

West's Arkansas Code Annotated
Title 20. Public Health and Welfare
Subtitle 5. Social Services (Chapters 75 to 86)
Chapter 78. Child Care (Refs & Annos)
Subchapter 2. Child Care Facility Licensing Act (Refs & Annos)

A.C.A. § 20-78-201

§ 20-78-201. Citation

Currentness

This subchapter shall be known and cited as the “Child Care Facility Licensing Act”.

Credits

Acts of 1969, Act 434, § 1.

Formerly A.S.A. 1947, § 83-901.

A.C.A. § 20-78-201, AR ST § 20-78-201

The constitution, and statutes are current through the end of the 2016 Second Extraordinary, 2016 Fiscal, and 2016 Third Extraordinary Sessions of the 90th Arkansas General Assembly, and include changes made by the Arkansas Code Revision Commission received through May 1, 2016.

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A.C.A. § 20-78-202

§ 20-78-202. Definitions

Currentness

As used in this subchapter, unless the context otherwise requires:

(1)(A) “Child Care Appeal Review Panel” or “panel” means an eleven-member body under the Department of Human Services which shall serve as a review and appeal body regarding licensure or registration actions.

(B)(i) The panel shall consist of eleven (11) members, including the following:

(a) Three (3) early childhood professionals;

(b) One (1) pediatric health professional;

(c) One (1) parent of a child in a licensed early childhood program;

(d) The Director of the Division of Child Care and Early Childhood Education of the Department of Human Services or his or her designee who shall serve as Chair of the Child Care Appeal Review Panel and shall not vote; and

(e) Five (5) licensed child care providers representing a diversity of child care settings.

(ii) Legal counsel from the office of the Attorney General shall serve as a facilitator of the panel and shall not serve as a voting member.

(iii) Alternates shall be chosen to serve during times of absence or in cases of conflict of interest. Five (5) alternates shall be chosen as follows:

(a) One (1) early childhood professional;

(b) One (1) pediatric health professional;

(c) One (1) parent of a child in a licensed early childhood program; and

(d) Two (2) licensed child care providers.

(iv) Members of the panel shall not be members of the Arkansas Early Childhood Commission.

(C)(i) The commission, from applications submitted, shall make panel selections from persons meeting the qualifications for service and exhibiting a willingness and time commitment to serve on the panel.

(ii) Panel members may be replaced under the same guidelines as commission members.

(D)(i) Members of the panel shall serve for three-year terms, not to exceed six (6) consecutive years of service on the panel.

(ii) Members from the office of the Attorney General and the Director of the Division of Child Care and Early Childhood Education shall hold permanent offices.

(E) Members of the panel shall receive no compensation other than normal state reimbursement for travel, meals, and lodging when applicable.

(F) The panel shall schedule monthly meetings and may meet more often as necessary.

(G) A majority of the panel shall constitute a quorum, and a majority of those present may decide any issue before the panel. In the event of a tie vote by the panel, the Division of Child Care and Early Childhood Education decision shall stand.

(H)(i) Decisions of the panel shall be the final administrative appeal.

(ii) Providers or the Division of Child Care and Early Childhood Education may appeal the panel's findings to the circuit court of the licensee's county of residence or to the Pulaski County Circuit Court.

(I) There shall be no monetary liability on the part of and no cause of action for damages shall arise against any member of the panel for any act or proceeding undertaken or performed within the scope of the functions of the panel if the panel member acts without malice or fraud;

(2)(A)(i) "Child care facility" means any facility which provides care, training, education, or supervision for any unrelated minor child, whether or not the facility is operated for profit and whether or not the facility makes a charge for the services offered by it.

(ii) For the purposes of this subdivision (2), “related minor child” means a minor child related by blood, marriage, or adoption to the owner or operator of the facility or a minor child who is a ward of the owner or operator of the facility pursuant to a guardianship order issued by an Arkansas court of competent jurisdiction.

(B) This definition includes, but is not limited to, a nursery, a nursery school, a kindergarten, a day care center, or a family day care home.

(C) In any case where a facility or the owner or operator thereof is appointed guardian of a total of ten (10) or more minors, it shall be presumed that the facility, owner, or operator is engaged in child care and shall be subject to child care facility licensure.

(D) However, this definition does not include:

(i) Special schools or classes operated solely for religious instruction;

(ii) Facilities operated in connection with a church, shopping center, business, or establishment where children are cared for during short periods of time while parents or persons in charge of the children are attending church services, shopping, or engaging in other activities during the periods;

(iii) Any educational facility, whether private or public, which operates solely for educational purposes in grades one (1) or above and does not provide any custodial care;

(iv) Kindergartens operated as a part of the public schools of this state;

(v) Any situation, arrangement, or agreement by which one (1) or more persons care for fewer than six (6) children from more than one (1) family at the same time;

(vi) Any educational facility, whether public or private, which operates a kindergarten program in conjunction with grades one (1) and above and provides short-term custodial care prior to or following classes for those students;

(vii)(a) Any recreational facility or program, whether public or private, which operates solely as a place of recreation for minor children.

(b) For purposes of this subdivision (2), a “recreational facility or program” is defined as a facility or program which operates with children arriving and leaving voluntarily for scheduled classes, activities, practice, games, and meetings;

(viii) Any state-operated facility to house juvenile delinquents or any serious offender program facility operated by a state designee to house juvenile delinquents, foster home, group home, or custodial institution. Those facilities shall be subject to program requirements modeled on nationally recognized correctional and child welfare standards, which shall be developed, administered, and monitored by the Division of Youth Services of the Department of Human Services; and

(ix) The Arkansas School for Mathematics, Sciences, and the Arts;

(3) “Department” means the Department of Human Services;

(4) “Deputy director” means the Deputy Director of the Division of Child Care and Early Childhood Education of the Department of Human Services; and

(5) “Division” means the Division of Child Care and Early Childhood Education of the Department of Human Services.

Credits

Acts of 1969, Act 434, § 2; Acts of 1973, Act 123, § 4; Acts of 1983, Act 331, § 1; Acts of 1989, Act 399, § 1; [Acts of 1991, Act 163, § 1](#); [Acts of 1995, Act 1340, § 1](#); [Acts of 1997, Act 1132, § 1](#); [Acts of 1997, Act 948, § 2](#); [Acts of 1999, Act 1222, § 6, eff. April 8, 1999](#).

Formerly A.S.A. 1947, § 83-902.

A.C.A. § 20-78-202, AR ST § 20-78-202

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A.C.A. § 20-78-203

§ 20-78-203. Penalties

Currentness

(a)(1) Any person violating any provisions of this subchapter and any person assisting any partnership, group, corporation, organization, or association in violating any provisions of this subchapter shall be guilty of a violation and upon conviction shall be fined in any sum not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100).

(2) Each day of the violation shall constitute a separate offense.

(b)(1) The Division of Child Care and Early Childhood Education of the Department of Human Services is authorized to impose monetary fines as civil penalties to be paid for failure to comply with the provisions of this subchapter or the regulations promulgated pursuant thereto.

(2) In determining whether a civil penalty is to be imposed, the following factors shall be considered by the division:

(A) The gravity of the violation, including the probability that death or serious physical harm to a child will result or has resulted, the severity and scope of the actual or potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;

(B)(i) The exercise of good faith.

(ii) Indications of good faith include, but are not limited to, awareness of the applicable statutes and regulations and reasonable diligence in securing compliance, prior accomplishments manifesting the desire to comply with the requirements, efforts to correct, and any other mitigating factors in favor of the operator;

(C) Any relevant previous violations committed; and

(D) The financial benefit of committing or continuing the violation.

(c) Prior to the imposition of monetary fines, the division shall provide notice and an opportunity to be heard before the Child Care Appeal Review Panel in accordance with hearing procedures in effect for the revocation or suspension of licenses.

(d) With the review and approval of the Arkansas Early Childhood Commission, the division shall publish and promulgate rules and regulations classifying violations as follows:

(1)(A)(i) Class A violations involve essential standards that must be met for substantial compliance to licensing requirements.

(ii) These standards address fire, health, safety, nutrition, staff-to-child ratio, and space.

(B)(i) Operation of an unlicensed child care facility shall be considered a Class A violation.

(ii) However, the definition of unlicensed child care facility shall not be interpreted to include exempt child care facilities as defined in [§ 20-78-209](#).

(C) Class A violations are subject to a civil penalty of one hundred dollars (\$100) for each violation; and

(2)(A) Class B violations involve administrative standards and standards that do not directly threaten the immediate health, safety, or welfare of the children.

(B) Class B violations are subject to a civil penalty of fifty dollars (\$50.00) for each violation.

(e)(1) Each day of occurrence of a Class A or Class B violation shall constitute a separate violation.

(2) Aggregate fines assessed for violation in any one (1) month shall not exceed five hundred dollars (\$500) for Class A violations or two hundred fifty dollars (\$250) for Class B violations.

(f)(1) When a child care facility has been found by the division to have committed Class A or Class B violations, then upon final administrative determination by the panel, notice shall be posted in the child care facility stating the violations found by the division to have occurred and the current status of the license.

(2) This notice shall be posted in the child care facility in a conspicuous place clearly visible to all staff, to all other individuals in the child care facility, and to all visitors to the child care facility.

(g)(1) Failure to post a proper notice as required by this section shall be considered to be a Class B violation for which civil penalties may be imposed as authorized by this section.

(2) Each day of noncompliance shall constitute a separate offense.

Credits

Acts of 1969, Act 434, § 14; Acts of 1987, Act 856, § 1; Acts of 1991, Act 888, § 1; Acts of 1997, Act 1132, § 2; Acts of 1999, Act 1222, § 7, eff. April 8, 1999; Acts of 2005, Act 1994, § 140, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, § 83-914.

A.C.A. § 20-78-203, AR ST § 20-78-203

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A.C.A. § 20-78-204

§ 20-78-204. Injunction

Currentness

When any person, partnership, group, corporation, organization, or association shall operate or assist in the operation of a child care facility which has not been licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services or has had the license denied, suspended, or revoked and has been ordered to cease and desist operation, in accordance with the provisions of this subchapter, the division shall have the right to go into the circuit court in the jurisdiction in which the child care facility is being operated and, upon affidavit, secure a writ of injunction, without bond, restraining and prohibiting the person, partnership, group, corporation, organization, or association from operating the child care facility.

Credits

Acts of 1969, Act 434, § 15; Acts of 1989, Act 399, § 2; [Acts of 1997, Act 1132, § 3](#); [Acts of 1999, Act 1222, § 8, eff. April 8, 1999](#).

Formerly A.S.A. 1947, § 83-915.

Notes of Decisions (1)

A.C.A. § 20-78-204, AR ST § 20-78-204

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A.C.A. § 20-78-205

§ 20-78-205. Division of Child Care and Early Childhood Education

Effective: July 27, 2011

[Currentness](#)

(a)(1) There is created the Division of Child Care and Early Childhood Education within the Department of Human Services. In creating the division, the General Assembly intends for the following to be maintained and enhanced:

- (A) Coordination of existing early childhood education and child care programs;
- (B) Placement of children in quality early childhood programs which support their development and readiness for school;
- (C) Development of new child care services under welfare reform which promote the developmental needs of children receiving transitional employment assistance benefits or other forms of public assistance;
- (D) Quality program standards for all early childhood and child care programs;
- (E) State support for early childhood and child care programs to attain quality program standards;
- (F) Economic and cultural integration of children in early childhood programs;
- (G) Access to additional support services for early childhood and child care programs, such as health care and nutrition services;
- (H) Career development opportunities for early childhood program staff;
- (I) On-going interagency planning and collaboration in regard to early childhood and child care;
- (J) Parent support and education in choosing appropriate early childhood programs for their children; and
- (K) State support for local leadership, program innovation, and excellence in early childhood and care programs.

(b) The division shall have the following duties:

- (1) Administration of the Child Care and Development Block Grant and other child care funds, state and federal, that are available to the Department of Human Services;
- (2) Administration of Arkansas Better Chance Program, under interagency agreement with the Department of Education;
- (3) Administration of the Arkansas Special Nutrition Program;
- (4) Establishment and promulgation of rules to be approved by the Arkansas Early Childhood Commission setting standards governing the granting, revocation, refusal, and suspension of licenses for a child care facility and the operation of child care facilities in this state, as defined by [§ 20-78-202](#);
- (5) Staff support for the operation of the commission;
- (6) Provide consultative resources for the private sector in developing child care programs;
- (7) Provide consultative resources for the private sector in developing child care facilities;
- (8) Solicit grant funds for exemplary early childhood and child care programs; and
- (9) Administration of the birth through prekindergarten teaching credential and the promulgation of rules to implement the teaching credential program under [§ 20-78-801 et seq.](#)

(c)(1) In addition to any other rights, powers, functions, and duties granted by law to the division, the Department of Human Services is hereby authorized to promote and cooperate in the establishment of a foundation under the Arkansas nonprofit corporation law and to accept support and assistance in the form of money, property, or otherwise from the foundation to be used to enhance quality, affordability, and availability of child care and early education for all children in the state.

(2) If a foundation is established for the early care and education of children and if the Department of Human Services shares resources or facilities with the foundation or accepts support and assistance from the foundation, the foundation shall file annually a report with the Governor, the Legislative Council, and the Legislative Joint Auditing Committee showing the amount and source of all gifts, grants, and donations of money or property received by the foundation and all expenditures or other dispositions of money or property by the foundation during the preceding year.

(3) After consultation with the commission, the Director of the Division of Child Care and Early Childhood Education of the Department of Human Services shall prepare rules for the use of foundation funds. The director shall submit the proposed rules to the Legislative Council for its review.

(4) No person over whom the Department of Human Services has day-to-day managerial control shall receive compensation or remuneration from funds not in the State Treasury.

Credits

Acts of 1969, Act 434, § 12; Acts of 1973, Act 123, § 2; Acts of 1979, Act 904, § 1; Acts of 1987, Act 856, § 1; Acts of 1989, Act 400, §§ 1, 2; Acts of 1995, Act 1280, §§ 13, 14, eff. April 13, 1995; Acts of 1997, Act 250, § 205, eff. Feb. 24, 1997; Acts of 1997, Act 1132, § 4; Acts of 1999, Act 1222, § 9, eff. April 8, 1999; Acts of 2001, Act 1271, § 1, eff. Aug. 13, 2001; Acts of 2009, Act 187, § 2, eff. July 31, 2009; Acts of 2011, Act 1121, § 15, eff. July 27, 2011.

Formerly A.S.A. 1947, § 83-911.

A.C.A. § 20-78-205, AR ST § 20-78-205

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A.C.A. § 20-78-206

§ 20-78-206. Rules and regulations

Currentness

(a)(1)(A) The Division of Child Care and Early Childhood Education of the Department of Human Services, with the approval of the Arkansas Early Childhood Commission, shall promulgate and publish rules and regulations setting minimum standards governing the granting, revocation, refusal, and suspension of licenses for a child care facility and the operation of a child care facility.

(B) In developing proposed rules and regulations, the division shall consult with the Director of the Department of Health or his or her designated representative in regard to rules and regulations relating to health.

(C) The commission shall review and approve proposed rules and regulations promulgated by the division.

(2)(A)(i) However, no child care facility shall continue to admit a child who has not been age-appropriately immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, rubella, and any other diseases as designated by the State Board of Health within fifteen (15) program days after the child's original admission.

(ii) The immunization shall be evidenced by a certificate of a licensed physician or a public health department acknowledging the immunization. The division shall consult with the Commissioner of Education or his or her designated representative in regard to rules and regulations relating to education.

(B)(i) The provisions of subdivision (a)(2)(A) of this section pertaining to immunizations shall not apply if the parents or legal guardian of that child object thereto on the grounds that immunization conflicts with the religious or philosophical beliefs of the parent or guardian.

(ii) The parents or legal guardian of the child shall complete an annual application process developed in the rules and regulations of the Department of Health for medical, religious, and philosophical exemptions.

(iii) The rules and regulations developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(a) A notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

(b) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(c) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health's refusal-to-vaccinate form; and

(d) A signed statement of understanding that:

(1) At the discretion of the Department of Health, the unimmunized child or individual may be removed from day care or school during an outbreak if the child or individual is not fully vaccinated; and

(2) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(iv) No exemptions may be granted under this subdivision (a)(2)(B) until the application process has been implemented by the Department of Health and completed by the applicant.

(v) Furthermore, the provisions of subdivision (a)(2)(A) of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

(3) The director and the commissioner and their designated representatives are directed to cooperate with and assist the division in developing rules and regulations in the respective areas of health and education.

(4) In developing these rules and regulations, the division shall consult with such other agencies, organizations, or individuals as it shall deem appropriate.

(5) Rules and regulations promulgated by the division pursuant to this section may be amended by the division from time to time, provided that any amendment to the rules and regulations shall be published and furnished to all licensed child care facilities and to all applicants for a license approved by the commission at least sixty (60) days prior to the effective date of the amendment.

(b) In establishing requirements and standards for the granting, revocation, refusal, and suspension of a license for a child care facility, the division shall adopt such rules and regulations as will:

(1) Promote the health, safety, and welfare of children attending a child care facility;

(2) Promote safe, comfortable, and healthy physical facilities for the children who attend the child care facility;

- (3) Ensure adequate supervision of the children by capable, qualified, and healthy individuals;
 - (4) Ensure appropriate educational programs and activities; and
 - (5) Ensure adequate and healthy food service where food service is offered by the child care facility.
- (c)(1) Questions between providers and the division concerning substantial compliance with the published standards, founded licensing complaints, denials of alternative compliance requests, and adverse actions shall first be appealed through the division's internal appeal process and then may be appealed through the Child Care Appeal Review Panel for determination.
- (2) The division shall follow the procedures prescribed for adjudication in the Arkansas Administrative Procedure Act, § 25-15-201 *et seq.*, in exercising any power authorized by § 20-78-213.
- (d) If, upon the filing of a petition for a judicial review, the reviewing court enters a stay prohibiting enforcement of a decision of the division, the court shall complete its review of the record and announce its decision within one hundred twenty (120) days of the entry of the stay. If the court does not issue its findings within one hundred twenty (120) days of the issuance of the stay, the stay shall be considered vacated.
- (e) All rules and regulations promulgated pursuant to this section shall be reviewed by the Senate Interim Committee on Children and Youth or an appropriate subcommittee thereof and the Subcommittee on Children and Youth of the House Committee on Aging, Children and Youth, Legislative and Military Affairs.
- (f)(1) Any person with reasonable cause to suspect that a child care facility has violated any provision of this subchapter or any rule or regulation of the division may immediately notify the Department of Human Services.
- (2) The Department of Human Services shall not release data that would identify the person who made the report or who cooperated in a subsequent investigation of a child care facility unless a court of competent jurisdiction orders the release of information for good cause shown.
- (3) Following the inspection and investigation of a child care facility as provided under this subsection, the Department of Human Services shall, upon request, provide information to the person or agency reporting the suspected violation as to whether an investigation has been conducted.
- (4) Willfully making false notification pursuant to this subsection shall be a Class C misdemeanor.

Credits

Acts of 1969, Act 434, § 4; Acts of 1977, Act 349, § 2; Acts of 1991, Act 888, §§ 2, 4; Acts of 1995, Act 1280, § 15, *eff.* April 13, 1995; Acts of 1997, Act 312, § 17, *eff.* Feb. 28, 1997; Acts of 1997, Act 870, § 1; Acts of 1997, Act 1132, § 5; Acts of 1999, Act 1222, § 10, *eff.* April 8, 1999; Acts of 2003, Act 999, § 3, *eff.* April 1, 2003.

Formerly A.S.A. 1947, §§ 83-904, 83-911.1.

A.C.A. § 20-78-206, AR ST § 20-78-206

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A.C.A. § 20-78-207

§ 20-78-207. Declaratory judgment remedies concerning rules or regulations

Currentness

Any rule or regulation promulgated by the Division of Child Care and Early Childhood Education of the Department of Human Services under authority of § 20-78-206 or under any other child care facility licensing law shall, at the suit of any interested person instituted in the Pulaski County Circuit Court, be subject to remedies provided by law for obtaining declaratory judgments. However, the division must be named a party defendant and summoned as in an action by ordinary proceedings.

Credits

Acts of 1971, Act 715, § 1; Acts of 1997, Act 1132, § 6.

Formerly A.S.A. 1947, § 83-917.

A.C.A. § 20-78-207, AR ST § 20-78-207

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A.C.A. § 20-78-208

§ 20-78-208. Unlicensed facilities prohibited

Currentness

(a) It shall be unlawful for any person, partnership, group, corporation, organization, or association to operate or assist in the operation of a child care facility which has not been licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services.

(b) It shall be unlawful for any person to falsify an application for licensure, to knowingly circumvent the authority of this subchapter to knowingly violate the orders issued by the division, or to advertise the provision of child care which is not licensed or approved or exempt by the division.

(c) A violation of this section shall be a Class C misdemeanor.

Credits

Acts of 1969, Act 434, § 3; Acts of 1991, Act 888, § 3; Acts of 1997, Act 1132, § 7.

Formerly A.S.A. 1947, § 83-903.

A.C.A. § 20-78-208, AR ST § 20-78-208

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A.C.A. § 20-78-209

§ 20-78-209. Churches exempted from licenses

Currentness

(a) Any church or group of churches exempt from the state income tax levied by the Income Tax Act of 1929, [§ 26-51-101 et seq.](#), when operating a child care facility shall be exempt from obtaining a license to operate the child care facility upon the receipt by the Division of Child Care and Early Childhood Education of the Department of Human Services of written request therefor. A written request shall be made by those churches desiring exemption to the division, which is mandated under the authority of this subchapter to license all child care facilities.

(b)(1) In order to maintain an exempt status, the child care facility shall maintain in its files verification that its child care facility has met the required fire, safety, and health inspections on an annual basis and is in substantial compliance with published standards that similar nonexempt child care facilities are required to meet.

(2) Visits to review and advise exempt child care facilities shall be made as deemed necessary by the division to verify and maintain substantial compliance with all published standards for nonexempt child care facilities.

(3) Standards for substantial compliance shall not include those of a religious or curriculum nature so long as the health, safety, and welfare of the child is not endangered.

(4) Standards for corporal punishment shall be as established by present regulations unless alternative compliance is granted by the division.

(c)(1) Any questions of substantial compliance with the published standards, adverse actions, founded licensing complaints, and denied requests for alternative compliance shall be appealed first through the division's internal appeal process and then may be appealed to the Child Care Appeal Review Panel for determination.

(2) Final administrative actions of the division shall be pursued by either party in the court of competent jurisdiction in the resident county of the child care facility under review.

(3) Challenge to the constitutionality or reasonableness of any regulation or statute may be made prior to any appeal under the Arkansas Administrative Procedure Act, [§ 25-15-201 et seq.](#)

(d) As used in this section, the term “substantial compliance” and as used in §§ 20-78-201 -- 20-78-206, 20-78-208, 20-78-210 -- 20-78-214, and 20-78-218, the term “is being operated in accordance with this act” shall each mean that a church-operated exempt or a nonexempt child care facility is being operated within the minimum requirements for substantial compliance as promulgated by the division. It is the intent and purpose of this section that the term “substantial compliance” be applicable to all child care facilities.

(e) This section is cumulative to all other acts heretofore enacted.

Credits

Acts of 1983, Act 245, §§ 1 to 4, 6; Acts of 1991, Act 627, § 1; Acts of 1997, Act 1132, § 8; Acts of 1999, Act 1222, § 11, eff. April 8, 1999.

Formerly A.S.A. 1947, §§ 83-920 to 83-924.

[Notes of Decisions \(4\)](#)

A.C.A. § 20-78-209, AR ST § 20-78-209

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A.C.A. § 20-78-210

§ 20-78-210. Obtaining licenses

Currentness

(a) Any person, partnership, group, corporation, organization, or association desiring to operate a child care facility shall first make application for a license for a child care facility to the Division of Child Care and Early Childhood Education of the Department of Human Services on the application forms furnished for this purpose by the division.

(b) The division shall act on any application within sixty (60) days after it has been received by the division.

(c) If an applicant meets the requirements of this subchapter and the published rules and regulations of the division regarding minimum standards for a child care facility, then the applicant shall be granted a license by the division as a child care facility. This license shall continue in effect until revoked or suspended as provided in this subchapter.

(d) In issuing a license for a child care facility, the division may limit the number of children who may be served by that child care facility.

(e) In issuing an initial license or reviewing a current license for a child care facility, the division shall require that during regular business hours at least one (1) adult member of the staff who is certified in infant and child cardiopulmonary resuscitation shall be present within the physical confines of the child care facility.

Credits

Acts of 1969, Act 434, § 5; Acts of 1991, Act 627, § 2; Acts of 1993, Act 493, § 1; Acts of 1997, Act 1132, § 9.

Formerly A.S.A. 1947, § 83-905.

A.C.A. § 20-78-210, AR ST § 20-78-210

The constitution, and statutes are current through the end of the 2016 Second Extraordinary, 2016 Fiscal, and 2016 Third Extraordinary Sessions of the 90th Arkansas General Assembly, and include changes made by the Arkansas Code Revision Commission received through May 1, 2016.

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Chapter 78. Child Care (Refs & Annos)
Subchapter 2. Child Care Facility Licensing Act (Refs & Annos)

A.C.A. § 20-78-211

§ 20-78-211. Provisional licenses

Currentness

- (a) If the Division of Child Care and Early Childhood Education of the Department of Human Services finds that an applicant for a child care facility meets the licensing requirements for a child care facility in the main and has a reasonable expectation of correcting deficiencies in a reasonable time, then the division may, in its discretion, issue a provisional license for a child care facility.
- (b) The provisional license shall be in effect for a reasonable time, which time shall be specified in the provisional license.
- (c) Issuance of provisional licenses shall be in accordance with the published rules and regulations adopted by the division in accordance with this subchapter.

Credits

Acts of 1969, Act 434, § 6; [Acts of 1997, Act 1132, § 10](#).

Formerly A.S.A. 1947, § 83-906.

A.C.A. § 20-78-211, AR ST § 20-78-211

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A.C.A. § 20-78-212

§ 20-78-212. Licenses revoked upon relocation

Currentness

(a) A license for a child care facility shall apply only to the address and location stated on the application and license issued, and it shall not be transferable from one holder of the license to another or from one (1) place to another.

(b) If the location of a child care facility is changed or the owner of the child care facility is changed, then the license for that child care facility shall automatically be revoked upon such a change.

Credits

Acts of 1969, Act 434, § 7; [Acts of 1997, Act 1132, § 11](#).

Formerly A.S.A. 1947, § 83-907.

A.C.A. § 20-78-212, AR ST § 20-78-212

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A.C.A. § 20-78-213

§ 20-78-213. Denial, revocation, and suspension of licenses

[Currentness](#)

(a) The Division of Child Care and Early Childhood Education of the Department of Human Services shall have the power to deny, revoke, or suspend a license for a child care facility if an applicant or licensee has failed to comply with the provisions of this subchapter or any published rule or regulation of the division, subject to appeal before the Child Care Appeal Review Panel.

(b) If a license is denied, revoked, or suspended, the denial, revocation, or suspension shall be effective when made. The division shall notify the applicant or licensee of the action in writing and set out the basis for the denial, revocation, or suspension of the license.

Credits

Acts of 1969, Act 434, § 10; [Acts of 1997, Act 1132, § 12](#); [Acts of 1999, Act 1222, § 12, eff. April 8, 1999](#).

Formerly A.S.A. 1947, § 83-910.

[Notes of Decisions \(6\)](#)

A.C.A. § 20-78-213, AR ST § 20-78-213

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A.C.A. § 20-78-214

§ 20-78-214. Investigating child care facilities

Currentness

(a) The Division of Child Care and Early Childhood Education of the Department of Human Services or any other agency of the State of Arkansas which the division asks to assist it is authorized to make an inspection and investigation of any proposed or operating child care facility and of any personnel connected with that child care facility to the extent that an inspection and investigation is required to determine whether this child care facility will be or is being operated in accordance with this section and with the published rules and regulations of the division for child care facilities.

(b) However, the division or any other public agency having authority or responsibility with respect to child abuse shall have the authority to investigate any alleged or suspected child abuse in any child care facility. Nothing contained in this section shall be construed to limit or restrict that authority.

Credits

Acts of 1985, Act 697, § 1; [Acts of 1997, Act 1132, § 13](#).

Formerly A.S.A. 1947, § 83-908.1.

A.C.A. § 20-78-214, AR ST § 20-78-214

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A.C.A. § 20-78-215

§ 20-78-215. Sexual abuse of children

Currentness

(a)(1) By the enactment of this section, it is the specific intent of the General Assembly to ensure that the State of Arkansas may qualify for the maximum amount of federal funds made available through [Pub. L. No. 98-473](#) or any subsequent and related federal legislation enacted for use in reducing the incidence of child sexual abuse.

(2) Specifically, regulations promulgated by the Director of the Department of Human Services pursuant to this section may address federally mandated requirements for employment history and background checks and nationwide criminal record checks, as may be necessary in accordance with the provisions of [Pub. L. No. 92-544](#), for all operators, staff, or employees, or prospective operators, staff, or employees of the child care facilities or programs as defined in this section.

(b) In order to enable the State of Arkansas to fully participate and share in federal funds made available to the states through the Social Services Block Grant Act,¹ or otherwise for the purposes of reducing and eliminating the incidence of child sexual abuse in child care facilities, as defined in [§ 20-78-202\(2\)](#), the director is authorized at his or her discretion to promulgate, pursuant to the Arkansas Administrative Procedure Act, [§ 25-15-201 et seq.](#), rules and regulations implementing such federal requirements as may be placed upon the states to qualify for the funds.

(c) Persons, other than the State of Arkansas, shall not acquire actionable right by virtue of this section.

Credits

Acts of 1985, Act 1050, §§ 1 to 3; [Acts of 1997, Act 1132, § 14.](#)

Formerly A.S.A. 1947, §§ 83-927 to 83-929.

Footnotes

¹ [42 U.S.C.A. § 1397 et seq.](#)

A.C.A. § 20-78-215, AR ST § 20-78-215

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Subchapter 2. Child Care Facility Licensing Act (Refs & Annos)

A.C.A. § 20-78-216

§ 20-78-216. Records and periodic reports

Currentness

The Division of Child Care and Early Childhood Education of the Department of Human Services may by published rules and regulations require that a licensed child care facility keep and make available to the division records and periodic reports as shall be necessary to assist the division in determining whether the requirements of this subchapter and of the division's rules and regulations regarding child care facilities are being complied with.

Credits

Acts of 1969, Act 434, § 9; [Acts of 1997, Act 1132, § 15](#).

Formerly A.S.A. 1947, § 83-909.

A.C.A. § 20-78-216, AR ST § 20-78-216

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A.C.A. § 20-78-217

§ 20-78-217. Smoking

Currentness

(a) Whereas, health authorities have established that smoking is not conducive to good health and that children exposed to smoking face a potential health hazard, therefore, it is the intent of the Seventy-Fifth General Assembly to ban smoking in the physical confines of the day care centers licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services.

(b) The division is directed to promulgate sufficient regulations to ensure that state licensing requirements for day care center operations contain a stipulation which bans smoking within the physical confines of each day care center.

Credits

Acts of 1985, Act 862, §§ 1, 2; [Acts of 1997, Act 1132, § 16](#).

Formerly A.S.A. 1947, §§ 83-925, 83-926.

A.C.A. § 20-78-217, AR ST § 20-78-217

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A.C.A. § 20-78-218

§ 20-78-218. Administering provisions

Currentness

The Division of Child Care and Early Childhood Education of the Department of Human Services shall continue to be the administrative agency to administer the provisions of this subchapter in accordance with the rules, regulations, and standards for the licensing and operation of child care facilities as promulgated by the division.

Credits

Acts of 1987, Act 856, § 1; [Acts of 1997, Act 1132, § 17](#).

A.C.A. § 20-78-218, AR ST § 20-78-218

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A.C.A. § 20-78-219

§ 20-78-219. Fines and penalties--Disposition of funds

Effective: September 1, 2009

[Currentness](#)

(a) If any licensee fails to pay any monetary fine imposed as a civil penalty within sixty (60) days of the Division of Child Care and Early Childhood Education of the Department of Human Services' decision imposing the penalty, the amount of the fine shall be considered to be a debt owed the State of Arkansas and may be collected by civil action.

(b)(1) All fines and penalties collected under the provisions of this subchapter shall be special revenues to be deposited into the State Treasury to the credit of a special fund to be known as the "Child Care Fund", to be used by the division to meet the costs of conducting the statewide criminal records checks required under [§ 20-78-606](#) or to provide grants to child care facilities for enhancement of the child care facility or for training of personnel in child care facilities under the direction of the division.

(2) Subject to those rules and regulations as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Human Services is authorized to transfer all unexpended funds relative to the fines and penalties collected from child care facilities as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

Credits

Acts of 1987, Act 856, § 1; [Acts of 1997, Act 1132, § 18](#); [Acts of 2009, Act 762, § 9, eff. Sept. 1, 2009](#).

A.C.A. § 20-78-219, AR ST § 20-78-219

The constitution, and statutes are current through the end of the 2016 Second Extraordinary, 2016 Fiscal, and 2016 Third Extraordinary Sessions of the 90th Arkansas General Assembly, and include changes made by the Arkansas Code Revision Commission received through May 1, 2016.

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A.C.A. § 20-78-220

§ 20-78-220. Child maltreatment

Effective: July 31, 2009

[Currentness](#)

(a) If a juvenile is found to be abused or neglected due to the acts or omissions of a person other than the parent or guardian of the juvenile, the court may enter an order restraining or enjoining the person or facility employing that person from providing care, training, education, or supervision of juveniles of whom the person or facility is not the parent or guardian.

(b) If the person or facility restrained or enjoined was not subject to this subchapter, the court may order the person or facility to obtain a license from the Division of Child Care and Early Childhood Education of the Department of Human Services as a condition precedent to the person or facility providing care, training, education, or supervision of any juveniles of which the person or facility is not the parent or guardian. If the court so orders, this subchapter shall thereafter apply to the persons or facility subject to the court order.

(c)(1) Information pertaining to child maltreatment is confidential under the Child Maltreatment Act, [§ 12-18-101 et seq.](#)

(2) The division may receive information from any investigative agency on child maltreatment cases conducted within a child care facility and relative to licensure under this subchapter, including specific allegations, a factual description of the investigative findings, and the investigative determination.

(3) The division shall accept the investigative determinations of the appropriate investigative agencies for consideration in any action on child care facility licenses.

Credits

Acts of 1987, Act 745, § 1; [Acts of 1995, Act 1280, § 16, eff. April 13, 1995](#); [Acts of 1997, Act 1132, § 19](#); [Acts of 2009, Act 758, § 28, eff. July 31, 2009](#).

A.C.A. § 20-78-220, AR ST § 20-78-220

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A.C.A. § 20-78-221

§ 20-78-221. Registry and registration

Currentness

(a) **REGISTRY.** There shall be created a voluntary registry of day care family homes that are not required by this subchapter to be licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services. The registry shall be maintained by the division.

(b) **PROCEDURE FOR REGISTRATION.** Day care family homes exempt from licensure may voluntarily register the home with the registry established, operated, and maintained by the division. A person wishing to participate in the voluntary registry shall make an application to the division. Upon receipt of the application, the division shall review the applicant's written application, qualifications, and proposed operation to determine compliance with registry rules and regulations. The division shall issue a certificate of registration to the applicant which authorizes the applicant to operate a registered day care family home only upon final determination of an applicant's compliance with the rules and regulations established for registration.

(c) **RULES AND REGULATIONS.** (1) The division is authorized to establish rules and regulations that a day care family home shall meet in order to be registered by the Department of Human Services.

(2) The division shall have the right to enter and inspect a registered day care family home if there is reason to believe that the home is in violation of the registry rules and regulations and to ensure compliance with the rules and regulations established by the division.

(d) **REMOVAL OR DENIAL OF REGISTRATION.** If after review of the submitted application, it is determined that the day care family home is not in compliance with the rules and regulations for the registry as established by the division, the division shall immediately deny or remove the home from the registry. Upon removal from the registry, a day care family home may no longer be considered a registered home.

(e) **RIGHT TO APPEAL.** (1) A person whose registration has been denied or who is removed from the voluntary registry due to violation of rules and regulations may appeal the action to the department in accordance with Arkansas law and state rules and regulations.

(2) The appeal does not stay the denial or removal from the registry.

(f) RENEWAL OF REGISTRATION. (1) The registration of the day care family home shall continue in effect until removed as provided in this subchapter.

(2) The division shall have the right to investigate and inspect the premises when there is reason to believe that violations exist and to make sure that the home is still in compliance with the rules and regulations established for the voluntary registry of day care family homes.

(g) SURRENDER OF REGISTRATION. At any time, the owner of the registered day care family home may voluntarily surrender his or her certificate of registration. Upon surrender, that home shall be removed from the registry of day care family homes operated by the division.

Credits

Acts of 1989, Act 46, § 1; [Acts of 1997, Act 1132, § 20](#).

A.C.A. § 20-78-221, AR ST § 20-78-221

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A.C.A. § 20-78-222

§ 20-78-222. Continuing education

Currentness

(a)(1) All persons employed by a child care facility who work directly with children shall receive at least ten (10) hours per year of continuing early childhood education as approved by the Division of Child Care and Early Childhood Education of the Department of Human Services.

(2) Topics appropriate for continuing early childhood education shall include, but not be limited to, the following:

- (A) Child growth and development;
- (B) Nutrition and food service;
- (C) Parental communication and involvement;
- (D) Curricula and curriculum development;
- (E) Developmentally appropriate practice and learning environments;
- (F) Behavior management;
- (G) Emergency care and first aid; and
- (H) Administration and management of early childhood programs.

(b) Evidence satisfactory to the division of each employee's completion within the past twelve (12) months of continuing education shall be maintained by the child care facility as part of the child care facility's personnel records.

(c) The failure of a child care facility to comply with this requirement shall be grounds for the denial, revocation, or suspension of a license issued pursuant to this subchapter.

Credits

[Acts of 1993, Act 900, § 1](#); [Acts of 1995, Act 594, § 1](#); [Acts of 1997, Act 1132, § 21](#).

A.C.A. § 20-78-222, AR ST § 20-78-222

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A.C.A. § 20-78-223

§ 20-78-223. License fees--Disposition

Currentness

(a) The Division of Child Care and Early Childhood Education of the Department of Human Services shall not issue or maintain a license to a child care facility unless the license fee is paid at the annual licensing or renewal date. The license fee is:

- (1) Fifteen dollars (\$15.00) per year for child care facilities serving fewer than seventeen (17) children;
- (2) Fifty dollars (\$50.00) for child care facilities serving seventeen (17) to ninety-nine (99) children; and
- (3) One hundred dollars (\$100) per year for child care facilities serving one hundred (100) or more children.

(b) The division shall transmit the fees monthly to the Treasurer of State to be deposited as special revenues in the Child Care Fund.

Credits

[Acts of 1997, Act 1132, § 22.](#)

A.C.A. § 20-78-223, AR ST § 20-78-223

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A.C.A. § 20-78-224

§ 20-78-224. Child Care Fund

Currentness

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, the Child Care Fund, to be administered by the Division of Child Care and Early Childhood Education of the Department of Human Services.

(b) The division shall certify each month the amount of fees collected and deposited to the fund and shall transmit, from funds appropriated for the maintenance and operation of the division, an amount of money equal to one-half (½) of the fees transmitted to the Treasurer of State.

Credits

[Acts of 1997, Act 1132, § 22.](#)

A.C.A. § 20-78-224, AR ST § 20-78-224

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A.C.A. § 20-78-225

§ 20-78-225. Child safety alarm devices

Currentness

(a) All agencies or child care facilities licensed by the Department of Human Services under this subchapter or [§ 9-28-401 et seq.](#) that transport children shall have approved child safety alarm devices installed on any vehicles designed or used to transport more than seven (7) passengers and one (1) driver.

(b)(1) All such vehicles in active child transportation service prior to July 1, 2005, shall have a child safety alarm device installed by a qualified technician or mechanic no later than December 31, 2005.

(2) On or after July 1, 2005, each newly acquired vehicle placed in child transportation service shall have a child safety alarm installed before placing the vehicle into service.

(3) Any agencies or child care facilities required to have approved child safety alarm devices installed in a vehicle shall ensure that the devices are maintained and are in proper working order any time that the vehicle is in use for transporting children.

(c) The department shall:

(1) Maintain a list of approved child safety alarm devices; and

(2) Promulgate rules as necessary for the proper implementation of this section.

(d) Contingent upon the availability of funding for this purpose, the department may provide reimbursement to agencies or child care facilities required under this section to retrofit vehicles in service prior to July 1, 2005, but the requirement to have approved child safety alarm devices in vehicles as required under this section shall not be contingent on the availability of funding or upon an agency's or a child care facility's eligibility for reimbursement.

Credits

[Acts of 2005, Act 1979, § 3, eff. April 11, 2005.](#)

A.C.A. § 20-78-225, AR ST § 20-78-225

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A.C.A. § 20-78-226

§ 20-78-226. Violation

Currentness

(a) It shall be unlawful to transport children in a vehicle that is required to have an approved child safety alarm device as provided under § 20-78-225 if the approved child safety alarm device:

- (1) Has not been installed;
- (2) Is not in proper working condition; or
- (3) Has been disconnected.

(b) Any person who knowingly violates the provisions of this section shall be guilty of a Class A misdemeanor.

Credits

Acts of 2005, Act 1979, § 4, eff. April 11, 2005.

A.C.A. § 20-78-226, AR ST § 20-78-226

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A.C.A. § 20-78-227

§ 20-78-227. Liability insurance and driver training requirements

Effective: February 6, 2015

[Currentness](#)

(a) The purpose of this section is to enhance safe and responsible passenger transportation of children in child care by requiring appropriate liability insurance and driver training.

(b)(1) The Division of Child Care and Early Childhood Education of the Department of Human Services, in collaboration with the State Insurance Department, shall develop and promulgate rules requiring sufficient and appropriate minimum levels of general liability insurance coverage for licensed child care centers and licensed and registered child care family homes, including coverage for transportation services when applicable.

(2) A state institution, political subdivision, or other entity that is entitled to immunity from liability under [§ 21-9-301](#) is not required to have general liability insurance coverage in order to be licensed.

(c) The division shall promulgate rules requiring all drivers of vehicles transporting children on behalf of licensed child care centers and licensed and registered child care family homes to complete a comprehensive program of driver safety training.

Credits

[Acts of 2009, Act 778, §§ 1, 2, eff. April 3, 2009](#); [Acts of 2015, Act 23, § 1, eff. Feb. 6, 2015](#).

A.C.A. § 20-78-227, AR ST § 20-78-227

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A.C.A. § 20-78-228

§ 20-78-228. Child care facility floor plan on file with the emergency management coordinator

Effective: July 22, 2015

[Currentness](#)

(a)(1) As used in this section, “floor plan” means a document containing:

- (A) A schematic drawing of facilities and property used by the child care facility, including the configuration of rooms, spaces, and other physical features of buildings;
- (B) The location or locations where children enrolled in child care spend time regularly;
- (C) The escape routes approved by the local fire department for the child care facility or facilities;
- (D) The ages of children served by the child care facility;
- (E) The licensed capacity of children enrolled in the child care facility; and
- (F) The contact information for at least two (2) emergency contacts for the child care facility.

(2) An aerial view of the child care facility and property used by the child care facility shall be included with the floor plan if available.

(b) A child care facility licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services under this subchapter or the Child Welfare Agency Licensing Act, [§ 9-28-401 et seq.](#), shall file a copy of the child care facility's floor plan with the emergency management coordinator through the statewide Smart911 system for the local office of emergency management or the inter-jurisdictional office of emergency management that serves the area where the child care facility is located within:

- (1) Thirty (30) days of receiving a license; and
- (2) Thirty (30) days of a change or modification to the floor plan.

(c) The emergency management coordinator shall ensure that the child care facility's floor plan submitted under subsection (b) of this section is available at the 911 public safety communications center and the local office of emergency management or the interjurisdictional office of emergency management that serves the area where the child care facility is located.

(d) The Department of Human Services shall adopt rules as necessary to implement this section.

Credits

[Acts of 2013, Act 1159, § 2, eff. Aug. 16, 2013](#); [Acts of 2015, Act 950, § 2, eff. July 22, 2015](#).

A.C.A. § 20-78-228, AR ST § 20-78-228

The constitution, and statutes are current through the end of the 2016 Second Extraordinary, 2016 Fiscal, and 2016 Third Extraordinary Sessions of the 90th Arkansas General Assembly, and include changes made by the Arkansas Code Revision Commission received through May 1, 2016.

End of Document

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