



**House
Legislative
Analysis
Section**

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**PUBLIC SCHOOL CHILD CARE
PROGRAM REGULATION**

**House Bill 5583 (Substitute H-1)
Sponsor: Rep. Joanne Voorhees**

**House Bill 5584 as introduced
Sponsor: Rep. Gilda Jacobs**

**First Analysis (2-12-02)
Committee: Education**

THE APPARENT PROBLEM:

Child care centers and programs that are operated by public school districts are regulated under Public Act 116 of 1973, the Child Care Licensing Act. In fact, over 1,500 public school buildings are licensed to provide a "child care center," and enforcement of the law is provided by the Department of Consumer and Industry Services (DCIS). Recently, DCIS announced changes in the way its licensing agents will enforce the child care center regulations that a program must meet in order to be certified.

Since 1980, the DCIS has granted variances from some regulations, in order to accommodate programs operated by school districts to provide before- and after-school care. Often a school district sponsors a multi-site program in the district's elementary schools for a few hours before and after the regular school day, and generally all of the sites are supervised by one teacher who is hired as a program coordinator, and who travels between the buildings. This method of program coordination requires a variance, because under the DCIS rules each site that offers child care for less than six continuous hours each day is required to have a program director on site during all its hours of operation. Further and under the rules, that program director must have formal training in child development. See *BACKGROUND INFORMATION* below. These rules are in place to ensure that children are always supervised by a capable adult who is responsible for their safety and well-being. However, variances from these rules have been customarily granted to school districts, so that they have more flexibility when they hire program directors and site supervisors for their child care programs that operate before and after school.

On July 1, 2000, DCIS announced its intent to enforce its rules regarding program directors for school-based child care programs, rather than

granting variances as had been its custom. In order to keep school-based programs operating, DCIS encouraged the programs' directors to seek provisional certification for their programs, and then to submit compliance plans so that full compliance with the rules could be achieved in the near future.

Some spokespeople from school districts have testified that the new requirements are onerous, citing their cost. They also say that passing along the additional cost to parents via a fee increase would deny access to those most in need of the programs' services. According to committee testimony, one school district has already closed one of its sites, and another has indicated that compliance with the requirements would force them to abandon all of their programs for before- and after-school care. To ensure that high quality before- and after-school programs continue, and to establish appropriate standards for regulation, legislation has been introduced.

THE CONTENT OF THE BILLS:

The bills would set standards for kindergarten to grade eight (K to 8) before- and after-school child care programs operated by school districts and intermediate school districts, whether directly or under contractual arrangements. The bills also would exempt these programs from regulatory oversight by the Department of Consumer and Industry Services. The bills are tie-barred to each other so that neither would become law unless the other also were enacted.

House Bill 5583 would amend the Revised School Code (MCL 380.1285a) to clarify the regulation of a child care center operated by a public school district. Currently if a school district or intermediate school district operates a child care center, that center is

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subject to the requirements of Public Act 116 of 1973, the Child Care Licensing Act. House Bill 5583 would retain this provision, but make an exception for before- and after-school care programs operated by school districts. Instead, the bill specifies that if a school district or intermediate school district operated or contracted for the operation of a before- or after-school program for children in grades K to 8, then all of the following would apply to its operation:

(a) the program would be required to have at least two adult program staff members present at all times when children are present;

(b) the program would be required to have a child-to-staff ratio that was no greater than the average pupil-to-teacher ratio during school hours in that school district or intermediate school district in regular kindergarten to grade 5 classrooms;

(c) the program would be required to be located at school in facilities comparable to rooms used by students during the regular school day;

(d) if the school district or intermediate school district used its employees to staff the program, then before assigning a staff member to work in the program the district would be required to comply with provisions of the Revised School Code that require criminal history checks, as if the individual were being hired as a teacher. If the district contracted for the operation or staffing of its program, then the contract would be required to contain assurance that the contracting person or entity complied with these requirements before assigning an individual to work, and to the same extent as if the district were employing a teacher. Under the bill, the Department of State Police would be required to provide information to a school district, intermediate school district, or contracting person requesting information, to the same extent and as if the request were being made by a school district;

(e) the board of the school district or intermediate school district would be required to develop, adopt, and annually review a policy concerning the program that, at a minimum, addressed safety procedures for the program, including at least emergency procedures such as access to student emergency information and access to telephone, food safety, and discipline, as well as whether or not the program had any adults certified in cardiopulmonary resuscitation (CPR); and,

(f) not later than September 1 of each school year, the board of the district would be required to adopt

and submit to the secretary of the intermediate school board, a resolution affirming that the program and its corresponding policies complied with all state requirements. This submission would be required to include the safety procedures program policy described in (e), above.

Finally, the Department of Education would be required to develop and make available a model before- and after-school program policy that addressed human relationships; the indoor environment; the outdoor environment; activities; safety, health, and nutrition; and administration. The bill specifies that a school district or intermediate school would not be required to use this model program policy.

House Bill 5584 would amend Public Act 116 of 1973, the Child Care Licensing Act (MCL 722.111), to expand the exceptions under the definition of “child care center” or “day care center” to include an exception for certain facilities or programs for school-age children that were operated at school by a public school, or by a person or entity with whom a public school contracted for services.

More specifically and currently under the law, “child care center” or “day care center” does not include the following: a) a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period, or not more than eight hours per day for a period not to exceed four weeks during a 12-month period; or, b) a facility operated by a religious organization where children are cared for not more than three hours while people responsible for the children are attending religious services. Under the bill, these exceptions would be retained, and in addition a third exception would be created for a facility or program for school-age children that was operated at school by a public school or by a person or entity with whom a public school contracted for services.

The bill would also update a reference to the state agency responsible for administering the (non-school-based child care) licensing program by deleting a reference to the Department of Social Services, and referring instead to the Department of Consumer and Industry Services.

BACKGROUND INFORMATION:

Program director qualifications and credentials. According to committee testimony, the DCIS will

enforce a regulation in effect since June 4, 1980 (and amended on April 11, 2001 to include Montessori teachers) that an on-site child care center director have a particular set of credentials. Specifically, R 400.5103 Program Director, or Rule 103, says:

(1) A program director shall be present full time for programs operating less than six continuous hours. In programs operating for six or more continuous hours a program director shall be present not less than six hours per day when children are present.

(2) With respect to the qualifications for program director, a center shall ensure compliance with one of the following requirements:

a. A program director shall have completed not less than 60 semester hours of credit at an accredited college or university and shall have completed not less than 12 semester hours in child development, child psychology, or early childhood education.

b. A program director shall have been awarded the child development associate credential (CDA) awarded by the council for early childhood professional recognition or similar credential approved by the department and shall have completed not less than 12 semester hours in child development, child psychology, or early childhood education at an accredited college or university.

c. A program director shall have been awarded a Montessori credential by a Montessori teacher training institution recognized by the Montessori accreditation council for teacher education (MATCE).

Note: R 400.5302(2) provides that if a center exclusively serves children 6-17 years of age, then the program director may substitute credits in elementary education, physical education or recreation for any of the 12 semester hours required by R 400.5103(2).

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bill 5583 would result in minimal costs for the Department of Education. (2-7-02)

ARGUMENTS:

For:

This legislation puts in place before- and after-school child care standards. The bills ensure that school-

based and school age child care programs meet workable standards that are comparable to those that apply during the school day. Specifically, House Bill 5583 provides for at least two adult program staff members when students are present; student-to-teacher staffing ratios that are comparable to those elsewhere in the school for grades K-5; comparable rooms and facilities before, during and after the school day; employee criminal records checks identical to those conducted for teachers and administrators; and a safety and emergency program policy that includes, among other things, information about the availability of a CPR-trained staff member. It also would require the Department of Education to develop a model before- and after-school program policy that addressed human relationships; the indoor and outdoor environments; safety, health, and nutrition; and administration. These standards would stand as the safeguards that educators declare to be necessary for programs offered in school buildings during the extended school day.

For:

The child care center programs for school-age children should be different from those programs designed for pre-school children, because older children have different needs. The supervisory needs of the two kinds of programs also differ. For example and according to committee testimony, school-age children often enjoy programs before and after school that provide some educational enrichment (such as computer training, tutoring or homework assistance, or 4-H) and recreational opportunity (such as dance, exercise, or sports). The programs reflect their age and interests in ways that are quite well understood by classroom teachers, and sometimes they are designed to complement coursework undertaken during the school day. Consequently, having teachers on-site and working as supervisors for before- and after-school child care programs provides an adequate level of adult care and appropriate academic guidance.

Against:

These bills do not have adequate standards to ensure the health and safety of young children. Among the rules that would be eliminated, the Michigan Association for the Education of Young Children notes, are 32 current sections of the Child Care Licensing Act. Among the rules the organization supports for inclusion are rules governing staff background checks (for staff other than teachers) and ongoing staff training; opportunities for program participants' developmental growth in four skill areas (intellectual, social, emotional, and physical/motor);

parent participation; health of staff and volunteers; child placement contracts; sleeping equipment; duty to provide children's health records; all transportation rules; all field trip rules; and, all environmental rules. Further and equally troubling to those who oppose the bills, there would be no state oversight of the before- and after-school child care programs, since the model policies that would be developed by the Department of Education are designed for voluntary use and compliance.

Against:

The League of Women Voters position on children and youth notes the need for one uniform and high-quality set of standards vigorously enforced by a state agency, to govern all child care programs without regard for their location and sponsoring agency.

Against:

These bills were introduced earlier in this legislative session as House Bills 4617 and 4619. After passing the House unanimously, substitute versions of the bills--the so-called Hammerstrom Substitutes--were sent from the Senate Committee on Families, Mental Health and Human Services to the Senate floor, defeated, and are now pending on the calendar, awaiting a motion to reconsider. According to those who oppose the re-introduction of these original bills, the Senate substitutes reinstated important protections that exist now for children with respect to facilities, program, and basic needs, by moving those protections from the Child Care Licensing Act to the Revised School Code. Further, the Senate substitutes required school districts to explain to parents the ways their before and after care programs compared with the state's model program. Opponents of these bills argue that the Senate substitutes provide more protection and a higher standard of care for youngsters than do these bills that have been re-introduced in the House.

POSITIONS:

The Department of Consumer and Industry Services supports the bills. (2-7-02)

The Southfield Public Schools support the bills. (1-30-02)

The Ferndale Public Schools support the bills. (1-31-02)

The Michigan Association of Community and Adult Education supports the bills. (2-7-02)

The Michigan County Social Services Association supports the bills. (2-7-02)

The Michigan Association of School Administrators supports the bills. (2-7-02)

The Michigan Association of School Boards supports the bills. (2-7-02)

The League of Women Voters opposes the bills. (2-7-02)

The Michigan Association for the Education of Young Children opposes the bills. (2-7-02)

The Michigan 4C (Community Coordinated Child Care) Association opposes the bills. (2-7-02)

The Michigan School Age Care Alliance opposes the bills. (2-7-02)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.