

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 312

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO DAYCARE LICENSING; AMENDING SECTION 39-1102, IDAHO CODE, TO DE-  
2 FINE TERMS AND TO REVISE A DEFINITION; AMENDING SECTION 39-1106, IDAHO  
3 CODE, TO REVISE PROVISIONS REGARDING ISSUANCE OF LICENSE; AMENDING SEC-  
4 TION 39-1107, IDAHO CODE, TO REVISE PROVISIONS REGARDING FEES; AMENDING  
5 SECTION 39-1109, IDAHO CODE, TO REVISE PROVISIONS REGARDING SAFETY  
6 STANDARDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 11, TITLE  
7 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1110A, IDAHO CODE,  
8 TO ESTABLISH PROVISIONS REGARDING BEHAVIOR MANAGEMENT AND DISCIPLINE;  
9 AMENDING SECTION 39-1113, IDAHO CODE, TO REVISE PROVISIONS REGARD-  
10 ING DENIAL, SUSPENSION, OR REVOCATION OF LICENSE; AMENDING SECTION  
11 39-1119, IDAHO CODE, TO REVISE PROVISIONS REGARDING TRAINING REQUIRE-  
12 MENTS; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN IDAPA  
13 16.06.03 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; AND DECLARING  
14 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
15

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

17 SECTION 1. That Section 39-1102, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 39-1102. DEFINITIONS. As used in this chapter:

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

21 (2) "Child" means a person less than thirteen (13) years of age.

22 (3) "Daycare" means care and supervision provided for compensation  
23 during part of a twenty-four (24) hour day, for a child or children not  
24 related by blood, marriage or legal guardianship to the person or persons  
25 providing the care, in a place other than the child's or children's own home  
26 or homes.

27 (4) "Daycare center" means a place or facility providing daycare for  
28 compensation for thirteen (13) or more children.

29 (5) "Daycare facility" means a place or facility providing daycare  
30 services for compensation to seven (7) or more children not related to the  
31 provider.

32 (6) "Department" means the Idaho department of health and welfare.

33 (7) "Employee" means any person working for compensation in a facility  
34 that provides daycare.

35 (8) "Family daycare home" means a home, place, or facility providing  
36 daycare for six (6) or fewer children.

37 (9) "Group daycare facility" means a home, place, or facility providing  
38 daycare for seven (7) to twelve (12) children.

39 (10) "Group size" means the maximum number of children in one (1) group  
40 or classroom.

41 (11) "Mixed age group" means a care group that includes children of mul-  
42 tiple ages.

1        (12) "Operator" means a person who operates or maintains a licensed day-  
 2 care facility.

3        (13) "Owner" means a person, group of individuals, or entity that has  
 4 legal control and authority over a daycare business.

5        (14) "Provider" means a person who provides care and supervision at a  
 6 daycare facility and is included in the child:staff ratio.

7        ~~(12)~~ (15) "Ratio" means the number of staff required to supervise a cer-  
 8 tain number of children.

9        ~~(13)~~ (16) "Single age group" means a care group that includes children  
 10 of similar age.

11        (17) "Staff" means anyone who is sixteen (16) years of age or older who  
 12 is employed by a daycare facility to provide care and supervision. "Staff"  
 13 includes operators, owners, and providers.

14        ~~(14)~~ (18) "Training" means continuing education in child development  
 15 areas relating to child care. Training can be acquired through a variety of  
 16 methods including, but not limited to, the viewing of audio visual materi-  
 17 als, correspondence courses, community workshops and in-house training.

18        SECTION 2. That Section 39-1106, Idaho Code, be, and the same is hereby  
 19 amended to read as follows:

20        39-1106. ISSUANCE OF LICENSE -- RENEWAL. (1) Upon receipt of the  
 21 completed application, inspection certificates and the criminal his-  
 22 tory, the department shall, upon a finding of compliance with the minimum  
 23 standards set forth in this chapter, issue a basic daycare license to the ap-  
 24 plicant within sixty (60) days. The license shall be valid for two (2) years,  
 25 unless suspended or revoked, and ~~shall~~ be posted in a conspicuous place at  
 26 the daycare facility.

27        (2) The department shall send a renewal application to the owner of the  
 28 daycare facility no later than ninety (90) days prior to the expiration of  
 29 an existing license. The owner shall submit to the department the renewal  
 30 application with the required renewal fee and a criminal history check prior  
 31 to the expiration of the existing license. A complete criminal history check  
 32 shall be provided for any new persons requiring a criminal history check in  
 33 accordance with section 39-1105, Idaho Code.

34        (3) Criminal history checks on those persons under eighteen (18) years  
 35 of age shall include a check of the juvenile justice records of adjudications  
 36 of the magistrate division of the district court, county probation services  
 37 and department records as authorized by the minor and his parent or guardian.

38        (4) The department shall maintain a list of all licensees for public  
 39 use.

40        (5) Submission of a renewal application, fee and required criminal  
 41 history check shall entitle the daycare facility owner to continue daycare  
 42 services, subject to action by the department pursuant to section 39-1113,  
 43 Idaho Code.

44        SECTION 3. That Section 39-1107, Idaho Code, be, and the same is hereby  
 45 amended to read as follows:

46        39-1107. FEES. (1) ~~The department shall establish by rule the maximum~~  
 47 ~~total fee to be assessed for a basic daycare license which shall not exceed~~

1 three hundred twenty-five dollars (\$325) for daycare centers with more than  
 2 twenty-five (25) children in attendance at any given time, two hundred fifty  
 3 dollars (\$250) for daycare centers with thirteen (13) to twenty-five (25)  
 4 children in attendance at any given time and one hundred dollars (\$100) for  
 5 ~~group~~ all other daycare facilities. Criminal history background check fees  
 6 shall be in addition, but at actual cost. No other fees shall be charged for  
 7 each license period. ~~The department may allocate the fees to daycare licens-~~  
 8 ~~ing administration costs as it deems appropriate.~~

9 (2) The department ~~is authorized to utilize~~ may use Idaho child care  
 10 program funds ~~as otherwise allowed by law~~ to pay for the costs associated  
 11 with licensing of daycare facilities to the extent that fees collected from  
 12 the facilities do not fully cover such costs. It is the intent of the leg-  
 13 islature that licensing fees and Idaho child care program funds shall fully  
 14 fund daycare facility licensing administration.

15 SECTION 4. That Section 39-1109, Idaho Code, be, and the same is hereby  
 16 amended to read as follows:

17 39-1109. SAFETY STANDARDS. (1) Daycare facilities, owners and opera-  
 18 tors shall comply with the following safety standards in the area of the day-  
 19 care facility in which daycare is provided:

20 (a) Adequate fire and smoke alarms;

21 (b) A functional telephone located on the daycare premises during the  
 22 hours of operation;

23 (c) Adequate fire extinguishers;

24 (d) Adequate exits;

25 (e) Firearms or other weapons ~~which that~~ are stored on the premises of a  
 26 daycare facility must be kept in a locked container that is inaccessible  
 27 to children while daycare attendees are present;

28 (f) Pools, hot tubs, ponds and other bodies of water that are on the day-  
 29 care facility premises must provide the following safeguards:

30 (i) The area surrounding the body of water must be fenced and  
 31 locked in a manner that prevents access by children and meets the  
 32 following requirements:

33 1. The fence must be at least four (4) feet high with no ver-  
 34 tical opening more than four (4) inches wide, be designed so  
 35 that a young child cannot climb or squeeze under or through  
 36 the fence, surround all sides of the pool and have a gate that  
 37 is self-closing and that has a self-latching mechanism in  
 38 proper working order out of the reach of young children;

39 2. If the house forms one (1) side of the barrier for the  
 40 pool, all doors that provide unrestricted access to the pool  
 41 must have alarms that produce an audible sound when the door  
 42 is opened;

43 3. Furniture or other large objects must not be left near the  
 44 fence in a manner that would enable a child to climb on the  
 45 furniture or other large object and gain access to the pool;  
 46 and

47 (ii) If the area surrounding a pool, hot tub, pond or other body of  
 48 water is not fenced and locked, there must be a secured protective  
 49 covering that will not allow access by a child;

1 (iii) Wading pools must be empty when not in use;

2 (iv) Children must be under direct supervision of at least one (1)  
3 adult employee while using a pool, hot tub, pond or other body of  
4 water; and

5 (v) A minimum of a four (4) foot high fence must be present that  
6 prevents access from the daycare facility premises if the daycare  
7 premises are adjacent to a body of water; and

8 (g) The owner or operator of a daycare facility shall ensure that at  
9 all times when a child or children are present, at least one (1) adult  
10 employee on the premises has current certification in pediatric rescue  
11 breathing and ~~first-aid~~ first aid treatment from a certified instruc-  
12 tor.

13 (2) No fire standards developed pursuant to this chapter shall be more  
14 stringent than the standards contained in the International Fire Code, as  
15 adopted by Idaho.

16 (3) At least one (1) adult employee must be present at all times when a  
17 child or children are in attendance.

18 (4) (a) The maximum allowable child:staff ratio shall be a maximum of  
19 twelve (12) points per staff member using the following point system:

20 (i) Each child in attendance under the age of twenty-four (24)  
21 months shall equal two (2) points.

22 (ii) Each child in attendance from twenty-four (24) months to  
23 under thirty-six (36) months of age shall equal one and one-half  
24 (1 1/2) points.

25 (iii) Each child in attendance from thirty-six (36) months to un-  
26 der five (5) years of age shall equal one (1) point.

27 (iv) Each child in attendance from five (5) years to under thir-  
28 teen (13) years of age shall equal one-half (1/2) point.

29 (b) Each child in attendance shall be counted by the department for pur-  
30 poses of calculating maximum allowable points, counting the number of  
31 children in attendance and for determining compliance with child:staff  
32 ratios.

33 (5) Sleeping children must be within sight and normal hearing range of a  
34 provider.

35 (6) For daycare facilities providing overnight care of children:

36 (a) A sleeping child shall sleep on the same level as a staff member;

37 (b) At least one (1) staff member shall be awake and on duty;

38 (c) Sleeping children shall have separate cots, mats, or beds and blan-  
39 kets; and

40 (d) A child shall not share a bed with a non-parent adult.

41 SECTION 5. That Chapter 11, Title 39, Idaho Code, be, and the same is  
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
43 ignated as Section 39-1110A, Idaho Code, and to read as follows:

44 39-1110A. BEHAVIOR MANAGEMENT AND DISCIPLINE. Methods of behavior  
45 management and discipline for children shall be positive, consistent, and  
46 based on each child's needs, stage of development, and behavior. Discipline  
47 is to promote self-control, self-esteem, and independence. The following  
48 acts are prohibited:

49 (1) Any punishment inflicted on the body, including spanking;

- 1           (2) Cruel and unusual physical exercise, including forcing a child to  
2 take an uncomfortable position;
- 3           (3) Use of excessive physical labor;
- 4           (4) Use of restraints;
- 5           (5) Locking a child in a room or area;
- 6           (6) Denying necessities, including food, clothing, bedding, rest, toi-  
7 let use, personal care and sanitation, or entrance to the home or facility;  
8 and
- 9           (7) Mental or emotional cruelty or verbal abuse.

10           SECTION 6. That Section 39-1113, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12           39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) The depart-  
13 ment shall investigate complaints against daycare facilities. If a prelim-  
14 inary investigation indicates that a more complete investigation is neces-  
15 sary, the operator of the facility shall be informed of the investigation and  
16 any action to be taken.

17           ~~(1)~~ (2) A license may be denied, suspended or revoked by the department  
18 if the department finds that the applicant or licensee does not comply with  
19 the provisions of this chapter.

20           ~~(2)~~ (3) No person who pleads guilty to, has been found guilty of or re-  
21 ceived a withheld judgment for any offense involving neglect or any physi-  
22 cal injury to or other abuse of a child, including the following offenses or  
23 a similar provision in another jurisdiction, shall be eligible for a license  
24 under the provisions of this chapter:

25           (a) Felony injury of a child, section 18-1501, Idaho Code.

26           (b) The sexual abuse of a child under sixteen years of age, section  
27 18-1506, Idaho Code.

28           (c) The ritualized abuse of a child under eighteen years of age, section  
29 18-1506A, Idaho Code.

30           (d) The sexual exploitation of a child, section 18-1507, Idaho Code.

31           (e) Sexual abuse of a child under the age of sixteen years, section  
32 18-1506, Idaho Code.

33           (f) Lewd conduct with a child under the age of sixteen years, section  
34 18-1508, Idaho Code.

35           (g) The sale or barter of a child for adoption or other purposes, sec-  
36 tion 18-1511, Idaho Code.

37           (h) Murder in any degree, section 18-4001 or 18-4003, Idaho Code.

38           (i) Assault with intent to murder, section 18-4015, Idaho Code.

39           (j) Voluntary manslaughter, section 18-4006, Idaho Code.

40           (k) Rape, section 18-6101, Idaho Code.

41           (l) Incest, section 18-6601, Idaho Code.

42           (m) Forcible sexual penetration by use of foreign object, section  
43 18-6604, Idaho Code.

44           (n) Abuse, neglect or exploitation of a vulnerable adult, section  
45 18-1505, Idaho Code.

46           (o) Aggravated, first degree, second degree and third degree arson,  
47 sections 18-801 through 18-805, Idaho Code.

- 1 (p) The infamous crime against nature, a felony offense formerly cod-  
2 ified in chapter 66, title 18, Idaho Code, and whose conviction is en-  
3 tered before July 1, 2022.
- 4 (q) Kidnapping, sections 18-4501 through 18-4503, Idaho Code.
- 5 (r) Mayhem, section 18-5001, Idaho Code.
- 6 (s) Poisoning, section 18-4014 or 18-5501, Idaho Code.
- 7 (t) Robbery, section 18-6501, Idaho Code.
- 8 (u) Stalking in the first degree, section 18-7905, Idaho Code.
- 9 (v) Video voyeurism, section 18-6605, Idaho Code.
- 10 (w) Enticing of children, section 18-1509 or 18-1509A, Idaho Code.
- 11 (x) Inducing a child into commercial sexual activity, section 18-5609,  
12 Idaho Code.
- 13 (y) Inducing a child to engage in commercial sexual activity, section  
14 18-5611, Idaho Code.
- 15 (z) Any felony punishable by death or life imprisonment.
- 16 (aa) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701,  
17 Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to  
18 commit any of the crimes designated in this subsection.
- 19 (bb) Domestic violence, section 18-918(2), Idaho Code.
- 20 (cc) Any offense requiring registration on a state sex offender reg-  
21 istry or the national sex offender registry.
- 22 (dd) A felony drug-related offense committed during the preceding five  
23 (5) years.
- 24 (ee) Sexual abuse of an animal, section 18-6602, Idaho Code.
- 25 (ff) Sexual abuse of human remains, section 18-6603, Idaho Code.
- 26 ~~(3)~~ (4) No person who has pleaded guilty to, been found guilty of or re-  
27 ceived a withheld judgment for any offense involving neglect or any physi-  
28 cal injury to or other abuse of a child, including the following offenses or  
29 a similar provision in another jurisdiction, shall be eligible for a license  
30 for a period of five (5) years under the provisions of this chapter:
- 31 (a) Aggravated assault, section 18-905, Idaho Code.
- 32 (b) Aggravated battery, section 18-907(1), Idaho Code.
- 33 (c) Burglary, section 18-1401, Idaho Code.
- 34 (d) Felony theft, sections 18-2403 and 18-2407(1), Idaho Code.
- 35 (e) Forgery of a financial transaction card, section 18-3123, Idaho  
36 Code.
- 37 (f) Fraudulent use of a financial transaction card or number, section  
38 18-3124, Idaho Code.
- 39 (g) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.
- 40 (h) Misappropriation of personal identifying information, section  
41 18-3126, Idaho Code.
- 42 (i) Insurance fraud, section 41-293, Idaho Code.
- 43 (j) Damage to or destruction of insured property, section 41-294, Idaho  
44 Code.
- 45 (k) Public assistance fraud, section 56-227, Idaho Code.
- 46 (l) Provider fraud, section 56-227A, Idaho Code.
- 47 (m) Attempted strangulation, section 18-923, Idaho Code.
- 48 (n) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701,  
49 Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to  
50 commit any of the crimes designated in this subsection.

1 (o) Misdemeanor injury to a child, section 18-1501(2), Idaho Code.

2 ~~(4)~~ (5) A daycare facility license may be denied, suspended or revoked  
3 by the department if the department finds that the daycare facility is not in  
4 compliance with the standards provided for in this chapter or criminal ac-  
5 tivity that threatens the health or safety of a child.

6 ~~(5)~~ (6) A daycare facility license or privilege to operate a family day-  
7 care home shall be denied or revoked if a registered sex offender resides on  
8 the premises where daycare services are provided.

9 (7) When circumstances occur over which an operator has no control, a  
10 license may be suspended until the nonconformity is remedied. If a license  
11 is summarily suspended, children at the facility shall not be transported  
12 from the facility, but the parents or legal guardians of the children shall  
13 be contacted.

14 (8) A license may be suspended for violations of this chapter. Such  
15 suspension may lead to revocation if the operator fails to demonstrate to the  
16 department's satisfaction that the violations have been corrected.

17 (9) The denial, suspension, or revocation of a license may occur if the  
18 owner or operator: fails to furnish records required by the department; has  
19 been found guilty of or is under investigation for fraud associated with the  
20 operation of the daycare facility or any felony; has knowingly permitted,  
21 aided, or abetted the commission of any illegal act on the premises of the  
22 daycare facility; endangers health or safety; has repeated law violations;  
23 misrepresents or omits information; refuses to allow access to the facility  
24 or documentation; or engages in abusive conduct.

25 ~~(6)~~ (10) The denial, suspension, or revocation of a license under this  
26 chapter may be appealed through the administrative appeals process governed  
27 by the provisions of IDAPA 16-05.03 chapter 52, title 67, Idaho Code, with  
28 the opportunity for further review by the district court of the county in  
29 which the affected daycare facility is located.

30 (11) The department shall not accept an application from any person,  
31 corporation, or partnership, including any managing employee, officer,  
32 owner, or spouse or partner of an owner of an entity, that has had a license  
33 denied or revoked until five (5) years has elapsed from the final date of the  
34 disciplinary action.

35 SECTION 7. That Section 39-1119, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 39-1119. TRAINING REQUIREMENTS. The owner or operator of a ~~day care~~  
38 ~~daycare~~ center shall ensure that each employee receives four (4) hours of  
39 ongoing training in child development areas related to daycare every twelve  
40 (12) months after the employee's hire date. Each staff member counting  
41 toward the child:staff ratio shall have current certification in pediatric  
42 rescue breathing and pediatric first aid from a certified instructor. The  
43 owner or operator is responsible for maintaining documentation of each staff  
44 member's training.

45 SECTION 8. The rules contained in IDAPA 16.06.03, Idaho Department of  
46 Health and Welfare, relating to Daycare Licensing, Section 010.; Section  
47 011.; Section 100.; Section 101.; Section 122.; Section 124.; Section 300.;  
48 Section 301.; Section 330.; Section 350.; Section 421.; Section 440.; Sec-

1 tion 441.; Section 442.; Section 443.; Section 444.; Section 450.; Section  
2 451.; and Section 452., shall be null, void, and of no force and effect on and  
3 after July 1, 2025.

4 SECTION 9. An emergency existing therefor, which emergency is hereby  
5 declared to exist, this act shall be in full force and effect on and after  
6 July 1, 2025.