LEGISLATURE OF THE STATE OF IDAHO

Sixty-fifth Legislature  Second Regular Session - 2020

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 340

BY HEALTH AND WELFARE COMMITTEE

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

4 Be it Enacted by the Legislature of the State of Idaho:

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

7 39-1202. DEFINITIONS. For the purposes of this chapter:
8 (1) "Board" means the Idaho board of health and welfare.
9 (2) "Child care" means that care, control, supervision or maintenance
10 of children for twenty-four (24) hours a day which is provided as an alternative
11 to parental care.
12 (3) "Child" means an individual less than eighteen (18) years of age who
13 is not enrolled in an institution of higher education.
14 (4) "Children's agency" means a person who operates a business for the
15 placement of children in foster homes or for adoption in a permanent home
16 and who does not provide child care as part of that business. Children's
17 agency does not include a licensed attorney or physician assisting or providing
18 natural and adoptive parents with legal services or medical services
19 necessary to initiate and complete adoptive placements.
20 (5) "Children's camp" means a program of child care at a location away
21 from the child's home which is primarily recreational and includes the
22 overnight accommodation of the child and is not intended to provide treat-
23 ment, therapy or rehabilitation for the child.
24 (6) "Children's institution" means a person who operates a residential
25 facility for children not related to that person, if that person is an individual,
26 for the purpose of providing child care. Children's institutions
27 include but are not limited to foster homes, maternity homes, children's
28 therapeutic outdoor programs, or any facilities providing treatment, therapy or rehabilitation for children. Children's institutions do not include:
29 (a) facilities which provide only daycare as defined in chapter 11, title 39,
30 Idaho Code; (b) facilities and agencies including hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for people with intellectual disabilities licensed pursuant to chapter 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an advisory capacity, counseling a child in a religious context, and providing
31 no child care associated with the advice; or (e) the occasional or irregular
32 care of a neighbor's, relative's or friend's child or children by a person
33 not ordinarily engaged in child care.
34 (7) "Children's residential care facility" means a children's institu-
35 tion, excluding:
36 (a) Foster homes;
(b) Residential schools;
(c) Children's camps; and
(d) Temporary alcohol-drug abuse treatment facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) "Residential facility" means any facility where child care is pro-
vided, as defined in this section, and which provides day and night accommo-
dation.
(23) "Residential school" means a residential facility for children that:

(a) Provides a planned, scheduled, regular, academic or vocational school program for students in the elementary, middle or secondary grades as defined in section 33-1001, Idaho Code; and
(b) Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and
(c) Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or intellectual disability; and
(d) Is not:
   (i) A college or university; or
   (ii) A children's camp as defined in this section; or
   (iii) A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school-supervised activities.

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

(a) Prior to accepting any children for treatment, the facility must notify local law enforcement of the facility's presence in the community;
(b) The facility must be located within fifty (50) miles of a health care facility providing emergency medical care;
(c) The facility must conduct criminal history background checks on all staff, volunteers, and others at the facility who will have direct access to children;
(d) The facility must pass all zoning, electrical, plumbing, public health district, food safety, and sanitation inspections for applicable residential businesses;
(e) Prior to accepting a child for treatment, the facility must verify that:
   (i) The child has a prescription from a medical doctor verifying the child's need for substance abuse disorder or alcohol treatment;
   (ii) The child's parent, guardian, or other legal custodian has notified the child's school counselor or court-appointed advocate that the child will be entering the facility; and
   (iii) The child's parent, guardian, or other legal custodian has signed a consent for the child to receive routine medical care, emergency medical or surgical care, and substance abuse disorder or alcohol treatment as needed; and
(f) The facility must undergo review by the child protection legislative review panel after two (2) and five (5) years of operation, which review must include a report from local law enforcement on:
(i) Any complaints filed against the facility in accordance with section 16-1605, Idaho Code, and a summary of such complaints; and
(ii) Evaluations of the facility by parents whose children received treatment at the facility.

(25) "Transitional living" means living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation.