnee County
Sherron French, Saline County
Diane Pittman, Shawnee County
Penny Nichols, Finney County
Jacque Asher, Rice County
Anita Rich, Sedgwick County
Cecelia Williams, Wyandotte County
Mary Vanhooser, Johnson County
Robert Harmon, Sedgwick County
Mildred Slaughter, Wyandotte County
Reva Wywadis, Executive Director, Every Woman's Resource Center
Mike Scott, Parent and Operations Manager, KEY Staffing
Holly Turner, Public Policy Chair, Kansas Association for the Education of Young Children
Phyllis Larimore, RN, BSN, Certified Child Passenger Safety Instructor, The Children's Mercy Hospitals and Clinics, Kansas City, Missouri
Leighann Montoy, Supervising Child Care Facility Surveyor, Saline County Health Department
Tina Ferguson, Child Care Licensing Surveyor, Lawrence Douglas County Health Department
Rita Flickinger, Director, Harvey County Health Department
Amy Warkentin, Surveyor, Johnson County Health Department
Tina Payne, Parent, Harvey County
Dick Kelsey, Representative, District 93, Goddard

Others Attending

See attached list.

Tuesday, September 18 Morning Session

The meeting was called to order at 10:05 a.m. The Chairperson welcomed Committee members and guests and outlined the schedule for the day. The Chairperson announced that, due to the large number of conferees, a time limit would be imposed on testimony in the afternoon.

Legislative Research Department staff reviewed a memorandum prepared for the Committee outlining the statutes and rules and regulations that govern the licensing of child care facilities (Attachment 1). The memorandum includes a definition of child care facilities, a description of the powers and duties of the Kansas Department of Health and Environment, the structure of licensing, fees, inspection regulations, record-keeping procedures, a list of persons prohibited from involvement in a child care facility, and rules regarding the disclosure of personal information. Staff called

attention to the definitions of various categories of child care and residential facilities as established by rules and regulations. Statistics on the number of licensed and registered child facilities are included in the memorandum.

Staff noted changes in the laws over the years as well as changes in the type of facilities in which care is provided for one or more children outside the child's home by a caretaker who is not related to the child by blood or marriage. Legislative action in the 1994 Session, following an interim study, resulted in an extensive revision and updating of the statutes. It was noted the regulation of child care facilities, including inspections and the investigation of complaints, is, for the most part, a local-state effort in that the Department of Health and Environment contracts with local health departments to carry out inspections and investigations in one or more counties. With the exception of a few counties in which no local health department is willing to take on child care regulation responsibilities, legislators can contact the appropriate local health department for information. Local departments, the individual who heads the child care facility inspections, a contact person, telephone numbers, addresses, and fax numbers can all be found on the Department of Health and Environment web site. Staff noted that, from time to time, reimbursement for contracting local health departments has been an issue. At the present time, it is estimated state reimbursement covers about 49 percent of local costs.

Legislative staff addressed members' questions and provided clarification as noted herein:

- Statutes outlining persons prohibited from living, working, regularly volunteering in a child care facility apply to persons residing in a registered family day care and a licensed day care home as well as other types of child care facilities;
- Background checks are required for persons operating a licensed daycare home and for any person living in the home, working in the home, or regularly volunteering in the home;
- The licensing of family foster care homes requires a home study and MAPP training, as well as the recommendation of a sponsoring child placement agency before approval and licensing can be obtained;
- Inspection of facilities is conducted at least annually, and the inspections are un-scheduled;
- If a complaint is filed, inspections are done more frequently in order to facilitate compliance;
- No license is required for persons who provide less than a total of twenty hours per week caring for a child or children in such person's home;
- Agencies under contract to provide temporary personnel for a child care facility are not licensed because the agency itself does not have any interaction with children in care; and
- Neither the Department of Health and Environment nor the Department of Social and Rehabilitation Services directly place children in child care facilities nor do the agencies determine that a child or youth needs to be removed from the child's birth home.

Dr. Howard Rodenberg, Director of Health, Kansas Department of Health and Environment, gave a broad overview of the role the Department plays in child care and the foster care of children

in Kansas (Attachment 2). He stated approximately 200,000 children from infant to school age are in some type of care each year. Dr. Rodenberg is cognizant of the need for specific regulations to be in place for the protection and welfare of Kansas children who require day care. He listed the various areas addressed by the regulations and said on-going education of surveyors is important in order for them to assess compliance accurately. Dr. Rodenberg explained a program called "shadow survey," which is in place to evaluate consistency in the regulatory process. He said a trained specialist accompanies a local surveyor on an inspection. When notes are compared, if there are discrepancies, the surveyor is provided additional training. He commented on revisions made by the Department regarding compliance with regulations. Providers of child care are given the opportunity to get a clear understanding of the requirements for compliance in the event deficiencies are found during an inspection.

Dr. Rodenberg addressed three areas for improving the regulatory process and services to children in Kansas:

- Enactment of HB 2213, introduced in 2007, which would:
 - Extend from one to three years the time before an applicant for a license or registration whose license or registration has been revoked can apply for a new license or registration;
 - Provide for license renewal every three years rather than annually and authorize a late renewal fee;
 - Add to the reasons for which a registration to operate a family day care home may be revoked;
 - Authorize the Secretary to modify or restrict a license or registration for any of the reasons that a license or registration may now be suspended; and
 - Give the Secretary new authority to issue an order prohibiting new admissions into a child care facility or family day care home prior to a hearing when the action is necessary to protect any child from physical or mental abuse, abandonment, or any other substantial threat to health and safety.
- Changes in rules and regulations which are being developed utilizing a "best team process," involving input from all interested parties; and
- Expansion of the web-based child care and licensing program known as Childcare Licensing And Registration Information Systems (CLARIS) to include specific information that will help the public in choosing a child care facility.

In response to questions, Dr. Rodenberg stated:

- License documents must be displayed in full view in a child care facility;
- Discussion of a rating system for facilities is in the development stage;
- No ombudsman program is available statewide; however, staff is in place for inquiries and complaints; and

- Every effort is made to ensure surveyor consistency when inspections are conducted.

Dr. Rodenberg asked Janet Newton, Supervisor of Child Care and Health Facilities, to address the question of including the counting of children of kindergarten age who are in day care during the summer. She said the specified ratio of care giver to age-of-child affects the number of children who can be enrolled in a day care facility. To explain the reasoning for moving the date to June 1st for a child who is entering kindergarten, Ms. Newton said that date, rather than an August or December date, which is the typical cut-off time required in the school system, allows more flexibility for a child to be enrolled in day care.

Don Jordan, Secretary of the Department of Social and Rehabilitation Services, introduced Tanya Keys, Director of Children and Family Services, and Bobbi Mariani, Director of Economic and Employment Support, who provided information on the role Social and Rehabilitation Services plays in regulating family foster homes and residential facilities ([Attachment 3](#)). Ms. Keys said Health and Environment and Social and Rehabilitation Services have an agreement on the time line for reporting to each other and maintaining records, and each of the departments has specific areas to evaluate. She restated the goals set forth for the Child Care Development Fund, noting the Department is the primary agency for ensuring that the goals are met. Ms. Keys responded to a member's question regarding reports of neglect by stating that an allegation of neglect does not immediately place a person on the child abuse registry. She said an appeal process is available before any final action for placement on the registry.

Bobbi Mariani continued the presentation, providing additional information regarding the use of funds transferred from Social and Rehabilitation Services to Health and Environment for the purpose of facilities for child care. She said a child care subsidy program, which assists low income families so they can be employed has a yearly cost of about \$76,900,000. Both agencies have the capability of ensuring that regulated providers of day care enrolled in the subsidy program meet the standards set forth for licensing in Kansas. Ms. Mariani said a new partner, Child Care Providers Together, will be participating with both agencies in the discussions of licensing regulations and other child care issues.

Ann Cravens, Child Care Licensing Program Surveyor and Environmental Services, City of Wichita, provided an overview of the agency's involvement in education and child care licensure for Sedgwick County ([Attachment 4](#)). She said the high professional level of the staff helps maintain standards that benefit both providers and those who place their children in child care. Ms. Cravens stated, with the Department of Health and Environment conducting periodic evaluations of contract agencies, a better standard of child care is maintained. Her response to a question from a member of the Committee was that more funding is needed for this program. Ms. Cravens informed the Committee that the number of complaints recorded for licensed child care facilities was slightly higher than the number for registered facilities.

Luci Monares, Director of Recruitment, United Methodist Youthville, provided a succinct outline of the role of child placement agencies in child care ([Attachment 5](#)). She noted a group of people from child placing agencies, a number of foster parents, staff from the Department of Health and Environment, the Juvenile Justice Authority, and Social and Rehabilitation Services are all accountable to the Health and Human Services Cabinet Team. Known as the BEST team, they focus on updating and improving regulations regarding foster homes. Beginning in 2006, the Child Placing Agency regulations are included in those being assessed for revision. A guidance handbook is being compiled to assist surveyors and staff regarding current regulations. Ms. Monares responded to a question regarding the Legislative Post Audit report on the necessity of keeping the same case

worker for a child who is in the system by stating that progress is being made within the child placing agencies in regard to this issue.

Leadell Ediger, Executive Director, Kansas Association of Child Care Resource and Referral Agencies (KACCRRRA), explained the position of the resource and referral agencies is that of a network that provides services in all 105 counties in Kansas (Attachment 6). She referenced a report from the National Association of Child Care Resource and Referral Agencies (NACCRRRA), showing the scoring system for standards of child care centers. A maximum of ten points per item could be scored. Kansas was rated 54 out of 150. The scoring identified both strengths and weaknesses in Kansas' programs. The national association conducts this study and scoring every three years.

Ms. Ediger stated, that with adequate funding, Kansas can do better. There is a great need for investment in the development of skilled child care workers. Ms. Ediger responded to a question by stating the state association is directly involved in submitting information regarding family child care standards in the state and is directly involved in implementing the rating system statewide. Online referrals are available for families. Ms. Ediger will provide comparative information from Iowa for the Committee. She said information from the report indicated Iowa had the highest score; Illinois and one other state scored in the tenth position, with a score of 117 being the median. In answer to a question about requiring annual training, Ms. Ediger said a center director must have five hours of training annually and a teacher must fulfill ten hours per year.

Afternoon Session

The Chairperson welcomed the conferees and, due to time constraints, requested that testimony be concise and limited to five minutes.

Christine Birney, licensed day care provider, Dighton, Kansas, expressed her concerns regarding the limitations imposed on the number of children she can legally accommodate in various age categories. Her requests for an exception to the regulations have been denied by the surveyor. She experiences loss of income at the rate of \$1.75 per hour under the current restrictions (Attachment 7).

Dr. Kim Engleman, a concerned parent, Shawnee, Kansas, spoke from personal experience of the need for tighter restrictions for day care providers (Attachment 8). Within her testimony are six issues she recommends for change. In answer to questions, Dr. Engleman did not know of any recourse available to her regarding the death of her child caused by an incident at the day care provider's home; however, she and her husband are attempting to make positive changes within the system.

Eric Boling, Board Member of Faith Early Childhood Center, Topeka, Kansas, reported on problems the center encountered during an enforcement action by the Department of Health and Environment (Attachment 9). His testimony highlights the procedural issues encountered following an inspection of the facility. Responding to a member's question, he said the violations reported were inappropriate discipline and lack of supervision. A Committee member addressed a question to Dr. Rodenberg regarding the situation raised by the conferee, asking, if HB 2216 had been in place, would the events have been handled differently. Dr. Rodenberg said he could not give a definitive answer without looking at the specific allegations. He thought it possible the incident could be reviewed in some manner that would protect the privacy of all involved.

Craig Barbee, Chairperson of the Board, Emporia Christian School and Day Care, expressed concern regarding the lack of response from background checks of potential employees ([Attachment 10](#)). He gave details of the lack of communication with the state agency and the need for a response in a timely manner. Mr. Barbee noted his support of 2006 HB 2444, which would have required the closing of gaps in communication surrounding background checks. Dr. Rodenberg responded to a question, saying 48 hours is required for a background check; however, three to five days is permitted. A member of the Committee asked about the possibility of emailing notification of background checks. Dr. Rodenberg said since certified mail is very costly, email could be considered for use, provided the issue of privacy is addressed. He said upgrading the present CLARIS system could provide a more viable communication level. He assured the Committee that his agency is willing to find ways to facilitate better communication.

Kelly Hall, Owner and Director of Kiddie Corral Daycare, Fort Scott-Mound City, Kansas, submitted testimony containing both complaints and suggestions for the Department of Health and Environment in working with child care facilities ([Attachment 11](#)).

Deb Crowl, Administrator and Center Director for Emporia Child Care, Emporia, Kansas, expressed praise for the system of regulations and gave examples of the effectiveness of rules and regulations in the three facilities she oversees ([Attachment 12](#)). Her interaction with the area surveyor is a good working relationship, and the benefits are seen in the childrens' development and social interaction. Questions from Committee members elicited her response that there is a waiting list for her day care centers, and the fee per week for a toddler is \$127.50, with infant care totaling \$142.50 per week.

Elaine Edwards, Executive Director of the Salina Child Care Association, spoke of her high regard for the child care laws and regulations ([Attachment 13](#)). She also praised the competence and availability of the licensing surveyor. She said there are 35 family child care homes in the Salina area, and many child care providers choose to participate in a federal program that provides monetary assistance for food costs. Ms. Edwards indicated there is a waiting list of 30-40 infants needing day care. She said an expansion of facilities is being considered in conjunction with the Hospital Foundation in Salina.

The following ten conferees are members of Child Care Providers Together, an entity organized under the American Federation of State, County, and Municipal Employees.

Phyllis Mosher, owner and operator of a group child care facility, Shawnee County, Kansas, outlined her views on the inconsistencies in the regulations for childcare ([Attachment 14](#)). She gave an example and requested support from the state to make changes to eliminate surveyors' personal interpretations of the regulations. Ms. Mosher responded to a question by saying she has reason to assume not all surveyors are given the same training. In addition, she said it is difficult to acquire affordable insurance within the state, making it necessary for her to find insurance offered through an insurer operating in Minnesota.

Sherron French, a licensed group child care provider in Saline County, Kansas, voiced her concerns with the inconsistencies in child care regulations ([Attachment 15](#)). She said there are no incentives to further her education or professionalism arising from the state standards. She indicated some safety and first aid regulations are outdated and need to be changed. Ms. French sees a need for regulations to be clear and concise.

Diane Pittman, a licensed family child care professional, Shawnee County, Kansas, addressed the Committee with her concerns for the safety of children when exit doors are left unlocked in the child care home ([Attachment 16](#)). Discussion ensued with a Committee member as to the feasibility of providing an outside locked door that can still be opened from inside.

Penny Ann Nichols, a family child care provider from Garden City, Kansas, requested that regulations be updated and provided in written form in order for both inspectors and providers to have a clearer understanding of the regulations ([Attachment 17](#)).

Anita Rich, a licensed family child care provider, Sedgwick County, Kansas, voiced her concerns with inconsistencies in the training of surveyors ([Attachment 18](#)). Her basic request is the provision of assistance in order to be in compliance with regulations, rather than having to experience a reprimand by being written up for non-compliance.

Jacque Asher, a licensed family child care provider in Rice County, Kansas, expressed her thanks to Secretary Bremby and Secretary Jordan for their part in listening to providers discuss various problems and including them in making decisions for improvement in child care homes ([Attachment 19](#)). Ms. Asher stated the need for consistency in training inspectors so they know the rules and follow them. She requested allowing providers of day care to have input in future decisions.

Cecelia Williams, a licensed/registered family child care provider in Wyandotte County, Kansas, discussed children's health issues in day care facilities ([Attachment 20](#)). Her background is in nursing, and she maintains the environment must be safe and healthy for the children in her care. She works with parents to achieve that goal. Ms. Williams said having more detailed information regarding a child's health condition would help to provide a specific level of care and protection for other children in day care.

Mary VanHooser, a licensed group family care provider in Johnson County, Kansas, addressed the Committee regarding her concerns with license capacity ([Attachment 21](#)). She used a visual aid to explain the staff-to-child ratios and discussed the disparity in overlaps when children move in and out of the facility. She requested looking at and using the flexibility that Colorado has implemented, *i.e.*, allowing one extra child above capacity for a period of eight weeks, and one extra child for up to a period of two hours each day when needed.

Robert Harmon, who owns and operates a licensed group day care home with his wife in Wichita, Kansas, presented testimony relating to license capacity and called the attention of the Committee to what he considers discrepancies when two adults are involved in the business. He expressed appreciation for consideration in updating the regulations ([Attachment 22](#)).

Mildred Slaughter, licensed family child care provider in Wyandotte County, Kansas, expressed concerns about the inflexibility of the provider-children in care ratios. When a parent is detained and cannot get his or her child at the specified time, it is an unforeseen situation in which the provider is over the number of children permitted in the facility. Especially when school is not in session, an overage occurs and violation of the regulations has taken place. She said it is these real life experiences which need consideration when a surveyor is conducting an inspection ([Attachment 23](#)).

Reva Wywadis, Executive Director, Every Woman's Resource Center (ERC) noted the Center provides consultation and opportunities for professional development for persons involved in child care ([Attachment 24](#)). Based on her personal experience, she stressed the importance of strengthening the regulations that concern child care health and safety standards. Ms. Wywadis advocates pre-service training for child care providers as well as increased hours of in-service training per year.

Mike Scott, Operations Manager for Key Staffing, a Topeka Staffing and Employment Service and a parent, presented testimony regarding the screening process for child care workers

(Attachment 25). He said Key Staffing has partnered with ERC to provide substitute daycare workers through the Caring Connections Program. Mr. Scott indicated that Kansas Bureau of Investigation checks are not required until after the applicant has begun serving on the job. He believes background checks should be done prior to any service being provided by a worker.

Holly Turner, Executive Director of Children's Learning Center, Inc., Lawrence, Kansas, spoke in favor of improvement in the licensing regulations for child care providers (Attachment 26).

Phyllis Larimore, RN, BSN, Certified Child Passenger Safety Instructor, The Children's Mercy Hospitals and Clinics, Kansas City, Missouri, offered detailed information about the need for evaluating and updating child care licensing policies and procedures (Attachment 27). She explained the provisions set forth in K.A.R. 28-1-130 should be in keeping with the Kansas Child Passenger Safety Act (KSA 8-1344). Ms. Larimore strongly advocated for an annual car seat inspection by a certified technician. Information providing locations of inspection stations is available by contacting the Kansas Safety Belt Education Office or Safe Kids of Kansas.

Leigh Ann Montoy, a child care surveyor for Salina-Saline County Health Department who partners with Kathy Johnson to provide licensing inspection services for two additional counties, McPherson and Ottawa, said that regulation should not be optional or debatable. Her concern for unregulated facilities is there is no guarantee of safe child care in the community (Attachment 28).

Tina Ferguson, Child Care Licensing Surveyor, Lawrence-Douglas County Health Department, explained her position on having surveyors provide technical assistance to child care providers (Attachment 29). The goal of a surveyor is to assist providers to be in compliance with the regulations. When a complaint has been submitted, surveyors desire to work with the provider to ensure the retention of the provider's license.

Rita Flickinger, Director, Harvey County Health Department, submitted testimony containing suggestions for enhancements and changes regarding regulations (Attachment 30). She noted her suggestions reflect a compilation of suggestions submitted by parents and providers working with the health department.

Amy Warkentin, Surveyor, Johnson County Health Department, commented on the effectiveness of surveyor work done in Johnson County (Attachment 31). She said surveyors encourage providers to achieve higher standards of care in order to ensure an excellent environment of safety and care for children.

Dr. Rodenberg responded to the question of who employs surveyors by stating the majority of surveyors are hired by contracting county health departments. He said approximately eighteen staff persons from Health and Environment are available to provide coverage in those counties that do not contract with the state to provide surveys.

The Chairperson allowed additional testimony by Tina Payne, parent and consumer of day care services in Harvey and Sedgwick County, who stated she has been involved with a large number of child day care providers. Her experiences have been rewarding for her children. She admitted not being well-informed about regulations required to be met by child care providers, but her experience was with a safety hazard resulting from no doorknob on the side of the room in which her child was placed, crying and frightened. Ms. Payne said she sat down to console him and the other children. In her conversation with the day care provider the next day, the provider remonstrated the children for allowing Ms. Payne into the house. There was no complaint filed by Ms. Payne, however, the provider refused to accept the child after being told she was over the allotted number of children according to the regulations. Ms. Payne advocates the importance of all parties having input into the standards of child care in the state. She did not provide written testimony.

Written testimony was submitted by:

- Melissa Meyer, Harvey County (Attachment 32);
- Jayme McKinney, Daycare Home Provider, Topeka, serving on the board for the Child Care Provider's Coalition of Kansas (Attachment 33); and
- Kathy Griffin, BS, Child Care Facilities Specialist, Johnson County Health Department, Olathe (Attachment 34).

Representative Dick Kelsey, District 93, Goddard, Kansas, submitted testimony suggesting improvements the Department of Health and Environment should be considered (Attachment 35).

The Chairperson noted the topic for the next meeting will be foster care, and he invited any interested parties to come to the meeting on October 30, 2007. Committee discussion will take place at that time.

The meeting was adjourned at 4:30 p.m.

Submitted by Florence Deeter
Edited by Emalene Correll

Approved by Committee on:

October 30, 2007
(Date)