



128th MAINE LEGISLATURE

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Legislative Document

No. 561

H.P. 403

House of Representatives, February 14, 2017

**An Act To Remove the Requirement That Child Care Facility
Workers and Family Child Care Providers Submit to Criminal
Background Checks**

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SIROCKI of Scarborough.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §7702-A, sub-§3, ¶C**, as amended by PL 2015, c. 497, §1, is
3 further amended to read:

4 C. Section 8302-A, subsection 1, paragraphs B to ~~¶ I~~ and subsection 2, paragraphs A
5 to F and H to ~~¶ J~~.

6 **Sec. 2. 22 MRSA §8302-A, sub-§1**, as amended by PL 2015, c. 497, §2, is
7 further amended to read:

8 **1. Rules for child care facilities.** Rules for child care facilities must include, but are
9 not limited to, rules pertaining to the following:

- 10 A. Child to staff ratios;
- 11 B. The health and safety of the children and staff, including training on
12 communicable diseases;
- 13 C. Water for drinking and cooking;
- 14 D. Wastewater;
- 15 E. Rabies vaccinations for pets;
- 16 F. The quality of the program provided;
- 17 G. The age, criminal record and personal history of the provider of care for children
18 and staff members;
- 19 H. The administration of medication; and

20 I. Licensing procedures; and

21 ~~J. Requiring a criminal background check for:~~

22 ~~(1) Each child care staff member whose activities involve the care or supervision~~
23 ~~of children; and~~

24 ~~(2) Each adult who has unsupervised access to children who are cared for or~~
25 ~~supervised by a child care facility.~~

26 ~~The criminal background check must meet the requirements of 42 United States~~
27 ~~Code, Section 9858f(b).~~

28 Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5,
29 chapter 375, subchapter 2-A, ~~except that rules adopted pursuant to paragraph J to comply~~
30 ~~with 42 United States Code, Section 9858f(b) are major substantive rules pursuant to~~
31 ~~Title 5, chapter 375, subchapter 2-A.~~

32 **Sec. 3. 22 MRSA §8302-A, sub-§2**, as amended by PL 2015, c. 497, §3, is
33 further amended to read:

34 **2. Rules for family child care providers.** Rules for family child care providers
35 must include, and are limited to, rules pertaining to the following:

- 1 A. Cardiopulmonary resuscitation;
- 2 B. Water for drinking and cooking;
- 3 C. Wastewater;
- 4 D. Rabies vaccinations for pets;
- 5 E. Recording the times, reasons and numbers of children involved when more than
- 6 12 children are cared for;
- 7 F. Ongoing training for providers on health and safety issues, including training on
- 8 communicable diseases. This training must be offered at times that are convenient to
- 9 the providers;
- 10 G. Child to staff ratios;
- 11 H. Health and safety of the children and staff;
- 12 I. Procedures for waivers of rules and for suspension and revocation of certification;
- 13 and
- 14 J. The age, criminal record and personal history of the family child care provider,
- 15 staff and members of the household; ~~and,~~
- 16 ~~K. Requiring a criminal background check for:~~
- 17 ~~(1) The family child care provider;~~
- 18 ~~(2) Each child care staff member whose activities involve the care or supervision~~
- 19 ~~of children; and~~
- 20 ~~(3) Each adult who has unsupervised access to children who are cared for or~~
- 21 ~~supervised by the family child care provider.~~
- 22 ~~The criminal background check must meet the requirements of 42 United States~~
- 23 ~~Code, Section 9858f(b).~~

24 Rules adopted pursuant to paragraphs A to F are routine technical rules pursuant to Title
 25 5, chapter 375, subchapter 2-A and rules adopted pursuant to paragraphs G to ~~K~~ J are
 26 major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

27 **Sec. 4. 22 MRSA §8302-A, sub-§3** is enacted to read:

28 **3. Rules regarding criminal background checks for providers and staff**
 29 **prohibited.** The commissioner may not adopt or enforce a rule that requires a criminal
 30 background check for a family child care provider or a staff member or other adult at a
 31 child care facility or child care provider.

32 **SUMMARY**

33 This bill removes the requirement that a family child care provider, the staff of a
 34 family child care provider or child care facility or other adult who has unsupervised
 35 access to children who are cared for or supervised by the family child care provider or
 36 child care facility undergo a criminal background check.