



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2820

Introduced 1/28/2010, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

225 ILCS 10/3.2 new	
225 ILCS 10/4	from Ch. 23, par. 2214
225 ILCS 10/5	from Ch. 23, par. 2215
225 ILCS 10/6	from Ch. 23, par. 2216
225 ILCS 10/7	from Ch. 23, par. 2217
225 ILCS 10/8	from Ch. 23, par. 2218
225 ILCS 10/8.1	from Ch. 23, par. 2218.1

Amends the Child Care Act of 1969. Provides that Illinois Department of Children and Family Services shall charge a fee for issuing or renewing a license on every child care facility, other than a foster home. Provides that the Department may fine any child care facility, other than a foster home, for a violation of the Act. Provides that all fees and fines collected by the Department under the Act shall be deposited into the DCFS Children's Services Fund and must be used to enhance services by the Department pursuant to the Act. Provides that the Department shall prescribe and publish a schedule for the fees and fines under the Act. Adds as one of the grounds for discipline the failure to pay a renewal fee or fine owed to the Department under the Act. Makes other changes.

LRB096 18473 ASK 35190 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Child Care Act of 1969 is amended by  
5 changing Sections 4, 5, 6, 7, 8, and 8.1 and by adding Section  
6 3.2 as follows:

7 (225 ILCS 10/3.2 new)

8 Sec. 3.2. Licensing fees; fines; DCFS Children's Services  
9 Fund.

10 (a) The Department shall charge a fee for issuing or  
11 renewing a license on every child care facility, other than a  
12 foster home. These fees shall be paid to the Department upon  
13 the child care facility's application for licensure or renewal.  
14 The Department shall adopt rules pursuant to the Illinois  
15 Administrative Procedure Act pertaining to rate setting for  
16 licensing fees.

17 (b) The Department may assess a fine on any child care  
18 facility, other than a foster home, for a violation of this  
19 Act. The Department shall adopt rules pursuant to the Illinois  
20 Administrative Procedure Act pertaining to and setting the  
21 finest established under this Act. No fine shall exceed \$500 per  
22 violation.

23 (c) All fees and fines collected by the Department under

1 this Act shall be deposited into the DCFS Children's Services  
2 Fund and must be used to enhance services by the Department  
3 pursuant to this Act.

4 (225 ILCS 10/4) (from Ch. 23, par. 2214)

5 Sec. 4. License requirement; application; notice.

6 (a) Any person, group of persons, or corporation who or  
7 which receives children or arranges for care or placement of  
8 one or more children unrelated to the operator must apply for a  
9 license to operate one of the types of facilities defined in  
10 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any  
11 relative who receives a child or children for placement by the  
12 Department on a full-time basis may apply for a license to  
13 operate a foster family home as defined in Section 2.17 of this  
14 Act.

15 (a-5) Any agency, person, group of persons, association,  
16 organization, corporation, institution, center, or group  
17 providing adoption services must be licensed by the Department  
18 as a child welfare agency as defined in Section 2.08 of this  
19 Act. "Providing adoption services" as used in this Act,  
20 includes facilitating or engaging in adoption services.

21 (b) Application for a license to operate a child care  
22 facility must be made to the Department in the manner and on  
23 forms prescribed by it. An application to operate a foster  
24 family home shall include, at a minimum: a completed written  
25 form; written authorization by the applicant and all adult

1 members of the applicant's household to conduct a criminal  
2 background investigation; medical evidence in the form of a  
3 medical report, on forms prescribed by the Department, that the  
4 applicant and all members of the household are free from  
5 communicable diseases or physical and mental conditions that  
6 affect their ability to provide care for the child or children;  
7 the names and addresses of at least 3 persons not related to  
8 the applicant who can attest to the applicant's moral  
9 character; and fingerprints submitted by the applicant and all  
10 adult members of the applicant's household.

11 (b-5) Application for a license to operate a child care  
12 facility, other than a foster home, shall include an  
13 application fee. The Department shall adopt rules and policies  
14 pursuant to the Illinois Administrative Procedure Act to set a  
15 fee schedule.

16 (c) The Department shall notify the public when a child  
17 care institution, maternity center, or group home licensed by  
18 the Department undergoes a change in (i) the range of care or  
19 services offered at the facility, (ii) the age or type of  
20 children served, or (iii) the area within the facility used by  
21 children. The Department shall notify the public of the change  
22 in a newspaper of general circulation in the county or  
23 municipality in which the applicant's facility is or is  
24 proposed to be located.

25 (d) If, upon examination of the facility and investigation  
26 of persons responsible for care of children, the Department is

1 satisfied that the facility and responsible persons reasonably  
2 meet standards prescribed for the type of facility for which  
3 application is made, and has paid the applicable application  
4 fee, then the Department ~~it~~ shall issue a license in proper  
5 form, designating on that license the type of child care  
6 facility and, except for a child welfare agency, the number of  
7 children to be served at any one time.

8 (e) The Department shall not issue or renew the license of  
9 any child welfare agency providing adoption services, unless  
10 the agency (i) is officially recognized by the United States  
11 Internal Revenue Service as a tax-exempt organization  
12 described in Section 501(c)(3) of the Internal Revenue Code of  
13 1986 (or any successor provision of federal tax law) and (ii)  
14 is in compliance with all of the standards necessary to  
15 maintain its status as an organization described in Section  
16 501(c)(3) of the Internal Revenue Code of 1986 (or any  
17 successor provision of federal tax law). The Department shall  
18 grant a grace period of 24 months from the effective date of  
19 this amendatory Act of the 94th General Assembly for existing  
20 child welfare agencies providing adoption services to obtain  
21 501(c)(3) status. The Department shall permit an existing child  
22 welfare agency that converts from its current structure in  
23 order to be recognized as a 501(c)(3) organization as required  
24 by this Section to either retain its current license or  
25 transfer its current license to a newly formed entity, if the  
26 creation of a new entity is required in order to comply with

1 this Section, provided that the child welfare agency  
2 demonstrates that it continues to meet all other licensing  
3 requirements and that the principal officers and directors and  
4 programs of the converted child welfare agency or newly  
5 organized child welfare agency are substantially the same as  
6 the original. The Department shall have the sole discretion to  
7 grant a one year extension to any agency unable to obtain  
8 501(c)(3) status within the timeframe specified in this  
9 subsection (e), provided that such agency has filed an  
10 application for 501(c)(3) status with the Internal Revenue  
11 Service within the 2-year timeframe specified in this  
12 subsection (e).

13 (Source: P.A. 94-586, eff. 8-15-05.)

14 (225 ILCS 10/5) (from Ch. 23, par. 2215)

15 Sec. 5. (a) In respect to child care institutions,  
16 maternity centers, child welfare agencies, day care centers,  
17 day care agencies, and group homes, the Department, upon  
18 receiving application filed in proper order, shall examine the  
19 facilities and persons responsible for care of children  
20 therein.

21 (b) In respect to foster family and day care homes,  
22 applications may be filed on behalf of such homes by a licensed  
23 child welfare agency, by a State agency authorized to place  
24 children in foster care or by out-of-State agencies approved by  
25 the Department to place children in this State. In respect to

1 day care homes, applications may be filed on behalf of such  
2 homes by a licensed day care agency or licensed child welfare  
3 agency. In applying for license in behalf of a home in which  
4 children are placed by and remain under supervision of the  
5 applicant agency, such agency shall certify that the home and  
6 persons responsible for care of unrelated children therein, or  
7 the home and relatives responsible for the care of related  
8 children therein, were found to be in reasonable compliance  
9 with standards prescribed by the Department for the type of  
10 care indicated.

11 (c) The Department shall not allow any person to examine  
12 facilities under a provision of this Act who has not passed an  
13 examination demonstrating that such person is familiar with  
14 this Act and with the appropriate standards and regulations of  
15 the Department.

16 (d) With the exception of day care centers, day care homes,  
17 and group day care homes, licenses shall be issued in such form  
18 and manner as prescribed by the Department and are valid for 4  
19 years from the date issued, unless revoked by the Department or  
20 voluntarily surrendered by the licensee. Licenses issued for  
21 day care centers, day care homes, and group day care homes  
22 shall be valid for 3 years from the date issued, unless revoked  
23 by the Department or voluntarily surrendered by the licensee.  
24 When a licensee has made timely and sufficient application for  
25 the renewal of a license or a new license, including payment of  
26 the required fee, with reference to any activity of a

1 continuing nature, the existing license shall continue in full  
2 force and effect for up to 30 days until the final agency  
3 decision on the application has been made. The Department may  
4 further extend the period in which such decision must be made  
5 in individual cases for up to 30 days, but such extensions  
6 shall be only upon good cause shown. If for any reason the  
7 renewal process is not completed within 6 months of the  
8 submission of the renewal application, then the license expires  
9 and under no circumstances shall an additional extension be  
10 granted by the Department.

11 (e) The Department may issue one 6-month permit to a newly  
12 established facility for child care to allow that facility  
13 reasonable time to become eligible for a full license. If the  
14 facility for child care is a foster family home, or day care  
15 home the Department may issue one 2-month permit only.

16 (f) The Department may issue an emergency permit to a child  
17 care facility taking in children as a result of the temporary  
18 closure for more than 2 weeks of a licensed child care facility  
19 due to a natural disaster. An emergency permit under this  
20 subsection shall be issued to a facility only if the persons  
21 providing child care services at the facility were employees of  
22 the temporarily closed day care center at the time it was  
23 closed. No investigation of an employee of a child care  
24 facility receiving an emergency permit under this subsection  
25 shall be required if that employee has previously been  
26 investigated at another child care facility. No emergency



1 permit issued under this subsection shall be valid for more  
2 than 90 days after the date of issuance.

3 (g) During the hours of operation of any licensed child  
4 care facility, authorized representatives of the Department  
5 may without notice visit the facility for the purpose of  
6 determining its continuing compliance with this Act or  
7 regulations adopted pursuant thereto.

8 (h) Day care centers, day care homes, and group day care  
9 homes shall be monitored at least annually by a licensing  
10 representative from the Department or the agency that  
11 recommended licensure.

12 (Source: P.A. 89-21, eff. 7-1-95; 89-263, eff. 8-10-95; 89-626,  
13 eff. 8-9-96.)

14 (225 ILCS 10/6) (from Ch. 23, par. 2216)

15 Sec. 6. (a) A licensed facility operating as a "child care  
16 institution", "maternity center", "child welfare agency", "day  
17 care agency" or "day care center" must apply for renewal of its  
18 license held, the application to be made to the Department on  
19 forms prescribed by it. The Department shall charge a fee for  
20 the renewal of a license as required in Section 3.2 of this  
21 Act.

22 (b) The Department, a duly licensed child welfare agency or  
23 a suitable agency or person designated by the Department as its  
24 agent to do so, must re-examine every child care facility for  
25 renewal of license, including in that process the examination

1 of the premises and records of the facility as the Department  
2 considers necessary to determine that minimum standards for  
3 licensing continue to be met, and random surveys of parents or  
4 legal guardians who are consumers of such facilities' services  
5 to assess the quality of care at such facilities. In the case  
6 of foster family homes, or day care homes under the supervision  
7 of or otherwise required to be licensed by the Department, or  
8 under supervision of a licensed child welfare agency or day  
9 care agency, the examination shall be made by the Department,  
10 or agency supervising such homes. If the Department is  
11 satisfied that the facility continues to maintain minimum  
12 standards which it prescribes and publishes, it shall renew the  
13 license to operate the facility.

14 (c) If a child care facility's license is revoked, or if  
15 the Department refuses to renew a facility's license, the  
16 facility may not reapply for a license before the expiration of  
17 12 months following the Department's action; provided,  
18 however, that the denial of a reapplication for a license  
19 pursuant to this subsection must be supported by evidence that  
20 the prior revocation renders the applicant unqualified or  
21 incapable of satisfying the standards and rules promulgated by  
22 the Department pursuant to this Act or maintaining a facility  
23 which adheres to such standards and rules.

24 (Source: P.A. 86-554.)

25 (225 ILCS 10/7) (from Ch. 23, par. 2217)

1           Sec. 7. (a) The Department must prescribe and publish  
2 minimum standards for licensing that apply to the various types  
3 of facilities for child care defined in this Act and that are  
4 equally applicable to like institutions under the control of  
5 the Department and to foster family homes used by and under the  
6 direct supervision of the Department. The Department shall seek  
7 the advice and assistance of persons representative of the  
8 various types of child care facilities in establishing such  
9 standards. The standards prescribed and published under this  
10 Act take effect as provided in the Illinois Administrative  
11 Procedure Act, and are restricted to regulations pertaining to  
12 the following matters and to any rules and regulations required  
13 or permitted by any other Section of this Act:

14           (1) The operation and conduct of the facility and  
15 responsibility it assumes for child care;

16           (2) The character, suitability and qualifications of  
17 the applicant and other persons directly responsible for  
18 the care and welfare of children served. All child day care  
19 center licensees and employees who are required to report  
20 child abuse or neglect under the Abused and Neglected Child  
21 Reporting Act shall be required to attend training on  
22 recognizing child abuse and neglect, as prescribed by  
23 Department rules;

24           (3) The general financial ability and competence of the  
25 applicant to provide necessary care for children and to  
26 maintain prescribed standards;

1           (4) The number of individuals or staff required to  
2           insure adequate supervision and care of the children  
3           received. The standards shall provide that each child care  
4           institution, maternity center, day care center, group  
5           home, day care home, and group day care home shall have on  
6           its premises during its hours of operation at least one  
7           staff member certified in first aid, in the Heimlich  
8           maneuver and in cardiopulmonary resuscitation by the  
9           American Red Cross or other organization approved by rule  
10          of the Department. Child welfare agencies shall not be  
11          subject to such a staffing requirement. The Department may  
12          offer, or arrange for the offering, on a periodic basis in  
13          each community in this State in cooperation with the  
14          American Red Cross, the American Heart Association or other  
15          appropriate organization, voluntary programs to train  
16          operators of foster family homes and day care homes in  
17          first aid and cardiopulmonary resuscitation;

18          (5) The appropriateness, safety, cleanliness and  
19          general adequacy of the premises, including maintenance of  
20          adequate fire prevention and health standards conforming  
21          to State laws and municipal codes to provide for the  
22          physical comfort, care and well-being of children  
23          received;

24          (6) Provisions for food, clothing, educational  
25          opportunities, program, equipment and individual supplies  
26          to assure the healthy physical, mental and spiritual

1 development of children served;

2 (7) Provisions to safeguard the legal rights of  
3 children served;

4 (8) Maintenance of records pertaining to the  
5 admission, progress, health and discharge of children,  
6 including, for day care centers and day care homes, records  
7 indicating each child has been immunized as required by  
8 State regulations. The Department shall require proof that  
9 children enrolled in a facility have been immunized against  
10 Haemophilus Influenzae B (HIB);

11 (9) Filing of reports with the Department;

12 (10) Discipline of children;

13 (11) Protection and fostering of the particular  
14 religious faith of the children served;

15 (12) Provisions prohibiting firearms on day care  
16 center premises except in the possession of peace officers;

17 (13) Provisions prohibiting handguns on day care home  
18 premises except in the possession of peace officers or  
19 other adults who must possess a handgun as a condition of  
20 employment and who reside on the premises of a day care  
21 home;

22 (14) Provisions requiring that any firearm permitted  
23 on day care home premises, except handguns in the  
24 possession of peace officers, shall be kept in a  
25 disassembled state, without ammunition, in locked storage,  
26 inaccessible to children and that ammunition permitted on

1 day care home premises shall be kept in locked storage  
2 separate from that of disassembled firearms, inaccessible  
3 to children;

4 (15) Provisions requiring notification of parents or  
5 guardians enrolling children at a day care home of the  
6 presence in the day care home of any firearms and  
7 ammunition and of the arrangements for the separate, locked  
8 storage of such firearms and ammunition.

9 (a-5) The Department must prescribe and publish schedules  
10 for licensure application and licensing renewal fees that apply  
11 to the various types of child care facilities, other than  
12 foster homes. The fee and fine schedules prescribed and  
13 published under this Act take effect as provided in the  
14 Illinois Administrative Procedure Act.

15 (a-10) The Department must prescribe and publish schedules  
16 of fines that apply to the various child care facilities, other  
17 than foster homes, for violations of this Act. The fine  
18 schedules prescribed and published under this Act take effect  
19 as provided in the Illinois Administrative Procedure Act.

20 (b) If, in a facility for general child care, there are  
21 children diagnosed as mentally ill, mentally retarded or  
22 physically handicapped, who are determined to be in need of  
23 special mental treatment or of nursing care, or both mental  
24 treatment and nursing care, the Department shall seek the  
25 advice and recommendation of the Department of Human Services,  
26 the Department of Public Health, or both Departments regarding

1 the residential treatment and nursing care provided by the  
2 institution.

3 (c) The Department shall investigate any person applying to  
4 be licensed as a foster parent to determine whether there is  
5 any evidence of current drug or alcohol abuse in the  
6 prospective foster family. The Department shall not license a  
7 person as a foster parent if drug or alcohol abuse has been  
8 identified in the foster family or if a reasonable suspicion of  
9 such abuse exists, except that the Department may grant a  
10 foster parent license to an applicant identified with an  
11 alcohol or drug problem if the applicant has successfully  
12 participated in an alcohol or drug treatment program, self-help  
13 group, or other suitable activities.

14 (d) The Department, in applying standards prescribed and  
15 published, as herein provided, shall offer consultation  
16 through employed staff or other qualified persons to assist  
17 applicants and licensees in meeting and maintaining minimum  
18 requirements for a license and to help them otherwise to  
19 achieve programs of excellence related to the care of children  
20 served. Such consultation shall include providing information  
21 concerning education and training in early childhood  
22 development to providers of day care home services. The  
23 Department may provide or arrange for such education and  
24 training for those providers who request such assistance.

25 (e) The Department shall distribute copies of licensing  
26 standards to all licensees and applicants for a license. Each

1 licensee or holder of a permit shall distribute copies of the  
2 appropriate licensing standards and any other information  
3 required by the Department to child care facilities under its  
4 supervision. Each licensee or holder of a permit shall maintain  
5 appropriate documentation of the distribution of the  
6 standards. Such documentation shall be part of the records of  
7 the facility and subject to inspection by authorized  
8 representatives of the Department.

9 (f) The Department shall prepare summaries of day care  
10 licensing standards. Each licensee or holder of a permit for a  
11 day care facility shall distribute a copy of the appropriate  
12 summary and any other information required by the Department,  
13 to the legal guardian of each child cared for in that facility  
14 at the time when the child is enrolled or initially placed in  
15 the facility. The licensee or holder of a permit for a day care  
16 facility shall secure appropriate documentation of the  
17 distribution of the summary and brochure. Such documentation  
18 shall be a part of the records of the facility and subject to  
19 inspection by an authorized representative of the Department.

20 (g) The Department shall distribute to each licensee and  
21 holder of a permit copies of the licensing or permit standards  
22 applicable to such person's facility. Each licensee or holder  
23 of a permit shall make available by posting at all times in a  
24 common or otherwise accessible area a complete and current set  
25 of licensing standards in order that all employees of the  
26 facility may have unrestricted access to such standards. All



1 employees of the facility shall have reviewed the standards and  
2 any subsequent changes. Each licensee or holder of a permit  
3 shall maintain appropriate documentation of the current review  
4 of licensing standards by all employees. Such records shall be  
5 part of the records of the facility and subject to inspection  
6 by authorized representatives of the Department.

7 (h) Any standards involving physical examinations,  
8 immunization, or medical treatment shall include appropriate  
9 exemptions for children whose parents object thereto on the  
10 grounds that they conflict with the tenets and practices of a  
11 recognized church or religious organization, of which the  
12 parent is an adherent or member, and for children who should  
13 not be subjected to immunization for clinical reasons.

14 (i) The Department, in cooperation with the Department of  
15 Public Health, shall work to increase immunization awareness  
16 and participation among parents of children enrolled in day  
17 care centers and day care homes by publishing on the  
18 Department's website information about the benefits of annual  
19 immunization against influenza for children 6 months of age to  
20 5 years of age. The Department shall work with day care centers  
21 and day care homes licensed under this Act to ensure that the  
22 information is annually distributed to parents in August or  
23 September.

24 (Source: P.A. 96-391, eff. 8-13-09.)

25 (225 ILCS 10/8) (from Ch. 23, par. 2218)

1           Sec. 8. The Department may revoke or refuse to renew the  
2 license of any child care facility or child welfare agency or  
3 refuse to issue full license to the holder of a permit should  
4 the licensee or holder of a permit:

5           (1) fail to maintain standards prescribed and  
6 published by the Department;

7           (2) violate any of the provisions of the license  
8 issued;

9           (2.3) fail to pay a license renewal fee;

10          (2.5) fail to pay a fine owed to the Department;

11          (3) furnish or make any misleading or any false  
12 statement or report to the Department;

13          (4) refuse to submit to the Department any reports or  
14 refuse to make available to the Department any records  
15 required by the Department in making investigation of the  
16 facility for licensing purposes;

17          (5) fail or refuse to submit to an investigation by the  
18 Department;

19          (6) fail or refuse to admit authorized representatives  
20 of the Department at any reasonable time for the purpose of  
21 investigation;

22          (7) fail to provide, maintain, equip and keep in safe  
23 and sanitary condition premises established or used for  
24 child care as required under standards prescribed by the  
25 Department, or as otherwise required by any law, regulation  
26 or ordinance applicable to the location of such facility;

1 (8) refuse to display its license or permit;

2 (9) be the subject of an indicated report under Section  
3 3 of the Abused and Neglected Child Reporting Act or fail  
4 to discharge or sever affiliation with the child care  
5 facility of an employee or volunteer at the facility with  
6 direct contact with children who is the subject of an  
7 indicated report under Section 3 of that Act;

8 (10) fail to comply with the provisions of Section 7.1;

9 (11) fail to exercise reasonable care in the hiring,  
10 training and supervision of facility personnel;

11 (12) fail to report suspected abuse or neglect of  
12 children within the facility, as required by the Abused and  
13 Neglected Child Reporting Act;

14 (12.5) fail to comply with subsection (c-5) of Section  
15 7.4;

16 (13) fail to comply with Section 5.1 or 5.2 of this  
17 Act; or

18 (14) be identified in an investigation by the  
19 Department as an addict or alcoholic, as defined in the  
20 Alcoholism and Other Drug Abuse and Dependency Act, or be a  
21 person whom the Department knows has abused alcohol or  
22 drugs, and has not successfully participated in treatment,  
23 self-help groups or other suitable activities, and the  
24 Department determines that because of such abuse the  
25 licensee, holder of the permit, or any other person  
26 directly responsible for the care and welfare of the

1 children served, does not comply with standards relating to  
2 character, suitability or other qualifications established  
3 under Section 7 of this Act.

4 (Source: P.A. 94-586, eff. 8-15-05; 94-1010, eff. 10-1-06.)

5 (225 ILCS 10/8.1) (from Ch. 23, par. 2218.1)

6 Sec. 8.1. The Department shall revoke or refuse to renew  
7 the license of any child care facility or refuse to issue a  
8 full license to the holder of a permit should the licensee or  
9 holder of a permit:

10 (1) fail to correct any condition which jeopardizes the  
11 health, safety, morals, or welfare of children served by the  
12 facility;

13 (2) fail to correct any condition or occurrence relating to  
14 the operation or maintenance of the facility comprising a  
15 violation under Section 8 of this Act; ~~or~~

16 (3) fail to maintain financial resources adequate for the  
17 satisfactory care of children served in regard to upkeep of  
18 premises, and provisions for personal care, medical services,  
19 clothing, education and other essentials in the proper care,  
20 rearing and training of children; ~~or~~

21 (4) fail to pay a license renewal fee; or

22 (5) fail to pay a fine owed to the Department.

23 (Source: P.A. 83-1362.)