

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 228
Ways and Means

(Delegate Rey)

Child Care Centers - Definition of Child Care

This bill defines “child care” in provisions of law regarding child care centers in the State.
The bill takes effect July 1, 2018.

Fiscal Summary

State Effect: The bill does not materially impact the workload of the Maryland State Department of Education (MSDE), as discussed below. *Potential* impact on federal funds, as discussed below.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Child care” means the care or supervision of a child when the child’s parent has given the child’s care over to another individual for some portion of a 24-hour day as a supplement to the parent’s primary care of the child.

“Child care” does not mean:

- a before-school or after-school activity conducted or sponsored by a public or nonpublic school that is approved or exempt from approval by MSDE;
- scouting activities, activities provided by a sports business, or youth club activities, if custodial supervision is not the primary purpose of the activities being provided;

- school-age recreational or supplementary education programs operated by a local department of recreation and parks, a law enforcement agency, or a public or nonpublic school, if custodial supervision is not the primary purpose of the program;
- supervisory services to children provided by a church, health club, health provider, or similar sponsor in support of an occasional or intermittent parental activity or service offered by the sponsor while the parents are on the same premises as the services to the children and are immediately available to the children; or
- programs primarily designed for the religious training of children, provided on a weekly basis or for a short period in the summer, commonly known as Sunday schools or Bible schools.

Current Law/Background: The State Board of Education must adopt regulations relating to the licensing and operation of child care centers. “Child care center” means an agency, institution, or establishment that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage except as otherwise provided for in law or regulation. MSDE advises that as of December 2017 there are 2,498 licensed child care centers.

“Child care” is not defined in statute, but it is defined in the Maryland Code of Regulations (COMAR) (13A.16.01.02). The definition for child care and the exclusions set forth in this bill are generally consistent to those in COMAR. However, the related provision in COMAR specifies that child care is not “scouting, sports, or youth club activities.” MSDE advises that a number of entities providing sporting activities in the State are subject to licensing requirements, as MSDE has determined that they are providing traditional child care services in addition to sports instruction (*e.g.*, martial arts training) during the time in which children are in their care. Because this bill adds the qualifier of “if custodial supervision is not the primary purpose of the activities being provided,” MSDE advises that these entities are likely to argue that their primary purpose is sports instruction and, therefore, no longer be subject to child care center licensing requirements. MSDE estimates there are at least 20 such entities in the State.

State Fiscal Effect: The State receives federal funding from the Child Care and Development Block Grant Act, which in part is intended to help protect the health and safety of children in child care by requiring licenses for programs in which children receive child care services. MSDE advises that, if these entities become exempt from licensing requirements, it will need to amend the State’s plan for the federal Child Care Development Fund, as states must explain how exemptions do not endanger children. *If* the bill is determined to place the State out of compliance with federal requirements, federal funding may be jeopardized.

Although the bill may result in fewer entities being subject to licensing, it is not anticipated to have a material impact on the workload of the Office of Child Care within MSDE, as it is anticipated that resources otherwise used to monitor these licensees will be reallocated.

Small Business Effect: Potential meaningful. Some small businesses currently subject to licensing requirements may no longer require licensure, thereby decreasing related expenditures such as costs for training and background checks. Conversely, these businesses will no longer be eligible for funding to help with professional development and improvement, including grants from the Child Care Career and Professional Development Fund. To the extent that any program falling under the bill's purview currently accepts child care subsidy vouchers, it will be ineligible to participate in the child care subsidy program without a license.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education; Department of Legislative Services

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nb/rhh

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