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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-71

Child Development Facilities Regulation Temporary Act of 1997"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 12-324, on first and second readings, November 4, 1997 and December 4, 1997, respectively. Following the signature of the Mayor on December 15, 1997, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-223, and published in the January 9, 1998, edition of the D.C. Register (Vol. 45 page 101) and transmitted to Congress on January 9, 1998 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 12-71, effective March 20, 1998.



LINDA W. CROPP
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

Jan.	27,28,29
Feb.	2,3,4,5,9,10,11,12,23,24,25,26,27
Mar.	2,3,4,5,6,9,10,11,12,13,16,17,18,19

AN ACT
D.C. ACT 12-223

*Codification
District of
Columbia
Code
1998 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 15, 1997

To create, on a temporary basis, a statutory framework for the regulation of child development facilities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child Development Facilities Regulation Temporary Act of 1997".

Sec. 2. Definitions.

*Note, Section
6-3608*

For the purposes of this act, the term:

- (1) "Care giver" means an individual whose duties include direct care, supervision, and guidance of infants or children in a child development facility.
- (2) "Child" or "children" means an individual or individuals from 2 years to 15 years of age.
- (3) "Child development facility" means a center, home, or other structure that provides care and other services, supervision, and guidance for children, infants, and toddlers on a regular basis, regardless of its designated name. "Child development facility" does not include a public or private elementary or secondary school engaged in legally required educational and related functions.
- (4) "Infant" means an individual younger than 1 year of age.
- (5) "Licensee" means a child development facility that is licensed pursuant to this act.
- (6) "Person" means any individual, firm, partnership, company, corporation, trustee, or association.
- (7) "Related person" means any legal guardian or any of the following relationships established by marriage, adoption, or blood to the 5th degree:
 - (A) Parent or step-parent;
 - (B) Grandparent;
 - (C) Brother, sister, step-sister or step-brother;
 - (D) Uncle or aunt; or
 - (E) Niece or nephew.

(8) "Toddler" means an individual older than 12 months but less than 24 months of age.

Sec. 3. Applicability and scope.

(a) This act shall apply to every child development facility and care giver in the District of Columbia.

(b) Unless exempted by this act or the laws of other jurisdictions, the provisions and requirements in this act shall also apply to all child development facilities operated by the District government outside the District of Columbia.

Sec. 4. Exemptions.

The provisions of this act shall not apply to the following:

- (1) Occasional babysitting in a babysitter's home for the children of 1 family;
- (2) Informal parent-supervised neighborhood play groups;
- (3) Care furnished in places of worship during religious services;
- (4) Care given by an individual who is related to the child, infant, or toddler; or
- (5) Child development facilities operated by the federal government on federal government property; however, a private child care provider utilizing space in or on federal government property is not exempt unless federal law specifically exempts the facility from the District's regulatory authority.

Sec. 5. License required.

(a) Except as otherwise provided in this act, no person shall, either directly or indirectly, operate a child development facility in the District without first having obtained a license to do so.

(b) An applicant for a license to operate a child development facility shall establish, to the satisfaction of the Mayor, that the facility meets all requirements set forth in this act and rules adopted pursuant to this act.

(c) An applicant for a license shall:

- (1) Submit an application to the Mayor on a form required and provided by the Mayor;
- (2) Submit supporting documentation required by the Mayor; and
- (3) Pay the applicable fee established by the Mayor, except that no license fee shall be required of any child development facility operated by the District government.

(d) The license shall be valid for a period of time to be determined by the Mayor and only for the premises and persons named as applicants in the application. Any change in ownership of a licensed child development facility owned by an individual, partnership, or association, or in the legal or beneficial ownership of a percentage of stock established by rule of a corporate licensee shall require relicensure.

(e) The Mayor may authorize the issuance of provisional and restricted licenses under specific circumstances and criteria to be established by rule.

Sec. 6. Licenses issued pursuant to prior law.

Except as otherwise provided by this act, any child development facility licensed pursuant to the Child Development Facilities Regulation, enacted December 14, 1974 (Reg. 74-34; 21 DCR 133; 29 DCMR 300 *et seq.*) ("Child Development Facilities Regulation"), as amended, shall be considered licensed pursuant to this act and shall be subject to renewal requirements established pursuant to this act.

Sec. 7. Powers and duties of the Mayor.

(a) The Mayor shall promulgate all rules necessary to implement the provisions of this act, including the following:

(1) Minimum standards of operation of a child development facility concerning staff qualification, requirements and training, facility size, staff-child ratios and group size, program design and equipment requirements, safety and health standards, care for children with special needs, nutrition standards, and record keeping requirements;

(2) Administrative procedures for hearings consistent with the requirements of section 10 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code § 1-1509), unless otherwise provided in this act;

(3) Allowance for a child development facility to operate on a 24-hour basis so long as no child, infant, or toddler will be under the care of the child development facility for more than 18 consecutive hours in a 24-hour period, or appropriate hours as provided by rule; and

(4) The establishment of a fee schedule to recover the costs of regulating child development facilities pursuant to this act.

(b) The Mayor may conduct investigations and inspections needed to ensure compliance with this act. In this regard, the Mayor may administer oaths, examine witnesses, and issue subpoenas to compel attendance and testimony of witnesses, and the production of books, records, and other documents needed to enforce this act. In case of contumacy or refusal to obey a subpoena, the Superior Court of the District of Columbia, at the request of the Mayor, shall issue an order requiring the contumacious person to appear and testify or produce books, papers, or other evidence bearing on the hearing. Failure to obey the court's order shall be punishable as contempt of court.

(c) The Mayor shall maintain and make available to the public information concerning:

- (1) The application, licensure, and renewal requirements and procedures; and
- (2) An official register of current licensed child development facilities.

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Sec. 8. Variances.

An applicant operating a child development facility prior to July 1, 1975, may be granted a variance from the physical or structural requirements of any rule adopted pursuant to this act upon a determination by the Mayor that full compliance would result in exceptional and undue hardship. Any variance shall be granted in accordance with procedures established by rule.

Sec. 9. License renewal.

(a) A license shall be renewed in accordance with rules established pursuant to this act, unless there is a pending disciplinary action by the Mayor.

(b) An application for renewal of a license shall be submitted to the Mayor no later than 90 days before expiration of the license on a form provided by the Mayor with the appropriate renewal fee. An application for renewal filed after expiration, but less than 90 days after, shall be renewed in accordance with renewal requirements established by rule, including the payment of the renewal fee and any late penalty.

(c) A child development facility holding a valid license at the time of application for renewal shall continue to operate as licensed until the Mayor acts on the renewal application.

Sec. 10. Denial of a license.

The Mayor may, subject to the right to a hearing, deny an initial or renewal license to an applicant who fails to establish that the applicant meets the requirements for licensure established by this act and rules issued pursuant to this act.

Sec. 11. Revocation, suspension or denial of license.

The Mayor may, subject to the right to a hearing, refuse to issue, revoke, suspend, or deny renewal of a license to operate a child development facility to a person who is found to have:

(1) Failed to comply with the provisions of this act and any rules or regulations promulgated pursuant to this act;

(2) Failed to comply with other federal and District laws applicable to child development facilities;

(3) Committed, aided, abetted, or permitted to be committed, any act of dishonesty, fraud, gross negligence, abuse, assault, battery or other illegal acts related to the operation of the facility; or

(4) Been convicted of a crime involving moral turpitude.

Sec. 12. Summary suspension.

(a) If, after an investigation, the Mayor determines that a licensed facility has failed to comply with the provisions of this act or any rules promulgated pursuant to this act in such a manner as to present an imminent danger to the health, safety, and welfare of children, infants,

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toddlers, or the general public, the Mayor may summarily suspend or restrict the license prior to a hearing.

(b) The Mayor must provide the licensee with written notice of the summary suspension initiated pursuant to subsection (a) of this section, the reason for the suspension, and the right to request a hearing.

(c) The licensee shall have 5 days after service of notice of the summary suspension in which to request a hearing to challenge the summary suspension. A hearing shall be held within 5 business days of a timely request and the Mayor shall issue a decision within 5 business days after closing the record.

Sec. 13. Cease and desist orders.

(a) If, after investigation, the Mayor determines that a person has violated any provision of this act or any rule issued pursuant to this act, and the violation presents an imminent danger to the public, the Mayor may issue a written order directing the person to cease and desist from the violation.

(b) Within 5 days of service of the order, the person must request an expedited hearing on the violation. Within 5 business days of a timely request for an expedited hearing, the Mayor shall conduct a hearing. If no request for a hearing is made, the cease and desist order shall be final.

Sec. 14. Right of entry and inspection.

To ensure compliance with the provisions of this act and rules adopted pursuant to this act, the Mayor, or any duly authorized designee, shall be permitted at reasonable times to conduct an inspection of any child development facility licensed under this act or for which an application has been filed.

Sec. 15. Hearings.

(a) Before the Mayor denies an application, suspends, revokes, or restricts a license, or imposes a civil fine, the Mayor shall give the person notice of the contemplated action and an opportunity for a hearing. The Mayor shall send all notices by certified mail. Notice of a scheduled hearing shall be sent by certified mail at least 20 days before the hearing date except when an expedited hearing has been requested. The Mayor may request all parties to participate in a settlement conference prior to a hearing and may enter into a negotiated settlement agreement or consent decree in lieu of a hearing.

(b) The Mayor may delegate the authority to conduct a hearing and issue a final decision to an administrative law judge or an attorney examiner in accordance with rules issued pursuant to this act.

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Sec. 16. Judicial review.

A person aggrieved by a final decision of the Mayor may appeal the decision to the District of Columbia Court of Appeals pursuant to section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Code § 1-1510).

Sec. 17. Criminal and civil penalties.

(a) Any person who violates any provision of this act shall, upon conviction, be subject to imprisonment not to exceed 6 months or a fine not to exceed \$300, or both. Each unlawful act shall constitute a separate violation of this act.

(b) Any person who has been previously convicted pursuant to this act shall, upon conviction, be subject to imprisonment not to exceed 1 year or a fine not to exceed \$5,000, or both.

(c) Civil fines and penalties may be imposed as alternative sanctions for any violations of the provisions of this act or rules issued under the authority of this act pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 6-2701 *et seq.*) ("Civil Infractions Act"). The adjudication of any infraction issued pursuant to the Civil Infractions Act shall be pursuant to titles I through III of the Civil Infractions Act.

Sec. 18. Prosecutions.

(a) Prosecutions of violations of this act shall be brought by the Corporation Counsel in the name of the District of Columbia.

(b) In prosecutions initiated pursuant to this act, a child development facility claiming an exemption from a licensing requirement of this act shall have the burden of proving entitlement to the exemption.

Sec. 19. Injunctions.

(a) The Corporation Counsel may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin any violation of this act.

(b) Remedies established by this section shall be in addition to criminal sanctions, civil sanctions, or disciplinary action initiated by the Mayor.

(c) In any proceeding brought pursuant to this section, it shall not be necessary to prove that any person is injured by the violation alleged.

Sec. 20. Repeal existing regulations.

The Child Development Facilities Regulation shall remain in effect until superseded by rules issued by the Mayor. Upon the effective date of rules promulgated pursuant to this act, the Child Development Facility Regulation shall be deemed repealed.

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Sec. 21. Pending actions and proceedings; existing orders.

(a) No judicial or administrative proceeding commenced by or against any child development facility, or officer or employee of a child development facility in his or her official capacity, shall abate by reason of the taking effect of this act; but the action or proceeding shall be continued with substitution as to parties and officers or agencies as are appropriate.

(b) All decisions issued pursuant to the Child Development Facility Regulation shall continue in effect until modified, rescinded, or superseded by rules or regulation issued pursuant to this act.

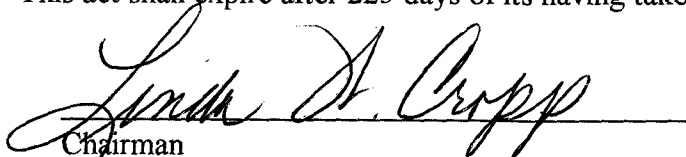
Sec. 22. Fiscal impact statement.

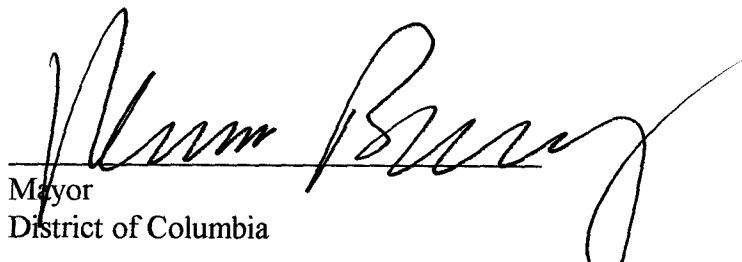
Bill 12-324 will have no fiscal impact. The current costs for regulating child care facilities are offset by a licensing fee schedule. Bill 12-324 provides a similar scheme so that the Office of Budget and Planning estimates no fiscal impact above what currently exists. The Office of Budget and Planning does caution that it will be critical to review the regulations promulgated pursuant to this act for both their impact and effect on the supply of child care slots.

Sec. 23. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED: December 15, 1997



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

RECORD OF OFFICIAL COUNCIL VOTE

Docket No.

B12-324

| | ITEM ON CONSENT CALENDAR

☒ ACTION & DATE

ADOPTED FIRST READING, 11-4-97

☒ VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

ABSENT

DIXON, JARVIS AND SMITH

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date☒ ITEM ON CONSENT CALENDAR☒ ACTION & DATE

ADOPTED FINAL READING, 12-4-97

☒ VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

ABSENT

ALL PRESENT

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X-indicates Vote

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

Secretary to the Council

Date

| | ITEM ON CONSENT CALENDAR

| | ACTION & DATE

☐ VOICE VOTE
RECORDED VOTE ON REQUEST

ABSENT

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date