

COMMITTEE ON HEALTH & HUMAN SERVICES
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2227
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 36-883.02, Arizona Revised Statutes, is amended
3 to read:

4 36-883.02. Child care personnel; fingerprints; exemptions;
5 definition

6 A. Except as provided in subsection B of this section, child care
7 personnel, including volunteers, shall submit the form prescribed in
8 subsection C of this section to the employer and shall have valid
9 fingerprint clearance cards issued pursuant to section 41-1758.07 before
10 starting employment or volunteer work.

11 B. Exempt from the fingerprinting requirements of subsection A of
12 this section are parents, including foster parents and guardians, who are
13 not employees of the child care facility and who participate in activities
14 with their children under the supervision of and in the presence of child
15 care personnel.

16 C. Applicants, licensees and child care personnel shall attest on
17 forms that are provided by the department that:

18 1. They are not awaiting trial on or have never been convicted of or
19 admitted in open court or pursuant to a plea agreement committing any of
20 the offenses listed in section 41-1758.07, subsection B in this state or
21 similar offenses in another state or jurisdiction.

22 2. They are not parents or guardians of a child adjudicated to be a
23 dependent child as defined in section 8-201.

1 3. They have not been denied or had revoked a certificate to operate
2 a child care group home or a license to operate a child care facility in
3 this or any other state or that they have not been denied or had revoked a
4 certification to work in a child care facility or child care group home.

5 D. Employers of child care personnel shall make documented, good
6 faith efforts to contact previous employers of child care personnel to
7 obtain information or recommendations that may be relevant to an
8 individual's fitness for employment in a child care facility.

9 E. The forms required by subsection C of this section are
10 confidential.

11 F. A child care facility shall not allow a person to be employed or
12 volunteer in the facility in any capacity if the person has been denied a
13 fingerprint clearance card pursuant to section 41-1758.07 or has not
14 received an interim approval from the board of fingerprinting pursuant to
15 section 41-619.55, subsection I.

16 G. The employer shall notify the department of public safety if the
17 employer receives credible evidence that any child care personnel either:

18 1. Is arrested for or charged with an offense listed in section
19 41-1758.07, subsection B.

20 2. Falsified information on the form required by subsection C of
21 this section.

22 H. For the purposes of this section, "child care personnel" means
23 any employee or volunteer working at a child care facility **OR AT AN**
24 **OUT-OF-SCHOOL TIME PROGRAM PROVIDER THAT IS REGISTERED PURSUANT TO SECTION**
25 **36-884.01.**

26 Sec. 2. Section 36-884, Arizona Revised Statutes, is amended to
27 read:

28 **36-884. Exemptions**

29 This article does not apply to the care given to children by or in:

30 1. The homes of parents or blood relatives.

1 2. A religious institution conducting a nursery in conjunction with
2 its religious services or conducting parent-supervised occasional drop-in
3 care.

4 3. A unit of the public school system, including specialized
5 professional services provided by school districts for the sole purpose of
6 meeting mandated requirements to address the physical and mental
7 impairments prescribed in section 15-771. If a public school provides
8 child care other than during the school's regular hours or for children who
9 are not regularly enrolled in kindergarten programs or grades one through
10 twelve, that portion of the school that provides child care is subject to
11 standards of care prescribed pursuant to section 36-883.04.

12 4. A regularly organized private school engaged in an educational
13 program that may be attended in substitution for public school pursuant to
14 section 15-802. If the school provides child care beyond regular public
15 school hours or for children who are not regularly enrolled in kindergarten
16 programs or grades one through twelve, that portion of the school providing
17 such care shall be considered a child care facility and is subject to this
18 article.

19 5. Any facility that provides training only in specific subjects,
20 including dancing, drama, music, self-defense or religion and tutoring
21 provided by public schools solely to improve school performance.

22 6. Any facility that provides only recreational or instructional
23 activities to ~~school-age~~ SCHOOL-AGE children who may enter into and depart
24 from the facility at their own volition. The facility may require the
25 children to document their entrance into and departure from the facility.
26 This documentation does not affect the exemption under this paragraph. The
27 facility shall post a notice stating it is not a licensed child care
28 facility under section 36-882.

29 7. AN OUT-OF-SCHOOL TIME PROGRAM PROVIDER THAT MEETS ALL OF THE
30 FOLLOWING REQUIREMENTS:

31 (a) OPERATES PRIMARILY DURING AFTER SCHOOL, BEFORE SCHOOL OR IN THE
32 SUMMER OR AT TIMES WHEN SCHOOL IS NOT NORMALLY IN SESSION.

1 (b) SERVES ONLY SCHOOL-AGE CHILDREN.

2 (c) IS ORGANIZED TO PROMOTE EXPANDED CHILDHOOD LEARNING, ENRICHMENT,
3 CHILD AND YOUTH DEVELOPMENT OR EDUCATIONAL, RECREATIONAL OR
4 CHARACTER-BUILDING ACTIVITIES.

5 (d) ADOPTS STANDARDS FOR THE PROGRAM THAT, AT A MINIMUM, INCLUDE
6 MINIMUM STAFF-TO-YOUTH RATIOS, STAFF TRAINING, APPLICABLE STATE AND LOCAL
7 HEALTH AND SAFETY STANDARDS AND MECHANISMS FOR ASSESSING AND ENFORCING THE
8 PROGRAM'S COMPLIANCE WITH THE STANDARDS.

9 (e) CONDUCTS STATE AND NATIONAL ANNUAL CRIMINAL BACKGROUND CHECKS,
10 SEX OFFENDER REGISTRY CHECKS AND CHILD ABUSE AND NEGLECT REGISTRY CHECKS
11 FOR ALL EMPLOYEES AND BOARD MEMBERS AND FOR VOLUNTEERS WHO WORK WITH
12 CHILDREN.

13 ~~7.~~ 8. Any of the Arizona state schools for the deaf and the blind.

14 ~~8.~~ 9. A facility that provides only educational instruction for
15 children who are at least three and not older than six years of age if all
16 the following are true:

17 (a) The facility instructs only in the core subjects of math,
18 reading and science.

19 (b) The facility does not accept state-subsidized tuition for the
20 children.

21 (c) A child is present at the facility for not more than two and
22 one-quarter hours a day and not more than three days a week.

23 (d) The instruction is not provided in place of care ordinarily
24 provided by a parent or guardian.

25 (e) The facility posts a notice that the facility is not licensed
26 under this article.

27 (f) The facility requires fingerprint cards of all personnel
28 pursuant to section 36-883.02.

29 ~~9.~~ 10. A facility that operates a day camp that provides
30 recreational programs to children if all of the following are true:

31 (a) The day camp is accredited by a nationally recognized
32 accrediting organization for day camps as approved by the department.

1 (b) The day camp operates for less than twenty-four hours a day and
2 less than ten weeks each calendar year.

3 (c) The day camp posts a notice at the facility and on its website
4 that it is not licensed under the laws of this state as a child care
5 facility.

6 (d) The day camp provides programs only to children who are at least
7 five years of age.

8 (e) The day camp requires fingerprint cards of all personnel
9 pursuant to section 36-883.02.

10 Sec. 3. Title 36, chapter 7.1, article 1, Arizona Revised Statutes,
11 is amended by adding section 36-884.01, to read:

12 36-884.01. Registration for out-of-school time program
13 providers; requirements

14 A. THE DEPARTMENT MAY REGISTER AN OUT-OF-SCHOOL TIME PROGRAM
15 PROVIDER THAT IS EXEMPT FROM LICENSURE PURSUANT TO SECTION 36-884,
16 PARAGRAPH 7 AND THAT SEEKS TO RECEIVE CHILD CARE ASSISTANCE THROUGH CHILD
17 CARE AND DEVELOPMENT FUND MONIES THAT THIS STATE RECEIVES IF THE PROVIDER
18 MEETS ALL OF THE FOLLOWING:

19 1. IS IN COMPLIANCE WITH HEALTH AND SAFETY REQUIREMENTS ESTABLISHED
20 BY THE PROVIDER'S NATIONAL GOVERNING BOARD.

21 2. CONDUCTS PROGRAMS OR PORTIONS OF PROGRAMS THAT OPERATE PRIMARILY
22 DURING TIMES WHEN SCHOOL IS NOT NORMALLY IN SESSION.

23 3. SERVES ONLY SCHOOL-AGE CHILDREN.

24 4. IS ORGANIZED TO PROMOTE EXPANDED CHILDHOOD LEARNING, ENRICHMENT,
25 CHILD AND YOUTH DEVELOPMENT OR EDUCATIONAL, RECREATIONAL OR
26 CHARACTER-BUILDING ACTIVITIES.

27 5. ADOPTS STANDARDS FOR ITS PROGRAMS THAT, AT A MINIMUM, INCLUDE AT
28 LEAST ONE YOUTH DEVELOPMENT PROFESSIONAL PER TWENTY YOUTH, STAFF TRAINING,
29 APPLICABLE STATE AND LOCAL HEALTH AND SAFETY STANDARDS AND MECHANISMS FOR
30 ASSESSING AND ENFORCING THE PROGRAM'S COMPLIANCE WITH THE STANDARDS.

1 6. CONDUCTS STATE AND NATIONAL ANNUAL CRIMINAL BACKGROUND CHECKS,
2 SEX OFFENDER REGISTRY CHECKS AND CHILD ABUSE AND NEGLECT REGISTRY CHECKS
3 FOR ALL EMPLOYEES AND BOARD MEMBERS AND FOR VOLUNTEERS WHO WORK WITH
4 CHILDREN AND MAKES SCREENING AND HIRING DECISIONS BASED ON THE OUTCOMES OF
5 THOSE CHECKS.

6 7. REQUIRES FINGERPRINT CLEARANCE CARDS FOR ALL EMPLOYEES AND
7 VOLUNTEERS WORKING AT THE OUT-OF-SCHOOL TIME PROGRAM.

8 8. REGULARLY TRAINS ALL EMPLOYEES IN CARDIOPULMONARY RESUSCITATION
9 AND FIRST AID.

10 9. REQUIRES THAT ALL OF ITS EMPLOYEES ARE MANDATED CHILD ABUSE
11 REPORTERS.

12 10. MAINTAINS HEALTH AND SAFETY POLICIES AND PROCEDURES FOR ALL OF
13 THE FOLLOWING:

14 (a) CHILD ABUSE PREVENTION AND RESPONSE, INCLUDING GUIDANCE ON
15 STAFF-TO-CHILD RATIOS AND PROHIBITION OF PRIVATE ONE-ON-ONE INTERACTIONS
16 BETWEEN YOUTH AND STAFF, VOLUNTEERS AND BOARD MEMBERS.

17 (b) A WORKPLACE AND LEARNING ENVIRONMENT THAT IS DRUG FREE AND
18 ALCOHOL FREE.

19 (c) INTERNAL INCIDENT REPORTING AND INVESTIGATION.

20 (d) EMERGENCY PREPAREDNESS AND RESPONSE.

21 (e) TRANSPORTATION, IF APPLICABLE.

22 (f) ACCEPTABLE USES OF TECHNOLOGY, INCLUDING PROHIBITING
23 INAPPROPRIATE TECHNOLOGY-BASED INTERACTIONS BETWEEN YOUTH AND STAFF,
24 VOLUNTEERS, BOARD MEMBERS AND OTHER YOUTH DURING AND AFTER PROGRAM HOURS.

25 (g) COMMUNICATION DURING EMERGENCIES.

26 11. OBTAINS AND MAINTAINS RECORDS, CONSISTENT WITH THE PROVIDER'S
27 CONFIDENTIALITY POLICIES, THAT INCLUDE FOR EACH CHILD:

28 (a) THE FIRST AND LAST NAME AND DATE OF BIRTH.

29 (b) THE NAME, ADDRESS AND TELEPHONE NUMBER OF EACH PARENT.

30 (c) EMERGENCY CONTACT INFORMATION.

31 (d) WRITTEN AUTHORIZATION FOR MEDICAL CARE.

32 (e) RECORDS, VERIFIED BY STAFF, OF PROGRAM ATTENDANCE.

1 (f) RECORDS OF SERIOUS INJURIES AND DEATHS.

2 12. MAINTAINS, FOR EACH PROVIDER OPERATING A PROGRAM, COMPREHENSIVE,
3 GENERAL LIABILITY AND SEXUAL MISCONDUCT INSURANCE, EACH WITH A MINIMUM
4 POLICY LIMIT OF \$1,000,000 PER OCCURRENCE AND \$3,000,000 AGGREGATE.

5 13. HAS NOT HAD A CHILD CARE FACILITY LICENSE EITHER DENIED IN THE
6 PRECEDING TWELVE MONTHS OR REVOKED IN THE PRECEDING FIVE YEARS PURSUANT TO
7 THIS ARTICLE.

8 B. EACH REGISTERED OUT-OF-SCHOOL TIME PROGRAM PROVIDER SHALL FILE
9 WITH THE DEPARTMENT THE MOST CURRENT HEALTH AND SAFETY REQUIREMENTS
10 ESTABLISHED BY THE PROVIDER'S NATIONAL GOVERNING BOARD.

11 C. THE DEPARTMENT OR ITS DESIGNEE MAY VISIT AND INSPECT A REGISTERED
12 OUT-OF-SCHOOL TIME PROGRAM PROVIDER DURING ITS HOURS OF OPERATION TO
13 DETERMINE IF THE PROVIDER COMPLIES WITH THIS SECTION AND ANY APPLICABLE
14 HEALTH AND SAFETY STANDARDS ESTABLISHED BY THE DEPARTMENT FOR OUT-OF-SCHOOL
15 TIME PROGRAM PROVIDERS SERVING SCHOOL-AGE CHILDREN. THE DEPARTMENT SHALL
16 MAKE AT LEAST ONE UNANNOUNCED VISIT ANNUALLY.

17 D. THE DEPARTMENT MAY DENY, SUSPEND OR REVOKE A REGISTRATION FOR A
18 VIOLATION OF THIS SECTION OR ANY APPLICABLE HEALTH AND SAFETY STANDARDS
19 ESTABLISHED BY THE DEPARTMENT FOR OUT-OF-SCHOOL TIME PROGRAM PROVIDERS
20 SERVING SCHOOL-AGE CHILDREN. AT LEAST THIRTY DAYS BEFORE THE DEPARTMENT
21 DENIES, REVOKES OR SUSPENDS A REGISTRATION THE DEPARTMENT SHALL MAIL THE
22 APPLICANT OR REGISTERED OUT-OF-SCHOOL TIME PROGRAM PROVIDER A NOTICE OF
23 THAT PROVIDER'S RIGHT TO A HEARING. THE DEPARTMENT SHALL ISSUE THIS NOTICE
24 BY REGISTERED MAIL WITH RETURN RECEIPT REQUESTED. THE NOTICE SHALL STATE
25 THE HEARING DATE AND THE FACTS CONSTITUTING THE REASONS FOR THE
26 DEPARTMENT'S ACTION AND SHALL CITE THE SPECIFIC STATUTE OR RULE THE
27 PROVIDER IS VIOLATING.

28 E. IF THE REGISTERED OUT-OF-SCHOOL TIME PROGRAM PROVIDER DOES NOT
29 RESPOND TO THE WRITTEN NOTICE, THE DEPARTMENT, AT THE EXPIRATION OF THE
30 TIME FIXED IN THE NOTICE, SHALL TAKE THE ACTION PRESCRIBED IN THE NOTICE.
31 IF THE PROVIDER, WITHIN THE PERIOD FIXED IN THE NOTICE, CONFORMS THE
32 APPLICATION OR THE OPERATION OF THE PROVIDER TO THE APPLICABLE STATUTE OR

1 RULE, THE DEPARTMENT MAY GRANT THE REGISTRATION OR WITHDRAW THE NOTICE OF
2 SUSPENSION OR REVOCATION.

3 F. IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, EACH REGISTERED
4 OUT-OF-SCHOOL TIME PROGRAM PROVIDER SHALL COMPLY WITH:

5 1. APPLICABLE HEALTH AND SAFETY STANDARDS ESTABLISHED BY THE
6 DEPARTMENT FOR OUT-OF-SCHOOL TIME PROGRAM PROVIDERS SERVING SCHOOL-AGE
7 CHILDREN.

8 2. ANY STATE TRACKING AND REPORTING SYSTEM REQUIRED TO RECEIVE CHILD
9 CARE ASSISTANCE THROUGH CHILD CARE AND DEVELOPMENT FUND MONIES THAT THIS
10 STATE RECEIVES.

11 Sec. 4. Section 46-801, Arizona Revised Statutes, is amended to
12 read:

13 46-801. Definitions

14 In this chapter, unless the context otherwise requires:

15 1. "Caretaker relative" means a relative who exercises
16 responsibility for the day-to-day physical care, guidance and support of a
17 child who physically resides with the relative and who is by affinity or
18 consanguinity or by court decree a grandparent, great-grandparent, sibling
19 of the whole or half blood, stepbrother, stepsister, aunt, uncle,
20 great-aunt, great-uncle or first cousin.

21 2. "Cash assistance" has the same meaning prescribed in section
22 46-101.

23 3. "Child" means a person who is under thirteen years of age.

24 4. "Child care" means the compensated service that is provided to a
25 child who is unaccompanied by a parent or guardian during a portion of a
26 ~~twenty-four-hour~~ TWENTY-FOUR-HOUR day.

27 5. "Child care assistance" means any money payments for child care
28 services that are paid by the department and that are paid for the benefit
29 of an eligible family.

30 6. "Child care home provider" means a person who is at least
31 eighteen years of age, who is not the parent, guardian, caretaker relative
32 or noncertified relative provider of a child needing child care and who is

1 certified by the department to care for four or fewer children for
2 compensation with child care assistance monies.

3 7. "Child care providers" means child care facilities THAT ARE
4 licensed pursuant to title 36, chapter 7.1, article 1, OUT-OF-SCHOOL TIME
5 PROGRAM PROVIDERS THAT ARE REGISTERED PURSUANT TO SECTION 36-884.01, child
6 care group homes THAT ARE certified pursuant to title 36, chapter 7.1,
7 article 4, child care home providers, in-home providers, noncertified
8 relative providers and regulated child care on military installations or
9 for federally recognized Indian tribes.

10 8. "Eligible family" means citizens or legal residents of the United
11 States or individuals who are otherwise lawfully present in the United
12 States and who are parents, legal guardians or caretaker relatives with
13 legal residence in this state and children in their care who meet the
14 eligibility requirements for child care assistance.

15 9. "Federal poverty level" means the poverty guidelines that are
16 issued by the United States department of health and human services
17 pursuant to section 673(2) of the omnibus budget reconciliation act of 1981
18 and that are reported annually in the federal register.

19 10. "In-home provider" means a provider who is certified by the
20 department to care for a child of an eligible family in the child's own
21 home and is compensated with child care assistance monies.

22 11. "Noncertified relative provider" means a person who is at least
23 eighteen years of age, who provides child care services to an eligible
24 child, who is by affinity or consanguinity or by court decree the
25 grandparent, great-grandparent, sibling not residing in the same household,
26 aunt, great-aunt, uncle or great-uncle of the eligible child and who meets
27 the department's requirements to be a noncertified relative provider.

28 12. "Parent" or "parents" means the natural or adoptive parents of a
29 child.

