

governmental department, upon approval of the appointing authority, in excess of any personnel limitation otherwise established by law.

Approved May 26, 1971.

CHAPTER 539—S.F.No.862

[Coded in Part]

An act relating to welfare; licensure of foster care and day care facilities; providing penalties; amending Minnesota Statutes 1969, Sections 257.081, 257.082, 257.101, 257.111, 257.123, Chapter 257, by adding sections; and repealing Minnesota Statutes 1969, Sections 257.111, Subdivisions 2, 3, 4, 5, and 6; 257.121, 257.13, 257.14, and 257.15.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 257.081, is amended to read:

257.081 PUBLIC WELFARE; FOSTER AND DAY CARE FACILITIES; LICENSING; DEFINITIONS. Subdivision 1. For the purposes of sections 257.081 to 257.123 the terms defined shall have the meanings ascribed to them.

Subd. 2. "Agency" means any individual, organization, association, or corporation giving needed service or assistance to children in their own homes or receiving children unable to remain in their own homes and placing them in foster care. It includes any social service department of a child-caring institution which carries these responsibilities, or gives the services here described.

Subd. 3. "Person" includes association, corporation, partnership, any political subdivision of the state, and any agency, board, or department of such a political subdivision.

Subd. 4. ~~(1) Except as provided in subdivision 4(2) a "Facility for foster care" means any facility which for gain or otherwise regularly provides one or more children, when unaccompanied by their parents, with a substitute for the care, food, lodging, training, education, supervision or treatment they need but which for any reason cannot be furnished by their parents in their homes. This includes but is not limited to the following: an institution, detention home, boarding home, free home, work home, children's home, day care home, day nursery, nursery school, or school for handicapped children.~~

~~(2) A facility for foster care does not include the following:~~

Changes or additions indicated by underline, deletions by ~~strikeout~~.

~~(a) A home caring for a child placed there for legal adoption unless legal adoption is not completed within two years after placement;~~

~~(b) A home caring for children from no more than one family for a period of less than 30 days;~~

~~(c) A home caring for children related to the operator thereof by blood or marriage;~~

~~(d) A school which in the judgment of the commissioner of public welfare operates for the primary purpose of educating children, rather than for the primary purpose of providing a needed substitute for the care, supervision, food, lodging, education, treatment or training provided most children in their own homes;~~

~~(e) A facility for foster care under the management and control of the commissioner of public welfare, or the Youth Conservation Commission.~~

Subd. 5. "Placing children in foster care" means placing children in any of the following foster care facilities: boarding home; work home; free home; group home; day boarding home; day nursery or institution. It also means placement in a private home for the purpose of legal adoption.

Subd. 6. "Children" means one or more persons under the age of 16 years ~~or persons over 16 years of age if for reasons of mental retardation they still require the protection needed by persons under 16 years of age.~~

Subd. 7. ~~"Facility for maternity shelter"~~ "Maternity home" means any family home, boarding home, institution, or establishment which gives or holds itself out to give care, shelter, or social services to women who are pregnant, or who have been delivered of a child or children within a period of 30 days prior to admission to such facility, whether or not children of these mothers are also received for care during the period of time the mother is in residence. It does not include facilities which give obstetrical care and treatment and are therefore subject to license by the department of health as defined in section 144.50 and in regulations issued by the Board of Health.

Subd. 10. "Day care facility" means any facility operated to provide care for children for limited periods of a day. Day care facilities include but are not limited to family day care homes and group day care centers.

(1) "Family day care home" is a facility providing day care for no more than five children at any one home including the family day care home operator's own children under five years of age.

(2) "Group day care center" is a facility providing day care for six or more children at one time and includes but is not limited to

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facilities for children known as nursery schools, day nurseries, child care centers, play groups and daytime activity centers.

Sec. 2. Minnesota Statutes 1969, Section 257.082, is amended to read:

257.082 **MATERNITY HOMES.** ~~Subdivision 1.~~ The commissioner of public welfare shall pass annually on the adequacy and suitability of ~~facilities for maternity shelter maternity homes~~. The commissioner shall, subject to the provisions of Minnesota Statutes 1969, Chapter 15, set rules governing the operation of such facilities. If he is satisfied that ~~a facility for maternity shelter maternity home~~ conforms to his rules and regulations, or in his opinion is making satisfactory progress toward full conformity, and that the wellbeing of each woman or child received is properly safeguarded, he shall grant a license to the individual, organization, or society operating such ~~facility for maternity shelter maternity home~~. This license shall remain in force for one year unless sooner revoked and shall prescribe the number of persons who may be received for care at any one time and such other terms of license as the commissioner may prescribe. ~~Each facility for maternity shelter maternity home shall keep records prescribed by the commissioner and shall make available all facts regarding its operation and services and all facts regarding the true identity of each woman or child received for care and such other facts as the commissioner may require. Every facility for maternity shelter maternity home is subject to visitation and supervision by the commissioner or his designated agent and shall receive from him consultation as needed to strengthen services for the identification and protection of mothers pregnant with children who will be born out of wedlock, and to strengthen social services for the protection and early identification of children born out of wedlock. No unlicensed facility for maternity shelter maternity home shall operate or continue to operate.~~

~~Subd. 2. Any person who violates the provisions of section 257.081 and this section shall, upon conviction of the first offense, be guilty of a misdemeanor. The second and subsequent offense shall be a gross misdemeanor.~~

Sec. 3. Minnesota Statutes 1969, Section 257.101, is amended to read:

257.101 **FOSTER CARE AND DAY CARE LICENSES.** ~~Subject to the provisions of Minnesota Statutes 1967, Section 242.021, Subdivision 2, the commissioner of public welfare shall pass annually on the adequacy and suitability of every facility for foster care whether operated for gain or otherwise. If the facility conforms to appropriate rules adopted by the commissioner or in his judgment is making satisfactory progress toward full conformity and he is satisfied that the interests and well being of children received therein are protected, he shall grant a license to the individual, organization,~~

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~~or association giving such foster care. This license shall remain in force for one year unless sooner revoked and shall prescribe the number and age groupings of children who may receive care at any one time. Each facility for foster care shall cooperate with the commissioner to make available all facts regarding its operation and services as he requires to determine its conformance to his rules and its competence to give the service needed and which it purports to give. A facility for foster care shall not use the name "school" unless it also meets standards of education and teacher certification established by the state board of education. No unlicensed facility for foster care may receive a child for care or continue caring for a child or children, nor solicit money in behalf of such facility for foster care. Every licensed facility for foster care is subject to visitation and supervision by the commissioner and shall receive from him consultation as needed to strengthen services to children and to achieve the purposes of this section.~~

Subdivision 1. No person shall operate a day care or foster care facility or advertise or offer such facility without a valid license except:

(1) A home caring for a child placed there for legal adoption unless legal adoption is not completed within two years after placement.

(2) A home caring for children related to the operator thereof by blood or marriage.

(3) A facility under the management and control of the commissioner of public welfare or the youth conservation commission.

(4) A facility supervised or licensed by any other state agency.

(5) A facility caring for children from no more than one family, except that a foster care facility so utilized for a period of greater than 30 days must be licensed.

(6) A day care facility caring for children for periods of short duration while the parents remain on the premises.

(7) A day care facility doing business for a period of less than 30 days in any one year.

Subd. 2. The commissioner of public welfare shall, subject to the provisions of Minnesota Statutes 1969, Chapter 15, establish by rule and regulation procedures and standards for the issuance and renewal of licenses and for the operation of foster care and day care facilities. Facilities which in the judgment of the commissioner of education operate for the primary purpose of educating children shall be exempt from these regulations except insofar as the regulations affect the health and safety of the children therein. Licenses shall remain in force for one year and shall prescribe the number and age groupings of children who may receive care at any one time. A

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reasonable licensing fee may be charged to defray the expense of issuing such licenses.

Subd. 3. The commissioner shall advise prospective licensees within 90 days of the receipt of a completed application as to his decision regarding their license.

Subd. 4. The commissioner may issue a nonrenewable provisional license for a period not to exceed one year to a proposed licensee who has substantially complied with established licensing standards, pending issuance of a license pursuant to subdivision 1.

Subd. 5. The commissioner may issue a license to a day care facility otherwise exempted in subdivision 1 if requested to do so by the operator of the facility.

Sec. 4. Minnesota Statutes 1969, Chapter 257, is amended by adding a section to read:

[257.102] INSPECTION. Subdivision 1. The commissioner may inspect the premises of a prospective licensee to determine whether the standards for licensure have been met. He may also make such inspections as may be necessary to ascertain whether licensed facilities continue to meet established standards.

Subd. 2. The commissioner may inspect the premises of unlicensed facilities providing services for which a license pursuant to section 257.101 is required.

Sec. 5. Minnesota Statutes 1969, Section 257.111, Subdivision 1, is amended to read:

257.111 REVOCATION OF LICENSE; DENIAL. ~~Subdivision 1.~~ After due notice and hearing, subject to the provisions of Minnesota Statutes 1969, Chapter 15, the commissioner of public welfare may revoke the license of any agency, facility for foster care, facility for day care or facility for maternity shelter maternity home :

(a) If any provision of sections 257.081 to 257.123 or Laws 1955, Chapter 624 is violated; or

(b) If the licensee violates any law of the state in a manner disclosing moral turpitude or unfitness to maintain the agency, facility for foster care, or facility for maternity shelter; or

(c) If there is evidence that the agency, facility for foster care, or facility for maternity shelter is conducted by a person of ill repute or bad moral character.

(a) If the licensee fails to comply with the rules and regulations established by the commissioner.

(b) If the licensee fails to comply with the terms of a license issued by the commissioner.

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Any applicant who is denied a license or whose license is not renewed may appeal in accordance with the provisions of Minnesota Statutes 1969, Chapter 15.

Sec. 6. Minnesota Statutes 1969, Section 257.123, is amended to read:

~~257.123 VIOLATIONS, PENALTIES. Every person who violates any of the provisions of sections 257.01 to 257.121 shall upon conviction of the first offense, be guilty of a misdemeanor. The second or subsequent offense shall be a gross misdemeanor.~~

Subdivision 1. Every person who operates a facility required to be licensed pursuant to this act or to Minnesota Statutes, Sections 257.081 through 257.111 without a license, or who violates any provision of those sections shall be guilty of a misdemeanor.

Subd. 2. Any person who offers or advertises a facility required to be licensed pursuant to this act or pursuant to Minnesota Statutes, Sections 257.081 to 257.111 prior to obtaining such a license, or who offers or advertises any facility in violation of any provision of this act or of Minnesota Statutes, Sections 257.081 through 257.111 shall be guilty of a misdemeanor.

Sec. 7. Minnesota Statutes 1969, Chapter 257, is amended by adding a section to read:

[257.124] CONFIDENTIALITY OF RECORDS. The records kept by the commissioner of public welfare pursuant to this act or to Minnesota Statutes, Sections 257.081 through 257.111 shall be kept confidential and shall not be open to inspection nor shall the contents of such records be disclosed except by court order, provided however, that the confidential exchange of information between agencies of the state, other social welfare agencies or law enforcement agencies regarding individuals in the care of one of such agencies is specifically authorized.

Sec. 8. Minnesota Statutes 1969, Sections 257.111, Subdivisions 2, 3, 4, 5, and 6, 257.121, 257.13, 257.14, and 257.15, are repealed.

Approved May 26, 1971.

CHAPTER 540—S.F.No.965

An act relating to the state highway patrol; duties thereof; authorizing an extension of patrol authority to areas other than trunk

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