

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 340, As Amended, As Amended in the Senate

BY HEALTH AND WELFARE COMMITTEE

AN ACT

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

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

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

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

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

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

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

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

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

(6) "Children's institution" means a person who operates a residential facility for children not related to that person, if that person is an individual, for the purpose of providing child care. Children's institutions include, but are not limited to, foster homes, maternity homes, children's therapeutic outdoor programs, or any facilities providing treatment, therapy or rehabilitation for children. Children's institutions do not include: (a) facilities which provide only daycare as defined in chapter 11, title 39, 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 no child care associated with the advice; or (e) the occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care.

(7) "Children's residential care facility" means a children's institution, excluding:

(a) Foster homes;

- 1 (b) Residential schools;
 2 (c) Children's camps; and
 3 (d) Temporary alcohol-drug abuse treatment facilities that are part of
 4 a pilot program, including the good samaritan rehabilitation program in
 5 Coeur d'Alene.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (d) Is not:

16 (i) A college or university; or

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

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

21 (24) "Temporary alcohol-drug abuse treatment facility that is part of
22 a pilot program" means a children's residential care facility in operation
23 prior to January 1, 2020, specializing in providing programs of treatment
24 for children whose primary problem is alcohol or drug abuse, for children
25 thirteen (13) through seventeen (17) years of age, where the child will not
26 spend more than four (4) months in the facility per calendar year and which
27 facility reports to the child protection legislative review panel, with the
28 first such report due by July 1, 2023, and every two (2) years thereafter,
29 on the efficacy of the treatment programs offered at the facility. It is
30 the intent of the legislature to review the report in 2023 to create a struc-
31 tural template for like programs, which may then be allowed in other parts of
32 Idaho. To remain eligible for the pilot program and the exclusion provided
33 in subsection (7) (d) of this section, a facility must meet the following re-
34 quirements:

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

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

40 (c) The facility must conduct criminal history background checks on all
41 staff at the facility who will have direct access to children;

42 (d) The facility must pass all zoning, electrical, and fire safety in-
43 spections;

44 (e) The facility must have separate facilities for males and females
45 with secure sleeping areas for children that are separate from any
46 sleeping areas used by adults and must provide for the separate use of
47 bathrooms and shower rooms by sex and age;

48 (f) Prior to accepting a child for treatment, the facility must verify
49 that:

1 (i) The child has a referral from a health care provider or a court
2 verifying the child's need for substance abuse disorder or alcohol
3 treatment;

4 (ii) The child's parent, guardian, or other legal custodian has
5 notified the child's school counselor or court officer that the
6 child will be entering the facility; and

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

11 (g) The facility must undergo review by the child protection legisla-
12 tive review panel in 2023 and every two (2) years thereafter, which re-
13 view must include a report from local law enforcement on:

14 (i) Any complaints filed against the facility in accordance with
15 section 16-1605, Idaho Code, and a summary of such complaints; and

16 (ii) Evaluations of the facility by parents whose children re-
17 ceived treatment at the facility.

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