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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2176

02/25/2014 Authored by Yarusso and Isaacson

The bill was read for the first time and referred to the Committee on Early Childhood and Youth Development Policy

03/10/2014 Adoption of Report: Re-referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to early childhood education; providing for Montessori early childhood
1.3 programs; amending Minnesota Statutes 2012, section 245A.03, subdivision 2;
1.4 proposing coding for new law in Minnesota Statutes, chapter 124D.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[124D.170] MONTESSORI EARLY CHILDHOOD PROGRAMS.**

1.7 Subdivision 1. **Programs.** (a) A program accredited by the Association Montessori
1.8 Internationale/USA to serve children ages eight weeks through age five is exempt from
1.9 licensing under chapter 245A.

1.10 (b) An accredited program under paragraph (a) may operate with approval by the
1.11 commissioner of education if the program satisfies the following requirements:

1.12 (1) the program submits a three-year plan that is approved by the commissioner in
1.13 the form and manner prescribed by the commissioner;

1.14 (2) the program provides a copy of the Association Montessori Internationale/USA
1.15 current accreditation to the commissioner;

1.16 (3) compliance with state and local fire codes under section 299F.011;

1.17 (4) compliance with Minnesota Rules, parts 9503.0065, 9503.0110, 9503.0140,
1.18 9503.0145, 9503.0150, and 9503.0155; and

1.19 (5) the program confirms that criminal background checks have been completed
1.20 for all current and prospective employees, volunteers, and contractors not under direct
1.21 supervision.

1.22 Subd. 2. **Approval process.** (a) A program under subdivision 1, paragraph (a), may
1.23 not operate unless approved by the commissioner.

2.1 (b) An approved program under subdivision 1, paragraph (b), must post the
2.2 commissioner's approval letter in a conspicuous location.

2.3 Subd. 3. **Background checks.** (a) The commissioner of education must request
2.4 a criminal history background check from the superintendent of the Bureau of Criminal
2.5 Apprehension on all individuals who are offered employment in a program approved
2.6 under this section. The background check request must be accompanied by:

2.7 (1) an executed criminal history consent form, including fingerprints; and
2.8 (2) a money order or cashier's check payable to the Bureau of Criminal Apprehension
2.9 for the fee for conducting the criminal history background check.

2.10 (b) The superintendent of the Bureau of Criminal Apprehension shall perform the
2.11 background check required under paragraph (a) by retrieving criminal history data as
2.12 defined in section 13.87, and shall also conduct a search of the national criminal records
2.13 repository. The superintendent is authorized to exchange fingerprints with the Federal
2.14 Bureau of Investigation for purposes of the criminal history check. The superintendent
2.15 shall recover the cost to the bureau of a background check through the fee charged to
2.16 the applicant under paragraph (a).

2.17 Subd. 4. **Commissioner's right of access.** To investigate questions or issues
2.18 relating to submitted plans or reports, the commissioner must be given access by programs
2.19 to the physical plant and grounds where the program is provided, documents and records,
2.20 including records maintained in electronic format, persons served by the program, and
2.21 staff whenever the program is in operation and the information is relevant to investigations
2.22 conducted by the commissioner. The commissioner must be given access without prior
2.23 notice and as often as the commissioner considers necessary if the commissioner is
2.24 investigating alleged maltreatment, conducting an inspection of compliance with the
2.25 requirements of this section, or investigating a violation of applicable laws or rules. When
2.26 conducting inspections, the commissioner may request and shall receive assistance from
2.27 other state, county, and municipal governmental agencies and departments. The approved
2.28 program provider shall allow the commissioner to photocopy, photograph, and make audio
2.29 and video tape recordings during the inspection of the program at the commissioner's
2.30 expense. The commissioner shall obtain a court order or the consent of the subject of
2.31 the records or the parents or legal guardian of the subject before photocopying hospital
2.32 medical records.

2.33 Sec. 2. Minnesota Statutes 2012, section 245A.03, subdivision 2, is amended to read:

2.34 Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

3.1 (1) residential or nonresidential programs that are provided to a person by an
3.2 individual who is related unless the residential program is a child foster care placement
3.3 made by a local social services agency or a licensed child-placing agency, except as
3.4 provided in subdivision 2a;

3.5 (2) nonresidential programs that are provided by an unrelated individual to persons
3.6 from a single related family;

3.7 (3) residential or nonresidential programs that are provided to adults who do
3.8 not abuse chemicals or who do not have a chemical dependency, a mental illness, a
3.9 developmental disability, a functional impairment, or a physical disability;

3.10 (4) sheltered workshops or work activity programs that are certified by the
3.11 commissioner of employment and economic development;

3.12 (5) programs operated by a public school for children 33 months or older;

3.13 (6) nonresidential programs primarily for children that provide care or supervision
3.14 for periods of less than three hours a day while the child's parent or legal guardian is in
3.15 the same building as the nonresidential program or present within another building that is
3.16 directly contiguous to the building in which the nonresidential program is located;

3.17 (7) nursing homes or hospitals licensed by the commissioner of health except as
3.18 specified under section 245A.02;

3.19 (8) board and lodge facilities licensed by the commissioner of health that do not
3.20 provide children's residential services under Minnesota Rules, chapter 2960, mental health
3.21 or chemical dependency treatment;

3.22 (9) homes providing programs for persons placed by a county or a licensed agency
3.23 for legal adoption, unless the adoption is not completed within two years;

3.24 (10) programs licensed by the commissioner of corrections;

3.25 (11) recreation programs for children or adults that are operated or approved by a park
3.26 and recreation board whose primary purpose is to provide social and recreational activities;

3.27 (12) programs operated by a school as defined in section 120A.22, subdivision 4;
3.28 YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as
3.29 defined in section 315.51, whose primary purpose is to provide child care or services to
3.30 school-age children;

3.31 (13) Head Start nonresidential programs which operate for less than 45 days in
3.32 each calendar year;

3.33 (14) noncertified boarding care homes unless they provide services for five or more
3.34 persons whose primary diagnosis is mental illness or a developmental disability;

4.1 (15) programs for children such as scouting, boys clubs, girls clubs, and sports and
4.2 art programs, and nonresidential programs for children provided for a cumulative total of
4.3 less than 30 days in any 12-month period;

4.4 (16) residential programs for persons with mental illness, that are located in hospitals;

4.5 (17) the religious instruction of school-age children; Sabbath or Sunday schools; or
4.6 the congregate care of children by a church, congregation, or religious society during the
4.7 period used by the church, congregation, or religious society for its regular worship;

4.8 (18) camps licensed by the commissioner of health under Minnesota Rules, chapter
4.9 4630;

4.10 (19) mental health outpatient services for adults with mental illness or children
4.11 with emotional disturbance;

4.12 (20) residential programs serving school-age children whose sole purpose is cultural
4.13 or educational exchange, until the commissioner adopts appropriate rules;

4.14 (21) community support services programs as defined in section 245.462, subdivision
4.15 6, and family community support services as defined in section 245.4871, subdivision 17;

4.16 (22) the placement of a child by a birth parent or legal guardian in a preadoptive
4.17 home for purposes of adoption as authorized by section 259.47;

4.18 (23) settings registered under chapter 144D which provide home care services
4.19 licensed by the commissioner of health to fewer than seven adults;

4.20 (24) chemical dependency or substance abuse treatment activities of licensed
4.21 professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart
4.22 15, when the treatment activities are not paid for by the consolidated chemical dependency
4.23 treatment fund;

4.24 (25) consumer-directed community support service funded under the Medicaid
4.25 waiver for persons with developmental disabilities when the individual who provided
4.26 the service is:

4.27 (i) the same individual who is the direct payee of these specific waiver funds or paid
4.28 by a fiscal agent, fiscal intermediary, or employer of record; and

4.29 (ii) not otherwise under the control of a residential or nonresidential program that is
4.30 required to be licensed under this chapter when providing the service; or

4.31 (26) a program serving only children who are age 33 months or older, that is
4.32 operated by a nonpublic school, for no more than four hours per day per child, with no
4.33 more than 20 children at any one time, and that is accredited by:

4.34 (i) an accrediting agency that is formally recognized by the commissioner of
4.35 education as a nonpublic school accrediting organization; or

5.1 (ii) an accrediting agency that requires background studies and that receives and
5.2 investigates complaints about the services provided; and
5.3 (27) a Montessori early childhood program that is approved by the commissioner of
5.4 education under section 124D.170.

5.5 A program that asserts its exemption from licensure under item (ii) shall, upon
5.6 request from the commissioner, provide the commissioner with documentation from the
5.7 accrediting agency that verifies: that the accreditation is current; that the accrediting
5.8 agency investigates complaints about services; and that the accrediting agency's standards
5.9 require background studies on all people providing direct contact services.

5.10 (b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a
5.11 building in which a nonresidential program is located if it shares a common wall with the
5.12 building in which the nonresidential program is located or is attached to that building by
5.13 skyway, tunnel, atrium, or common roof.

5.14 (c) Except for the home and community-based services identified in section
5.15 245D.03, subdivision 1, nothing in this chapter shall be construed to require licensure for
5.16 any services provided and funded according to an approved federal waiver plan where
5.17 licensure is specifically identified as not being a condition for the services and funding.