

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0490.01 Jane Ritter x4342

HOUSE BILL 12-1276

HOUSE SPONSORSHIP

Duran, Summers, Fields, McCann, Casso, Hulinghorst, Massey, Swerdfeger, Vigil

SENATE SPONSORSHIP

(None),

House Committees

Health and Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CHILD CARE LICENSURE WAIVERS FOR MATERIALS**
102 **RELATED TO A CHILD CARE CENTER'S CURRICULUM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows child care centers (centers) that are subject to child care licensure regulations, including centers that are already licensed, to apply to the department of human services (department) for waivers to use certain materials in conjunction with their curricula (waiver). Centers are required to adopt policies concerning parental notification of possible

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

safety risks of those materials and the training of instructors in the use of those materials. The state board of human services is directed to promulgate rules concerning the criteria for denying waiver requests, as well as an appeals process for centers to utilize if their waiver request is denied. Whenever practicable, the department shall use the same inspector for multiple visits to a center or a group of commonly owned centers seeking a waiver. The department shall not post any negative licensing action related to a center's request for a waiver until the appeals process is final.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 26-6-105.7 as
3 follows:

4 **26-6-105.7. Applications - materials waivers - appeals - rules.**

5 (1) A CHILD CARE CENTER THAT IS SUBJECT TO THE LICENSING
6 REQUIREMENTS OF THIS PART 1 IS ALSO SUBJECT TO THE PROVISIONS OF
7 THIS SECTION.

8 (2) (a) THE DEPARTMENT SHALL MAKE AVAILABLE TO LICENSED
9 CHILD CARE CENTERS AND INCLUDE WITH EVERY APPLICATION FORM FOR
10 LICENSURE INFORMATION CONCERNING THE MANNER IN WHICH A CHILD
11 CARE CENTER MAY APPLY FOR A WAIVER TO USE CERTAIN MATERIALS IN
12 ITS PROGRAM AND CURRICULUM. THE WAIVER REQUEST SHALL BE
13 INCLUDED IN A CENTER'S APPLICATION FOR LICENSURE OR, IN THE CASE OF
14 A LICENSED CHILD CARE CENTER, MAY BE SUBMITTED AT ANY TIME.

15 (b) A CHILD CARE CENTER SEEKING A WAIVER FOR THE USE OF
16 CERTAIN MATERIALS SHALL ADOPT A POLICY THAT:

17 (I) ENSURES THAT INSTRUCTORS IN THE CHILD CARE CENTER ARE
18 TRAINED IN THE USE OF THE MATERIALS IN A WAY THAT PROVIDES
19 REASONABLE SAFETY PROVISIONS FOR USE BY CHILDREN; AND

20 (II) REQUIRES PARENTAL NOTIFICATION OF THE USE OF THE

1 MATERIALS IN THE CHILD CARE CENTER AND THE POTENTIAL SAFETY RISKS
2 ASSOCIATED WITH THE MATERIALS. THE POLICY SHALL REQUIRE THE CHILD
3 CARE CENTER TO OBTAIN SIGNED PARENTAL CONSENT FORMS
4 ACKNOWLEDGING AWARENESS OF THE RISKS IN USING THE MATERIALS IN
5 THE CHILD CARE CENTER.

6 (3) IF A LICENSED CHILD CARE CENTER RECEIVES NOTICE OF A
7 VIOLATION PURSUANT TO THIS PART 1, INFORMATION CONCERNING THE
8 WAIVER AND APPEAL PROCESS DESCRIBED IN THIS SECTION SHALL BE
9 INCLUDED IN THE NOTIFICATION TO THE CHILD CARE CENTER.

10 (4) THE STATE BOARD SHALL PROMULGATE RULES FOR THE
11 IMPLEMENTATION OF THIS SECTION, INCLUDING:

12 (a) THE REQUIREMENTS FOR THE GRANTING OF A WAIVER REQUEST,
13 WHICH REQUIREMENTS SHALL INCLUDE THAT THE DEPARTMENT MAKE A
14 DECISION ON THE WAIVER REQUEST AND NOTIFY THE CHILD CARE CENTER
15 OF ITS DECISION NO LATER THAN SIXTY CALENDAR DAYS AFTER RECEIPT
16 OF THE REQUEST;

17 (b) THE REQUIREMENTS FOR THE DENIAL OF A WAIVER REQUEST,
18 WHICH REQUIREMENTS SHALL INCLUDE THAT THE DEPARTMENT MAKE A
19 DECISION ON THE WAIVER REQUEST AND NOTIFY THE CHILD CARE CENTER
20 OF ITS DECISION NO LATER THAN SIXTY CALENDAR DAYS AFTER RECEIPT
21 OF THE REQUEST;

22 (c) THE PROCESS BY WHICH A CHILD CARE CENTER MAY APPEAL A
23 DENIAL OF A WAIVER REQUEST OR A NEGATIVE LICENSING ACTION, WHICH
24 PROCESS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

25 (I) THAT UPON THE RECEIPT OF A DENIAL OF A WAIVER REQUEST,
26 A CHILD CARE CENTER HAS UP TO FORTY-FIVE CALENDAR DAYS TO APPEAL
27 THE DENIAL DECISION TO THE DEPARTMENT;

1 (II) THAT THE DEPARTMENT SHALL ACT UPON THE APPEAL WITHIN
2 FORTY-FIVE CALENDAR DAYS;

3 (III) THAT THE DEPARTMENT SHALL PROVIDE NOTICE OF ITS
4 DECISION ON THE APPEAL WITHIN TEN CALENDAR DAYS AFTER ITS
5 DECISION TO THE APPEALING CHILD CARE CENTER; AND

6 (IV) THAT THE APPEALING CHILD CARE CENTER HAS THE RIGHT TO
7 MEET IN PERSON WITH DEPARTMENT PERSONNEL CONCERNING THE APPEAL,
8 BUT THAT THE ENTIRE APPEALS PROCESS SHALL LAST NO MORE THAN ONE
9 HUNDRED CALENDAR DAYS AFTER THE DATE OF THE NOTICE OF DENIAL OF
10 THE WAIVER REQUEST.

11 (5) WHENEVER PRACTICABLE, THE DEPARTMENT SHALL USE THE
12 SAME INSPECTOR FOR:

13 (a) MULTIPLE VISITS TO A SINGLE CHILD CARE CENTER SEEKING A
14 WAIVER PURSUANT TO THIS SECTION; OR

15 (b) MULTIPLE VISITS TO TWO OR MORE INDIVIDUALLY LICENSED
16 CHILD CARE CENTERS THAT ARE WHOLLY OWNED, OPERATED, AND
17 CONTROLLED BY A COMMON OWNERSHIP GROUP.

18 (6) THE DEPARTMENT SHALL NOT POST A NEGATIVE LICENSING
19 ACTION MADE PURSUANT TO THIS SECTION ON ITS WEB SITE UNTIL THE
20 APPEALS PROCESS IS FINAL.

21 **SECTION 2.** In Colorado Revised Statutes, **amend 26-6-106 (3)**
22 **as follows:**

23 **26-6-106. Standards for facilities and agencies.** (3) Any
24 applicant or person licensed to operate a child care facility or agency
25 under the provisions of this part 1 has the right to appeal any standard
26 that, in his or her opinion, works an undue hardship or when, in his or her
27 opinion, a standard has been too stringently applied by representatives of

1 the department. The department shall designate a panel of persons
2 representing various state and local governmental agencies with an
3 interest in and concern for children to hear such appeal and to make
4 recommendations to the department. THE MEMBERSHIP OF THE APPEALS
5 REVIEW PANEL SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, A
6 REPRESENTATIVE FROM CHILD CARE PROVIDERS, A REPRESENTATIVE FROM
7 A LOCAL EARLY CHILDHOOD COUNCIL OR LOCAL CHILD CARE RESOURCE
8 AND REFERRAL AGENCY, A STATE-LEVEL EARLY CHILDHOOD
9 REPRESENTATIVE WITH EARLY CARE AND EDUCATION EXPERTISE, AND A
10 PARENT REPRESENTATIVE. ALL MEMBERS TO THE APPEALS REVIEW PANEL
11 SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OR HIS OR HER
12 DESIGNEE AND SHALL SERVE TERMS OF NO MORE THAN THREE YEARS.
13 REPRESENTATIVES TO THE APPEALS REVIEW PANEL MAY SERVE
14 SUCCESSIVE TERMS.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.