

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 340

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO CHILD CARE LICENSING; AMENDING SECTION 39-1202, IDAHO CODE, TO
2 REVISE A DEFINITION, TO DEFINE A TERM, AND TO MAKE TECHNICAL CORREC-
3 TIONS.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 39-1202, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 39-1202. DEFINITIONS. For the purposes of this chapter:

9 (1) "Board" means the Idaho board of health and welfare.

10 (2) "Child care" means that care, control, supervision or maintenance
11 of children for twenty-four (24) hours a day which is provided as an alterna-
12 tive to parental care.

13 (3) "Child" means an individual less than eighteen (18) years of age who
14 is not enrolled in an institution of higher education.

15 (4) "Children's agency" means a person who operates a business for the
16 placement of children in foster homes or for adoption in a permanent home
17 and who does not provide child care as part of that business. Children's
18 agency does not include a licensed attorney or physician assisting or pro-
19 viding natural and adoptive parents with legal services or medical services
20 necessary to initiate and complete adoptive placements.

21 (5) "Children's camp" means a program of child care at a location away
22 from the child's home which is primarily recreational and includes the
23 overnight accommodation of the child and is not intended to provide treat-
24 ment, therapy or rehabilitation for the child.

25 (6) "Children's institution" means a person who operates a residential
26 facility for children not related to that person, if that person is an in-
27 dividual, for the purpose of providing child care. Children's institutions
28 include, but are not limited to, foster homes, maternity homes, children's
29 therapeutic outdoor programs, or any facilities providing treatment, ther-
30 apy or rehabilitation for children. Children's institutions do not include:
31 (a) facilities which provide only daycare as defined in chapter 11, title 39,
32 Idaho Code; (b) facilities and agencies including hospitals, skilled nurs-
33 ing facilities, intermediate care facilities, and intermediate care facil-
34 ities for people with intellectual disabilities licensed pursuant to chap-
35 ter 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an
36 advisory capacity, counseling a child in a religious context, and providing
37 no child care associated with the advice; or (e) the occasional or irregular
38 care of a neighbor's, relative's or friend's child or children by a person
39 not ordinarily engaged in child care.

40 (7) "Children's residential care facility" means a children's institu-
41 tion, excluding:

42 (a) Foster homes;

1 (b) Residential schools;

2 (c) Children's camps; and

3 (d) Temporary alcohol-drug abuse treatment facilities.

4 No facility expressly excluded from the definition of a children's institu-
5 tion is included within the definition of a children's residential care fa-
6 cility.

7 (8) "Children's therapeutic outdoor program" is a program which is de-
8 signed to provide behavioral, substance abuse, or mental health services to
9 minors in an outdoor setting. This does not include children's camps, church
10 camps, or other outdoor programs primarily designed to be educational or
11 recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

12 (9) "Continued care" means the ongoing placement of an individual in a
13 foster home, children's residential care facility, or transitional living
14 placement who reaches the age of eighteen (18) years but is less than twenty-
15 one (21) years of age.

16 (10) "Day school" means a public, private, parochial or secular facil-
17 ity offering an educational program in which the children leave the facility
18 each day at the conclusion of the academic, vocational or school-supervised
19 activities.

20 (11) "Department" means the state department of health and welfare.

21 (12) "Director" means the director of the department of health and wel-
22 fare.

23 (13) "Foster care" means child care by a person not related to the child,
24 in lieu of parental care, in a foster home.

25 (14) "Foster home" means a home which accepts, for any period of time,
26 with or without compensation, one (1) or more children who are not related
27 to the foster parent as members of the household for the purpose of providing
28 substitute parental care.

29 (15) "Group care" means foster care of a number of children for whom
30 child care in a family setting is not available or appropriate, in a dormi-
31 tory or cottage type setting, characterized by activities and discipline of
32 a more regimented and less formal nature than found in a family setting.

33 (16) "Juvenile detention" is as defined in section 20-502(6), Idaho
34 Code, of the juvenile corrections act.

35 (17) "Juvenile detention center" means a facility established pursuant
36 to sections 20-517 and 20-518, Idaho Code.

37 (18) "Person" includes any individual, group of individuals, associa-
38 tion, partnership, limited liability company or corporation.

39 (19) "Placement" means finding a suitable licensed foster home or suit-
40 able adoptive home for a child and completing the arrangements for a child to
41 be accepted into and adjusted to such home.

42 (20) "Relative" means a child's grandparent, great-grandparent, aunt,
43 great-aunt, uncle, great-uncle, brother-in-law, sister-in-law, first
44 cousin, sibling and half-sibling.

45 (21) "Representative" means an employee of the state department of
46 health and welfare.

47 (22) "Residential facility" means any facility where child care is pro-
48 vided, as defined in this section, and which provides day and night accommo-
49 dation.

1 (23) "Residential school" means a residential facility for children
2 ~~which that:~~

3 (a) Provides a planned, scheduled, regular, academic or vocational
4 school program for students in the elementary, middle or secondary
5 grades as defined in section 33-1001, Idaho Code; and

6 (b) Provides services substantially comparable to those provided in
7 nonresidential public schools where the primary purpose is the educa-
8 tion and academic pursuits of the students; and

9 (c) Does not seek, receive or enroll students for treatment of such spe-
10 cial needs as substance abuse, mental illness, emotional disturbance,
11 developmental disability or intellectual disability; and

12 (d) Is not:

13 (i) A college or university; or

14 (ii) A children's camp as defined in this section; or

15 (iii) A public or private day school in which the children leave
16 the facility each day at the conclusion of the academic, voca-
17 tional and school-supervised activities.

18 (24) "Temporary alcohol-drug abuse treatment facility" means a chil-
19 children's residential care facility specializing in providing programs of
20 treatment for children whose primary problem is alcohol or drug abuse, for
21 children thirteen (13) through seventeen (17) years of age, where the child
22 will not spend more than four (4) months in the facility per calendar year.
23 A temporary alcohol-drug abuse treatment facility must meet the following
24 requirements:

25 (a) Prior to accepting any children for treatment, the facility must
26 notify local law enforcement of the facility's presence in the commu-
27 nity;

28 (b) The facility must be located within fifty (50) miles of a health
29 care facility providing emergency medical care;

30 (c) The facility must conduct criminal history background checks on all
31 staff, volunteers, and others at the facility who will have direct ac-
32 cess to children;

33 (d) The facility must pass all zoning, electrical, plumbing, public
34 health district, food safety, and sanitation inspections for applica-
35 ble residential businesses;

36 (e) Prior to accepting a child for treatment, the facility must verify
37 that:

38 (i) The child has a prescription from a medical doctor verifying
39 the child's need for substance abuse disorder or alcohol treat-
40 ment;

41 (ii) The child's parent, guardian, or other legal custodian has
42 notified the child's school counselor or court-appointed advocate
43 that the child will be entering the facility; and

44 (iii) The child's parent, guardian, or other legal custodian has
45 signed a consent for the child to receive routine medical care,
46 emergency medical or surgical care, and substance abuse disorder
47 or alcohol treatment as needed; and

48 (f) The facility must undergo review by the child protection legisla-
49 tive review panel after two (2) and five (5) years of operation, which
50 review must include a report from local law enforcement on:

- 1 (i) Any complaints filed against the facility in accordance with
- 2 section 16-1605, Idaho Code, and a summary of such complaints; and
- 3 (ii) Evaluations of the facility by parents whose children re-
- 4 ceived treatment at the facility.
- 5 (25) "Transitional living" means living arrangements and aftercare
- 6 services for children, or as continued care, to gain experience living on
- 7 their own in a supportive and supervised environment prior to emancipation.