

2024 Bill 25

First Session, 31st Legislature, 3 Charles III

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 25

EARLY LEARNING AND CHILD CARE AMENDMENT ACT, 2024

THE MINISTER OF JOBS, ECONOMY AND TRADE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 25

2024

EARLY LEARNING AND CHILD CARE AMENDMENT ACT, 2024

(Assented to _____, 2024)

HIS MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends SA 2007 cE-0.1

1 The *Early Learning and Child Care Act* is amended by this Act.

2 Section 5(1)(b) is amended by striking out “or” at the end of subclause (ii) and adding the following after subclause (iii):

- (iv) is satisfied that it is not in the public interest to issue or renew the licence, or
- (v) is satisfied that any of the additional grounds prescribed in the regulations for the statutory director to refuse to issue or to renew a licence have been met.

3 Section 6.1 is amended by striking out “requirements” and substituting “legislation, including but not limited to the *Public Health Act*, the *Safety Codes Act* and any applicable municipal bylaws”.

Explanatory Notes

1 Amends chapter E-0.1 of the Statutes of Alberta, 2007.

2 Section 5(1)(b) presently reads in part:

5(1) On considering an application under section 4, the statutory director may

(b) refuse to issue or to renew a licence to provide a facility-based program if the statutory director

(ii) is satisfied that the applicant has made a false statement in the application or in any information provided to the statutory director in support of the application, or

(iii) has reasonable and probable grounds to believe that any individual associated with the provision of the proposed facility-based program is not suitable to provide child care.

3 Section 6.1 presently reads:

6.1 It is a condition of every facility-based licence that the licence holder must comply with all applicable zoning, health and safety requirements.

4 Section 9 is amended

(a) by renumbering it as section 9(1);

(b) in subsection (1)

(i) by striking out “and” at the end of clause (d) and adding the following after clause (d):

(d.1) any order issued under section 14.1 while the order is in effect, and

(ii) by striking out “clause (d) or (e)” and substituting “clause (d), (d.1) or (e)”.

(c) by adding the following after subsection (1):

(2) Subsection (1) applies in respect of any notice of administrative penalty issued to a licence holder under section 26.1.

5 The heading preceding section 11 is amended by adding “and Oversight” after “Enforcement”.

6 Section 11 is amended by renumbering it as section 11(1) and adding the following after subsection (1):

(2) In addition to the authority of the statutory director under subsection (1), the statutory director may take any action authorized by this Part that the statutory director considers appropriate if the statutory director is of the opinion that

(a) it is in the public interest to take that action, or

(b) any of the additional grounds prescribed in the regulations for the statutory director to take that action have been met.

7 Section 14 is amended by adding “statutory” before “director”.

4 Section 9 presently reads in part:

9 A holder of a facility-based licence must post, in a clearly visible and prominent place on the premises where the licensed facility-based program is being provided,

(d) any provisions of the licence that are varied under section 12, and

(e) any probationary licence issued under section 15,

and must inform the parents or guardians of all children in the program of any posting under clause (d) or (e).

5 The heading preceding section 11 presently reads:

*Part 2
Enforcement Respecting Licensed
Facility-based Programs*

6 Section 11 presently reads:

11 Where the statutory director is of the opinion that a licensed facility-based program is not being provided in accordance with this Act, the regulations or the conditions, if any, of the licence, the statutory director may take any action authorized by this Part that the statutory director considers appropriate.

7 Section 14 presently reads:

8 The following is added after section 14:

Closure of facility-based program premises

14.1(1) The statutory director may, in writing, order the closure of the premises or a portion of the premises where a facility-based program is being offered or provided.

(2) No person shall offer or provide a facility-based program at the premises or the portion of the premises ordered to be closed by the statutory director under subsection (1) while the order remains in effect.

(3) An order issued under subsection (1) must indicate

- (a) the non-compliance that resulted in the issuance of the order,
- (b) the measures the licence holder is required to take to remedy the non-compliance, and
- (c) the time within which the licence holder is required to remedy the non-compliance.

(4) An order issued under subsection (1) must be served in accordance with section 17(1) on the licence holder offering or providing a facility-based program at the premises or the portion of the premises subject to the order.

(5) An order issued under subsection (1) remains in effect until the statutory director is satisfied that the licence holder to whom an order has been issued has remedied the non-compliance.

(6) On being satisfied that the non-compliance has been remedied within the time specified under subsection (3)(c), the statutory director must rescind the order and provide the licence holder written notice stating that the order is rescinded and no longer in effect.

9 Section 16(2)(a) is repealed and the following is substituted:

14 The director may, in writing, order a licence holder to take measures specified in the order within the time limits specified in the order.

8 Closure of facility-based program premises.

9 Section 16(2)(a) presently reads:

- (a) immediately on the posting of a notice of cancellation on the premises, if the statutory director is of the opinion that
 - (i) the licensed facility-based program is being provided in a manner that presents an imminent danger to the health, safety or well-being of a child, or
 - (ii) immediate cancellation of the licence is appropriate,
- or

10 Section 18.2 is amended by adding the following after subsection (2):

(2.1) A person who

- (a) has been refused a family day home agency licence or a renewal of a family day home agency licence under section 18.3(1)(b),
- (b) has been refused reinstatement of a suspended family day home agency licence under section 18.901(5), or
- (c) has had a family day home agency licence cancelled under section 18.91,

is ineligible, for a period set under subsection (2.2), to apply for an initial licence to provide oversight of a family day home program.

(2.2) The statutory director has the discretion to set the length of a period of ineligibility for a person referred to in subsection (2.1), but the period must not exceed 2 years from the date of the refusal or cancellation.

11 Section 18.3(1)(b) is amended by striking out “or” at the end of subclause (ii) and adding the following after subclause (iii):

- (iv) is satisfied that it is not in the public interest to issue or renew the licence, or

(2) The cancellation of a facility-based licence takes effect

- (a) immediately on the posting of a notice of cancellation on the premises, if the statutory director is of the opinion that the licensed facility-based program is being provided in a manner that presents an imminent danger to the health, safety or well-being of a child, or*

10 Section 18.2(2) presently reads:

(2) An application under this section

- (a) must be made to the statutory director in a form and manner satisfactory to the statutory director,*
- (b) must contain all the information that the statutory director directs must be included, and*
- (c) must be accompanied with the application fee set under subsection (3).*

11 Section 18.3(1)(b) presently reads in part:

18.3(1) On considering an application under section 18.2, the statutory director may

- (b) refuse to issue or to renew a family day home agency licence if the statutory director*

- (v) is satisfied that any of the additional grounds prescribed in the regulations for the statutory director to refuse to issue or to renew a licence have been met.

12 Section 18.8 is amended

(a) by renumbering it as section 18.8(1);

(b) in subsection (1) by striking out “18.9 or” and substituting “18.9, 18.901 or”;

(c) by adding the following after subsection (1):

(2) In addition to the authority of the statutory director under subsection (1), the statutory director may take any action under section 18.9, 18.901 or 18.91 that the statutory director considers appropriate if the statutory director is of the opinion that

- (a) it is in the public interest to take that action, or
- (b) any of the additional grounds prescribed in the regulations for the statutory director to take that action have been met.

13 The following is added after section 18.9:

Suspension of family day home agency licence and issuance of probationary licence

18.901(1) The statutory director may suspend a family day home agency licence and issue a probationary licence.

(2) The term of a probationary licence

- (a) must not be more than 3 months, and
- (b) must not exceed the unexpired term of the suspended licence.

- (ii) *is satisfied that the applicant has made a false statement in the application or in any information provided to the statutory director in support of the application, or*
- (iii) *has reasonable and probable grounds to believe that any individual associated with the applicant is not suitable to oversee the provision of child care by family day home programs.*

12 Section 18.8 presently reads:

18.8 Where the statutory director is of the opinion that a licensed family day home agency is not providing oversight of family day home programs in accordance with this Act, the regulations or the conditions, if any, of the licence, the statutory director may take any action under section 18.9 or 18.91 that the statutory director considers appropriate.

13 Suspension of family day home agency licence and issuance of probationary licence.

(3) A probationary licence must indicate, in addition to the matters referred to in section 18.4(1),

- (a) the non-compliance that resulted in the issuance of the probationary licence,
- (b) the measures the licence holder is required to take to remedy the non-compliance, and
- (c) the time within which the licence holder is required to remedy the non-compliance.

(4) If the statutory director is satisfied that a licence holder to whom a probationary licence has been issued has taken the measures indicated in the probationary licence in the time specified in that licence, the statutory director may, at any time during the term of the probationary licence, reinstate the suspended licence for the remainder of the unexpired term of the suspended licence.

(5) If a licence holder to whom a probationary licence has been issued fails to take the measures indicated in the probationary licence within the time specified in that licence, the statutory director may refuse to reinstate the suspended licence, and in that case both the probationary licence and the suspended licence expire at the end of the term of the probationary licence.

(6) A probationary licence may not be renewed.

14 Section 18.91(2)(a) is repealed and the following is substituted:

- (a) immediately after the statutory director has given notice of the cancellation to every family day home program being overseen by the licensed family day home agency, if the statutory director is of the opinion that
 - (i) any act or omission by the agency presents an imminent danger to the health, safety or well-being of a child, or
 - (ii) immediate cancellation of the licence is appropriate,

or

14 Section 18.91(2)(a) presently reads:

(2) The cancellation of a family day home agency licence takes effect

(a) immediately after the statutory director has given notice of the cancellation to every family day home program being overseen by the family day home agency, if the statutory director is of the opinion that any act or omission by the agency presents an imminent danger to the health, safety or well being of a child, or

15 Section 18.92(1) is amended by striking out “18.9 or” and substituting “18.9, 18.901 or”.

16 The following is added after section 18.92:

Duty to post information

18.921(1) A holder of a family day home agency licence must post, in a clearly visible and prominent place in the principal place of business of the licence holder,

- (a) the licence,
- (b) any report provided by the statutory director under section 18.923(3),
- (c) any conditions imposed on the licence under section 18.3(1)(a) or 18.9(b),
- (d) any provisions of the licence that are varied under section 18.9(a),
- (e) any probationary licence issued under section 18.901, and
- (f) the cancellation of the licence under section 18.91.

(2) Subsection (1) applies in respect of any notice of administrative penalty issued to a licence holder under section 26.1.

Duty to inform family day home programs and parents or guardians

18.922(1) A holder of a family day home agency licence must provide a copy of the licence to each family day home program being overseen by the licensed family day home agency.

(2) A holder of a family day home agency licence must, in accordance with the regulations,

- (a) inform every family day home program being overseen by the licensed family day home agency of

15 Section 18.92(1) presently reads in part:

18.92(1) Where the statutory director takes an action under section 18.9 or 18.91, the statutory director must serve on the licence holder a notice in writing

16 Duty to post information; duty to inform family day home programs and parents or guardians; inspection and monitoring of family day home program or licensed family day home agency.

- (i) any conditions imposed on the licence under section 18.3(1)(a) or 18.9(b),
- (ii) any provisions of the licence that are varied under section 18.9(a),
- (iii) any probationary licence issued under section 18.901, and
- (iv) the cancellation of the licence under section 18.91,

and

- (b) inform the parents or guardians of each child receiving child care in a family day home program being overseen by the family day home agency of any action referred to in clause (a)(ii) to (iv).

(3) Subsection (2) applies in respect of any notice of administrative penalty issued to a licence holder under section 26.1.

Inspection and monitoring of family day home program or licensed family day home agency

18.923(1) For the purpose of ensuring compliance with this Act, the regulations and the conditions, if any, of a family day home agency licence, the statutory director may

- (a) at any reasonable hour, enter
 - (i) any premises where a family day home program is being offered or provided and inspect the premises and monitor the provision of the family day home program, or
 - (ii) the principal place of business of the licensed family day home agency to inspect the premises and monitor the licensed family day home agency,

and

- (b) require the production by the licence holder or the family day home program, as applicable, of any records or other documents relevant to the operation of the

family day home program or licensed family day home agency and remove them temporarily for the purpose of examining them and making copies.

(2) When the statutory director removes any records or other documents pursuant to subsection (1)(b), the statutory director must

- (a) give to the individual from whom those items were taken a receipt for those items, and
- (b) return those items to the licence holder or the family day home program, as applicable, after they have served the purpose for which they were taken.

(3) The statutory director must, following an inspection and monitoring under subsection (1), provide the licence holder with a report of the results of the inspection and monitoring.

(4) If a person

- (a) refuses or fails to permit the statutory director to enter any premises under subsection (1)(a), or
- (b) after permitting the statutory director to enter the premises obstructs the statutory director in exercising rights and performing duties under this section,

the statutory director may apply to the Court for an order under subsection (5).

(5) On being satisfied that an order is necessary for the purpose of ensuring compliance with this section, the Court may make an order

- (a) directing the licence holder or family day home program, as the case may be,
 - (i) to allow the statutory director to enter the premises where the family day home program is being offered or provided and inspect the premises and monitor the family day home program, or

- (ii) to enter the principal place of business of the licensed family day home agency to inspect the premises and monitor the licensed family day home agency,
- (b) directing the licence holder or family day home program to produce to the statutory director any records or other documents required by the statutory director,
- (c) directing any police officer to assist the statutory director in enforcing the order, and
- (d) addressing any other matter the Court considers appropriate.

(6) An application under subsection (4) may be made ex parte if the Court considers it appropriate.

17 Section 19(2) is amended by renumbering clause (a) as clause (a.1) and adding the following before clause (a.1):

- (a) appoint or provide for the manner of the appointment of the members of an appeal panel,

18 Section 21(2) is amended

(a) by adding the following after clause (b):

- (b.1) the closure by an order under section 14.1 of the premises or a portion of the premises where a facility-based program is provided;

(b) by adding the following after clause (d):

- (e) the suspension of a family day home agency licence and issuance of a probationary licence under section 18.901.

19 Section 23(4.2) is repealed and the following is substituted:

17 Section 19(2) presently reads in part:

(2) The Minister may, subject to any applicable regulations under the Alberta Public Agencies Governance Act,

(a) fix the term of office of a member of an appeal panel in accordance with the regulations,

18 Section 21(2) presently reads in part:

(2) The following decisions remain in force pending the outcome of an appeal:

(b) the imposition or variation of any conditions of a licence;

(d) the suspension of a facility-based licence and issuance of a probationary licence under section 15.

19 Section 23(4.2) presently reads:

(4.2) The statutory director may, on request, disclose to a person whether any stop orders under this section have been issued to an

(4.2) The statutory director may publish the particulars of an order issued under subsection (1) in the manner the statutory director considers appropriate.

20 The following is added after section 26:

Administrative penalties

26.1(1) Where the statutory director is of the opinion that a person has contravened or failed to comply with this Act, the regulations, or the terms or conditions, if any, of a licence or child care certification, the statutory director may by notice require the person to pay an administrative penalty in an amount determined by the statutory director in accordance with the regulations.

(2) A notice of administrative penalty must be in writing and include the prescribed information.

(3) An administrative penalty must not exceed

- (a) \$10 000 in respect of each contravention, and
- (b) in the case of a contravention or failure to comply that occurs on or continues for more than one day, \$10 000 for each day or part of a day that the contravention or failure to comply occurs or continues.

(4) No notice of administrative penalty shall be issued more than 2 years after the date on which evidence of the alleged contravention or failure to comply first came to the attention of the statutory director.

(5) A person who pays an administrative penalty shall not be charged under this Act with an offence in respect of the same contravention or failure to comply that is described in the notice of administrative penalty.

(6) A person to which a notice of administrative penalty has been issued shall pay the administrative penalty within 30 days after the date on which the notice was issued, unless the person has served a notice of appeal under section 21.

identified person in the 24 months immediately preceding the request.

20 Administrative penalties.

(7) Following an appeal in which an appeal panel confirms or varies a notice of administrative penalty, the person to which the notice of administrative penalty was issued shall pay the administrative penalty within 30 days after the date on which the person was served with a copy of the appeal panel's decision under section 20.

(8) Where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and this Act, the statutory director may file a copy of the notice of administrative penalty with the clerk of the Court and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

(9) The statutory director may publicly post information about a notice of administrative penalty that has been issued, including the amount of the penalty, in the manner the statutory director considers appropriate.

21 Section 27 is amended

(a) in subsection (1)

(i) by adding the following after clause (d):

- (d.01) prescribing the additional grounds for which the statutory director may refuse to issue or to renew a licence for the purposes of section 5(1)(b)(v) or 18.3(1)(b)(v);
- (d.02) prescribing the additional grounds for which the statutory director may take an action authorized by Part 2 for the purposes of section 11(2)(b);
- (d.03) prescribing the additional grounds for which the statutory director may take an action under section 18.9, 18.901 or 18.91 for the purposes of section 18.8(2)(b);

(ii) by adding the following after clause (d.1):

21 Section 27 presently reads in part:

27(1) The Minister may make regulations

- (d) respecting the application process for the purposes of section 4 or 18.2;*
- (f) respecting the standards that must be maintained by licence holders in respect of child care programs;*
- (g) establishing levels of child care certification and respecting the certification of individuals by the statutory director under section 24.1;*
- (j) respecting exemptions from the need to comply with one or more requirements of the regulations.*

(2.2) Regulations under subsection (2.1) may, without limitation, and without limiting the generality of that subsection,

- (b) authorize the director to vary the requirements of a child care program, despite the issuance of a licence, and impose the varied requirements as conditions of the licence on reasonable notice to the licence holder.*

(d.2) respecting the communication of information under section 18.922, including the time and methods by which information is to be communicated;

(iii) by adding the following after clause (f):

(f.1) respecting the standards that must be maintained by family day home programs;

(f.2) respecting the operation of facility-based programs, including regulations respecting plans for the offering or provision of a facility-based program by the holder of a facility-based licence;

(f.3) respecting the staffing of child care programs, including staffing models and the requirements and qualifications that must be met by staff;

(iv) by adding the following after clause (g):

(g.1) authorizing and respecting the collection, use and publication of information about individuals that hold a child care certification, including the type and status of that certification;

(v) by adding the following after clause (j):

(k) respecting administrative penalties, including regulations

(i) prescribing the information required to be included in notices of administrative penalty, and

(ii) respecting the manner of determining the amounts of the administrative penalties that may be imposed.

(b) in section (2.2)(b) by adding “statutory” before “director”.

22 This Act comes into force on Proclamation.

22 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
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