



2017 Family Child Care Legislative Review

Overview: During the fall of 2016, the Legislative Task Force on Child Care Accessibility and Affordability met, collected data, and heard testimony regarding the significant loss of child care providers in Minnesota, which has created a crisis for those needing quality care for their children. Childcare providers from both Metro and Greater Minnesota traveled to the Capitol to share their experiences. The common theme in testimony was overregulation, redundant paperwork and training, along with an increasingly punitive oversight system with frequently changing expectations that have left many in the family child care profession concerned about the viability of their businesses. The bipartisan task force ultimately released dozens of recommendations for potential reform that included much-needed regulatory and oversight improvements. We were pleased to see the Task Force include many of the recommendations made by MACCP. Sadly, most of these recommendations were never introduced and, of those that were, very few passed and were signed into law. What is worse: even more regulation and training was passed, including provisions that did not go through the proper legislative process. As a result, licensed family child care providers will now have more training, paperwork, and regulations than we did before the 2017 Legislative Session. We have separated family-child-care-specific pieces of legislation into three separate sections below: identifying potentially positive or harmful pieces Disclaimer: The Department of Human Services ultimately gets to determine how many of these provisions will be enforced. We cannot predict what they will do. Our summary is based on the language of the laws passed in the Health and Human Services Omnibus Bill and the E-12 Education Bill.

The Good/Potentially Positive from the HHS bill:

- Changes the definition of annual/annually for child care provider training requirements so annual trainings are due during a licensing term and not within 12 months from the date last taken (includes *Child Growth & Development/Behavior Guidance, SUID/AHT, and Active Supervision*).
- A parent or legal guardian must be given access to their child any time while the child is in care. This language is much less intrusive than the original proposed language, which would have given parents unlimited, unrestricted access to our programs.
- The Department of Human Services must inform child care providers directly (not through county licensors) on a timely basis of changes in rules, regulations, and policies relating to child care.
- Allows for a “fix-it ticket” in lieu of a correction order for minor infractions. *The Department of Human Services will issue a report on October 1, 2017 stating which violations are eligible for a fix-it ticket.*
- Prohibits DHS from setting correction order quotas for county licensors.
- If a correction order is partially overturned, an amended order will be issued to be posted. If the entire correction order is overturned, the entire correction order can be removed.

- Providers can request an expedited review of correction order if complying with the order would require a substantial amount of money or a significant change to their program. *The Department of Human Services is not required to expedite any appeal. The Department of Human Services gets to determine what constitutes a “substantial amount of money or a significant change to the program”.*
- Licensors must offer an “exit interview” to providers before completing a licensing inspection to discuss violations and/or offer technical assistance on how to comply with law. Providers can decline the exit interview. *This does not prohibit the licensors or DHS for issuing correction orders after the fact for violations not discussed.*
- A relative caring for only the provider’s children, and who is not a designated sub, caregiver or helper does not need SUIDS/AHT.
- CCAP payments must be made to providers within 21 days of billing instead of 30.

Other changes in the HHS bill, many of which could have a negative impact:

- DHS can charge up to \$30 per person, per background study. Once background study duties have fully transferred to the state, the county will no longer be able to collect a fee for background studies.
- By September 30, 2017, providers must have a written emergency preparedness plan completed on a form provided by DHS. This plan must be posted in a prominent location and provided to parents or guardians at the time of enrollment.
- No later than November 19, 2017, inspection reports for child care programs and the number of deaths, serious injuries, and instances of substantiated maltreatment will be posted publicly online.
- Providers must follow specific guidelines for handling disposal of bodily fluids. Providers must have disposable gloves, disposable bags, and eye protection for bodily fluid disposal.
- Allergy prevention and response forms provided by DHS must be filled out for any known allergy and updated annually.
- Annual unannounced licensing inspections.
- Gives DHS full authority to determine what they will post on public website.

The most damaging provisions for family child care in HHS and E-12:

- Children age 13 and older, and anyone else living in the home, will be classified as a “child care staff person” for the purposes of background studies.
- All providers and “childcare staff persons” (see above) must be fingerprinted and photographed. This information will be kept in an FBI database.
- \$50 million dollars to school districts for Pre-K. While this is marketed as a “mixed delivery” system where school districts have the option of partnering with child care providers, it is highly unlikely this will happen.
- The critically needed Positive Supports exemption was removed during last minute negotiations. If this rule is enforced it will likely result in an additional 16+ hours of training and will significantly restrict our ability to provide a safe and supportive environment for all when a child with even a mild disability is enrolled in our program.

Summary: The entire shortage has come from family child care closures as centers have increased spots over the last 10 years. Minnesota continues to lose approximately two family child care providers per day and centers cannot be built fast enough to offset this continued loss. MACCP is now projecting an additional loss of more than 700 family child care programs over the next year. There is no doubt that some of these closures could have been prevented if the reforms recommended by the bipartisan task force had passed. Sadly, this crisis and family child care were not a priority for our Legislature this session. MACCP will continue to advocate for true reform and, if the legislature doesn’t make family child care a priority next session, we will work to elect a legislature that will.

Prepared by the Minnesota Association of Child Care Professionals (MACCP)