

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1248

Short Title: Religious Sponsored Day Care.

(Public)

Sponsors: Representatives Mills (by request); and Decker.

Referred to: Human Resources.

April 12, 1989

A BILL TO BE ENTITLED

1 AN ACT TO REVISE G.S. 110-106 AND G.S. 110-106.1; AND TO REQUIRE THAT
2 RELIGIOUS SPONSORED DAY CARE PROGRAMS BE MONITORED BY THE
3 DIVISION OF NON-PUBLIC EDUCATION OF THE OFFICE OF THE
4 GOVERNOR.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 110-106 and G.S. 110-106.1 are repealed.

8 Sec. 2. Chapter 110 of the General Statutes is amended by adding the
9 following new sections to read:

10 **"§ 110-106.3. Religious sponsored day care facilities.**

11 (a) The term 'church day care facility', as used herein shall include any day care
12 facility or summer day camp operated by a church, synagogue or school of religious
13 charter.

14 (b) The term 'Division of Non-Public Education' as used herein shall be the
15 Director of the Division of Non-Public Education of the Office of the Governor.

16 (c) Procedures and requirements:

17 (1) Church day care facilities shall file with the Division of Non-Public
18 Education a written notice of intent to operate a day care facility by at
19 least 30 days prior to the date the facility will begin operation. The
20 written notice of intent shall be on a form prescribed by the Division of
21 Non-Public Education and shall ask for the name of the facility, its
22 mailing and location addresses, telephone number, names of the chief
23 administrator and the owner, date the facility will begin operation, and
24 proposed number and age range of children to be served.

1 (2) Within 30 days after beginning operation, the church day care facility
2 shall have filed with the Division of Non-Public Education written
3 evidence that the facility is in compliance with local and State fire,
4 safety, health and sanitation requirements. The evidence shall be on
5 forms which shall be provided by the Division of Non-Public
6 Education.

7 (3) After the church day care facility has filed this information, the facility
8 shall be visited by a staff member of the Division of Non-Public
9 Education to assure that the following requirements are met:

10 a. Medical Care and Sanitation - Each church day care facility,
11 and all personnel, shall meet the minimum health and sanitation
12 standards developed by the Commission for Health Services not
13 inconsistent with the provisions of this Article. The health and
14 sanitation standards developed by the Commission for Health
15 Services shall cover such matters as the cleanliness of floors,
16 walls, ceilings, storage spaces, utensils, and other facilities;
17 adequacy of ventilation; sanitation of water supply, lavatory
18 facilities, toilet facilities, sewage disposal, food protection
19 facilities, bactericidal treatment of eating and drinking utensils,
20 and solid-waste storage and disposal; methods of food
21 preparation and serving; health of staff members; and such
22 other items and facilities as are necessary in the interest of the
23 public health. Each year, or more often if required by the
24 Division of Non-Public Education in a particular case, each
25 church day care facility shall submit evidence satisfactory to the
26 Division of Non-Public Education that it conforms to these
27 health and sanitation standards.

28 Each child shall have a medical examination by a licensed physician
29 or his authorized agent who is currently approved by the North
30 Carolina Board of Medical Examiners, or comparable certifying
31 board in any contiguous state, prior to being admitted or within
32 30 days following admission to a day care facility; a record of
33 such examination shall be on file in the records of the facility,
34 provided, however, that no medical certificate shall be required
35 of any child who is and has been in normal health and whose
36 parent, guardian, or full-time custodian objects in writing to a
37 medical examination on religious grounds which conform to the
38 teachings and practice of any recognized church or religious
39 denomination.

40 Each child shall be immunized in such manner as to meet
41 the requirements of Articles 9 and 9A of Chapter 130 of the
42 General Statutes.

43 Each day care facility shall have a plan of emergency
44 medical care which shall include provisions for communication

1 with and transportation to a specified medical resource, unless
2 otherwise previously instructed. No child receiving day care
3 shall be administered any drug or other medication without
4 specific written instructions from a physician or the child's
5 parent, guardian or full-time custodian. Medical information on
6 each child in care, including the names, addresses, and
7 telephone numbers of the child's physician and parents, legal
8 guardian or full-time custodian shall be readily available to the
9 staff of the day care facility in the records of the facility in
10 accordance with a form approved by the Division of Non-Public
11 Education for this purpose.

12 There shall be a separate bed, cot or mat equipped with
13 individual linen, for each child to use during rest periods,
14 except for school-aged children; if a mat is used, it shall be of a
15 waterproof, washable material at least two inches thick and
16 shall be stored so that the floor side does not touch the sleeping
17 side. Beds and linens used by members of the household of the
18 operator shall not be used by children receiving care in the day
19 care facility.

- 20 b. Health-Related Activities - Each child in a day care facility
21 shall receive nutritious food and refreshments. The number and
22 size of servings and snacks shall be appropriate for the ages of
23 the children and shall be planned according to the number of
24 hours the child is in care. Menus for meals and snacks shall be
25 planned at least one week in advance, dated, and posted where
26 they can be seen by parents.

27 Each day care facility shall arrange for each child in care to
28 be out-of-doors each day if weather conditions permit.

29 Each day care facility shall have a rest period for each child
30 in care after lunch or at some other appropriate time.

31 No day care facility shall care for more than 25 children in
32 one group. Facilities providing care for 26 or more children
33 shall provide for two or more groups according to the ages of
34 children and shall provide separate supervisory personnel for
35 each group.

- 36 c. Location - Each day care facility shall be located in an area
37 which is free from conditions which are deemed hazardous to
38 the physical and moral welfare of the children in care.

- 39 d. Building - Each day care facility shall be located in a building
40 which meets the requirements of the North Carolina Building
41 Code under standards which shall be developed by the Building
42 Code Council specifically for day care facilities including
43 facilities operated in a private residence. Such standards shall
44 be consistent with the provisions of this Article.

1 e. Fire Prevention - All day care facilities shall annually, or more
 2 often if required by the Division of Non-Public Education in a
 3 particular case, be inspected by a local fire department or a
 4 volunteer fire department, using fire prevention standards which
 5 shall be developed by the State Insurance Department after
 6 consultation with local fire departments and volunteer fire
 7 departments.

8 f. Space and Equipment Requirements - There shall be no less
 9 than 25 square feet of indoor space for each child enrolled in
 10 the day care facility, exclusive of closets, passageways,
 11 kitchens, and bathrooms, and such floor space shall provide
 12 during rest periods 200 cubic feet of airspace per child for the
 13 facility's maximum enrollment capacity. There shall be
 14 adequate outdoor play area for each child. The minimum
 15 required shall not exceed 75 square feet per child, which area
 16 shall be protected to assure the safety of the children receiving
 17 day care by an adequate fence or other protection; provided,
 18 however, that a facility operating exclusively during the
 19 evening and early morning hours, between 6:00 p.m. and 6:00
 20 a.m., need not meet the outdoor play area requirements
 21 mandated by this subdivision.

22 Each day care facility shall provide equipment and
 23 furnishings that are child size, sturdy, safe, and in good repair.
 24 Space shall be available for proper storage of beds, cribs, mats,
 25 cots, sleeping garments, and linens as well as designated space
 26 for each child's personal belongings.

27 g. Staff-Child Ratio - In determining the staff/child ratio, all
 28 children younger than 13 years shall be counted. The ratios
 29 shall be as follows:

30 SMALL DAY CARE CENTERS (13 through 29 Children)

31 For day care centers caring for fewer than 30 children of whom more than half are
 32 under the age of two, the ratios for medium and large centers shall apply.

33 For all other day care centers caring for fewer than 30 children, the ratios are as
 34 follows:

35 In centers caring for 13 through 20 children, inclusive, there shall be two
 36 adult caregivers present, giving care.

37 In centers caring for 21 to 29 children, inclusive, there shall be three adult
 38 caregivers present, giving care.

39 Maximum group size for each age is fixed at twice the staff/child ratio for the
 40 respective age groups, but not larger than 25 children.

41 MEDIUM AND LARGE DAY CARE CENTERS (30 or More Children)

42 For facilities caring for 30 or more children, the ratios and maximum group sizes are
 43 as follows:

44 <u>Ages of Children</u>	<u>No. of Children</u>	<u>Staff</u>	<u>Group Size</u>
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1	<u>0 to 2 years</u>	<u>7</u>	<u>1</u>	<u>14</u>
2	<u>2 to 3 years</u>	<u>12</u>	<u>1</u>	<u>24</u>
3	<u>3 to 4 years</u>	<u>15</u>	<u>1</u>	<u>25</u>
4	<u>4 to 5 years</u>	<u>20</u>	<u>1</u>	<u>25</u>
5	<u>5 years & older</u>	<u>25</u>	<u>1</u>	<u>25</u>

6 Children under two years of age shall be kept separate from older children, and with
7 a full-time adult always in attendance.

8 Staff members required to be responsible for the care of children shall not have
9 responsibility for food preparation.

10 Excluding children under two years of age, any facility may provide care for ten
11 percent (10%) more children than the normal maximum number. This tolerance shall be
12 used only in emergency situations or to provide for after-school care for school-age
13 children.

14 Maximum group size for each age is fixed at twice the staff/child ratio for the
15 respective age groups, but not larger than 25 children.

16 Children in small, medium and large day care centers shall be supervised at all
17 times. Supervision shall mean visual supervision with the exception of brief periods
18 necessitated by emergency and day-to-day child care responsibilities.

19 h. Qualifications for Staff - Each day care facility shall be under
20 the direction or supervision of a literate person at least 21 years
21 of age. All staff counted in determining the required staff/child
22 ratio shall be at least 16 years of age, provided that persons
23 younger than 18 years of age work under the direct supervision
24 of a literate staff person who is at least 21 years of age. No
25 person shall be an operator of nor be employed or work on a
26 voluntary basis in a day care facility who has been convicted of
27 a crime involving child neglect, child abuse, or moral turpitude,
28 or who is an habitually excessive user of alcohol or who
29 illegally uses narcotic or other impairing drugs, or who is
30 mentally or emotionally impaired to an extent that may be
31 injurious to children.

32 Prior to the time of employment, all personnel, including the
33 director, shall furnish a statement, signed by a licensed
34 physician or an authorized health professional under his/her
35 supervision, that indicates that the person is emotionally and
36 physically fit to care for children. For the purposes of this
37 requirement, an authorized health professional means a nurse
38 practitioner or physician's assistant currently approved to
39 perform medical acts by the North Carolina Board of Medical
40 Examiners.

41 The Division of Non-Public Education or the director of the
42 church day care center may request another evaluation of an
43 employee's emotional and physical fitness to care for children
44 when there is reason to believe that there has been deterioration

1 in the person's emotional or physical fitness to care for children.
2 The Division of Non-Public Education may request another
3 evaluation of the center director's emotional and physical fitness
4 when deemed necessary.

5 An annual test showing each employee, including the
6 director, to be free of active tuberculosis is required.

7 Each employee, including the director, shall also annually
8 submit a medical statement from a licensed physician or
9 authorized health professional as already defined or must
10 complete a health questionnaire giving information about the
11 status of his/her health. This questionnaire will be approved by
12 the Division of Non-Public Education.

13 Staff medical statements, proof of annual tuberculosis tests,
14 and completed health questionnaires shall be included in the
15 employee's individual personnel file in the center. Such
16 information shall also be maintained for any person who works
17 on a voluntary basis.

18 i. Records - Each day care facility shall keep accurate records on
19 each child receiving care in the day care facility in accordance
20 with a form approved by the Division of Non-Public Education
21 and shall submit attendance reports as required by the Division
22 of Non-Public Education.

23 Each day care facility shall keep accurate records on each
24 staff member or other person delegated responsibility for the
25 care of children in accordance with a form approved by the
26 Division of Non-Public Education.

27 All records of any day care facility except financial records,
28 shall be subject to review by a member of the Division of Non-
29 Public Education staff.

30 Any effort to falsify information provided to the Division of
31 Non-Public Education shall be deemed by the Division of Non-
32 Public Education to be evidence of violation of this Article on
33 the part of the operator or sponsor of the day care facility and
34 shall constitute a cause for termination of the operation of such
35 day care facility.

36 j. Each operator or staff member shall truly and honestly show
37 each child in his care true love, devotion and tender care.

38 Each day care facility shall have a written policy on
39 discipline, which policy describes the methods and practices
40 used to discipline children enrolled in that facility. This written
41 policy shall be discussed with, signed by, and a copy given to,
42 both of each child's parents prior to the first time the child
43 attends the facility. Subsequently, any change in discipline
44 methods or practices shall be communicated in writing at least

1 30 days in advance to both parents and signed by them prior to
2 the effective date of the change. Signed discipline policy
3 agreement forms must be kept in the child's file in the facility.

4 k. Staff Development - Each day care facility should have a
5 written staff development plan that includes periodic training
6 activities for each staff member which should be reported
7 annually to the Division of Non-Public Education.

8 l. Planned Age Appropriate Activities - Each day care facility
9 should have a planned schedule of activities posted in a
10 prominent place to enable parents to review it, and a written
11 plan of age appropriate activities available to parents. Each
12 facility should have age appropriate activities and play
13 materials to implement the written plan.

14 m. Transportation - All day care facilities shall abide by North
15 Carolina law regulating the use of seat belts and child restraint
16 devices. All vehicles operated by any facility staff person or
17 volunteer to transport children shall be properly equipped with
18 appropriate seat belts or child restraint devices as approved by
19 the Commissioner of Motor Vehicles. Each adult and child
20 shall be restrained by an appropriate seat safety belt or restraint
21 device when the vehicle is in motion. These restraint
22 regulations do not apply to vehicles not required by federal law
23 to be equipped with seat restraints. All vehicles used to
24 transport children shall meet and maintain the safety inspection
25 standards of the Division of Motor Vehicles of the Department
26 of Transportation and the facility shall comply with all other
27 applicable State and federal laws and regulations concerning the
28 operation of a motor vehicle. Children may never be left
29 unattended in a vehicle.

30 The ratio of adults to children in day care vehicles may not
31 be less than the staff/child ratios herein prescribed by G.S. 110-
32 106.

33 n. Parental Access - The custodial parent, guardian or full-time
34 custodian of a child enrolled in any church day care facility
35 subject to regulation under G.S. 110-106 shall be allowed
36 unlimited access to the facility during its operating hours for the
37 purposes of contacting the child or evaluating the facility and
38 the care provided by the facility. The parent, guardian or
39 custodian shall notify the on-site administrator of his/her
40 presence immediately upon entering the premises.

41 (4) Each church day care facility shall by every November 1 file with the
42 Division of Non-Public Education, on a form prescribed by the
43 Division of Non-Public Education, a report indicating that the
44 requirements of G.S. 110-106 are being met. A photocopy of the latest

- 1 annual fire and sanitation inspection forms completed for the facility
2 by the local fire department and local health department must be
3 submitted with the report.
- 4 (5) The initial on-site visit to each church day care facility by a Division
5 of Non-Public Education staff member shall be announced in advance
6 to the facility. However, all other visits by a staff member of the
7 Division of Non-Public Education may be unannounced in advance.
8 The frequency of such visits shall be determined by the Division of
9 Non-Public Education.
- 10 (6) It shall be the responsibility of the Division of Non-Public Education
11 to notify the facility if it fails to meet the requirements of G.S. 110-
12 106. The Division of Non-Public Education shall then notify the
13 Secretary of the Department of Human Resources who shall be
14 responsible for carrying out the enforcement provisions provided by
15 the General Assembly in Article 7 of Chapter 110 of the General
16 Statutes. The Secretary of the Department of Human Resources shall
17 be empowered to issue upon notification from the Division of Non-
18 Public Education an order requiring a church day care facility which
19 fails to meet the standards of G.S. 110-106 to cease operating. A
20 church day care facility may request of the Secretary of the
21 Department of Human Resources a hearing to determine if it is in
22 compliance with the provisions of G.S. 110-106. If the Secretary of
23 the Department of Human Resources determines that it is not, he may
24 order the facility to cease operation until it is in compliance.
- 25 (7) Church day care facilities including summer day camps shall be
26 exempt from the requirements that they obtain a license, that the
27 license be displayed, and shall be exempt from any past, present or
28 future rules, regulations, policies, or standards adopted by the Child
29 Day Care Commission. Church day care facilities shall also be exempt
30 from all previous and current General Statute requirements relating to
31 day care except that church day care facilities shall be required to meet
32 those procedures, requirements and standards enacted by the 1989
33 General Assembly, G.S. 110-106. Nothing in this Article shall be
34 interpreted to allow the State to regulate or otherwise interfere with the
35 religious training offered as a part of any church day care program.
36 Nothing in this Article shall prohibit any church-operated, synagogue-
37 operated or religious affiliated facility from becoming licensed by the
38 State if it so chooses.
- 39 (8) Church day care facilities found by the Division of Non-Public
40 Education to be in violation of the provisions of G.S. 110-106 shall be
41 subject to the injunctive provisions of G.S. 110-104, except that they
42 may not be enjoined for operating without a license. The Secretary of
43 the Department of Human Resources is empowered when informed by
44 the Division of Non-Public Education to seek an injunction against any

1 such facility with the above exception and when any such facility
 2 operates without submitting the required forms to the Division of Non-
 3 Public Education and following the requirements and procedures of
 4 G.S. 110-106.

5 **"§ 110-106.4. Religious sponsored child day care homes.**

6 The requirements and exemptions that apply to religious sponsored day care
 7 facilities pursuant to G.S. 110-106 shall apply also to religious sponsored child day care
 8 homes except that the staff/child ratio for religious sponsored child day care homes
 9 (maximum of 12 children) shall be:

<u>Age of Children</u>	<u>No. of Children</u>	<u>No. of Staff</u>	<u>Group Size</u>
<u>0 to 4 years</u>	<u>6</u>	<u>1</u>	<u>12</u>
<u>0 to 13 years</u>	<u>8</u>	<u>1</u>	<u>12</u>
<u>(No more than three children may be less than 12 months old)</u>			
<u>2 to 13 years</u>	<u>10</u>	<u>1</u>	<u>12</u>
<u>3 to 13 years</u>	<u>12</u>	<u>1</u>	<u>12</u>

17
 18 Children shall be supervised at all times. All children not asleep or resting shall be
 19 visually supervised. Children may sleep or rest in another room as long as a caregiver
 20 can hear them and respond immediately."

21 Sec. 3. This act shall become effective August 1, 1989.