

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 549

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO DAYCARE FACILITIES; AMENDING SECTION 39-1105, IDAHO CODE, TO REVISE PROVISIONS REGARDING CRIMINAL HISTORY CHECKS; AMENDING SECTION 39-1106, IDAHO CODE, TO REMOVE A PROVISION REGARDING A CERTAIN CRIMINAL HISTORY CHECK; AMENDING SECTION 39-1110, IDAHO CODE, TO PROVIDE STANDARDS FOR INFANT SLEEP AREAS; AND AMENDING SECTION 39-1113, IDAHO CODE, TO PROVIDE THAT PERSONS FOUND GUILTY OF CERTAIN CRIMES SHALL BE INELIGIBLE FOR A LICENSE, TO PROVIDE FOR APPEALS OF A DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE, AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-1105, Idaho Code, be, and the same is hereby amended to read as follows:

39-1105. CRIMINAL HISTORY CHECKS. (1) ~~The department shall obtain from the owner a criminal history check on the~~ All owners, operators, and employees of a daycare facility who have direct contact with children, and ~~on~~ all other individuals thirteen (13) years of age or older who have unsupervised direct contact with children or are regularly on the premises of a daycare facility shall complete and pass a criminal history and background check in conformance with section 56-1004A, Idaho Code, at least every five (5) years. The criminal history check shall include the following for all persons subject to the provisions of this section who are eighteen (18) years of age or older:

- ~~(a) Statewide criminal identification bureau;~~
- ~~(b) Federal bureau of investigation (FBI) criminal history;~~
- ~~(c) National crime information center; and~~
- ~~(d) Statewide child abuse registry.~~

(2) Criminal history checks on those persons under eighteen (18) years of age shall include a check of the juvenile justice records of adjudications of the magistrate division of the district court, county probation services and department records as authorized by the minor and his parent or guardian.

(3) Notwithstanding the provisions of section 39-1103, Idaho Code, which provide for exemption from the provisions of this chapter, any person who owns, operates or is employed by a private school for educational purposes for children four (4) through six (6) years of age or a private kindergarten shall comply with the provisions of this section.

SECTION 2. That Section 39-1106, Idaho Code, be, and the same is hereby amended to read as follows:

39-1106. ISSUANCE OF LICENSE -- RENEWAL. (1) Upon receipt of the application, inspection certificates and the criminal history, the department shall, upon a finding of compliance with the minimum standards set forth in

1 this chapter, issue a basic daycare license to the applicant. The license
2 shall be valid for two (2) years and shall be posted in a conspicuous place at
3 the daycare facility.

4 (2) The department shall send a renewal application to the owner of the
5 daycare facility no later than ninety (90) days prior to the expiration of
6 an existing license. The owner shall submit to the department the renewal
7 application with the required renewal fee and a criminal history check prior
8 to the expiration of the existing license. A complete criminal history check
9 shall be provided for any new persons requiring a criminal history check in
10 accordance with section 39-1105, Idaho Code. ~~A limited criminal history~~
11 ~~check shall be provided for those persons eighteen (18) years of age or older~~
12 ~~who where previously checked. The limited criminal history check shall in-~~
13 ~~clude:~~

14 ~~(a) Statewide criminal identification bureau;~~

15 ~~(b) National crime information center; and~~

16 ~~(c) Statewide child abuse registry.~~

17 (3) Criminal history checks on those persons under eighteen (18) years
18 of age shall include a check of the juvenile justice records of adjudications
19 of the magistrate division of the district court, county probation services
20 and department records as authorized by the minor and his parent or guardian.

21 (4) The department shall maintain a list of all licensees for public
22 use.

23 (5) Submission of a renewal application, fee and required criminal
24 history check shall entitle the daycare facility owner to continue daycare
25 services, subject to action by the department pursuant to section 39-1113,
26 Idaho Code.

27 SECTION 3. That Section 39-1110, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 39-1110. HEALTH STANDARDS. Daycare facilities shall comply with the
30 following health standards:

31 (1) Food for use in daycare facilities shall be prepared and served in
32 a sanitary manner with sanitized utensils and on surfaces that have been
33 cleaned, rinsed and sanitized prior to use to prevent contamination;

34 (2) All food that is to be served in daycare facilities shall be stored
35 in such a manner that it is protected from potential contamination;

36 (3) Diaper changing shall be conducted in such a manner as to prevent
37 the spread of communicable diseases;

38 (4) Sleeping and play areas, restrooms and fixtures shall be maintained
39 in a safe, sanitary condition, and infant sleep areas shall consist of a
40 space in which children up to age twelve (12) months may sleep alone, on their
41 backs, and in a crib;

42 (5) Children and facility personnel shall be provided with individ-
43 ual or disposable towels for handwashing and the handwashing area shall be
44 equipped with soap and hot and cold running water;

45 (6) The water supply, where the source is other than a public water sys-
46 tem, must be approved in accordance with the rules adopted by the department;

47 (7) Medicines, cleaning supplies and other hazardous substances must
48 be stored out of reach of children;

1 (8) Smoking or alcohol consumption is prohibited on the premises of a
 2 daycare facility during the daycare facility's hours of operation; and

3 (9) Representatives of health and safety inspectors shall not be denied
 4 access to a daycare facility during hours of operation for purposes of con-
 5 trol of communicable disease or inspection.

6 SECTION 4. That Section 39-1113, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license
 9 may be denied, suspended or revoked by the department if the department finds
 10 that the applicant or licensee does not comply with the provisions of this
 11 chapter.

12 (2) No person who pleads guilty to, has been found guilty of or received
 13 a withheld judgment for any offense involving neglect or any physical injury
 14 to, or other abuse of a child, including the following offenses or a similar
 15 provision in another jurisdiction, shall be eligible for a license under the
 16 provisions of this chapter:

17 (a) Felony injury of a child, section 18-1501, Idaho Code.

18 (b) The sexual abuse of a child under sixteen years of age, section
 19 18-1506, Idaho Code.

20 (c) The ritualized abuse of a child under eighteen years of age, section
 21 18-1506A, Idaho Code.

22 (d) The sexual exploitation of a child, section 18-1507, Idaho Code.

23 (e) Sexual abuse of a child under the age of sixteen years, section
 24 18-1506, Idaho Code.

25 (f) Lewd conduct with a child under the age of sixteen years, section
 26 18-1508, Idaho Code.

27 (g) The sale or barter of a child for adoption or other purposes, sec-
 28 tion 18-1511, Idaho Code.

29 (h) Murder in any degree, section 18-4001 or 18-4003, Idaho Code.

30 (i) Assault with intent to murder, section 18-4015, Idaho Code.

31 (j) Voluntary manslaughter, section 18-4006, Idaho Code.

32 (k) Rape, section 18-6101, Idaho Code.

33 (l) Incest, section 18-6602, Idaho Code.

34 (m) Forcible sexual penetration by use of foreign object, section
 35 18-6608, Idaho Code.

36 (n) Abuse, neglect or exploitation of a vulnerable adult, section
 37 18-1505, Idaho Code.

38 (o) Aggravated, first degree, second degree and third degree arson,
 39 sections 18-801 through 18-805, Idaho Code.

40 (p) Crimes against nature, section 18-6605, Idaho Code.

41 (q) Kidnapping, sections 18-4501 through 18-4503, Idaho Code.

42 (r) Mayhem, section 18-5001, Idaho Code.

43 (s) Poisoning, section 18-4014 or 18-5501, Idaho Code.

44 (t) Robbery, section 18-6501, Idaho Code.

45 (u) Stalking in the first degree, section 18-7905, Idaho Code.

46 (v) Video voyeurism, section 18-6609, Idaho Code.

47 (w) Enticing of children, section 18-1509 or 18-1509A, Idaho Code.

48 (x) Inducing individuals under eighteen years of age into prostitu-
 49 tion, section 18-5609, Idaho Code.

(y) Inducing person under eighteen years of age to patronize a prostitute, section 18-5611, Idaho Code.

(z) Any felony punishable by death or life imprisonment.

(aa) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

(bb) Domestic violence, section 18-918(2), Idaho Code.

(cc) Any offense requiring registration on a state sex offender registry or the national sex offender registry.

(dd) A felony drug-related offense committed during the preceding five (5) years.

(3) No person who has pleaded guilty to, been found guilty of or received a withheld judgment for any offense involving neglect or any physical injury to, or other abuse of a child, including the following offenses or a similar provision in another jurisdiction, shall be eligible for a license for a period of five (5) years under the provisions of this chapter-:

(a) Aggravated assault, section 18-905, Idaho Code.

(b) Aggravated battery, section 18-907(1), Idaho Code.

(c) Burglary, section 18-1401, Idaho Code.

(d) Felony theft, sections 18-2403 and 18-2407(1), Idaho Code.

(e) Forgery of a financial transaction card, section 18-3123, Idaho Code.

(f) Fraudulent use of a financial transaction card or number, section 18-3124, Idaho Code.

(g) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.

(h) Misappropriation of personal identifying information, section 18-3126, Idaho Code.

(i) Insurance fraud, section 41-293, Idaho Code.

(j) Damage to or destruction of insured property, section 41-294, Idaho Code.

(k) Public assistance fraud, section 56-227, Idaho Code.

(l) Provider fraud, section 56-227A, Idaho Code.

(m) Attempted strangulation, section 18-923, Idaho Code.

(n) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701, Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

(o) Misdemeanor injury to a child, section 18-1501(2), Idaho Code.

(4) A daycare facility license may be denied, suspended or revoked by the department if the department finds that the daycare facility is not in compliance with the standards provided for in this chapter or criminal activity that threatens the health or safety of a child.

(5) A daycare facility license or privilege to operate a family daycare home shall be denied or revoked if a registered sex offender resides on the premises where daycare services are provided.

(6) The denial, suspension, or revocation of a license under this chapter may be appealed ~~to~~ through the administrative appeals process governed by the provisions of IDAPA 16.05.03, with the opportunity for further review by the district court of the county in which the affected daycare facility is located and the appeal shall be heard de novo in the district court.