
By: **Senator Currie**

Introduced and read first time: February 3, 2006

Assigned to: Budget and Taxation and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Child Care Programs - Corporate Responsibility and**
3 **Governance**

4 FOR the purpose of requiring certain corporations to meet certain requirements as a
5 condition of licensure as a residential child care program; requiring a
6 corporation to demonstrate to a certain agency certain capabilities; requiring
7 certain corporations to submit certain documents to a certain agency; requiring
8 that the boards of directors of certain corporations be composed of a certain
9 percentage of State residents or individuals residing within a certain distance of
10 certain offices or programs; prohibiting certain individuals from serving on the
11 boards of directors of certain corporations; requiring certain corporations to
12 adopt written bylaws that require the corporation's board of directors to be
13 legally responsible for certain actions; requiring certain corporations above a
14 certain size to have a board of directors composed of a certain number of
15 individuals with certain expertise and to have a certain corporate officer;
16 requiring the Governor's Office for Children to adopt certain regulations to
17 provide certain exceptions under certain circumstances; authorizing certain
18 agencies to deny certain licenses to certain corporations under certain
19 circumstances; prohibiting an individual from operating a residential child care
20 program in the State without a license; establishing certain penalties for a
21 violation of this Act; defining certain terms; and generally relating to the
22 licensing of residential child care programs.

23 BY adding to

24 Article - Education

25 Section 7-309.1 and 7-309.2

26 Annotated Code of Maryland

27 (2004 Replacement Volume and 2005 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

29 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Education

2 7-309.1.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "CORPORATION" MEANS AN ENTITY WITH ARTICLES OF
6 INCORPORATION THAT IS AN APPLICANT FOR OR HAS BEEN GRANTED A LICENSE TO
7 OPERATE A RESIDENTIAL CHILD CARE PROGRAM IN THIS STATE.

8 (3) (I) "LICENSING AGENCY" MEANS THE AGENCY DESIGNATED BY
9 THE GOVERNOR'S OFFICE FOR CHILDREN TO BE RESPONSIBLE FOR LICENSING A
10 RESIDENTIAL CHILD CARE PROGRAM.

11 (II) "LICENSING AGENCY" INCLUDES THE DEPARTMENT OF
12 HEALTH AND MENTAL HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, AND
13 THE DEPARTMENT OF JUVENILE SERVICES.

14 (4) "OFFICE" MEANS THE GOVERNOR'S OFFICE FOR CHILDREN.

15 (5) "PROGRAM" MEANS A RESIDENTIAL CHILD CARE PROGRAM.

16 (6) "RESIDENTIAL CHILD CARE PROGRAM" HAS THE MEANING STATED
17 IN § 7-309(A) OF THIS SUBTITLE.

18 (B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (G) OF THIS
19 SECTION AND IN ADDITION TO THE STANDARDS SET FORTH IN COMAR 14.31.06 AND
20 14.31.07, A CORPORATION SHALL MEET THE REQUIREMENTS PROVIDED IN THIS
21 SECTION AS A CONDITION OF LICENSURE.

22 (C) A CORPORATION SHALL DEMONSTRATE TO THE LICENSING AGENCY THE
23 CAPABILITY TO PROVIDE FOR AND ARRANGE FOR THE PROVISION OF ALL
24 APPLICABLE SERVICES PROPOSED IN THE LICENSE APPLICATION BY SUBMITTING,
25 AT A MINIMUM, THE FOLLOWING DOCUMENTS TO THE LICENSING AGENCY:

26 (1) A BUSINESS PLAN THAT CLEARLY DEMONSTRATES THE ABILITY OF
27 THE PROGRAM TO PROVIDE SERVICES IN ACCORDANCE WITH MARYLAND
28 REGULATIONS AND FUNDING REQUIREMENTS;

29 (2) A SUMMARY OF THE CORPORATION'S DEMONSTRATED EXPERIENCE
30 IN THE FIELD OF HUMAN SERVICES, IN ACCORDANCE WITH STANDARDS DEVELOPED
31 BY THE OFFICE;

32 (3) PRIOR LICENSING REPORTS ISSUED WITHIN THE PREVIOUS 10 YEARS
33 FROM ANY IN-STATE OR OUT-OF-STATE ENTITIES ASSOCIATED WITH THE
34 CORPORATION OR THE PROGRAM, INCLUDING DEFICIENCY REPORTS AND
35 COMPLIANCE RECORDS ON WHICH THE STATE MAY MAKE REASONED DECISIONS
36 ABOUT THE QUALIFICATIONS OF THE CORPORATION OR PROGRAM;

1 (4) A WRITTEN QUALITY ASSURANCE PLAN, APPROVED BY THE
2 LICENSING AGENCY, TO ADDRESS HOW THE CORPORATION WILL ENSURE THE
3 HEALTH AND SAFETY OF THE INDIVIDUALS SERVED BY THE PROGRAM AND THE
4 QUALITY OF SERVICES PROVIDED TO INDIVIDUALS BY THE PROGRAM.

5 (D) (1) AT LEAST 75% OF A CORPORATION'S BOARD OF DIRECTORS SHALL BE
6 RESIDENTS OF THE STATE OR RESIDE WITHIN A 100-MILE RADIUS OF THE
7 CORPORATION'S ADMINISTRATIVE OFFICES OR THE PROGRAM.

8 (2) NO EMPLOYEE OF A CORPORATION OR PROGRAM OR IMMEDIATE
9 FAMILY MEMBER OF AN EMPLOYEE OF A CORPORATION OR PROGRAM MAY SERVE ON
10 THE CORPORATION'S BOARD OF DIRECTORS.

11 (E) A CORPORATION SHALL ADOPT WRITTEN BYLAWS THAT REQUIRE THE
12 CORPORATION'S BOARD OF DIRECTORS TO BE LEGALLY RESPONSIBLE FOR:

13 (1) OVERSEEING THE MANAGEMENT AND OPERATION OF THE
14 PROGRAM;

15 (2) ENSURING THAT THE PROGRAM OPERATES IN COMPLIANCE WITH
16 ALL APPLICABLE LAWS AND REGULATIONS;

17 (3) APPROVING A PROGRAM'S MISSION STATEMENT, LONG-TERM GOALS,
18 POLICIES, PROCEDURES, AND ANNUAL BUDGET;

19 (4) DEFINING AND PROHIBITING CIRCUMSTANCES THAT WOULD
20 CREATE A FINANCIAL OR PERSONAL CONFLICT OF INTEREST FOR MEMBERS OF THE
21 BOARD OF DIRECTORS, CORPORATE OFFICERS, EMPLOYEES, AGENTS, ASSIGNS, AND
22 VOLUNTEERS;

23 (5) ENSURING THAT THE PROGRAM RESPONDS TO ALL REQUESTS FROM
24 THE LICENSING AGENCY IN A TIMELY MANNER;

25 (6) APPROVING A PROGRAM'S SERVICE PLAN AND ENSURING THAT
26 SERVICES ARE PROVIDED IN ACCORDANCE WITH THE PLAN;

27 (7) IF THE CORPORATION IS A NONPROFIT CORPORATION, REVIEWING
28 ANNUALLY WHETHER THE CORPORATION IS SATISFYING ITS CHARITABLE MISSION;

29 (8) ENSURING THAT THE CORPORATION HAS LIABILITY INSURANCE;

30 (9) REQUIRING THAT MEMBERS OF THE BOARD OF DIRECTORS HAVE
31 TRAINING IN THEIR RESPONSIBILITIES REGARDING THE GOVERNANCE OF THE
32 PROGRAM;

33 (10) PROHIBITING A PERSON FROM SERVING AS A MEMBER OF THE
34 BOARD OF DIRECTORS IF THE PERSON IS COMPENSATED BY THE CORPORATION FOR
35 PROVIDING GOODS OR SERVICES;

1 (11) ESTABLISHING COMMITTEES OR MEMBER ASSIGNMENTS TO
2 PERIODICALLY REVIEW AS WARRANTED BUT NOT LESS THAN ANNUALLY:

3 (I) COMPENSATION OF OFFICERS AND STAFF OF THE
4 CORPORATION AND PROGRAM;

5 (II) QUALITY OF SERVICES PROVIDED TO CLIENTS, INCLUDING ALL
6 INCIDENTS HARMING OR POTENTIALLY HARMING CLIENTS;

7 (III) FINANCIAL PROBLEMS AND CONCERNS RELATING TO THE
8 PROGRAM;

9 (IV) PERFORMANCE OF KEY STAFF AND THE NOMINATIONS OF NEW
10 MEMBERS OF THE BOARD OF DIRECTORS; AND

11 (V) POTENTIAL CONFLICTS OF INTEREST.

12 (F) IN ADDITION TO THE REQUIREMENTS SET FORTH IN SUBSECTION (C) OF
13 THIS SECTION, A CORPORATION SERVING MORE THAN 10 CHILDREN OR OPERATING
14 MORE THAN TWO SITES SHALL HAVE:

15 (1) A BOARD OF DIRECTORS THAT COMPRISES AT LEAST FIVE
16 INDIVIDUALS WITH AN INTEREST IN OR KNOWLEDGE OF THE NEEDS OF CHILDREN
17 AND THEIR FAMILIES, ON WHICH:

18 (I) AT LEAST ONE OF WHOM SHALL HAVE DEMONSTRATED
19 EXPERIENCE IN OR KNOWLEDGE OF THE HUMAN SERVICES FIELD; AND

20 (II) AT LEAST ONE OF WHOM SHALL HAVE DEMONSTRATED
21 KNOWLEDGE IN THE FIELDS OF ACCOUNTING, BUSINESS, OR FINANCIAL
22 MANAGEMENT; AND

23 (2) A CHIEF FINANCIAL OFFICER.

24 (G) THE OFFICE SHALL ADOPT REGULATIONS TO PROVIDE A WAIVER FROM
25 SOME OR ALL OF THESE REQUIREMENTS FOR SMALL CORPORATIONS OR FOR
26 CORPORATIONS THAT CAN DEMONSTRATE THAT THEIR BYLAWS AND POLICIES ARE
27 SUBSTANTIALLY SIMILAR TO THOSE REQUIRED UNDER THIS SECTION.

28 (H) A LICENSING AGENCY MAY DENY A LICENSE TO:

29 (1) ANY CORPORATION OR ENTITY THAT HAS HAD A LICENSE REVOKED
30 BY A LICENSING AGENCY WITHIN THE PREVIOUS 10 YEARS; OR

31 (2) ANY CORPORATION OR ENTITY THAT HAS A CORPORATE OFFICER
32 WHO HAS SERVED AS A CORPORATE OFFICER FOR A CORPORATION OR ENTITY THAT
33 HAS HAD A LICENSE REVOKED BY A LICENSING AGENCY WITHIN THE PREVIOUS 10
34 YEARS.

1 7-309.2.

2 A PERSON WHO OPERATES A RESIDENTIAL CHILD CARE PROGRAM IN THIS
3 STATE WITHOUT A LICENSE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
4 SUBJECT TO A FINE NOT EXCEEDING \$1,000 FOR EACH DAY OF OPERATION.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Office of the Attorney
6 General, the Governor's Office for Children, the Department of Health and Mental
7 Hygiene, the Department of Human Resources, and the Department of Juvenile
8 Services, in cooperation with Maryland nonprofit organizations, shall jointly:

9 (a) prepare a training curriculum in corporate governance and fiduciary
10 responsibility to be provided to corporate boards of directors governing residential
11 child care programs; and

12 (b) on or before October 1, 2006, in accordance with § 2-1246 of the State
13 Government Article submit a report to the Governor's Office for Children, the Senate
14 Budget and Taxation Committee, the Senate Finance Committee, the House
15 Appropriations Committee, and the Joint Committee on Children, Youth, and
16 Families that includes:

17 (1) a draft of the training curriculum;

18 (2) recommendations on which, if any, portions of the curriculum shall be
19 made a condition of licensure as a residential child care program;

20 (3) a time line for implementation of the training curriculum;

21 (4) barriers to implementing the training curriculum; and

22 (5) any regulatory or statutory changes required to implement the
23 curriculum.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2006.