

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 459

Introduced by Health and Human Services Committee: Howard, 9,
Chairperson; Arch, 14; Cavanaugh, 6; Hansen, B., 16;
Murman, 38; Walz, 15; Williams, 36.

Read first time January 18, 2019

Committee:

- 1 A BILL FOR AN ACT relating to child care; to amend section 71-1912,
- 2 Reissue Revised Statutes of Nebraska; to change provisions relating
- 3 to the Child Care Licensing Act; to provide powers and duties for
- 4 the Department of Health and Human Services and the Nebraska State
- 5 Patrol and change requirements regarding national criminal history
- 6 record information checks; to define terms; and to repeal the
- 7 original section.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-1912, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-1912 (1) Before issuance of a license, the department shall
4 investigate or cause an investigation to be made, when it deems
5 necessary, to determine if the applicant or person in charge of the
6 program meets or is capable of meeting the physical well-being, safety,
7 and protection standards and the other rules and regulations of the
8 department adopted and promulgated under the Child Care Licensing Act.
9 The department may investigate the character of applicants and licensees,
10 any member of the applicant's or licensee's household, and the staff and
11 employees of programs ~~by making a national criminal history record~~
12 ~~information check~~. The department may at any time inspect or cause an
13 inspection to be made of any place where a program is operating to
14 determine if such program is being properly conducted.

15 (2) All inspections by the department shall be unannounced except
16 for initial licensure visits and consultation visits. Initial licensure
17 visits are announced visits necessary for a provisional license to be
18 issued to a family child care home I, family child care home II, child
19 care center, or school-age-only or preschool program. Consultation visits
20 are announced visits made at the request of a licensee for the purpose of
21 consulting with a department specialist on ways of improving the program.

22 (3) An unannounced inspection of any place where a program is
23 operating shall be conducted by the department or the city, village, or
24 county pursuant to subsection (2) of section 71-1914 at least annually
25 for a program licensed to provide child care for fewer than thirty
26 children and at least twice every year for a program licensed to provide
27 child care for thirty or more children.

28 (4) Whenever an inspection is made, the findings shall be recorded
29 in a report designated by the department. The public shall have access to
30 the results of these inspections upon a written or oral request to the
31 department. The request must include the name and address of the program.

1 Additional unannounced inspections shall be performed as often as is
2 necessary for the efficient and effective enforcement of the Child Care
3 Licensing Act.

4 (5)(a) A person applying for a license as a child care provider or a
5 licensed child care provider under the Child Care Licensing Act shall
6 submit a request for a national criminal history record information check
7 for each child care staff member, including a prospective child care
8 staff member of the child care provider, as set forth in this section,
9 and at the applicant's or licensee's expense. On or after September 1,
10 2019, all prospective child care staff members shall submit to a national
11 criminal history record information check prior to employment. All child
12 care staff employed prior to September 1, 2019, must submit to a national
13 criminal history record information check by September 1, 2021.

14 (b) A child care staff member shall be required to undergo a
15 national criminal history record information check not less than once
16 during each five-year period. A child care staff member shall submit a
17 complete set of his or her fingerprints to the Nebraska State Patrol. The
18 Nebraska State Patrol shall transmit a copy of the child care staff
19 member's fingerprints to the Federal Bureau of Investigation for a
20 national criminal history record information check. The national criminal
21 history record information check shall include information concerning
22 child care staff members from federal repositories of such information
23 and repositories of such information in other states, if authorized by
24 federal law for use by the Nebraska State Patrol. The Nebraska State
25 Patrol shall issue a report to the department that includes the
26 information collected from the national criminal history record
27 information check concerning child care staff members. A child care staff
28 member being screened shall pay the actual cost of the fingerprinting and
29 national criminal history record information check. The department and
30 the Nebraska State Patrol may adopt and promulgate rules and regulations
31 concerning the costs associated with the fingerprinting and the national

1 criminal history record information check. The department may adopt and
2 promulgate rules and regulations implementing national criminal history
3 record information check requirements for child care providers and child
4 care staff members.

5 (c) A child care staff member shall also submit to the following
6 background checks at his or her expense:

7 (i) A search of the National Crime Information Center's National Sex
8 Offender Registry; and

9 (ii) A search of the following registries, repositories, or data
10 bases in the state where the child care center or child care staff member
11 resides and each state where such child care center or child care staff
12 member resided during the preceding five years:

13 (A) State criminal registries or repositories;

14 (B) State sex offender registries or repositories; and

15 (C) State-based child abuse and neglect registries and data bases.

16 (d) Any individual shall be ineligible for employment by a child
17 care center if such individual:

18 (i) Refuses to consent to the national criminal history record
19 information check described in this section;

20 (ii) Knowingly makes a materially false statement in connection with
21 the national criminal history record information check;

22 (iii) Is registered, or required to be registered, on a state sex
23 offender registry or repository or the National Sex Offender Registry; or

24 (iv) Has been convicted of a crime of violence, a crime of moral
25 turpitude, or a crime of dishonesty.

26 (e) The department may adopt and promulgate rules and regulations
27 prohibiting the employment of any child care staff member with one or
28 more criminal convictions as the department deems necessary to protect
29 the health and safety of children receiving child care.

30 (f) A child care provider shall be ineligible for a license under
31 the Child Care Licensing Act and shall be ineligible to participate in

1 the child care subsidy program if the center employs a child care staff
2 member who is ineligible for employment under subdivision (e) of this
3 subsection.

4 (g) National criminal history record information subject to federal
5 confidentiality requirements may only be used for purposes of granting a
6 child care license or approving a child care subsidy provider for
7 participation in the child care subsidy program.

8 (h) For purposes of subdivisions (5)(a) and (b) of this section:

9 (i) Child care provider means a child care program other than a
10 family child care home I; and

11 (ii) Child care staff member means:

12 (A) An individual employed by a child care provider for
13 compensation, including a contract employee or a self-employed
14 individual; or

15 (B) An individual whose activities involve the care or supervision
16 of children for a child care provider or who has unsupervised access to
17 children who are cared for or supervised by a child care provider.

18 Sec. 2. Original section 71-1912, Reissue Revised Statutes of
19 Nebraska, is repealed.