GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 234

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to early childhood.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 199.8943 is amended to read as follows:

4 (1) ***As used in this section:***

5 ***(a) "Federally funded time-limited employee" has the same meaning as in KRS***

6 ***18A.005;***

7 ***(b) "Primary school program" has the same meaning as in KRS 158.031(1);***

8 ***and***

9 ***(c) "Public-funded" means a program which receives local, state, or federal***

10 ***funding.***

11 ***(2)*** The Early Childhood Advisory Council shall, in consultation with ***early care and***

12 ***education providers***~~[child-care providers]~~, the Cabinet for Health and Family

13 Services, and others, including but not limited to child-care resource and referral

14 agencies and family resource centers, ***Head Start agencies, and the Kentucky***

15 ***Department of Education,*** develop a~~[voluntary]~~ quality-based graduated ***early care***

16 ***and education program***~~[child-care]~~ rating system for ***public-funded*** licensed child-

17 ~~[-]~~care and certified family child-care homes***, public-funded preschool, and Head***

18 ***Start*** based on, but not limited to:

19 (a) ***Classroom and instructional quality***~~[Child to caregiver ratios]~~;

20 (b) ***Administrative and leadership practices***~~[Child-care staff training]~~;

21 (c) ***Staff qualifications and professional development***~~[Program curriculum]~~; and

22 (d) ***Family and community engagement***~~[Program regulatory compliance]~~.

23 ***(3)***~~[(2)]~~ The Cabinet for Health and Family Services shall***,*** in consultation with the

24 Early Childhood Advisory Council, promulgate administrative regulations in

25 accordance with KRS Chapter 13A to implement:

26 (a) The ~~[voluntary]~~quality-based graduated ***early childhood***~~[child-care]~~ rating

27 system for ***public-funded*** child-care and certified family child-care homes***,***

1 ***public-funded preschool, and Head Start*** developed under subsection ***(2)***[~~(1)~~]
2 of this section;
3 (b) Agency time frames of reviews for rating;
4 (c) An appellate process under KRS Chapter 13B; and
5 (d) The ability of providers to request reevaluation for rating.
6 ***(4) The quality-based early childhood rating system shall not be used for***
7 ***enforcement of compliance or in any punitive manner.***
8 ***(5) The Early Childhood Advisory Council, in consultation with the Kentucky Center***
9 ***for Education and Workforce Statistics, shall report by October 1 of each year to***
10 ***the Interim Joint Committee on Education and the Interim Joint Committee on***
11 ***Health and Welfare on the implementation of the quality-based graduated early***
12 ***childhood rating system. The report shall include the following quantitative***
13 ***performance measures as data becomes available:***
14 ***(a) Program participation in the rating system;***
15 ***(b) Ratings of programs by program type;***
16 ***(c) Changes in student school-readiness measures;***
17 ***(d) Longitudinal student cohort performance data tracked through student***
18 ***completion of the primary school program; and***
19 ***(e) Long-term viability recommendations for sustainability at the end of the***
20 ***Race to the Top-Early Learning Challenge Grant.***
21 ***(6) By November 1, 2017, the Early Childhood Advisory Council and the Cabinet for***
22 ***Health and Family Services shall report to the Interim Joint Committee on***
23 ***Education and the Interim Joint Committee on Health and Welfare on***
24 ***recommendations and plans for sustaining program quality after the depletion of***
25 ***federal Race to the Top-Early Learning Challenge grant funds.***
26 ***(7) Any federally funded time-limited employee personnel positions created as a***
27 ***result of the federal Race to the Top-Early Learning Challenge grant shall be***

1 ***eliminated upon depletion of the grant funds.***

2 ➔Section 2. KRS 199.8941 is amended to read as follows:

3 (1) The Early Childhood Advisory Council shall, by administrative regulation
4 promulgated in accordance with KRS Chapter 13A, establish a program of
5 monetary incentives including but not limited to an increased child-care subsidy and
6 a one-time merit achievement award for child-care centers and certified family
7 child-care homes that are tied to a quality rating system for child care as established
8 under KRS 199.8943.

9 (2) The monetary incentive program shall be reviewed annually by the council for the
10 purpose of determining future opportunities to provide incentives.

11 (3) Participation in the program of monetary incentives and in the quality rating system
12 by ***public-funded*** child-care centers and certified family child-care homes is
13 ***mandatory***~~[voluntary]~~.

14 (4) The Cabinet for Health and Family Services shall encourage the professional
15 development of persons who are employed or provide training in a child-care or
16 early childhood setting by facilitating their participation in the scholarship program
17 for obtaining a child development associate credential, postsecondary certificate,
18 diploma, degree, or specialty credential as established under KRS 164.518.

19 ➔Section 3. KRS 199.896 is amended to read as follows:

20 (1) No person, association, or organization shall conduct, operate, maintain, or
21 advertise any child-care center without obtaining a license as provided in KRS
22 199.892 to 199.896.

23 (2) The secretary may promulgate administrative regulations pursuant to KRS Chapter
24 13A relating to license fees and may establish standards of care and service for a
25 child-care center, criteria for the denial of a license if criminal records indicate
26 convictions that may impact the safety and security of children in care, and
27 procedures for enforcement of penalties.

1 (3) Each initial application for a license shall be made to the cabinet and shall be
2 accompanied by a fee of not more than fifty dollars ($50) and shall be renewable
3 annually upon expiration and reapplication when accompanied by a fee of twenty-
4 five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year
5 from their effective date.
6 (4) No child-care center shall be refused a license or have its license revoked for failure
7 to meet standards set by the secretary until after the expiration of a period not to
8 exceed six (6) months from the date of the first official notice that the standards
9 have not been met. If, however, the cabinet has probable cause to believe that an
10 immediate threat to the public health, safety, or welfare exists, the cabinet may take
11 emergency action pursuant to KRS 13B.125. All administrative hearings conducted
12 under authority of KRS 199.892 to 199.896 shall be conducted in accordance with
13 KRS Chapter 13B.
14 (5) If, upon inspection or investigation, the inspector general finds that a child-care
15 center licensed under this section has violated the administrative regulations,
16 standards, or requirements of the cabinet, the inspector general shall issue a
17 statement of deficiency to the center containing:
18 (a) A statement of fact;
19 (b) A statement of how an administrative regulation, standard, or requirement of
20 the cabinet was violated; and
21 (c) The timeframe, negotiated with the child-care center, within which a violation
22 is to be corrected, except that a violation that poses an immediate threat to the
23 health, safety, or welfare of children in the center shall be corrected in no
24 event later than five (5) working days from the date of the statement of
25 deficiency.
26 (6) The Cabinet for Health and Family Services, in consultation with the Office of the
27 Inspector General, shall establish by administrative regulations promulgated in

1 accordance with KRS Chapter 13A an informal dispute resolution process
2 containing at least two (2) separate levels of review through which a child-care
3 provider may dispute licensure deficiencies that have an adverse effect on the child-
4 care provider's license.
5 (7) A child-care center shall have the right to appeal to the Cabinet for Health and
6 Family Services under KRS Chapter 13B any action adverse to its license or the
7 assessment of a civil penalty issued by the inspector general as the result of a
8 violation contained in a statement of deficiency within twenty (20) days of the
9 issuance of the action or assessment of the civil penalty. An appeal shall not act to
10 stay the correction of a violation.
11 (8) In assessing the civil penalty to be levied against a child-care center for a violation
12 contained in a statement of deficiency issued under this section, the inspector
13 general or the inspector general's designee shall take into consideration the
14 following factors:
15 (a) The gravity of the threat to the health, safety, or welfare of children posed by
16 the violation;
17 (b) The number and type of previous violations of the child-care center;
18 (c) The reasonable diligence exercised by the child-care center and efforts to
19 correct the violation; and
20 (d) The amount of assessment necessary to assure immediate and continued
21 compliance.
22 (9) Upon a child-care center's failure to take action to correct a violation of the
23 administrative regulations, standards, or requirements of the cabinet contained in a
24 statement of deficiency, or at any time when the operation of a child-care center
25 poses an immediate threat to the health, safety, or welfare of children in the center,
26 and the child-care center continues to operate after the cabinet has taken emergency
27 action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee

1 shall take at least one (1) of the following actions against the center:
2 (a) Institute proceedings to obtain an order compelling compliance with the
3 administrative regulations, standards, and requirements of the cabinet;
4 (b) Institute injunctive proceedings in Circuit Court to terminate the operation of
5 the center;
6 (c) Institute action to discontinue payment of child-care subsidies; or
7 (d) Suspend or revoke the license or impose other penalties provided by law.
8 (10) Upon request of any person, the cabinet shall provide information regarding the
9 denial, revocation, suspension, or violation of any type of child-care center license
10 of the operator. Identifying information regarding children and their families shall
11 remain confidential.
12 (11) The cabinet shall provide, upon request, public information regarding the
13 inspections of and the plans of correction for the child-care center within the past
14 year. All information distributed by the cabinet under this subsection shall include a
15 statement indicating that the reports as provided under this subsection from the past
16 five (5) years are available from the child-care center upon the parent's, custodian's,
17 guardian's, or other interested person's request.
18 (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and
19 certification applications shall be paid into the State Treasury and credited to a
20 special fund for the purpose of administering KRS 199.892 to 199.896 including the
21 payment of expenses of and to the participants in child-care workshops. The funds
22 collected are hereby appropriated for the use of the cabinet. The balance of the
23 special fund shall lapse to the general fund at the end of each biennium.
24 (13) Any advertisement for child-care services shall include the address of where the
25 service is being provided.
26 (14) All inspections of licensed and unlicensed child-care centers by the Cabinet for
27 Health and Family Services shall be unannounced.

1 (15) All employees and owners of a child-care center who provide care to children shall
2 demonstrate within the first three (3) months of employment completion of at least
3 a total of six (6) hours of orientation in the following areas:
4 (a) Basic health, safety, and sanitation;
5 (b) Recognizing and reporting child abuse; and
6 (c) Developmentally appropriate child-care practice.
7 (16) All employees and owners of a child-care center who provide care to children shall
8 annually demonstrate to the department completion of at least six (6) hours of
9 training in child development. These hours shall include but are not limited to one
10 and one-half (1.5) hours one (1) time every five (5) years of continuing education in
11 the recognition and prevention of pediatric abusive head trauma, as defined in KRS
12 620.020. Training in recognizing pediatric abusive head trauma may be designed in
13 collaboration with organizations and agencies that specialize in the prevention and
14 recognition of pediatric head trauma approved by the secretary of the Cabinet for
15 Health and Family Services The one and one-half (1.5) hours required under this
16 section shall be included in the current number of required continuing education
17 hours.
18 (17) The Cabinet for Health and Family Services shall make available either through the
19 development or approval of a model training curriculum and training materials,
20 including video instructional materials, to cover the areas specified in subsection
21 (15) of this section. The cabinet shall develop or approve the model training
22 curriculum and training materials to cover the areas specified in subsection (15) of
23 this section.
24 (18) Child-care centers licensed pursuant to this section and family child-care homes
25 certified pursuant to KRS 199.8982 shall not use corporal physical discipline,
26 including the use of spanking, shaking, or paddling, as a means of punishment,
27 discipline, behavior modification, or for any other reason. For the purposes of this

1 section, "corporal physical discipline" means the deliberate infliction of physical
2 pain and does not include spontaneous physical contact which is intended to protect
3 a child from immediate danger.
4 (19) ***Child-care centers that provide instructional and educational programs for***
5 ***preschool-aged children that operate for a maximum of twenty (20) hours per***
6 ***week and which a child attends for no more than fifteen (15) hours per week***
7 ***shall:***
8 ***(a) Notify the cabinet in writing that the center is operating;***
9 ***(b) Meet all child-care center licensure requirements and administrative***
10 ***regulations related to employee background checks;***
11 ***(c) Meet all child-care center licensure requirements and administrative***
12 ***regulations related to tuberculosis screenings; and***
13 ***(d) Be exempt from all other child-care center licensure requirements and***
14 ***administrative regulations.***
15 ***(20) Child-care centers that provide instructional and educational programs for***
16 ***preschool-aged children that operate for a maximum of twenty (20) hours per***
17 ***week and which a child attends for no more than ten (10) hours per week shall be***
18 ***exempt from all child-care licensure requirements and administrative***
19 ***regulations.***
20 ***(21)*** Directors and employees of child-care centers in a position that involves
21 supervisory or disciplinary power over a minor, or direct contact with a minor, shall
22 submit to a criminal record check in accordance with KRS 17.165. The application
23 shall be denied if the applicant has been found by the Cabinet for Health and Family
24 Services or a court to have abused or neglected a child or has been convicted of a
25 violent crime or sex crime as defined in KRS 17.165.
26 ***(22)***[~~(20)~~] A director or employee of a child-care center may be employed on a
27 probationary status pending receipt of the criminal background check. Application

1 for the criminal record of a probationary employee shall be made no later than the
2 date probationary employment begins.
3 ➔Section 4. KRS 199.8996 is amended to read as follows:
4 (1) The Cabinet for Health and Family Services shall prepare the following reports to
5 the General Assembly on child-care programs, and shall make them available to the
6 public:
7 (a) A quarterly report detailing the number of children and amounts of child-care
8 subsidies provided in each area development district;
9 (b) A quarterly report on administrative expenses incurred in the operation of
10 child-care subsidy programs;
11 (c) A quarterly report on disbursements of federal child-care block grant funds for
12 training, resource and referral, and similar activities; and
13 (d) Beginning July 15, 1993, an annual report summarizing the average child-care
14 subsidy activities per month in all Kentucky counties.
15 (2) The cabinet shall file an annual report on its evaluation of the adequacy of the child-
16 care subsidy to enable low-income families in need of child-care services to obtain
17 child care with the Early Childhood Advisory Council and the Legislative Research
18 Commission.
19 (3) The cabinet shall file an annual report on the number of dedicated child-care
20 licensing surveyor positions and the ratio of surveyors to child-care facilities with
21 the Early Childhood Advisory Council and the Legislative Research Commission.
22 ***(4) By November 1, 2017, the Cabinet for Health and Family Services and the Early***
23 ***Childhood Advisory Council shall report to the Interim Joint Committee on***
24 ***Education and the Interim Joint Committee on Health and Welfare on***
25 ***recommendations and plans for sustaining the quality-based graduated early care***
26 ***and education program after the depletion of federal Race to the Top-Early***
27 ***Learning Challenge grant funds.***

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 3/19/15