

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 929

Short Title: Enhance Child Care/AB.

(Public)

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Sponsors: Senator Cooper.

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Referred to: Children & Human Resources.

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April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ENHANCE AND IMPROVE CHILD CARE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**PART 1. ENHANCE AND IMPROVE CHILD CARE.**

Section 1. The heading for Article 7, Chapter 110 of the General Statutes, reads as rewritten:

**"ARTICLE 7.**

**DAY-CARE-CHILD CARE FACILITIES."**

Section 2. G.S. 110-85 reads as rewritten:

**"§ 110-85. Legislative intent and purpose.**

~~The~~ Recognizing the importance of the early years of life to a child's development, the General Assembly hereby declares its intent with respect to ~~day~~ the early care and education of children:

(1) The State should protect ~~the growing number of children who are placed in day-care-child care facilities or in child-care arrangements when these children are under the supervision and in the care of persons other than their parents, grandparents, guardians or full-time custodians during the day.~~ by ensuring that these facilities provide a physically safe and healthy environment where the developmental needs of these children

1 are met and where these children are cared for by qualified persons of  
2 good moral character.

3 (2) ~~This protection should assure that such children are cared for by persons~~  
4 ~~of good moral character, that their physical safety and moral~~  
5 ~~environment are protected, and that the day-care resources conform to~~  
6 ~~minimum standards relating to the health and safety of the children~~  
7 ~~receiving day care.~~

8 (3) This Achieving this level of protection and early education requires the  
9 following elements for a comprehensive approach: elements: mandatory  
10 licensing of day-care child care facilities under minimum standards;  
11 facilities; promotion of higher levels of day care than required for a license  
12 quality child care through the development of higher-enhanced standards  
13 which operators may comply with on a voluntary basis; registration of  
14 child day-care homes which are too small to be regulated through licensing;  
15 and a program of education to help operators improve their programs  
16 and to develop-deepen public understanding of day-care child care needs  
17 and problems-issues."

18 Section 3. G.S. 110-86 reads as rewritten:

19 **"§ 110-86. Definitions.**

20 Unless the context or subject matter otherwise requires, the terms or phrases used in  
21 this Article shall be defined as follows:

22 (1) Commission. The Child ~~Day-Care-Care~~ Commission created under this  
23 Article.

24 (2) Child day care. ~~Any child care-A program or arrangement wherein where~~  
25 ~~three or more children less than 13 years old-old, who do not reside~~  
26 ~~where the care is provided, receive care away from their own home by on~~  
27 ~~a regular basis of at least once per week for more than four hours but~~  
28 ~~less than 24 hours per day from persons other than their parents,~~  
29 ~~grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-~~  
30 ~~time custodians, or in the child's own home where other unrelated children~~  
31 ~~are in care. or from persons not related to them by birth, marriage, or~~  
32 ~~adoption. Child day care does not include seasonal recreational programs~~  
33 ~~operated for less than four consecutive months in a year. Child day care also~~  
34 ~~does not include arrangements that provide only drop-in or short term child~~  
35 ~~care for parents participating in activities that are not employment related and~~  
36 ~~where the parents are on the premises or otherwise easily accessible, such as~~  
37 ~~drop-in or short term child care offered in health spas, bowling alleys,~~  
38 ~~shopping malls, resort hotels, and churches. the following:~~

39 a. Arrangements operated in the home of any child receiving care if  
40 all of the children in care are related to each other and no more  
41 than two additional children are in care;

42 b. Recreational programs operated for less than four consecutive  
43 months in a year;

- 1           c.     Specialized activities or instruction such as athletics, dance, art,  
2           music lessons, horseback riding, gymnastics, or organized clubs  
3           for children, such as Boy Scouts, Girl Scouts, 4-H groups, or  
4           boys and girls clubs;  
5           d.     Drop-in or short-term care provided while parents participate in  
6           activities that are not employment related and where the parents  
7           are on the premises or otherwise easily accessible, such as drop-  
8           in or short-term care provided in health spas, bowling alleys,  
9           shopping malls, resort hotels, or churches;  
10          e.     Public schools or any child care program operated by a public  
11          school;  
12          f.     Nonpublic schools described in Part 2 of Article 39 of Chapter  
13          115C of the General Statutes that are accredited by the Southern  
14          Association of Colleges and Schools and that operate a child care  
15          facility as defined in subsection (3) of this section for less than  
16          six and one-half hours per day either on or off the school site;  
17          g.     State-approved charter schools as described in Part 6A of Article  
18          16 of Chapter 115C of the General Statutes;  
19          h.     Bible schools conducted during vacation periods;  
20          i.     Care provided by facilities licensed under Article 2 of Chapter  
21          122C of the General Statutes;  
22          j.     Cooperative arrangements among parents to provide care for  
23          their own children as a convenience rather than for employment;  
24          and  
25          k.     Any child care program or arrangement consisting of two or  
26          more separate components, each of which operates for four hours  
27          or less per day with different children attending each component.

28          (3) ~~Child day-care facility. Includes any child day-care center-centers,~~  
29          ~~family child care homes, and any other or child care arrangement not~~  
30          ~~excluded by G.S. 110-86(2), which that provides day child care for more~~  
31          ~~than five children, not including the operator's own school-aged children,~~  
32          ~~under the age of 13 years, on a regular basis of at least once per week for more~~  
33          ~~than four hours but less than 24 hours per day, care, regardless of the time~~  
34          ~~of day-day, and regardless of whether the same or different children attend.~~  
35          ~~wherever operated, and whether or not operated for profit. The following~~  
36          ~~are not included: public schools; nonpublic schools described in Part 2 of~~  
37          ~~Article 39 of Chapter 115C of the General Statutes and accredited by the~~  
38          ~~Southern Association of Colleges and Schools, which regularly provide a~~  
39          ~~course of grade school instruction and which do not provide child day care as~~  
40          ~~defined in subdivision (2) of this section or operate a child day care facility as~~  
41          ~~defined herein for children under five years of age for more than six and one-~~  
42          ~~half hours per day either on or off the school site; summer camps having~~  
43          ~~children in full-time residence; Bible schools conducted during vacation~~  
44          ~~periods; facilities licensed under Article 2 of Chapter 122C of the General~~

1 Statutes; and cooperative arrangements among parents to provide care for  
2 their own children as a convenience rather than for employment.

3 Child day care facilities are separated by capacity into the following  
4 categories which determine applicable requirements and standards as  
5 established by the Commission pursuant to G.S. 110-88:

6 **Facility Type**

7 Large Home

8 Small Center

9 Medium Center

10 Large Center

11 The Commission shall establish the maximum capacity for each of  
12 the four categories of facilities.

13 a. A child care center is an arrangement where, at any one  
14 time, there are six or more preschool age children or nine  
15 or more school age children receiving child care.

16 b. A family child care home is a child care arrangement  
17 located in a residence where, at any one time, more than  
18 two children, but less than nine children, receive child  
19 care.

20 (4) ~~Child day care home. Any day care program or child care arrangement~~  
21 ~~wherein any person not excluded in G.S. 110-86(2) provides day care on~~  
22 ~~a regular basis of at least once per week for more than four hours per~~  
23 ~~day for more than two children under 13 years of age, but not to exceed~~  
24 ~~a maximum of eight children at any one time, wherever operated, and~~  
25 ~~whether or not operated for profit. Of the children present at any one~~  
26 ~~time, no more than five children shall be preschool aged, as defined in~~  
27 ~~rules adopted by the Commission. The four hour limit applies regardless~~  
28 ~~of the time of day and regardless of whether the same or different~~  
29 ~~children attend. Cooperative arrangements among parents to provide~~  
30 ~~care for their own children as a convenience rather than for employment~~  
31 ~~are not included.~~

32 ~~To determine whether a child care arrangement is a child day care~~  
33 ~~home, all children shall be counted except the operator's own school-~~  
34 ~~aged children and school aged children who reside at the location of the~~  
35 ~~day care home.~~

36 (4.1) Department. Department of Human Resources.

37 (5) Repealed by Session Laws 1975, c. 879, s. 15.

38 (6) License. A ~~license permit~~ issued by the Secretary to any day-care  
39 child care facility which meets the statutory standards established  
40 under this Article.

41 (7) Operator. Includes the owner, director or other person having  
42 primary responsibility for operation of a child day-care facility  
43 subject to licensing.

1 (8) Secretary. The Secretary of the Department of Human Resources.

2 (9) Lead teacher. An individual who is responsible for planning and  
3 implementing the daily program of activities for a group of children  
4 in a child care center.

5 (10) Child care administrator. A person who is responsible for the  
6 operation of a child care center and is on site on a regular basis."

7 Section 4. G.S. 110-88 reads as rewritten:

8 **"§ 110-88. Powers and duties of the Commission.**

9 The Commission shall have the following powers and duties:

10 (1) To develop policies and procedures for the issuance of a license to  
11 any child day-care facility ~~which~~ that meets all applicable standards  
12 established under this Article.

13 (1a) To adopt applicable rules and standards based upon the capacity of a  
14 child care facility.

15 (2) To require inspections by and satisfactory written reports from  
16 representatives of local or State health agencies and fire ~~and building~~  
17 inspection agencies and from representatives of the Department prior  
18 to the issuance of a license to any child day-care ~~facility~~ center.

19 (2a) To require annually, inspections by and satisfactory written reports  
20 from representatives of local or State health agencies and fire  
21 inspection agencies after a license is issued.

22 (3) ~~To make rules establishing minimum and reasonable standards for~~  
23 ~~the operation of child day care homes and the issuance of~~  
24 ~~registration certificates. These rules shall establish minimum~~  
25 ~~standards of health and safety that will be required in child day care~~  
26 ~~homes and will recognize the vital role that parents and guardians~~  
27 ~~play in the monitoring of the care provided in child day care homes.~~

28 (4) Repealed by Session Laws 1975, c. 879, s. 15.

29 (5) To ~~make~~ adopt rules and develop policies for implementation of this  
30 Article, including procedures for application, approval, ~~renewal~~ and  
31 revocation of licenses.

32 (6) To ~~make~~ adopt rules for the issuance of a provisional license that  
33 shall be in effect for no more than 12 consecutive months to a child  
34 day-care facility ~~and a provisional registration certificate to a child day~~  
35 ~~care home~~ that does not conform in every respect with the standards  
36 established in this Article and rules adopted by the Commission  
37 pursuant to this Article, ~~provided that the Secretary finds that Article but~~  
38 that the operator is making a reasonable effort to conform to the  
39 standards, except that a provisional license or provisional registration  
40 certificate shall not be issued for more than 12 consecutive months and  
41 shall not be renewed. ~~standards.~~

42 (6a) To ~~make~~ adopt rules for administrative action against a child day-care  
43 facility ~~or child day care home~~ when the Secretary's investigations

1 pursuant to G.S. 110-105(a)(3) ~~or G.S. 110-105.1(a)(4)~~ substantiate  
2 that child abuse or neglect did occur in the ~~facility or home.~~ facility.  
3 The rules shall provide for type types of sanction ~~shall be determined~~  
4 ~~by sanctions which shall depend upon~~ the severity of the incident  
5 and the probability of reoccurrence. The ~~administrative actions shall~~  
6 ~~include rules shall also provide for~~ written warnings and special  
7 provisional licenses ~~or registration certificates.~~ licenses.

8 A ~~written warning may be issued which shall specify any~~  
9 ~~corrective action to be taken by the operator.~~ The Department shall  
10 make an unannounced visit within one month after issuance of the  
11 written warning to determine whether the corrective action has  
12 occurred. If the corrective action has not occurred, a special provisional  
13 license ~~or registration certificate may be issued.~~

14 When a special provisional license ~~or registration certificate is~~  
15 ~~issued, it shall require specific corrective action.~~ It shall be in effect for  
16 no more than six months from imposition and shall not be renewed.  
17 ~~imposition.~~ The special provisional license ~~or registration certificate~~  
18 and the letter which clearly states the reasons for the special provisional  
19 status shall be posted where parents can see them. Under the terms of  
20 the special provisional license ~~or registration~~, the facility or home shall  
21 not enroll any new children until notified by the Department that it is  
22 satisfied the abusive or neglectful situation no longer exists. The  
23 Department shall make an unannounced visit at least every eight weeks  
24 during the period the special provisional license ~~or registration~~  
25 certificate is in effect. Specific corrective action required by a written  
26 warning, special provisional license ~~or special provisional registration~~  
27 certificate, or any other administrative penalty authorized by this Article  
28 may include the permanent removal from day care of the substantiated  
29 abuser or neglecter.

30 Nothing in this subdivision shall restrict the Secretary from using  
31 any other statutory or administrative remedies available.

- 32 (7) To develop and ~~promulgate~~ adopt voluntary enhanced program  
33 standards which reflect higher levels of day quality child care than  
34 required by the standards established by this Article, which will  
35 recognize better physical facilities, more qualified personnel, and higher  
36 quality programs. The Commission may adopt rules for the issuance of  
37 two grades of licenses: an "A" license for compliance with the  
38 provisions of the Article, and an "AA" license for those licensees  
39 meeting the voluntary higher standards promulgated by the  
40 Commission. the mandatory standards established by this Article.  
41 These enhanced program standards must address, at a minimum,  
42 staff/child ratios, staff qualifications, parent involvement, operational

1           and personnel policies, developmentally appropriate curricula, and  
2           facility square footage.

3           (8) To develop a procedure by which the Department shall furnish those  
4           forms as may be required for implementation of this Article.

5           (9) Repealed by Session Laws 1985, c. 757, s. 156(66).

6           (10) To ~~develop~~ adopt rules for the issuance of a temporary license which  
7           shall expire in ~~90 days~~ six months and which may be issued to the  
8           operator of a new ~~facility~~ center or to the operator of a previously  
9           licensed ~~facility~~ center when a change in ownership or location occurs.

10          (11) To ~~develop~~ adopt rules for the ~~care of sick~~ child care facilities which  
11          provide care for children in facilities and homes who are mildly sick.

12          (12) To adopt rules regulating the amount of time a child care administrator  
13          shall be on site at a child care center."

14          Section 5. G.S. 110-90 reads as rewritten:

15        "**§ 110-90. Powers and duties of Secretary of Human Resources.**

16          The Secretary of ~~Human Resources~~ shall have the following powers and duties under  
17          the policies and rules of the Commission:

18          (1) To administer the licensing program for child ~~day-care facilities and the~~  
19          ~~registration system for child day-care homes.~~ facilities.

20          (2) To obtain and coordinate the necessary services from other State  
21          departments and units of local government which are necessary to  
22          implement the provisions of this Article.

23          (3) To employ the administrative personnel and staff as may be necessary to  
24          implement this Article where required services, inspections or reports  
25          are not available from existing State agencies and units of local  
26          government.

27          (4) To issue a rated license ~~effective for one year~~ to any child ~~day-care~~ facility  
28          which meets the standards established by this Article. The rating shall  
29          be based on program standards, education levels of staff, and  
30          compliance history of the child care facility.

31          (5) To revoke the license of any child ~~day-care~~ facility ~~or the registration~~  
32          ~~certificate of any child day care home which~~ that ceases to meet the  
33          standards established by this Article and rules on these standards  
34          adopted by the Commission, or ~~which~~ that demonstrates a pattern of  
35          noncompliance with this Article or the rules, or to deny a license ~~or~~  
36          ~~registration certificate~~ to any applicant that fails to meet the standards or  
37          the rules. These revocations and denials shall be done in accordance  
38          with the procedures set out in G.S. 150B and this Article and rules  
39          adopted by the Commission.

40          (6) To prosecute or defend on behalf of the State, through the office of the  
41          Attorney General, any legal actions arising out of the administration or  
42          enforcement of this Article.

- 1 (7) To promote and coordinate educational programs and materials for  
2 operators of child ~~day-care~~ facilities and ~~child day-care homes~~ which are  
3 designed to improve the quality of ~~day~~ child care available in the State,  
4 using the resources of other State and local agencies and educational  
5 institutions where appropriate.
- 6 (8) ~~To issue a rated license when any operator of a child day-care facility~~  
7 ~~required to be licensed hereunder or requiring licensure pursuant to~~  
8 ~~subdivision (11) of this section has satisfied the Secretary that it has met~~  
9 ~~the voluntary standards developed and adopted by the Commission.~~
- 10 (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative  
11 penalty pursuant to G.S. 110-102.2, or to order summary suspension of  
12 a ~~license or registration.~~ license. These actions shall be done in  
13 accordance with the procedures set out in G.S. 150B and this Article  
14 and rules adopted by the Commission.
- 15 (10) To issue final agency decisions in all G.S. 150B contested cases  
16 proceedings filed as a result of actions taken under this Article  
17 including, but not limited to the denial, ~~revocation~~ revocation, or  
18 suspension of a license or the levying of a civil or administrative  
19 penalty.
- 20 (11) To issue a license ~~or registration certificate~~ to any child care arrangement  
21 that does not meet the definition of child ~~day-care~~ facility ~~or child day~~  
22 ~~care home~~ in G.S. 110-86 whenever the operator of the arrangement  
23 chooses to comply with the requirements of this Article and the rules  
24 adopted by the ~~Commission,~~ Commission and voluntarily applies for a  
25 child ~~day-care~~ facility ~~license or child day-care home registration certificate.~~  
26 license. The Commission shall adopt rules for the issuance or removal  
27 of the ~~licenses or registration certificates.~~ licenses."

28 Section 6. G.S. 110-90.1 is repealed.

29 Section 7. G.S. 110-90.2 reads as rewritten:

30 **"§ 110-90.2. Mandatory ~~day~~ child care providers' criminal history checks.**

- 31 (a) For purposes of this section:
- 32 (1) 'Child ~~day-care~~', notwithstanding the definition in G.S. 110-86, means  
33 any child ~~day-care~~ provided in child ~~day-care~~ facilities and ~~child day-care~~  
34 ~~homes, including child day-care facilities and child day-care homes~~ required  
35 to be licensed ~~or registered~~ under this Article and ~~nonregistered~~  
36 nonlicensed child ~~day-care~~ homes approved to receive or receiving State  
37 or federal funds for providing child ~~day-care~~.
- 38 (2) 'Child ~~day-care~~ provider' means a person who:
- 39 a. Is employed by or seeks to be employed by a child ~~day-care~~  
40 facility ~~or child day-care home~~ providing child ~~day-care~~ as defined  
41 in subdivision (1) of this ~~subsection,~~ subsection and has contact  
42 with the children; ~~or~~

- 1           b.     Owns or operates or seeks to own or operate a child ~~day-care~~  
2           facility or ~~child day-care home~~ a nonlicensed child care home  
3           providing child ~~day-care~~ as defined in subdivision (1) of this  
4           ~~subsection~~ subsection; or  
5           c.     Is a member of the household in a family child care home or  
6           nonlicensed child care home and is over 15 years old and is  
7           present when children are in care. This subdivision shall apply  
8           only to new family child care homes and nonlicensed homes  
9           beginning March 1, 1998.

10       (3)    'Criminal history' means a county, state, or federal criminal history of  
11       conviction or pending indictment of a crime, whether a misdemeanor or  
12       a felony, that bears upon an individual's fitness to have responsibility for  
13       the safety and well-being of children as set forth in ~~G.S. 110-90.1~~ G.S.  
14       110-91(8). Such crimes include the following North Carolina crimes  
15       contained in any of the following Articles of Chapter 14 of the General  
16       Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses;  
17       Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13,  
18       Malicious Injury or Damage by Use of Explosive or Incendiary Device  
19       or Material; Article 26, Offenses Against Public Morality and Decency;  
20       Article 27, Prostitution; Article 39, Protection of Minors; Article 40,  
21       Protection of the Family; and Article 59, Public Intoxication. Such  
22       crimes also include possession or sale of drugs in violation of the North  
23       Carolina Controlled Substances Act, Article 5 of Chapter 90 of the  
24       General Statutes, and alcohol-related offenses such as sale to underage  
25       persons in violation of G.S. 18B-302 or driving while impaired in  
26       violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the  
27       North Carolina crimes listed in this subdivision, such crimes also  
28       include similar crimes under federal law or under the laws of other  
29       states.

30       (b)    Effective January 1, 1996, the Department shall ensure that the criminal history  
31       of all child ~~day-care~~ providers is checked and a determination is made of the child ~~day~~  
32       care provider's fitness to have responsibility for the safety and well-being of children  
33       based on the criminal history. The Department shall ensure that child ~~day-care~~ providers  
34       who have lived in North Carolina continuously for the previous five years are checked for  
35       county and State criminal histories. The Department shall ensure that all other child ~~day~~  
36       care providers are checked for county, State, and national criminal histories. The  
37       Department may prohibit a child ~~day-care~~ provider from providing child ~~day-care~~ if the  
38       Department determines that the child ~~day-care~~ provider is unfit to have responsibility for  
39       the safety and well-being of children based on the criminal history, in accordance with  
40       ~~G.S. 110-90.1~~ G.S. 110-91(8).

41       (c)    The Department of Justice shall provide to the Division of Child Development,  
42       Department of Human Resources, the criminal history from the State and National

1 Repositories of Criminal Histories of any child ~~day~~-care provider as requested by the  
2 Division.

3 The Division shall provide to the Department of Justice, along with the request, the  
4 fingerprints of the provider to be checked, any additional information required by the  
5 Department of Justice, and a form consenting to the check of the criminal record and to  
6 the use of fingerprints and other identifying information required by the repositories  
7 signed by the child ~~day~~-care provider to be checked. The fingerprints of the provider shall  
8 be forwarded to the State Bureau of Investigation for a search of their criminal history  
9 record file and the State Bureau of Investigation shall forward a set of fingerprints to the  
10 Federal Bureau of Investigation for a national criminal history record check.

11 At the time of application the ~~day~~-child care provider whose criminal history is to be  
12 checked shall be furnished with a statement substantially similar to the following:

13 **'NOTICE**

14 **CHILD ~~DAY~~-CARE PROVIDER**

15 **MANDATORY CRIMINAL HISTORY CHECK**

16 NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL  
17 HISTORY CHECK BE CONDUCTED ON ALL PERSONS WHO  
18 PROVIDE CHILD ~~DAY~~-CARE IN A LICENSED ~~OR REGISTERED~~  
19 CHILD ~~DAY~~-CARE FACILITY, AND ALL PERSONS PROVIDING  
20 CHILD ~~DAY~~-CARE IN NONREGISTERED-NONLICENSED CHILD ~~DAY~~-  
21 CARE HOMES THAT RECEIVE STATE OR FEDERAL FUNDS.

22 'Criminal history' includes county, state, and federal convictions or  
23 pending indictments of any of the following crimes: the following Articles  
24 of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A,  
25 Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping  
26 and Abduction; Article 13, Malicious Injury or Damage by Use of  
27 Explosive or Incendiary Device or Material; Article 26, Offenses Against  
28 Public Morality and Decency; Article 27, Prostitution; Article 39,  
29 Protection of Minors; Article 40, Protection of the Family; and Article 59,  
30 Public Intoxication; violation of the North Carolina Controlled Substances  
31 Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related  
32 offenses such as sale to underage persons in violation of G.S. 18B-302 or  
33 driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5;  
34 or similar crimes under federal law or under the laws of other states. Your  
35 fingerprints will be used to check the criminal history records of the State  
36 Bureau of Investigation (SBI) and the Federal Bureau of Investigation  
37 (FBI).

38 If it is determined, based on your criminal history, that you are unfit  
39 to have responsibility for the safety and well-being of children, you shall  
40 have the opportunity to complete, or challenge the accuracy of, the  
41 information contained in the SBI or FBI identification records.

42 If you disagree with the determination of the North Carolina  
43 Department of Human Resources on your fitness to provide child ~~day~~-care,

1           you may file a civil lawsuit within 60 days after receiving written  
2           notification of disqualification in the district court in the county where you  
3           live.

4           Any child ~~day~~-care provider who intentionally falsifies any  
5           information required to be furnished to conduct the criminal history shall be  
6           guilty of a Class 2 misdemeanor.'

7           Refusal to consent to a criminal history check is grounds for the Department to  
8           prohibit the child ~~day~~-care provider from providing child ~~day~~-care. Any child ~~day~~-care  
9           provider who intentionally falsifies any information required to be furnished to conduct  
10          the criminal history shall be guilty of a Class 2 misdemeanor.

11          (d)    The Department shall notify in writing the child ~~day~~-care provider, and the  
12          child ~~day~~-care provider's employer, if any, or for nonlicensed child care homes the local  
13          purchasing agency, of the determination by the Department whether the ~~day~~-child care  
14          provider is qualified to provide child ~~day~~-care based on the child ~~day~~-care provider's  
15          criminal history. In accordance with the law regulating the dissemination of the contents  
16          of the criminal history file furnished by the Federal Bureau of Investigation, the  
17          Department shall not release nor disclose any portion of the child ~~day~~-care provider's  
18          criminal history to the child ~~day~~-care provider or the child ~~day~~-care provider's ~~employer~~.  
19          employer or local purchasing agency. The Department shall also notify the child ~~day~~-care  
20          provider of the procedure for completing or challenging the accuracy of the criminal  
21          history and the child ~~day~~-care provider's right to contest the Department's determination in  
22          court.

23          A child ~~day~~-care provider who disagrees with the Department's decision may file a  
24          civil action in the district court of the county of residence of the child ~~day~~-care ~~provider~~.  
25          provider within 60 days after receiving written notification of disqualification.

26          (e)    All the information that the Department receives through the checking of the  
27          criminal history is privileged information and is not a public record but is for the  
28          exclusive use of the Department and those persons authorized under this section to  
29          receive the information. The Department may destroy the information after it is used for  
30          the purposes authorized by this section after one calendar year.

31          (f)    There shall be no liability for negligence on the part of an employer of a child  
32          ~~day~~-care provider, an owner or operator of a child ~~day~~-care ~~home or~~ facility, a State or  
33          local agency, or the employees of a State or local agency, arising from any action taken  
34          or omission by any of them in carrying out the provisions of this section. The immunity  
35          established by this subsection shall not extend to gross negligence, wanton conduct, or  
36          intentional wrongdoing that would otherwise be actionable. The immunity established by  
37          this subsection ~~shall be deemed to have been~~ is waived to the extent of indemnification by  
38          insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and  
39          to the extent sovereign immunity is waived under the Torts Claim Act, as set forth in  
40          Article 31 of Chapter 143 of the General Statutes.

41          (g)    The child ~~day~~-care provider ~~who seeks to be employed in child day care and~~  
42          ~~the child day care provider who seeks to own or operate child day care~~ shall pay the cost  
43          of the fingerprinting and the local ~~check at the time the child day care provider seeks to~~

1 ~~provide child day care check.~~ The Department of Justice shall perform the State criminal  
2 history check. If the Department determines that a ~~day-child~~ care provider who has lived  
3 continuously in the State less than five years is not disqualified based on the local and  
4 State criminal history record check, the Department shall request a criminal history check  
5 from the National Repository of Criminal History from the Department of Justice. The  
6 Department of Human Resources shall pay the cost for the national criminal history  
7 record check."

8 Section 8. (a) G.S. 110-91 reads as rewritten:

9 **"§ 110-91. Mandatory standards for a license.**

10 All child care facilities shall comply with all State and federal laws and local  
11 ordinances that pertain to child health, safety, and welfare. ~~The~~ Except as otherwise  
12 provided in this Article, the following standards in this section shall be complied with by  
13 all child day-care facilities, except as otherwise provided in this Article. facilities. However,  
14 none of the standards in this section apply to the school age children of the operator of a  
15 child care facility but do apply to the preschool age children of the operator. Children 13  
16 years of age or older may receive child care on a voluntary basis provided all applicable  
17 required standards are met. ~~These~~ The standards in this section, along with any other  
18 applicable State and federal laws or local ordinances, shall be the ~~only~~ required standards  
19 for the issuance of a license by the Secretary under the policies and procedures of the  
20 Commission except that the Commission may, in its discretion, adopt less stringent  
21 appropriate standards for the licensing of facilities subject to licensing but which provide  
22 care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time  
23 basis.

- 24 (1) Medical Care and Sanitation. – The Commission for Health Services  
25 shall adopt rules which establish minimum sanitation standards for child  
26 ~~day-care~~ facilities and their personnel. The sanitation rules adopted by  
27 the Commission for Health Services shall cover such matters as the  
28 cleanliness of floors, walls, ceilings, storage spaces, utensils, and other  
29 facilities; adequacy of ventilation; sanitation of water supply, lavatory  
30 facilities, toilet facilities, sewage disposal, food protection facilities,  
31 bactericidal treatment of eating and drinking utensils, and solid-waste  
32 storage and disposal; methods of food preparation and serving;  
33 infectious disease control; sleeping facilities; and other items and  
34 facilities as are necessary in the interest of the public health. These  
35 rules shall be developed in consultation with the Department.

36 The Commission shall adopt rules for child care facilities to  
37 establish minimum requirements for child and staff health assessments  
38 and medical care procedures. These rules shall be developed in  
39 consultation with the Department of Environment, Health, and Natural  
40 Resources. Each child shall have a health assessment before being  
41 admitted or within 30 days following admission to a child ~~day-care~~  
42 facility. The assessment shall be done by: (i) a licensed physician, (ii)  
43 the physician's authorized agent who is currently approved by the North

1 Carolina Medical Board, or comparable certifying board in any state  
2 contiguous to North Carolina, (iii) a certified nurse practitioner, or (iv) a  
3 public health nurse meeting the Department of Environment, Health,  
4 and Natural Resources' Standards for Early Periodic Screening,  
5 Diagnosis, and Treatment Program. ~~A record of each child's assessment~~  
6 ~~shall be on file in the records of the facility.~~ However, no health  
7 assessment shall be required of any staff or child who is and has  
8 been in normal health ~~and whose~~ when the staff, or the child's parent,  
9 guardian, or full-time custodian objects in writing to a health assessment  
10 on religious grounds which conform to the teachings and practice of any  
11 recognized church or religious denomination.

12 ~~Each child shall be immunized in a manner that meets the~~  
13 ~~requirements of Article 6 of Chapter 130A of the General Statutes and~~  
14 ~~the pertinent rules adopted by the Commission for Health Services.~~

15 ~~Each child day care facility shall have a plan of emergency medical~~  
16 ~~care which shall include provisions for communication with and~~  
17 ~~transportation to a specified medical resource, unless otherwise~~  
18 ~~previously instructed. No child receiving day care shall be administered~~  
19 ~~any drug or other medication without specific written instructions from~~  
20 ~~a physician or the child's parent, guardian or full time custodian.~~  
21 ~~Emergency information on each child in care, including the names,~~  
22 ~~addresses, and telephone numbers of the child's physician and parents,~~  
23 ~~legal guardian or full time custodian shall be readily available to the~~  
24 ~~staff of the child day care facility while children are in care.~~

25 ~~Nonprofit, tax-exempt organizations~~ Organizations that provide  
26 prepared meals to ~~day-child~~ care centers only are considered day-child  
27 care centers for purposes of compliance with appropriate sanitation  
28 standards.

- 29 (2) ~~Health-Related Activities. —Each child in a child day care facility shall~~  
30 ~~receive nutritious food and refreshments under rules to be adopted by~~  
31 ~~the Commission. The Commission shall adopt rules for child care~~  
32 ~~facilities to ensure that all children receive nutritious food and~~  
33 ~~beverages according to their developmental needs. After consultation~~  
34 ~~with the State Health Director, nutrition standards shall provide for~~  
35 ~~specific requirements appropriate for infants.~~ children of different ages.  
36 ~~Nutrition standards shall provide for specific requirements for children~~  
37 ~~older than infants, including a daily food plan for meals and snacks~~  
38 ~~served that shall be adequate for good nutrition. The number and size of~~  
39 ~~servings and snacks shall be appropriate for the ages of the children and~~  
40 ~~shall be planned according to the number of hours the child is in care.~~  
41 ~~Menus for meals and snacks shall be planned at least one week in~~  
42 ~~advance, dated, and posted where they can be seen by parents.~~

1           Each child ~~day-care~~ facility shall have a rest period for each child in  
2 care after lunch or at some other appropriate time and arrange for each  
3 child in care to be out-of-doors each day if weather conditions permit.

4           ~~Each child day care facility shall have a rest period for each child in~~  
5 ~~care after lunch or at some other appropriate time.~~

6           ~~No child day care facility shall care for more than 25 children in one~~  
7 ~~group. Facilities providing care for 26 or more children shall provide for~~  
8 ~~two or more groups according to the ages of children and shall provide~~  
9 ~~separate supervisory personnel for each group.~~

10       (3) Location. – Each child ~~day-care~~ facility shall be located in an area which  
11 is free from conditions which are ~~deemed~~ considered hazardous to the  
12 physical and moral welfare of the children in care in the opinion of the  
13 ~~Commission.~~ Secretary.

14       (4) Building. – Each child ~~day-care~~ facility shall be located in a building  
15 which meets the appropriate requirements of the North Carolina  
16 Building Code under standards which shall be developed by the  
17 Building Code Council, ~~subject to adoption by the Commission~~ Council  
18 specifically for child ~~day-care~~ facilities, including facilities operated in a  
19 private residence. These standards shall be consistent with the  
20 provisions of this Article. Satisfactorily written reports from  
21 representatives of building inspection agencies shall be required prior to  
22 the issuance of a license and whenever renovations are made to a child  
23 care center, or when the operator requests licensure of space not  
24 previously approved for child care.

25       (5) Fire Prevention. – Each child ~~day-care~~ facility shall be located in a  
26 building that meets ~~the appropriate~~ requirements for fire prevention and  
27 safe evacuation that apply to child ~~day-care~~ facilities as established by  
28 the Department of ~~Insurance,~~ subject to adoption by the Commission.  
29 Insurance. Each Except for child care centers located on State property,  
30 each child day-care facility-center shall be inspected at least annually by  
31 a local fire department or volunteer fire department for compliance with  
32 these requirements, except that child day requirements. Child care  
33 facilities-centers located on State property shall be inspected at least  
34 annually by an official designated by the Department of Insurance.

35       (6) Space and Equipment Requirements. – There shall be no less than 25  
36 square feet of indoor space for each child for which a child ~~day-care~~  
37 ~~facility-center~~ is licensed, exclusive of closets, passageways, kitchens,  
38 and bathrooms, and this floor space shall provide during rest periods  
39 200 cubic feet of airspace per child for which the ~~facility-center~~ is  
40 licensed. There shall be adequate outdoor play area for each child under  
41 rules adopted by the Commission which shall be related to the size ~~and~~  
42 ~~type of facility,~~ the center and availability and location of outside land  
43 area, except in area. In no event shall the minimum required exceed 75

1 square feet per ~~child, which~~ child. The outdoor area shall be protected to  
2 assure the safety of the children receiving ~~day-child~~ care by an adequate  
3 fence or other ~~protection; provided, however, that a~~ protection. A facility  
4 center operated in a public school shall be deemed to have adequate  
5 fencing ~~protection; provided, also, that a facility~~ protection. A center  
6 operating exclusively during the evening and early morning hours,  
7 between 6:00 P.M. and 6:00 A.M., need not meet the outdoor play area  
8 requirements mandated by this subdivision.

9 Each child ~~day-care~~ facility shall provide indoor area equipment and  
10 furnishings that are child size, sturdy, safe, and in good repair. Each  
11 child care center shall provide outdoor play area equipment and  
12 surfacing that are child size, sturdy, free of hazards that pose a threat of  
13 serious injury to children while engaged in normal play activities, and in  
14 good repair. The Commission shall adopt standards to establish  
15 minimum requirements for equipment appropriate for the size of child  
16 care facility being operated pursuant to G.S. 110-86(3). ~~facility.~~ Space shall  
17 be available for proper storage of beds, cribs, mats, cots, sleeping  
18 garments, and linens as well as designated space for each child's  
19 personal belongings.

20 The Department shall develop guidelines pertaining to outdoor play  
21 area equipment and surfacing at child care centers. These guidelines  
22 shall not be considered rules under Chapter 150B of the General  
23 Statutes and are not binding upon child care operators. These guidelines  
24 shall be designed to assist operators in determining whether the  
25 equipment and surfacing they currently or intend to provide is child-  
26 size, sturdy, safe, and in good repair. Inspection of outdoor equipment  
27 and surfacing shall be included in center inspections conducted pursuant  
28 to this Article. The Department shall make these guidelines available to  
29 operators and shall also make available information and technical  
30 assistance that will better enable operators to provide and maintain a  
31 safe outdoor play environment. A child care center operator shall make  
32 available to consumers of the center's services the most recent  
33 inspection report findings with respect to outdoor play area equipment  
34 and surfacing at the child care center.

35 Rules adopted by the Commission regarding outdoor play area  
36 equipment and surfacing at child care centers shall be limited to  
37 ensuring that outdoor play area equipment and surfacing at child care  
38 centers are free of hazards that pose a threat of serious injury to children  
39 while engaged in normal play activities.

- 40 (7) Staff-Child Ratio, Ratio and Group Size. – In determining the staff-child  
41 ratio, all children younger than 13 years old shall be counted. The  
42 Commission shall adopt rules for child care centers regarding staff-child  
43 ratios, group sizes and multi-age groupings for each category of facility

1 other than for infants and toddlers, provided that these rules shall be no  
 2 less stringent than those currently required for staff-child ratios as  
 3 enacted in Section 156(e) of Chapter 757 of the 1985 Session Laws.  
 4 The staff-child ratios and group sizes for infants and toddlers shall be no  
 5 less stringent than as follows:

Age	Ratio	Group Size
0 to 12 months	5	10
12 to 24 months	6	12
2 to 3 years	10	20.

6  
 7  
 8  
 9  
 10 No child care center shall care for more than 25 children in one  
 11 group. Child care centers providing for 26 or more children shall  
 12 provide for two or more groups according to the ages of children and  
 13 shall provide separate supervisory personnel and separate identifiable  
 14 space for each group.

15 (7a) Family Child Care Home Capacity. – Of the children present at any one  
 16 time in a family child care home, no more than five children shall be  
 17 preschool aged, including the operator's own preschool age children.

18 (8) Qualifications for Staff. – All child care center administrators shall be at  
 19 least 21 years of age and have at least a North Carolina Early Childhood  
 20 Administration Credential or its equivalent as defined by the  
 21 Department. Each child day-care facility-center shall be under the  
 22 direction or supervision of a literate person at least 21 years of age.  
 23 meeting these requirements. All staff counted in determining toward  
 24 meeting the required staff-child ratio shall be at least 16 years of age,  
 25 provided that persons younger than 18 years of age work under the  
 26 direct supervision of a literate-credentialed staff person who is at least 21  
 27 years of age. All lead teachers in a child care center shall have at least a  
 28 North Carolina Early Childhood Credential or its equivalent as  
 29 determined by the Department.

30 The Department in collaboration with the North Carolina Institute  
 31 for Early Childhood Professional Development shall establish categories  
 32 to recognize the levels of education achieved by child care center  
 33 administrators and teachers. The Department shall use these categories  
 34 to establish appropriate staffing based on the size center and the  
 35 individual staff responsibilities.

36 Effective January 1, 1998, an operator of a licensed family child care  
 37 home shall be at least 21 years old and have a high school diploma or its  
 38 equivalent. Operators of a family child care home licensed prior to  
 39 January 1, 1998 shall be at least 18 years of age and literate. Literate is  
 40 defined as understanding licensing requirements and having the ability  
 41 to communicate with the family and relevant emergency personnel.  
 42 Any operator of a licensed family child care home shall be the person on  
 43 site providing child care.

1 No person shall be an operator of nor be employed in a child day  
2 care facility who has been convicted of a crime involving child neglect,  
3 child abuse, or moral turpitude, or who is an habitually excessive user of  
4 alcohol or who illegally uses narcotic or other impairing drugs, or who  
5 is mentally or emotionally impaired to an extent that may be injurious to  
6 children.

7 The Commission shall adopt standards to establish ~~minimum~~  
8 appropriate qualifications for ~~operators, supervisors, caregivers and all~~  
9 ~~other staff who have direct contact with the children in child care centers.~~  
10 These standards shall reflect training, experience, education ~~or~~ and  
11 ~~credentialing and shall be appropriate for the size facility being operated~~  
12 ~~according to the categories defined in G.S. 110-86(3). center and the level~~  
13 ~~of individual staff responsibilities.~~ It is the intent of this provision to  
14 guarantee that all children in ~~day-child~~ care are cared for by qualified  
15 ~~people but also to recognize that qualifications for good child care may not be~~  
16 ~~limited to formal education or training standards. To this end, the standards~~  
17 ~~adopted by the Commission pertaining to training and educational~~  
18 ~~requirements shall include provision that these requirements may be met by~~  
19 ~~informal as well as formal training and educational experience. people.~~ No  
20 requirements may interfere with the teachings or doctrine of any  
21 established religious organization.

- 22 (9) Records. – Each child ~~day-care~~ facility shall keep accurate records on  
23 each child receiving care in the child ~~day-care~~ facility and on each staff  
24 member or other person delegated responsibility for the care of children  
25 in accordance with a form furnished or approved by the Commission,  
26 and shall submit ~~attendance reports—records~~ as required by the  
27 Department.

28 ~~Each child day care facility shall keep accurate records on each staff~~  
29 ~~member or other person delegated responsibility for the care of children~~  
30 ~~in accordance with a form approved by the Commission.~~

31 All records of any child ~~day-care~~ facility, except financial records,  
32 shall be ~~subject to~~ available for review by the Secretary or by duly  
33 authorized representatives of the Department or a cooperating agency  
34 who shall be designated by the ~~Secretary.~~ Secretary and shall be  
35 submitted as required by the Department.

36 ~~Any effort to falsify information provided to the Department shall be~~  
37 ~~deemed by the Secretary to be evidence of violation of this Article on~~  
38 ~~the part of the operator or sponsor of the child day care facility and shall~~  
39 ~~constitute a cause for revoking or denying a license to this child day~~  
40 ~~care facility.~~

- 41 (10) Each operator or staff member shall ~~truly and honestly show each attend~~  
42 to any child in that person's ~~care true love, devotion and tender care. a~~

1 nurturing and appropriate manner, and in keeping with the child's  
2 developmental needs.

3 Each ~~day-child~~ care facility shall have a written policy on discipline,  
4 describing the methods and practices used to discipline children enrolled  
5 in that facility. This written policy shall be discussed with, and a copy  
6 given to, each child's parent prior to the first time the child attends the  
7 facility. Subsequently, any change in discipline methods or practices  
8 shall be communicated in writing to the parents prior to the effective  
9 date of the change.

10 The use of corporal punishment as a form of discipline is prohibited  
11 in ~~day-child~~ care facilities and may not be used by any operator or staff  
12 member of any ~~day-child~~ care facility, except that corporal punishment  
13 may be used in ~~church-religious sponsored child day-care~~ facilities as  
14 defined in G.S. 110-106, only if (i) the ~~church-religious sponsored child~~  
15 ~~day-care~~ facility files with the Department a notice stating that corporal  
16 punishment is part of the religious training of its program, and (ii) the  
17 ~~church-religious sponsored child day-care~~ facility clearly states in its  
18 written policy of discipline that corporal punishment is part of the  
19 religious training of its program. The written policy on discipline of  
20 ~~nonchurch-nonreligious sponsored child day-care~~ facilities shall clearly  
21 state the prohibition on corporal punishment.

22 (11) Staff Development. – The Commission shall adopt minimum standards  
23 for ongoing staff development for ~~facilities-facilities but limited to the~~  
24 following topic areas:

25 a. Planning a safe, healthy learning environment;

26 b. Steps to advance children's physical and intellectual  
27 development;

28 c. Positive ways to support children's social and emotional  
29 development;

30 d. Strategies to establish productive relationships with families;

31 e. Strategies to manage an effective program operation;

32 f. Maintaining a commitment to professionalism;

33 g. Observing and recording children's behavior;

34 h. Principles of child growth and development; and

35 i. Learning activities that promote inclusion of children with  
36 special needs.

37 These standards shall include annual requirements for ongoing in-service  
38 training for all staff-staff development appropriate to job responsibilities.  
39 Contact hours of inservice training received annually shall not carry  
40 over from year to year.

41 (12) ~~Planned Age-Developmentally Appropriate Activities.~~ – Each ~~child-day~~  
42 ~~care-facility~~ shall have a ~~planned schedule of activities posted in a~~  
43 ~~prominent place to enable parents to review it, and a written plan of age~~

1 ~~developmentally appropriate activities available to parents. Each~~  
2 ~~facility shall have age appropriate activities and play materials to~~  
3 ~~implement the written plan, and play materials.~~ The Commission shall  
4 establish minimum standards for ~~age-appropriate~~ developmentally  
5 appropriate activities appropriate for each category of facility as defined  
6 in G.S. 110-86(3). child care facilities. Each child care facility shall  
7 have a planned schedule of developmentally appropriate activities  
8 posted in a prominent place for parents to review and the appropriate  
9 materials and equipment available to implement the scheduled activities.  
10 Each child care center shall make four of the following activity areas  
11 available daily: art and other creative play, children's books, blocks and  
12 block building, manipulatives, and family living and dramatic play.

- 13 (13) ~~Transportation. — All child day care facilities shall abide by North~~  
14 ~~Carolina law regulating the use of seat belts and child passenger~~  
15 ~~restraint devices. All vehicles operated by any facility staff person or~~  
16 ~~volunteer to transport children shall be properly equipped with~~  
17 ~~appropriate seat belts or child restraint devices as approved by the~~  
18 ~~Commissioner of Motor Vehicles. Each~~ When a child care facility staff  
19 person or a volunteer of a child care facility transports children in a  
20 vehicle, each adult and child shall be restrained by an appropriate seat  
21 safety belt or restraint device when the vehicle is in motion. These  
22 restraint regulations do not apply to vehicles not required by federal law  
23 to be equipped with seat restraints. All vehicles used to transport  
24 children shall meet and maintain the safety inspection standards of the  
25 Division of Motor Vehicles of the Department of Transportation and the  
26 facility shall comply with all other applicable State and federal laws and  
27 regulations concerning the operation of a motor vehicle. Children may  
28 never be left unattended in a vehicle.

29 The ratio of adults to children in child ~~day~~ care vehicles may not be  
30 less than the staff/child ratios prescribed by ~~G.S. 110-91(7).~~ G.S. 110-  
31 91(7) and G.S. 110-91(7a). The Commission shall adopt standards for  
32 transporting children under the age of two, including standards  
33 addressing this particular age's staff/child ratio during transportation.

- 34 (14) Any effort to falsify information provided to the Department shall be  
35 considered by the Secretary to be evidence of violation of this Article on  
36 the part of the operator or sponsor of the child care facility and shall  
37 constitute a cause for revoking or denying a license to such child care  
38 facility."

39 (b) The provision in G.S. 110-91(8) regarding child care center administrators is  
40 effective January 1, 2003. The provision in G.S. 110-91(8) regarding lead teachers is  
41 effective January 1, 2002."

42 Section 9. G.S. 110-92 reads as rewritten:

43 "**§ 110-92. Duties of State and local agencies.**

1 When requested by an operator of a ~~day-care facility~~ child care center or by the  
2 ~~Secretary~~ Secretary, it shall be the duty of local and district health departments to visit and  
3 inspect a ~~day-care facility~~ child care center to determine whether the ~~facility~~ center  
4 complies with the health and sanitation standards required by this Article and with the  
5 minimum sanitation standards adopted as rules by the Commission for Health Services as  
6 authorized by G.S. 110-91(1), and to submit written reports on ~~such~~ these visits or  
7 inspections to the Department on forms approved and provided by the Department of  
8 Environment, Health, and Natural Resources.

9 When requested by an operator of a ~~day-care facility~~ child care center or by the  
10 Secretary, it shall be the duty of the ~~local and district health departments, and any building~~  
11 ~~inspector, fire prevention inspector, or fireman employed by local government, or any~~  
12 ~~fireman having jurisdiction, or other officials or personnel of local government to visit~~  
13 ~~and inspect a day-care facility~~ child care center for the purposes specified in this Article,  
14 including plans for evacuation of the premises and protection of children in case of fire,  
15 and to report on ~~such~~ these visits or inspections in writing to the Secretary so that ~~such~~  
16 ~~these~~ these reports may serve as the basis for action or decisions by the Secretary or  
17 Department as authorized by this Article."

18 Section 10. G.S. 110-93 reads as rewritten:

19 "**§ 110-93. ~~Licensing procedure.~~ Application for a license.**

20 (a) Each ~~operator of person who seeks to operate a day-care~~ child care facility shall  
21 ~~annually~~ apply to the Department for a license. The application shall be in ~~such~~ the form as  
22 ~~is~~ required by the Department. Each operator seeking a license shall be responsible for  
23 ~~accompanying his application with~~ supplying with the application the necessary supporting  
24 data and reports to show conformity with rules adopted by the Commission for Health  
25 Services pursuant to G.S. 110-91(1) and with the standards established or authorized by  
26 this ~~Article~~ Article, including any required reports from the local and district health  
27 departments, local building inspectors, local firemen, voluntary firemen, and others, on  
28 forms which shall be provided by the Department.

29 (b) If an operator conforms to the rules ~~adopted by the Commission for Health~~  
30 ~~Services pursuant to G.S. 110-91(1) and with~~ the standards established or authorized by this  
31 Article as shown in ~~his~~ the application and other supporting data, the Secretary ~~of Human~~  
32 ~~Resources~~ shall issue a license ~~for no more than 12 months~~ that shall remain valid until the  
33 Secretary notifies the licensee otherwise pursuant to G.S. 150B-3 or other provisions of  
34 this Article, subject to suspension or revocation for cause as provided in this Article. If  
35 the applicant fails to conform to the required rules and standards, the Secretary may issue  
36 a provisional license under the policies of the ~~Commission~~ provided that the Commission.  
37 The Department shall notify the operator ~~shall be notified~~ in writing by registered or  
38 certified mail ~~of the reasons the Department issued for issuance of a provisional license.~~

39 (c) ~~Each licensed operator of a child day-care facility must annually apply in order~~  
40 ~~to renew the license and must accompany such renewal application with such supporting~~  
41 ~~data and reports as are required to show conformity with the standards established under~~  
42 ~~this Article.~~

43 (d) Repealed by Session Laws 1977, c. 929, s. 1."

1 Section 11. G.S. 110-94 reads as rewritten:

2 **"§ 110-94. Administrative Procedure Act.**

3 The provisions of ~~General Statutes~~ Chapter 150B ~~of the General Statutes known as~~  
4 ~~the Administrative Procedure Act~~ shall be applicable to the ~~Commission and~~  
5 ~~Commission~~, to the rules ~~it the Commission adopts~~. ~~The Administrative Procedure Act~~  
6 ~~shall also apply adopts, and~~ to child day-care contested cases. However, a child day-care  
7 operator shall have 30 days to file a petition for a contested case pursuant to G.S. 150B-  
8 23. The contested case hearing shall be scheduled to be held within 120 days of the date  
9 the petition for a hearing is received, pursuant to G.S. 150B-23(a), in any contested case  
10 resulting from administrative action taken by the ~~Department~~ Secretary to revoke a  
11 license, ~~license registration certificate~~, or Letter of Compliance or from administrative  
12 action taken in a situation in which child abuse or neglect in a child day-care facility or  
13 home has been substantiated. A request for continuance of a hearing shall be granted  
14 upon a showing of good cause by either party."

15 Section 12. G.S. 110-98 reads as rewritten:

16 **"§ 110-98. Mandatory compliance.**

17 It shall be unlawful for any ~~operator or employee of a day-care facility or day-care~~  
18 ~~home person to to:~~

- 19 (1) ~~offer~~ Offer or provide ~~day-child care~~ without complying with the  
20 provisions of this ~~Article~~ Article; or  
21 (2) Advertise without disclosing the child care facility's license or other  
22 identifying number that is on the license or the letter of compliance."

23 Section 13. G.S. 110-98.1 reads as rewritten:

24 **"§ 110-98.1. Prima facie evidence of existence of day-care.**

25 A ~~child-care~~ child care arrangement providing day-child care for more than two  
26 children for more than four hours per day on two or more consecutive days shall be prima  
27 facie evidence of the existence of a ~~day-care child care facility or day-care home facility.~~ facility."

28 Section 14. G.S. 110-99 reads as rewritten:

29 **"§110-99. Display of license.**

30 (a) Each ~~day-care child care facility~~ shall ~~maintain~~ display its current license  
31 ~~displayed~~ in a prominent place designated by the Department at all times so that the public  
32 may be on notice that the facility is licensed and may observe any grade or rating which  
33 may appear on the license. Any license issued to a child care facility under this Article  
34 shall remain the property of the State and may be removed by persons employed or  
35 designated by the Secretary in the event that the license is revoked or suspended, or in the  
36 event that the grade or rating is changed.

37 (b) A person who provides only drop-in or short-term child care as described in  
38 G.S. 110-86(2)(d) shall notify the Department that the person is providing only drop-in or  
39 short-term child care. Any person providing only drop-in or short-term child care as  
40 described in G.S. 110-86(2)(d) shall display in a prominent place at all times a notice that  
41 the child care arrangement is not required to be licensed and regulated by the Department  
42 and is not licensed and regulated by the Department."

43 Section 15. G.S. 110-100 is repealed.

1 Section 16. G.S. 110-101 is repealed.

2 Section 17. G.S. 110-101.1 reads as rewritten:

3 **"§ 110-101.1. Corporal punishment banned in certain ~~'nonregistered'~~ nonlicensed**  
4 **homes.**

5 The use of corporal punishment as a form of discipline is prohibited in those ~~day-child~~  
6 care homes that are not required to be ~~registered-licensed~~ under this Article but that  
7 receive State or federal subsidies for child ~~day-care~~ unless this care is provided to children  
8 by their parents, stepparents, grandparents, aunts, uncles, step-grandparents, or great-  
9 grandparents. Care provided children by their parents, stepparents, grandparents, aunts,  
10 uncles, step-grandparents, or great-grandparents is not subject to this section. Religious  
11 sponsored ~~nonregistered-nonlicensed~~ homes are also exempt from this section."

12 Section 18. G.S. 110-102 reads as rewritten:

13 **"§ 110-102. Information for parents.**

14 The Secretary of ~~Human Resources~~ shall provide to each operator of a ~~day-care-child~~  
15 care facility a summary of this Article for the parents, guardian, or full-time custodian of  
16 each child receiving ~~day-child~~ care in the facility to be distributed by the operator. The  
17 summary shall include the name and address of the Secretary of ~~Human Resources~~ and the  
18 address of the Commission. The summary shall also include a statement regarding the  
19 mandatory duty prescribed in G.S. 7A-543 of any person suspecting child abuse or  
20 neglect has taken place in ~~day-child~~ care, or elsewhere, to report to the county Department  
21 of Social Services. The statement shall include the definitions of child abuse and neglect  
22 described in the Juvenile Code in G.S. 7A-517 and of child abuse described in the  
23 Criminal Code in G.S. 14-318.2 and G.S. 14-318.4. The statement shall stress that this  
24 reporting law does not require that the person reporting reveal ~~his~~ the person's identity."

25 Section 19. G.S. 110-102.1 reads as rewritten:

26 **"§ 110-102.1. Reporting of missing or deceased children.**

27 (a) Operators and staff, as defined in G.S. 110-86(7), ~~110-90.1~~ and G.S. 110-91(8),  
28 or any adult present with the approval of the care provider in a ~~day-care-child care~~ facility  
29 ~~or home~~, as defined in ~~G.S. 110-86(3), (4)~~ G.S. 110-86(3) and G.S. 110-106, upon learning  
30 that a child which has been placed in their care or presence is missing, shall immediately  
31 report the missing child to law enforcement. For purposes of this Article, a child is  
32 anyone under the age of 18.

33 (b) If a child dies while in ~~day-child~~ care, or of injuries sustained in ~~day-child~~ care,  
34 a report of the death must be made by the ~~day-child~~ care operator to the Secretary within  
35 24 hours of the child's death or on the next working day."

36 Section 20. G.S. 110-103 reads as rewritten:

37 **"§ 110-103. Criminal penalty.**

38 Any person who violates the provisions of G.S. 110-98 through G.S. ~~110-100-110-99~~  
39 or G.S. 110-102 shall be guilty of a Class 1 ~~misdemeanor~~ misdemeanor, except that ~~Any~~  
40 any person operating a family child care home as defined in G.S. 110-86(3) who violates  
41 ~~G.S. 110-101~~ shall be guilty of a Class 3 misdemeanor."

42 Section 21. G.S. 110-103.1(a) reads as rewritten:

1       "(a) A civil penalty may be levied against any operator of any child ~~day-care~~ facility  
2 ~~or home~~ who violates any provision of this Article. The penalty shall not exceed one  
3 thousand dollars (\$1,000) for each violation documented on any given date. Every  
4 operator shall be provided a schedule of the civil penalties established by the  
5 Commission pursuant to this Article."

6           Section 22. G.S. 110-104 reads as rewritten:

7 **"§ 110-104. Injunctive relief.**

8       The Secretary or ~~his~~ the Secretary's designee may seek injunctive relief in the district  
9 court of the county in which a ~~day-care~~ child care facility ~~or day-care home~~ is located  
10 against the continuing operation of that ~~day-care~~ child care facility ~~or day-care home~~ at any  
11 time, whether or not any administrative proceedings are pending. The district court may  
12 grant injunctive relief, temporary, preliminary, or permanent, when there is any violation  
13 of this Article or of the rules promulgated by the Commission or the Commission for  
14 Health Services that threatens serious harm to children in the ~~day-care~~ child care facility ~~or~~  
15 ~~day-care home,~~ facility, or when a final order to deny or revoke a license ~~or registration~~ has  
16 been violated, or when a ~~day-care~~ child care facility is operating without a ~~license or a day-~~  
17 ~~care home is operating without being registered,~~ license, or when a ~~day-care~~ child care facility  
18 ~~or day-care home~~ repeatedly violates the provisions of this Article or rules adopted  
19 pursuant to it after having been notified of the violation."

20           Section 23. G.S. 110-105 reads as rewritten:

21 **"§ 110-105. Authority to inspect facilities.**

22       (a) The Commission shall adopt standards and rules under this subsection which  
23 provide for the following types of inspections:

- 24       (1) An initial licensing ~~or certification~~ inspection, which shall not occur until  
25 the administrator of the facility receives prior notice of the initial  
26 inspection ~~or certification~~ visit;
- 27       (2) A plan for ~~routine inspections of~~ visits to all facilities, including  
28 announced and unannounced visits which shall be confidential unless a  
29 court orders its disclosure, and which ~~shall~~ may be conducted without  
30 prior notice to the facility;
- 31       (3) An inspection that may be conducted without notice, if there is probable  
32 cause to believe that an emergency situation exists or there is a  
33 complaint alleging a violation of licensure law. When the Department is  
34 notified by the county director of social services that the director has  
35 received a report of child abuse or neglect in a child ~~day-care~~ care  
36 facility, or when the Department is notified by any other person that  
37 alleged abuse or neglect has occurred in a facility, the Commission's  
38 rules shall provide for an inspection conducted without notice to the  
39 child ~~day-care~~ care facility to determine whether the alleged abuse or  
40 neglect has occurred. This inspection shall be conducted within seven  
41 calendar days of receipt of the report, and when circumstances ~~warrant~~  
42 warrant, ~~additional visits, the second inspection shall be conducted within~~  
43 one month of the first visit. ~~visits shall be conducted.~~

1 The Secretary or the Secretary's designee, upon presenting appropriate credentials to the  
2 operator of the child ~~day-care~~ care facility, ~~is authorized to~~ may perform inspections in  
3 accordance with the standards and rules promulgated under this subsection. The  
4 Secretary or the Secretary's designee may inspect any area of a building in which there is  
5 reasonable evidence that children are in care.

6 (b) If an operator refuses to allow the Secretary or ~~his~~ the Secretary's designee to  
7 inspect the ~~day-care~~ child care facility, the Secretary shall seek an administrative warrant  
8 in accordance with G.S. 15-27.2."

9 Section 24. G.S. 110-105.1 is repealed.

10 Section 25. G.S. 110-105.2 reads as rewritten:

11 "**§ 110-105.2. Abuse and neglect violations.**

12 (a) For purposes of this Article, child abuse and neglect, as defined in G.S. 7A-517  
13 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in ~~day-care~~ child care facilities ~~and~~  
14 ~~homes,~~ facilities are violations of the licensure ~~and registration~~ standards and of the  
15 licensure ~~and registration~~ law.

16 (b) When an investigation pursuant to G.S. 110-105(a)(3) substantiates that child  
17 abuse or neglect did occur in a child care facility, the Department may issue a written  
18 warning which shall specify any corrective action to be taken by the operator. The  
19 Department shall make an unannounced visit within one month after issuance of the  
20 written warning to determine whether the corrective action has occurred. If the corrective  
21 action has not occurred, then the Department may issue a special provisional license.

22 (c) When the Department issues a special provisional license pursuant to this  
23 section, the Department shall send a letter which states the reasons for the special  
24 provisional status, and the license shall specify corrective action that shall be taken by the  
25 operator. A special provisional license issued pursuant to this section shall be in effect  
26 for no more than six months from issuance. The operator shall post, where parents can  
27 see them, the letter stating the reasons for the special provisional status and the special  
28 provisional license. Under the terms of the special provisional license, the Secretary may  
29 limit enrollment of new children until satisfied the abusive or neglectful situation no  
30 longer exists. The Department shall make unannounced visits as often as the Department  
31 believes it is necessary during the period the special provisional license is in effect.

32 (d) Specific corrective action required by a written warning, special provisional  
33 license, or any other administrative penalty authorized by this Article may include the  
34 permanent removal of the substantiated abuser or neglecter from child care.

35 (e) Nothing in this section shall restrict the Secretary from using any other  
36 statutory or administrative remedies available."

37 Section 26. G.S. 110-106 reads as rewritten:

38 "**§ 110-106. Religious sponsored ~~dayw~~ (a) The term '~~church day-care~~ religious**  
39 **sponsored child care facility' as used ~~herein~~ in this section shall include**  
40 **any ~~day-care~~ child care facility or summer day camp operated by a church,**  
41 **synagogue or school of religious charter.**

42 (b) ~~Reporting Procedure Regarding of Church Day-Care~~ Religious Sponsored Child  
43 Care Facilities. -

- 1           (1) ~~Church day~~ Religious sponsored child care facilities shall file with the  
2 Department a notice of intent to operate a ~~day~~ child care facility and the  
3 date it will begin operation at least 30 days prior to that date. Within 30  
4 days after beginning operation, the facility shall provide to the  
5 Department written reports and supporting data which show the facility  
6 is in compliance with applicable provisions of G.S 110-91. After the  
7 ~~church day~~ religious sponsored child care facility has filed this  
8 information with the Department, the facility shall be visited by a  
9 representative of the Department to ~~assure~~ ensure compliance with the  
10 applicable provisions of G.S. 110-91.
- 11           (2) Each ~~church day care~~ religious sponsored child care facility shall ~~annually~~  
12 file with the Department a report indicating that it meets the minimum  
13 standards for facilities as provided in the applicable provisions of G.S.  
14 ~~110-91.~~ 110-91 as required by the Department. The reports shall be in  
15 accordance with rules adopted by the Commission. Each ~~church day care~~  
16 religious sponsored child care facility shall be responsible for  
17 ~~accompanying~~ supplying with its report with the necessary supporting  
18 data to show conformity with those minimum standards, including  
19 reports from the local and district health departments, local building  
20 inspectors, local firemen, volunteer firemen, and other, on forms which  
21 shall be provided by the Department.
- 22           (3) It shall be the responsibility of the Department to notify the facility if it  
23 fails to meet the minimum requirements. The Secretary shall be  
24 responsible for carrying out the enforcement provisions provided by the  
25 General Assembly in Article 7 of Chapter 110 including inspection to  
26 ~~insure~~ ensure compliance. The Secretary ~~shall be empowered to~~ may issue  
27 an order requiring a ~~church day care~~ religious sponsored child care  
28 facility which fails to meet the standards established pursuant to this  
29 Article to cease operating. A ~~church day care~~ religious sponsored child  
30 care facility may request a hearing to determine if it is in compliance  
31 with the applicable provisions of G.S. 110-91. If the Secretary  
32 determines that it is not, ~~the Secretary~~ may order the facility to cease  
33 operation until it is in compliance.
- 34           (4) ~~Church day care~~ Religious sponsored child care facilities including  
35 summer day camps shall be exempt from the requirement that they  
36 obtain a license and that the license be displayed and shall be exempt  
37 from any subsequent rule or regulatory program not dealing specifically  
38 with the minimum standards as provided in the applicable provisions of  
39 G.S. 110-91. Nothing in this Article shall be interpreted to allow the  
40 State to regulate or otherwise interfere with the religious training  
41 offered as a part of any ~~church day care~~ religious sponsored child care  
42 program. Nothing in this Article shall prohibit any ~~church operated,~~

1 ~~synagogue operated, or religious affiliated~~ religious sponsored child care  
2 facility from becoming licensed by the State if it so chooses.

3 (5) ~~Church day care~~ Religious sponsored child care facilities found to be in  
4 violation of the applicable provisions of G.S. 110-91 shall be subject to  
5 the injunctive provisions of G.S. 110-104, except that they may not be  
6 enjoined for operating without a license. The Secretary ~~is empowered to~~  
7 may seek an injunction against any such religious sponsored child care  
8 facility under the conditions specified in G.S. 110-104 with the above  
9 exception and when any such religious sponsored child care facility  
10 operates without submitting the required forms and following the  
11 procedures required by this Article.

12 (c) G.S. 110-91(8), G.S. 110-91(11), G.S. ~~110-91(12), 110-91(12)~~ and the second  
13 paragraph of G.S. 110-91(8) do not apply to religious sponsored day care child care  
14 facilities, and these facilities are exempt from any requirements prescribed by subsection  
15 (b) of this section that arise out of these provisions. No staff qualifications other than those  
16 prescribed by the first paragraph of G.S. 110-91(8) shall apply to religious sponsored day care  
17 facilities.

18 (d) No person shall be an operator of nor be employed in a religious sponsored  
19 child care facility who has been convicted of a crime involving child neglect, child abuse,  
20 or moral turpitude, or who is a habitually excessive user of alcohol or who illegally uses  
21 narcotic or other impairing drugs, or who is mentally or emotionally impaired to an  
22 extent that may be injurious to children.

23 (e) Each religious sponsored child care center shall be under the direction or  
24 supervision of a literate person at least 21 years of age. All staff counted toward meeting  
25 the required staff/child ratio shall be at least 16 years old, provided that persons younger  
26 than 18 years old work under the direct supervision of a literate staff person at least 21  
27 years old. Effective January 1, 1998, a person operating a religious sponsored family  
28 child care home must be at least 21 years old and literate. Persons operating religious  
29 sponsored family child care homes prior to January 1, 1998, shall be at least 18 years old  
30 and literate. The definition of literate in G.S. 110-91(8) shall apply to this subsection."

31 Section 27. G.S. 110-106.1 is repealed.

32 Section 28. Pursuant to G.S. 150B-21.7, rules adopted by the Child Care  
33 Commission pertaining to outdoor play area equipment and surfacing at child care centers  
34 that become effective on January 1, 1999, are repealed.

35 Section 28.1. The following rules are repealed:

36 10 NCAC 3U .0510(e), Activity Areas: Preschool Children Two Years and  
37 Older; and

38 10 NCAC 3U .0714(g), Other Staffing Requirements.

## 39 PART 2. STATUTORY TECHNICAL AND CONFORMING CHANGES.

40 Section 29. G.S. 7A-474.3(b) reads as rewritten:

41 "(b) Eligible Cases. Legal assistance shall be provided to eligible clients under this  
42 Article only in the following types of cases:

43 (1) Family violence or spouse abuse;

- 1 (2) Assistance for the disabled in obtaining federal Social Security benefits;  
2 (3) Representation of eligible farmers faced with the potential of farm  
3 foreclosure;  
4 (4) Representation of eligible clients over the age of 60 regarding the  
5 following matters:  
6 a. Wills and estates;  
7 b. Safe and sanitary housing;  
8 c. Pensions and retirement rights;  
9 d. Social Security and Medicare rights;  
10 e. Access to health care;  
11 f. Food and nutrition; and  
12 g. Transportation.
- 13 (5) Representation of eligible clients designed to enable them to obtain the  
14 necessary skills and means to obtain meaningful employment at a  
15 decent wage and reduce the public welfare rolls; and  
16 (6) Representation of eligible clients under the age of 21 or eligible families  
17 with legal problems affecting persons under the age of 21 regarding the  
18 following matters:  
19 a. Financial support and custody of children;  
20 b. ~~Day-Child~~ care;  
21 c. Child abuse or neglect;  
22 d. Safe and sanitary housing;  
23 e. Food and nutrition; and  
24 f. Access to health care."

25 Section 30. G.S. 7A-517(5) reads as rewritten:

- 26 "(5) Caretaker. – Any person other than a parent, guardian, or custodian  
27 who has responsibility for the health and welfare of a juvenile in a  
28 residential setting. A person responsible for a juvenile's health and  
29 welfare means a stepparent, foster parent, an adult member of the  
30 juvenile's household, an adult relative entrusted with the juvenile's care,  
31 or any person such as a house parent or cottage parent who has primary  
32 responsibility for supervising a juvenile's health and welfare in a  
33 residential child care facility or residential educational facility.  
34 'Caretaker' also means any person who has the responsibility for the care  
35 of a juvenile in a ~~child day-care home or child day-care~~ facility as defined  
36 in Article 7 of Chapter 110 of the General Statutes and includes any  
37 person who has the approval of the care provider to assume  
38 responsibility for the juveniles under the care of the care provider.  
39 Nothing in this subdivision shall be construed to impose a legal duty of  
40 support under Chapter 50 or Chapter 110 of the General Statutes. The  
41 duty imposed upon a caretaker as defined in this subdivision shall be for  
42 the purpose of Chapter 7A of the General Statutes only."

43 Section 31. G.S. 7A-542 reads as rewritten:

1 **"§ 7A-542. Protective services.**

2 The Director of the Department of Social Services in each county of the State shall  
3 establish protective services for juveniles alleged to be abused, neglected, or dependent.

4 Protective services shall include the investigation and screening of complaints,  
5 casework or other counseling services to parents or other caretakers as provided by the  
6 director to help the parents or other caretakers and the court to prevent abuse or neglect,  
7 to improve the quality of child care, to be more adequate parents or caretakers, and to  
8 preserve and stabilize family life.

9 The provisions of this Article shall also apply to child ~~day-care facilities and child-day~~  
10 ~~care homes~~ as defined in G.S. 110-86."

11 Section 32. G.S. 7A-543 reads as rewritten:

12 **"§ 7A-543. Duty to report child abuse, neglect, dependency, or death due to**  
13 **maltreatment.**

14 Any person or institution who has cause to suspect that any juvenile is abused,  
15 neglected, or dependent, as defined by G.S. 7A-517, or has died as the result of  
16 maltreatment, shall report the case of that juvenile to the Director of the Department of  
17 Social Services in the county where the juvenile resides or is found. The report may be  
18 made orally, by telephone, or in writing. The report shall include information as is  
19 known to the person making it including the name and address of the juvenile; the name  
20 and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the  
21 names and ages of other juveniles in the home; the present whereabouts of the juvenile if  
22 not at the home address; the nature and extent of any injury or condition resulting from  
23 abuse, neglect, or dependency; and any other information which the person making the  
24 report believes might be helpful in establishing the need for protective services or court  
25 intervention. If the report is made orally or by telephone, the person making the report  
26 shall give the person's name, address, and telephone number. Refusal of the person  
27 making the report to give a name shall not preclude the Department's investigation of the  
28 alleged abuse, neglect, dependency, or death as a result of maltreatment.

29 Upon receipt of any report of child sexual abuse in a ~~day-child care facility or day-care~~  
30 ~~home, facility,~~ the Director shall notify the State Bureau of Investigation within 24 hours  
31 or on the next work day. If child sexual abuse in a ~~day-child care facility or day-care home~~  
32 is not alleged in the initial report, but during the course of the investigation there is  
33 reason to suspect that child sexual abuse has occurred, the Director shall immediately  
34 notify the State Bureau of Investigation. Upon notification that child sexual abuse may  
35 have occurred in a ~~day-child care facility or day-care home, facility,~~ the State Bureau of  
36 Investigation may form a task force to investigate the report."

37 Section 33. G.S. 7A-548 reads as rewritten:

38 **"§ 7A-548. Duty of Director to report evidence of abuse, neglect; investigation by**  
39 **local law enforcement; notification of Department of Human Resources**  
40 **and State Bureau of Investigation.**

41 (a) If the Director finds evidence that a juvenile may have been abused as defined  
42 by G.S. 7A-517(1), the Director shall make an immediate oral and subsequent written  
43 report of the findings to the district attorney or the district attorney's designee and the

1 appropriate local law enforcement agency within 48 hours after receipt of the report. The  
2 local law enforcement agency shall immediately, but no later than 48 hours after receipt  
3 of the information, initiate and coordinate a criminal investigation with the protective  
4 services investigation being conducted by the county Department of Social Services.  
5 Upon completion of the investigation, the district attorney shall determine whether  
6 criminal prosecution is appropriate and may request the Director or the Director's  
7 designee to appear before a magistrate.

8 If the Director receives information that a juvenile may have been physically harmed  
9 in violation of any criminal statute by any person other than the juvenile's parent,  
10 guardian, custodian, or caretaker, the Director shall make an immediate oral and  
11 subsequent written report of that information to the district attorney or the district  
12 attorney's designee and to the appropriate local law enforcement agency within 48 hours  
13 after receipt of the information. The local law enforcement agency shall immediately,  
14 but no later than 48 hours after receipt of the information, initiate a criminal  
15 investigation. Upon completion of the investigation, the district attorney shall determine  
16 whether criminal prosecution is appropriate.

17 If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a juvenile  
18 in day-child care, ~~either in a day care facility or a day care home~~, the Director shall notify the  
19 Department of Human Resources within 24 hours or on the next working day of receipt  
20 of the report.

21 (a1) If the Director finds evidence that a juvenile has been abused or neglected as  
22 defined by G.S. 7A-517 in a day-child care facility ~~or day care home~~, ~~he~~ facility, the  
23 Director shall immediately so notify the Department of Human Resources and, in the case  
24 of child sexual abuse, the State Bureau of Investigation, in such a way as does not violate  
25 the law guaranteeing the confidentiality of the records of the Department of Social  
26 Services.

27 (a2) Upon completion of the investigation, the Director shall give the Department  
28 written notification of the results of the investigation required by G.S. 7A-544. Upon  
29 completion of an investigation of child sexual abuse in a day-child care facility ~~or day care~~  
30 ~~home~~, facility, the Director shall also make written notification of the results of the  
31 investigation to the State Bureau of Investigation.

32 The Director of the Department of Social Services shall submit a report of alleged  
33 abuse, neglect, or dependency cases or child fatalities that are the result of alleged  
34 maltreatment to the central registry under the policies adopted by the Social Services  
35 Commission.

36 (b) Repealed by Session Laws 1991, (Reg. Sess., 1992), c. 923, s. 4."

37 Section 34. G.S. 95-28.3(a) reads as rewritten:

38 "(a) It is the belief of the General Assembly that parent involvement is an essential  
39 component of school success and positive student outcomes. Therefore, employers shall  
40 grant four hours per year leave to any employee who is a parent, guardian, or person  
41 standing in loco parentis of a school-aged child so that the employee may attend or  
42 otherwise be involved at that child's school. However, any leave under this section is  
43 subject to the following conditions:

- 1 (1) The leave shall be at a mutually agreed upon time between the employer  
2 and the employee.
- 3 (2) The employer may require an employee to provide the employer with a  
4 written request for the leave at least 48 hours before the time desired for  
5 the leave.
- 6 (3) The employer may require that the employee furnish written verification  
7 from the child's school that the employee attended or was otherwise  
8 involved at that school during the time of the leave.

9 For the purpose of this section, 'school' means any (i) public school, (ii) private  
10 church school, church of religious charter, or nonpublic school described in Parts 1 and 2  
11 of Article 39 of Chapter 115C of the General Statutes that regularly provides a course of  
12 grade school instruction, (iii) preschool, and (iv) child ~~day-care~~ facility as defined in G.S.  
13 110-86(3)."

14 Section 35. G.S. 105-60 reads as rewritten:

15 "§ 105-60. ~~Day~~**G Every person, firm or corporation engaged in operating a ~~day-care~~**  
16 **child care facility as defined in G.S. 110-86(3) shall pay an annual license**  
17 **tax for the privilege of operating a ~~day-care~~ child care facility. This**  
18 **privilege license tax for a ~~day-care~~ child care facility licensed by the**  
19 **Department of Human Resources under Article 7, Chapter 110 of the**  
20 **General Statutes shall be as follows: fifty dollars (\$50.00) for fewer than**  
21 **50 children; one hundred dollars (\$100.00) for 50 to 99 children; two**  
22 **hundred dollars (\$200.00) for 100 to 149 children; three hundred dollars**  
23 **(\$300.00) for 150 to 200 children; and four hundred dollars (\$400.00) for**  
24 **more than 200 children."**

25 Section 36. G.S. 105-164.13(26a) reads as rewritten:

26 "(26a) Food sold not for profit by a public school cafeteria to a child ~~day-care~~  
27 center that participates in the Child and Adult Care Food Program of the  
28 Department of Public Instruction."

29 Section 37. G.S. 114-15.3 reads as rewritten:

30 "**§ 114-15.3. Investigations of child sexual abuse in ~~day~~ child care.**

31 The Director of the Bureau may form a task force to investigate and gather evidence  
32 following a notification by the director of a county department of social services,  
33 pursuant to G.S. 7A-543, that child sexual abuse may have occurred in a ~~day~~ child care  
34 ~~facility or day care home.~~ facility."

35 Section 38. G.S. 114-19.3(a) reads as rewritten:

36 "(a) Authority. – The Department of Justice may provide to any of the following  
37 entities a criminal record check of an individual who is employed by that entity, has  
38 applied for employment with that entity, or has volunteered to provide direct care on  
39 behalf of that entity:

- 40 (1) Hospitals licensed under Chapter 131E of the General Statutes.
- 41 (2) Nursing homes or combination homes licensed under Chapter 131E of  
42 the General Statutes.
- 43 (3) Adult care homes licensed under Chapter 131D of the General Statutes.

- 1 (4) Home care agencies or hospices licensed under Chapter 131E of the  
2 General Statutes.
- 3 (5) Child placing agencies licensed under Chapter 131D of the General  
4 Statutes.
- 5 (6) Residential child care facilities licensed under Chapter 131D of the  
6 General Statutes.
- 7 (7) Hospitals licensed under Chapter 122C of the General Statutes.
- 8 (8) Area mental health, developmental disabilities, and substance abuse  
9 authorities licensed under Chapter 122C of the General Statutes,  
10 including a contract agency of an area authority that is subject to the  
11 provisions of Article 4 of that Chapter.
- 12 (9) Licensed child ~~day-care~~ facilities ~~and registered~~ and nonregistered child  
13 ~~day-care~~ homes regulated by the State.
- 14 (10) Any other organization or corporation, whether for profit or nonprofit,  
15 that provides direct care or services to children, the sick, the disabled, or  
16 the elderly."

17 Section 39. G.S. 114-19.5 reads as rewritten:

18 **"§ 114-19.5. Criminal record checks of child ~~day-care~~ providers.**

19 The Department of Justice may provide to the Division of Child Development,  
20 Department of Human Resources, the criminal history from the State and National  
21 Repositories of Criminal Histories in accordance with G.S. 110-90.2, of any child ~~day~~  
22 care provider, as defined in G.S. 110-90.2. The Division shall provide to the Department  
23 of Justice, along with the request, the fingerprints of the provider to be checked, any  
24 additional information required by the Department of Justice, and a form consenting to  
25 the check of the criminal record and to the use of fingerprints and other identifying  
26 information required by the State or National Repositories signed by the child ~~day-care~~  
27 provider to be checked. The Division shall keep all information pursuant to this section  
28 privileged, as provided in G.S. 110-90.2(e). The Department of Justice shall charge a  
29 reasonable fee only for conducting the checks of the national criminal history records  
30 authorized by this section."

31 Section 40. G.S. 115C-468(c) reads as rewritten:

32 "(c) The Superintendent of Public Instruction may earmark up to twenty percent  
33 (20%) of the funds available for scholarship loans each year for awards to applicants who  
34 have been employed for at least one year as teacher assistants and who are currently  
35 employed as teacher assistants. Preference for these scholarship loans from funds  
36 earmarked for teacher assistants shall be given first to applicants who worked as teacher  
37 assistants for at least five years and whose positions as teacher assistants were abolished  
38 and then to applicants who already hold a baccalaureate degree or who have already been  
39 formally admitted to an approved teacher education program in North Carolina. The  
40 criteria for awarding scholarship loans to applicants who worked as teacher assistants for  
41 at least five years and whose positions as teacher assistants were abolished shall include  
42 whether the teacher assistant has been admitted to an approved teacher education  
43 program in North Carolina.

1 The Superintendent of Public Instruction may further earmark a portion of these funds  
2 each year for two-year awards to applicants who have been employed for at least one  
3 year as teacher assistants to attend community colleges to get other skills of use in public  
4 schools or to get an early childhood associate degree. The provisions of this Article shall  
5 apply to these scholarship loans except that a recipient of one of these scholarship loans  
6 may receive credit upon the amount due by reason of the loan as provided in G.S. 115C-  
7 471(5) or by working in a nonteaching position in the North Carolina public schools  
8 or by working in a licensed ~~day~~-child care center in North Carolina."

9 Section 41. G.S. 120-70.71 reads as rewritten:

10 **"§ 120-70.71. Powers and duties.**

11 The Commission shall study State government policy and programs affecting the  
12 family, specifically addressing family issues from the point of existing laws,  
13 governmental programs needed or already functioning, and current family life issues.  
14 The Commission shall work in close collaboration with various agencies and programs  
15 dealing with the family. Among the issues the Commission may consider studying are  
16 the following:

- 17 (1) The feasibility of establishing model projects that would be located  
18 primarily in low-income, high dropout rate communities in North  
19 Carolina:
  - 20 a. To teach adults in the family to read; and
  - 21 b. To provide after school care for school-aged children using  
22 volunteers who could be retirees in the provision of services;
- 23 (2) The fiscal impact of a cash stipend created by a tax deduction or by  
24 industry dollars to promote literacy or the obtainment of a General  
25 Education Development Degree for persons who are presently illiterate  
26 or outside the school system;
- 27 (3) The need for ~~day~~-care for children and senior citizens, an increase in Aid  
28 to Families with Dependent Children payments and eligibility  
29 requirements, coordination of State law with federal welfare reform  
30 programs, in-home services for the elderly, additional funding for adult  
31 day care, and incentives for industries to develop ~~day~~-child care  
32 programs;
- 33 (4) The relationship between the decline of real income and the tax  
34 structure, college tax credits, the minimum wage, and welfare support  
35 systems;
- 36 (5) The State's efforts in the areas of adolescent pregnancy and teaching  
37 about adolescent sexuality;
- 38 (6) A comprehensive review of State and federal programs encouraging  
39 business and industry to provide adequate child care for their  
40 employees;
- 41 (7) An analysis of what the State is currently doing to encourage North  
42 Carolina businesses and industry to provide adequate child care for their  
43 employees;

- 1 (8) A survey of North Carolina employers that presently provide child care  
2 options for their employees and what types of options they provide;
- 3 (9) A comprehensive study of the types of tax incentives and other  
4 incentives that would encourage North Carolina businesses – especially  
5 those that have 50 or more employees – to either provide on-site child  
6 care facilities or provide other child care options and the cost to the  
7 State of these tax incentives;
- 8 (10) Recommendations of what the State could be doing to encourage North  
9 Carolina businesses to provide on-site child care facilities or other child  
10 care options for their employees;
- 11 (11) Recommendations of a comprehensive policy for North Carolina to  
12 encourage businesses within the State to provide on-site child care  
13 facilities or other child care options for their employees;
- 14 (12) The concept of requiring coverage of child health supervision services  
15 in all health insurance policies sold or delivered within the State;
- 16 (13) The issue of domestic violence; and
- 17 (14) The problem of suicide among the youth of the State."

18 Section 42. G.S. 120-123(44) reads as rewritten:

19 "(44) The Child ~~Day-Care-Care~~ Commission, as established by G.S. 143B-  
20 168.3."

21 Section 43. G.S. 122C-22(a) reads as rewritten:

22 "(a) The following are excluded from the provisions of this Article and are not  
23 required to obtain licensure under this Article:

- 24 (1) Physicians and psychologists engaged in private office practice;
- 25 (2) General hospitals licensed under Article 5 of Chapter 131E of the  
26 General Statutes, that operate special units for the mentally ill,  
27 developmentally disabled, or substance abusers;
- 28 (3) State and ~~federally-operated~~ federally operated facilities;
- 29 (4) Adult care homes licensed under Chapter 131D of the General Statutes;
- 30 (5) Developmental child ~~day-care~~ centers licensed under Article 7 of  
31 Chapter 110 of the General Statutes;
- 32 (6) Persons subject to licensure under rules of the Social Services  
33 Commission;
- 34 (7) Persons subject to rules and regulations of the Division of Vocational  
35 Rehabilitation Services; and
- 36 (8) Facilities that provide occasional respite care for not more than two  
37 individuals at a time; provided that the primary purpose of the facility is  
38 other than as defined in G.S. 122C-3(14)."

39 Section 44. G.S. 122E-8(d) reads as rewritten:

40 "(d) The Agency shall also give priority to applications which include provisions  
41 such as:

- 42 (1) Interest rates and loan terms more favorable than those conventionally  
43 offered;

- 1 (2) Developer contributions to project costs;
- 2 (3) Local government contributions to project costs, including infrastructure
- 3 improvements, contributions of publicly owned land for housing
- 4 development, and the provision of funds for such services as ~~day-child~~ child
- 5 care and job training;
- 6 (4) Coordination with other housing and/or infrastructure investments in the
- 7 community;
- 8 (5) Provision of housing to the disabled, single parent households, or rurally
- 9 isolated households; or
- 10 (6) Provision of housing to persons whose current housing fails to meet
- 11 basic standards of health and safety and who have little prospect of
- 12 improving the condition of their housing except by residing in an
- 13 eligible project receiving assistance under this Chapter."

14 Section 45. G.S. 130A-131.5 reads as rewritten:

15 **"§ 130A-131.5. Commission to adopt rules.**

16 (a) For the protection of the public health, the Commission shall adopt rules for

17 the prevention and control of lead poisoning in children. The rules shall include

18 provisions for:

- 19 (1) Reporting by laboratories of elevated blood lead levels in children less
- 20 than six years of age; the rules shall specify the public health agency to
- 21 which reports shall be made, and shall establish when a blood lead level
- 22 is considered to be elevated. The rules shall further provide the specific
- 23 information to be included in the reports, the time limits for reporting,
- 24 and the form in which reports shall be submitted;
- 25 (2) Investigation by the Department to determine the source of elevated
- 26 blood lead levels;
- 27 (3) Identification of lead poisoning hazards;
- 28 (4) Examination and testing of children less than six years of age who are
- 29 reasonably suspected of having elevated blood lead levels; and
- 30 (5) Abatement of lead poisoning hazards in dwellings, schools and ~~day-child~~ child
- 31 care facilities determined by the Department to be a potential source of
- 32 an elevated blood lead level in a child less than six years of age.

33 (b) Abatement orders issued by the Department pursuant to this section shall

34 require elimination of the lead poisoning hazard. Removal of children from the dwelling,

35 school, or ~~day-child~~ child care facility shall not constitute abatement if the property continues

36 to be used for a dwelling, school, or ~~day-child~~ child care facility."

37 Section 46. G.S. 130A-136 reads as rewritten:

38 **"§ 130A-136. School principals and ~~day~~ito report.**

39 A principal of a school and an operator of a ~~day-care~~ child care facility, as defined in

40 G.S. 110-86(3), who has reason to suspect that a person within the school or ~~day-care~~

41 child care facility has a communicable disease or communicable condition declared by

42 the Commission to be reported, shall report information required by the Commission to

1 the local health director of the county or district in which the school or facility is  
2 located."

3 Section 47. G.S. 130A-155 reads as rewritten:

4 **"§ 130A-155. Submission of certificate to ~~day~~ facility and school authorities; record**  
5 **maintenance; reporting.**

6 (a) No child shall attend a school (K-12), whether public, private or religious, or a  
7 ~~day-care~~ child care facility as defined in G.S. 110-86(3), unless a certificate of  
8 immunization indicating that the child has received the immunizations required by G.S.  
9 130A-152 is presented to the school or facility. The parent, guardian, or responsible  
10 person must present a certificate of immunization on the child's first day of attendance to  
11 the principal of the school or operator of the facility, as defined in G.S. 110-86(7). If a  
12 certificate of immunization is not presented on the first day, the principal or operator  
13 shall present a notice of deficiency to the parent, guardian or responsible person. The  
14 parent, guardian or responsible person shall have 30 calendar days from the first day of  
15 attendance to obtain the required immunization for the child. If the administration of  
16 vaccine in a series of doses given at medically approved intervals requires a period in  
17 excess of 30 calendar days, additional days upon certification by a physician may be  
18 allowed to obtain the required immunization. Upon termination of 30 calendar days or the  
19 extended period, the principal or operator shall not permit the child to attend the school or  
20 facility unless the required immunization has been obtained.

21 (b) The school or ~~day-care~~ child care facility shall maintain on file immunization  
22 records for all children attending the school or facility which contain the information  
23 required for a certificate of immunization as specified in G.S. 130A-154. These  
24 certificates shall be open to inspection by the Department and the local health department  
25 during normal business hours. When a child transfers to another school or facility, the  
26 school or facility which the child previously attended shall, upon request, send a copy of  
27 the child's immunization record at no charge to the school or facility to which the child  
28 has transferred.

29 (c) Within 60 calendar days after the commencement of a new school year, the  
30 school shall file an immunization report with the Department. The ~~day-care~~ child care  
31 facility shall file an immunization report annually with the Department. The report shall  
32 be filed on forms prepared by the Department and shall state the number of children  
33 attending the school or facility, the number of children who had not obtained the required  
34 immunization within 30 days of their first attendance, the number of children who  
35 received a medical exemption and the number of children who received a religious  
36 exemption.

37 (d) Any adult who attends school (K-12), whether public, private or religious, shall  
38 obtain the immunizations required in G.S. 130A-152 and shall present to the school a  
39 certificate in accordance with this section. The physician or local health department  
40 administering a required vaccine to the adult shall give a certificate of immunization to  
41 the person. The certificate shall state the person's name, address, date of birth and sex; the  
42 number of doses of the vaccine given; the date the doses were given; the name and

1 addresses of the physician or local health department administering the required  
2 immunization; and other relevant information required by the Commission."

3 Section 48. The heading for Article 3E, Chapter 143 of the General Statutes  
4 reads as rewritten:

5 **"ARTICLE 3E.**

6 **STATE/PUBLIC SCHOOL CHILD ~~DAY~~-CARE CONTRACTS."**

7 Section 49. G.S. 143-64.50 reads as rewritten:

8 **"§ 143-64.50. State/public school-contracted on-, near-site ~~day~~-child care facilities;  
9 location authorization; contract for program services authorization.**

10 State agencies and local boards of education may contract with any city, county, or  
11 other political subdivision of the State, governmental or private agency, person,  
12 association, or corporation to establish child ~~day~~-care services in State buildings and  
13 public schools. If the child ~~day~~-care program is located in a State building that is not used  
14 for legislative activity, the procedure for approving the location of the program shall be  
15 pursuant to G.S. 143-341(4). If the child ~~day~~-care program is located in a State building  
16 used for legislative activity, the procedure for approving the location of the program shall  
17 be pursuant to G.S. 120-32.1. If the child ~~day~~-care program is located in any other State  
18 building, the procedure for contracting for child ~~day~~-care services shall be pursuant to  
19 G.S. 143-49(3). If the child ~~day~~-care program is located in a State building used for  
20 legislative activity, the procedure for contracting for child ~~day~~-care services shall be  
21 pursuant to G.S. 120-32(4).

22 Contracts for services awarded pursuant to this section are exempt from the provisions  
23 of G.S. 66-58(a) and the contract may provide for payment of rent by the lessee or the  
24 operator of the facility."

25 Section 50. G.S. 143-64.51 reads as rewritten:

26 **"§ 143-64.51. State/public school-contracted child ~~day~~-care facilities; licensing  
27 requirements.**

28 All child ~~day~~-care facilities established pursuant to this Article shall be licensed and  
29 regulated under the provisions of Article 7 of Chapter 110 of the General Statutes,  
30 entitled 'Day-Child Care Facilities.'

31 Section 51. G.S. 143-64.52 reads as rewritten:

32 **"§ 143-64.52. State/public school-contracted child ~~day~~-care facilities; limitation of  
33 State/local board liability.**

34 The operators of the child ~~day~~-care facilities established pursuant to this Article shall  
35 assume all financial and legal responsibility for the operation of the programs and shall  
36 maintain adequate insurance coverage for the operations taking place in the facilities.  
37 Neither the operator or any of the staff of the facilities are considered State employees or  
38 local board of education employees by virtue of this Article alone. The State or the local  
39 boards of education are financially and legally responsible only for the maintenance of  
40 the building."

41 Section 52. G.S. 143-576.2(b) reads as rewritten:

42 "(b) Each Local Team shall consist of the following persons:

- 1 (1) The director of the county department of social services, and a member
- 2 of the director's staff;
- 3 (2) A local law enforcement officer, appointed by the board of county
- 4 commissioners;
- 5 (3) An attorney from the district attorney's office, appointed by the district
- 6 attorney;
- 7 (4) The executive director of the local community action agency, as defined
- 8 by the Division of Economic Opportunity, Department of Human
- 9 Resources, or the executive director's designee;
- 10 (5) The superintendent of each local school administrative unit located in
- 11 the county, or the superintendent's designee;
- 12 (6) A member of the county board of social services, appointed by the chair
- 13 of that board;
- 14 (7) A local mental health professional, appointed by the director of the area
- 15 authority established under Chapter 122C of the General Statutes;
- 16 (8) The local guardian ad litem coordinator, or the coordinator's designee;
- 17 (9) The director of the local department of public health; and
- 18 (10) A local health care provider, appointed by the local board of health.

19 In addition, a Local Team that reviews the records of additional child fatalities shall  
20 include the following four additional members:

- 21 (1) An emergency medical services provider or firefighter, appointed by the
- 22 board of county commissioners;
- 23 (2) A district court judge, appointed by the chief district judge in that
- 24 district;
- 25 (3) A county medical examiner, appointed by the Chief Medical Examiner;
- 26 (4) A representative of a local ~~day~~-child care facility or Head Start program,
- 27 appointed by the director of the county department of social services;
- 28 and
- 29 (5) A parent of a child who died before reaching the child's eighteenth
- 30 birthday, to be appointed by the board of county commissioners.

31 The Team Coordinator shall serve as an ex officio member of each Local Team that  
32 reviews the records of additional child fatalities. The board of county commissioners  
33 may appoint a maximum of five additional members to represent county agencies or the  
34 community at large to serve on any Local Team. Vacancies on a Local Team shall be  
35 filled by the original appointing authority."

36 Section 53. G.S. 143-599 reads as rewritten:

37 **"§ 143-599. Exemptions.**

38 All of the following facilities shall be exempt from the provisions of this Article:

- 39 (1) Any primary or secondary school or ~~day~~-child care center, except for a
- 40 teacher's lounge.
- 41 (2) An enclosed elevator.
- 42 (3) Public school bus.

- 1 (4) Hospital, nursing home, rest home, and State facility operated under the  
2 authority of G.S. 122C-181.  
3 (5) Local health department.  
4 (6) Any nonprofit organization or corporation whose primary purpose is to  
5 discourage the use of tobacco products by the general public.  
6 (7) Tobacco manufacturing, processing, and administrative facilities."

7 Section 54. G.S. 143B-138 reads as rewritten:

8 **"§ 143B-138. Department of Human Resources – functions and organization.**

- 9 (a) Repealed by Session Laws 1989, c. 727, s. 5.  
10 (b) All functions, powers, duties, and obligations heretofore vested in  
11 commissions, boards, councils, committees, or subunits of the Department of Human  
12 Resources which are not transferred by G.S. 143B-279.3 shall continue to be vested in  
13 the Department of Human Resources. These shall include, but are not limited to, the  
14 following:  
15 (1) Division of Aging.  
16 (2) Respite Care Program.  
17 (3) Governor's Advisory Council on Aging.  
18 (4) Division of Services for the Blind.  
19 (5) Commission for the Blind.  
20 (6) Professional Advisory Committee.  
21 (7) Consumer and Advocacy Advisory Committee for the Blind.  
22 (8) Division of Medical Assistance.  
23 (9) Division of Mental Health, Developmental Disabilities, and Substance  
24 Abuse Services.  
25 (10) Commission for Mental Health, Developmental Disabilities, and  
26 Substance Abuse Services.  
27 (11) Division of Social Services.  
28 (12) Social Services Commission.  
29 (13) Division of Facility Services.  
30 (14) Medical Care Commission.  
31 (15) ~~Child Day-Care-Care~~ Commission.  
32 (16) Emergency Medical Services Advisory Council.  
33 (17) Division of Vocational Rehabilitation.  
34 (18) Division of Youth Services.  
35 (19) Division of Schools for the Deaf and the Blind.  
36 (20) Board of Directors of the Governor Morehead School.  
37 (21) Board of Directors for the North Carolina Schools for the Deaf.  
38 (22) North Carolina Council for the Hearing Impaired.  
39 (23) Council on Developmental Disabilities.  
40 (24) North Carolina Council on the Holocaust.  
41 (c) All functions, powers, duties, and obligations heretofore vested in the  
42 Economic Opportunity Division of the Department of Natural Resources and Community

1 Development are hereby transferred to and vested in the Department of Human  
2 Resources by a Type I transfer as defined in G.S. 143A-6.

3 (d) The Department of Human Resources is vested with all other functions,  
4 powers, duties, and obligations as are conferred by the Constitution and laws of this  
5 State."

6 Section 55. G.S. 143B-153(8) reads as rewritten:

7 "(8) The Commission may establish by regulation, except for Title XX  
8 services provided solely through the Division of Mental Health,  
9 Developmental Disabilities, and Substance Abuse Services, rates or fees  
10 for:

- 11 a. A fee schedule for the payment of the costs of necessary ~~day~~  
12 child care in licensed facilities and registered plans for minor  
13 children of needy families.
- 14 b. A fee schedule for the payment by recipients for services which  
15 are established in accordance with Title XX of the Social  
16 Security Act and implementing regulations; and
- 17 c. The payment of an administrative fee not to exceed two hundred  
18 dollars (\$200.00) to be paid by public or nonprofit agencies  
19 which employ students under the Plan Assuring College  
20 Education (PACE) program.
- 21 d. Child support enforcement services as defined by G.S. 110-  
22 130.1."

23 Section 56. G.S. 143B-168.3 reads as rewritten:

24 **"§ 143B-168.3. Child ~~Day~~ duties.**

25 The Child Day-Care Licensing Commission of the Department of Administration is  
26 transferred, recodified, and renamed the Child ~~Day-Care-Care~~ Commission of the  
27 Department of Human Resources with the power and duty to adopt rules to be followed  
28 in the licensing and operation of child ~~day-care~~ facilities and ~~child day care homes~~ as  
29 provided by Article 7 of Chapter 110 of the General Statutes.

30 (a) The Child ~~Day-Care-Care~~ Commission shall adopt rules:

- 31 (1) For the issuance of licenses to any ~~day-child~~ child care facility; and  
32 (2) To ~~register child day care homes and to~~ adopt rules as provided by Article  
33 7 of Chapter 110 of the General Statutes of the State of North Carolina,  
34 and to establish standards for "AA" enhanced program licenses, as  
35 authorized by G.S. 110-88(7).

36 (b) The Commission shall adopt rules consistent with the provisions of this  
37 Chapter. All rules not inconsistent with the provisions of this Chapter heretofore adopted  
38 by the Child Day-Care Licensing Commission shall remain in full force and effect unless  
39 and until repealed or superseded by action of the Child ~~Day-Care-Care~~ Commission. All  
40 rules and regulations adopted by the Commission shall be enforced by the Department of  
41 Human Resources."

42 Section 57. G.S. 143B-168.4(a) reads as rewritten:

43 **"§ 143B-168.4. Child ~~Day-Care-Care~~ Commission – members; selection; quorum.**

1 (a) The Child ~~Day-Care-Care~~ Commission of the Department of Human Resources  
2 shall consist of 15 members. Seven of the members shall be appointed by the Governor  
3 and eight by the General Assembly, four upon the recommendation of the President Pro  
4 Tempore of the Senate, and four upon the recommendation of the Speaker of the House  
5 of Representatives. Four of the members appointed by the Governor, two by the General  
6 Assembly on the recommendation of the President Pro Tempore of the Senate, and two  
7 by the General Assembly on the recommendation of the Speaker of the House of  
8 Representatives, shall be members of the public who are not employed in, or providing,  
9 day-child care and who have no financial interest in a ~~day-child care facility or home-~~  
10 facility. Two of the foregoing public members appointed by the Governor, one of the  
11 foregoing public members recommended by the President Pro Tempore of the Senate,  
12 and one of the foregoing public members recommended by the Speaker of the House of  
13 Representatives shall be parents of children receiving day-child care services. Of the  
14 remaining two public members appointed by the Governor, one shall be a pediatrician  
15 currently licensed to practice in North Carolina. Three of the members appointed by the  
16 Governor shall be day-child care providers, one of whom shall be affiliated with a for  
17 profit day-child care facility, center, one of whom shall be affiliated with a for profit day  
18 family child care home, and one of whom shall be affiliated with a nonprofit ~~home or~~  
19 facility. Two of the members appointed by the General Assembly on the recommendation  
20 of the President Pro Tempore of the Senate, and two by the General Assembly on  
21 recommendation of the Speaker of the House of Representatives, shall be ~~day-care~~  
22 providers, one affiliated with a for profit ~~day-care facility or home, facility,~~  
23 and one affiliated with a nonprofit ~~day-care facility or home, facility.~~ None may be employees of  
24 the State."

25 Section 58. G.S. 143B-168.5 reads as rewritten:

26 "**§ 143B-168.5. Child Day-Care – special unit.**

27 There is established within the Department of Human Resources a special unit to deal  
28 primarily with violations involving child abuse and neglect in child ~~day-care~~  
29 arrangements. The Child ~~Day-Care~~ Commission shall make rules for the investigation of  
30 reports of child abuse or neglect and for administrative action when child abuse or  
31 neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, and ~~110-105.1-110-105.2.~~"

32 Section 59. G.S. 143B-168.14 reads as rewritten:

33 "**§ 143B-168.14. Local partnerships; conditions.**

34 (a) In order to receive State funds, the following conditions shall be met:

- 35 (1) Each local demonstration project shall be coordinated by a new local  
36 partnership responsible for developing a comprehensive, collaborative,  
37 long-range plan of services to children and families in the service-  
38 delivery area. The board of directors of each local partnership shall  
39 consist of members including representatives of public and private  
40 nonprofit health and human service agencies, day-child care providers,  
41 the business community, foundations, county and municipal  
42 governments, local education units, and families. The Department, in  
43 cooperation with the North Carolina Partnership, may specify in its

1 requests for applications the local agencies that shall be represented on a  
2 local board of directors. No existing local, private, nonprofit 501(c)(3)  
3 organization, other than one established on or after July 1, 1993, and  
4 that meets the guidelines for local partnerships as established under this  
5 Part, shall be eligible to apply to serve as the local partnership for the  
6 purpose of this Part.

7 (2) Each local partnership shall agree to adopt procedures for its operations  
8 that are comparable to those of Article 33C of Chapter 143 of the  
9 General Statutes, the Open Meetings Law, and Chapter 132 of the  
10 General Statutes, the Public Records Law, and provide for enforcement  
11 by the Department.

12 (3) Each local partnership shall adopt procedures to ensure that all  
13 personnel who provide services to young children and their families  
14 under this Part know and understand their responsibility to report  
15 suspected child abuse, neglect, or dependency, as defined in G.S. 7A-  
16 517.

17 (4) Each local partnership shall participate in the uniform, standard fiscal  
18 accountability plan developed and adopted by the North Carolina  
19 Partnership.

20 (b) Each local partnership shall be subject to audit and review by the State Auditor  
21 under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct  
22 annual financial and compliance audits of the local partnerships."

23 Section 60. G.S. 143B-168.15 reads as rewritten:

24 "**§ 143B-168.15. Use of State funds.**

25 (a) State funds allocated to local projects for services to children and families shall  
26 be used to meet assessed needs, expand coverage, and improve the quality of these  
27 services. The local plan shall address the assessed needs of all children to the extent  
28 feasible. It is the intent of the General Assembly that the needs of both young children  
29 below poverty who remain in the home, as well as the needs of young children below  
30 poverty who require services beyond those offered in child care settings, be addressed.  
31 Therefore, as local partnerships address the assessed needs of all children, they should  
32 devote an appropriate amount of their State allocations, considering these needs and other  
33 available resources, to meet the needs of children below poverty and their families.

34 (b) Depending on local, regional, or statewide needs, funds may be used to support  
35 activities and services that shall be made available and accessible to providers, children,  
36 and families on a voluntary basis. Of the funds allocated to local partnerships that are  
37 designated by the Secretary for direct services, seventy-five percent (75%) shall be used  
38 for any one or more of the following activities and services:

39 (1) Child ~~day~~-care services, including:

40 a. Child ~~day~~-care subsidies to reduce waiting lists;

41 b. Raising the county child ~~day~~-care subsidy rate to the State market  
42 rate, if applicable, in return for improvements in the quality of  
43 child ~~day~~-care services;

- 1 c. Raising the income eligibility for child day-care subsidies to
- 2 seventy-five percent (75%) of the State median family income;
- 3 d. Start-up funding for child day-care providers;
- 4 e. Assistance to enable child day-care providers to conform to
- 5 licensing and building code requirements;
- 6 f. Child day-care resources and referral services;
- 7 g. Enhancement of the quality of child day-care provided;
- 8 h. Technical assistance for child day-care providers;
- 9 i. Quality grants for child day-care centers or family child day-care
- 10 homes;
- 11 j. Expanded services or enhanced rates for children with special
- 12 needs;
- 13 k. Head Start services;
- 14 l. Development of comprehensive child day-care services that
- 15 include child health and family support;
- 16 m. Activities to reduce staff turnover;
- 17 n. Activities to serve children with special needs;
- 18 o. Transportation services related to providing child day-care
- 19 services;
- 20 p. Evaluation of plan implementation of child day-care services; and
- 21 q. Needs and resources assessments for child day-care services.
- 22 (2) Family- and child-centered services, including early childhood
- 23 education and child development services, including:
- 24 a. Enhancement of the quality of family- and child-centered
- 25 services provided;
- 26 b. Technical assistance for family- and child-centered services;
- 27 c. Needs and resource assessments for family- and child-centered
- 28 services;
- 29 d. Home-centered services; and
- 30 e. Evaluation of plan implementation of family- and child-centered
- 31 services.
- 32 (3) Other appropriate activities and services for child day-care providers and
- 33 for family- and child-centered services, including:
- 34 a. Staff and organizational development, leadership and
- 35 administrative development, technology assisted education, and
- 36 long-range planning; and
- 37 b. Procedures to ensure that infants and young children receive
- 38 needed health, immunization, and related services.
- 39 (c) Long-term plans for local projects that do not receive their full allocation in the
- 40 first year, other than those selected in 1993, should consider how to meet the assessed
- 41 needs of low-income children and families within their neighborhoods or communities.
- 42 These plans also should reflect a process to meet these needs as additional allocations and
- 43 other resources are received.

1 (d) State funds designated for start-up and related activities may be used for capital  
2 expenses or to support activities and services for children, families, and providers. State  
3 funds designated to support direct services for children, families, and providers shall not  
4 be used for major capital expenses unless the North Carolina Partnership approves this  
5 use of State funds based upon a finding that a local partnership has demonstrated that (i)  
6 this use is a clear priority need for the local plan, (ii) it is necessary to enable the local  
7 partnership to provide services and activities to underserved children and families, and  
8 (iii) the local partnership will not otherwise be able to meet this priority need by using  
9 State or federal funds available to that local partnership. The funds approved for capital  
10 projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total  
11 funds for direct services allocated to a local partnership in those two consecutive fiscal  
12 years.

13 (e) State funds allocated to local partnerships shall not supplant current  
14 expenditures by counties on behalf of young children and their families, and maintenance  
15 of current efforts on behalf of these children and families shall be sustained. State funds  
16 shall not be applied without the Secretary's approval where State or federal funding  
17 sources, such as Head Start, are available or could be made available to that county.

18 (f) Local partnerships may carry over funds from one fiscal year to the next,  
19 subject to the following conditions:

20 (1) Local partnerships in their first year of receiving direct services funding  
21 may, on a one-time basis only, carry over any unspent funds to the  
22 subsequent fiscal year.

23 (2) Any local partnership may carry over any unspent funds to the  
24 subsequent fiscal year, subject to the limitation that funds carried over  
25 may not exceed the increase in funding the local partnership received  
26 during the current fiscal year over the prior fiscal year.

27 (g) Not less than thirty percent (30%) of each local partnership's direct services  
28 allocation shall be used to expand child day-care subsidies. To the extent practicable,  
29 these funds shall be used to enhance the affordability, availability, and quality of child  
30 day-care services as described in this section."

31 Section 61. G.S. 143B-178 reads as rewritten:

32 **"§ 143B-178. Council on Developmental Disabilities – definitions.**

33 The following definitions apply to this Chapter:

34 (1) The term 'developmental disability' means a severe, chronic disability of  
35 a person which:

36 a. Is attributable to a mental or physical impairment or combination  
37 of mental and physical impairments;

38 b. Is manifested before the person attains age 22, unless the  
39 disability is caused by a traumatic head injury and is manifested  
40 after age 22;

41 c. Is likely to continue indefinitely;

42 d. Results in substantial functional limitations in three or more of  
43 the following areas of major life activity: (i) self-care, (ii)

- 1 receptive and expressive language, (iii) learning, (iv) mobility,  
2 (v) self-direction, (vi) capacity for independent living, and (vii)  
3 economic self-sufficiency; and  
4 e. Reflects the person's need for a combination and sequence of  
5 special, interdisciplinary, or generic care, treatment, or other  
6 services which are of lifelong or extended duration and are  
7 individually planned and coordinated.
- 8 (2) The term 'services for persons with developmental disabilities,' as it is  
9 used in this Article, means:
- 10 a. Alternative community living arrangement services, employment  
11 related activities, child development services, and case  
12 management services; and  
13 b. Any other specialized services or special adaptations of generic  
14 services including diagnosis, evaluation, treatment, personal care,  
15 ~~day-child~~ care, adult care, special living arrangements, training,  
16 education, sheltered employment, recreation and socialization,  
17 counseling of the individual with such a disability and of his  
18 family, protective and other social and sociolegal services,  
19 information and referral services, follow-along services,  
20 nonvocational social-developmental services, and transportation  
21 services necessary to assure delivery of services to persons with  
22 developmental disabilities, and services to promote and  
23 coordinate activities to prevent developmental disabilities.

24 Section 62. G.S. 153A-234 reads as rewritten:

25 **"§ 153A-234. Fire marshal.**

26 A county may appoint a fire marshal and employ persons as his assistants. A county  
27 may also impose any duty that might be imposed on a fire marshal on any other officer or  
28 employee of the county. The board of commissioners shall set the duties of the fire  
29 marshal, which may include but are not limited to:

- 30 (1) Advising the board on improvements in the fire-fighting or fire  
31 prevention activities under the county's supervision or control.  
32 (2) Coordinating fire-fighting and training activities under the county's  
33 supervision or control.  
34 (3) Coordinating fire prevention activities under the county's supervision or  
35 control.  
36 (4) Assisting incorporated volunteer fire departments in developing and  
37 improving their fire-fighting or fire prevention capabilities.  
38 (5) Making fire prevention inspections, including the periodic inspections  
39 and reports of school buildings required by Chapter 115 and the  
40 inspections of ~~day-care~~ child care facilities required by Chapter 110. A  
41 fire marshal shall not make electrical inspections unless he is qualified  
42 to do so under G.S. 153A-351."

1                   Section 63. Except as otherwise provided in this act, this act is effective when  
2 it becomes law.