

SB336 INTRODUCED



1 SB336
2 XDYTW7E-1
3 By Senator Barfoot
4 RFD: Judiciary
5 First Read: 03-Mar-26



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SYNOPSIS:

Under existing law a person must have a license to operate a child-care facility, unless exempted by law.

This bill would provide that a child-care facility that would otherwise be exempted is not exempt if the facility is operated on a for-profit basis or is operated on a 24-hour basis.

This bill would provide additional requirements for an application to operate a child-care facility on a 24-hour basis.

Under existing law, the Department of Human Resources is authorized to adopt rules to regulate child-care facilities.

This bill would further provide for the authority to adopt rules by specifying the department has the authority to adopt rules governing the use of video surveillance in the facilities and would establish various data retention requirements.

Under existing law, child-care facilities are required to give the department a reasonable opportunity to inspect the child-care facility. The inspection may be performed without prior notice, but must be performed at a reasonable time.

This bill would provide that if a law



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29 enforcement agency is investigating a claim of child
30 abuse or neglect, the law enforcement agency may enter
31 the premises of the child-care facility without prior
32 notice, without permission, and at any time, and may
33 take into custody any child who is the subject of a
34 complaint.

35 This bill would also establish a private cause
36 of action for any individual who is subjected to a
37 violation of the child-care facility or youth
38 residential facility laws.

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A BILL

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TO BE ENTITLED

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AN ACT

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45 Relating to child-care facilities; to amend Sections
46 38-7-2, 38-7-4, 38-7-7, 38-7-11, and 38-7-16, Code of Alabama
47 1975, to provide that an existing exception to the child-care
48 facility licensing requirements does not apply to entities
49 operating on a for-profit or 24-hour basis; to provide
50 additional requirements for an application to operate a
51 child-care facility; to provide the Department of Human
52 Resources with authority to adopt rules governing video
53 surveillance of child-care facilities and records storage
54 requirements; and to provide additional investigative
55 authority to law enforcement agencies investigating child
56 abuse or neglect in the facilities; to add Section 38-7-16.1



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57 to the Code of Alabama 1975, to establish a private cause of
58 action for violations at child-care facilities; and to add
59 Section 38-15-10 to the Code of Alabama 1975, to establish a
60 private cause of action for violations at youth residential
61 facilities and programs.

62 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

63 Section 1. Sections 38-7-1, 38-7-2, 38-7-4, 38-7-7,
64 38-7-11, and 38-7-16, Code of Alabama 1975, are amended to
65 read as follows:

66 "§38-7-1

67 This chapter shall be known and may be cited as the
68 ~~Child Care Act of 1971~~ Paris Hilton Child Safety and
69 Accountability Act."

70 "§38-7-2

71 Terms used in this chapter, unless the context
72 otherwise requires, have the meanings ascribed to them in this
73 section. When not inconsistent with the context, words used in
74 the present tense include the future, words in the singular
75 number include the plural number, and words in the plural
76 number include the singular number, and the word "shall" is
77 always mandatory and not merely directory:

78 (1) CHILD. Any ~~person~~ individual under 19 years of age,
79 ~~a person under the continuing jurisdiction of the juvenile~~
80 ~~court pursuant to Section 12-15-117, or a person under 21~~
81 ~~years of age in foster care as defined by the Department of~~
82 ~~Human Resources~~ who has not been emancipated.

83 (2) CHILD-CARE INSTITUTION or INSTITUTION FOR CHILD
84 CARE. A child-care facility where more than 10 children are



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85 received and maintained for the purpose of providing them with
86 care, treatment, or training ~~or both~~, or transitional living
87 program services, ~~but does~~. Unless the child-care facility
88 operates on a for-profit basis or engages in 24-hour
89 residential care, rehabilitation, or treatment of children,
90 the term does not include any of the following:

91 a. Any institution for child care which is under the
92 ownership or control, or both, of the State of Alabama, or
93 which is operated or certified or licensed by another agency
94 or department of the State of Alabama~~†~~.

95 b. Any juvenile detention home established and operated
96 by the State of Alabama~~†~~.

97 c. Any bona fide boarding school in which children are
98 primarily taught branches of education corresponding to those
99 taught in public schools, grades 1 through 12, or taught in
100 public elementary schools, high schools, or both elementary
101 and high schools.

102 (3) CHILD-PLACING AGENCY. A public or private
103 child-care facility which receives, places, or arranges for
104 the placement of any child or children in adoptive or foster
105 family homes or other facilities for child care apart from the
106 custody of the child's or children's parents. The term
107 includes, but is not limited to, all agencies established and
108 maintained by a municipality or other political subdivision of
109 the State of Alabama to protect, guard, train, or care for
110 children outside their own homes, ~~but~~. The term does not
111 include any circuit court or juvenile court or any duly
112 appointed juvenile probation officer or youth counselor of the



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113 court who receives and places children under an order of the
114 court.

115 (4) DAY CARE CENTER. Any child-care facility receiving
116 more than 12 children for daytime care during all or part of a
117 day. The term includes, but is not limited to, facilities
118 commonly called "child-care centers," "day nurseries,"
119 "nursery schools," "pre-kindergartens," "preschools,"
120 "kindergartens," and "play groups," with or without stated
121 educational purposes. The term further includes, but is not
122 limited to, pre-kindergarten, preschool, kindergarten, or
123 nursery schools or other daytime programs operated as a part
124 of a private school and receiving children younger than lawful
125 school age for daytime care for more than four hours a day,
126 with or without stated educational purposes. The term does not
127 include any of the following:

128 a. Kindergartens or nursery schools or other daytime
129 programs operated by public elementary systems or secondary
130 level school units or institutions of higher learning.

131 b. Kindergartens or nursery schools or other daytime
132 programs, with or without stated educational purposes,
133 operating no more than four hours a day and receiving children
134 younger than lawful school age.

135 c. Kindergartens or nursery schools or other daytime
136 programs operated as a part of a private school and receiving
137 children younger than lawful school age for four hours a day
138 or less, with or without stated educational purposes.

139 d. Facilities operated for more than four hours a day
140 in connection with a shopping center or service or other



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141 similar facility, where transient children are cared for
142 temporarily while parents or custodians of the children are
143 occupied on the premises or are in the immediate vicinity and
144 readily available. The facilities shall meet local and state
145 fire and health requirements.

146 e. Any type of day care center that is conducted on
147 federal government premises.

148 f. Special activities programs for children of lawful
149 school age including, but not limited to, athletics, crafts
150 instruction, and similar activities conducted on an organized
151 and periodic basis by civic, charitable, and governmental
152 organizations, provided local and state fire and health
153 requirements are met.

154 (5) DAY CARE HOME. A child-care facility which is a
155 family home and which receives not more than six children for
156 care during the day.

157 (6) DEPARTMENT. The Department of Human Resources of
158 the State of Alabama.

159 (7) FACILITY FOR CHILD CARE or CHILD-CARE FACILITY. A
160 facility established by any ~~person~~individual, group of
161 ~~persons~~individuals, agency, association, or organization,
162 whether established for gain or otherwise, who or which
163 receives or arranges for care or placement of one or more
164 children, unrelated to the operator of the facility, apart
165 from the parents, with or without the transfer of the right of
166 custody, in any facility as defined in this chapter,
167 established and maintained for the care of children.

168 (8) FOSTER FAMILY HOME. A child-care facility in a



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169 residence of a family where the family receives a child or
170 children, whether related or not related to the family ~~as the~~
171 ~~term "related" is defined in this section~~, for the purpose of
172 providing family care or therapeutic family care and training,
173 or transitional living program services on a full-time basis.
174 The types of foster family homes are defined as follows:

175 a. Traditional foster family home. A ~~child~~
176 ~~care~~child-care facility in a residence of a family where the
177 family receives a child or children, not related to that
178 family as that term is defined in Section 12-15-301(14), for
179 the purpose of providing family care and training on a
180 full-time basis.

181 b. Related foster family home. A foster family home
182 wherein the family is related to the child by blood, marriage,
183 or adoption within the fourth degree of kinship, including
184 only a brother, sister, uncle, aunt, first cousin,
185 grandparent, great-grandparent, great aunt, great uncle,
186 ~~great-great~~great-great-grandparent, niece, nephew,
187 grandniece, grandnephew, or a stepparent.

188 c. Free home. A foster family home, whether related or
189 not related as defined in Section 12-15-301(14), which does
190 not receive payment for the care of a child or children and
191 which may or may not receive the child or children for the
192 purpose of adoption.

193 d. Therapeutic foster family home. A ~~child~~
194 ~~care~~child-care facility in a residence of a family where the
195 family receives a child or children for the purpose of
196 providing therapeutic family care and training on a full-time



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197 basis.

198 (9) GROUP DAY CARE HOME. A child-care facility which is
199 a family home and which receives at least seven but no more
200 than 12 children for care during part of the day where there
201 are at least two adults present and supervising the
202 activities.

203 (10) GROUP HOME. A child-care facility where at least
204 seven but not more than 10 children are received and
205 maintained for the purpose of providing them with care or
206 training, or both, or transitional living program services.

207 (11) MATERNITY CENTER. A facility in which any person,
208 agency, or corporation receives or cares for one or more minor
209 pregnant girls, except that the term does not include
210 hospitals.

211 (12) NIGHT CARE FACILITY. A child-care facility which
212 is a center or a family home receiving a child or children for
213 care during the night. The term includes the following:

214 a. Nighttime center. A facility which is established to
215 receive more than 12 children for nighttime care.

216 b. Nighttime home. A family home which receives no more
217 than six children for nighttime care.

218 c. Group nighttime home. A child-care facility which is
219 a family home which receives at least seven but no more than
220 12 children for nighttime care and where there are at least
221 two adults present and supervising the activities.

222 (13) RELATED. Any of the following relationships by
223 blood, marriage, or adoption: Parent, grandparent, brother,
224 sister, stepparent, stepbrother, stepsister, half brother,



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225 half sister, uncle or aunt, and their spouses.

226 (14) TRANSITIONAL LIVING FACILITY. A child-care
227 facility or program that is designed to give opportunities to
228 practice independent living skills to eligible persons at
229 least 16 years of age and under 21 years of age in foster care
230 in a variety of residential settings with varying degrees of
231 care and supervision."

232 "§38-7-4

233 (a) Any ~~person~~individual, group of ~~persons~~individuals,
234 or corporation who or which receives children or arranges for
235 care or placement of one or more children unrelated to the
236 operator shall apply for a license or for approval to operate
237 one of the types of child-care facilities defined in this
238 chapter. Application for such license or approval to operate a
239 child-care facility shall be made to the department in the
240 manner and on forms prescribed by it. The application to
241 operate a child-care facility subject to this chapter where
242 children are received, maintained, or provided with 24-hour
243 residential care and supervision shall include, but not be
244 limited to, all of the following:

245 (1) The proper legal name and corporate legal structure
246 of the facility.

247 (2) A statement of whether the facility is for-profit
248 or nonprofit. If the facility is for-profit, the name of all
249 individuals or entities who receive the profits. If the
250 facility is nonprofit, the names of any associated
251 organizations and any members of management or directors who
252 provide substantial services or direction to the facility.



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253 (3) If the facility was engaged in substantially the
254 same activities within the previous three years, the previous
255 proper legal name, corporate legal structure, and the
256 identification of members of management or directors who were
257 involved with the operation of the previous facility.

258 (4) A list of all other similar facilities within this
259 state operated by the facility.

260 (5) A list of all board members, directors, and any
261 other individual with decision-making authority over the
262 facility.

263 (6) The total number of youth that were housed or
264 treated at the facility during the calendar year.

265 (b) The department, upon receiving ~~such~~ an application,
266 shall examine the premises of the child-care facility,
267 including buildings, equipment, furnishings, and appliances
268 thereof, and shall investigate the persons responsible for the
269 care of children ~~therein~~ in the facility.

270 (c) If, upon such examination of the facility and
271 investigation of the persons responsible for care of children,
272 the department is satisfied that the facility and the
273 responsible persons reasonably meet standards prescribed for
274 the type of child-care facility for which application is made,
275 the department shall issue a license or an approval in the
276 proper form, designating on ~~said~~ the license or approval the
277 type of child-care facility and, except for a child-placing
278 agency, the number of children to be served at any one time.

279 (d) ~~Application~~ A person desiring to operate a foster
280 family home may ~~be made~~ make application to a licensed



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281 child-placing agency ~~as defined in subdivision (7) of Section~~
282 ~~38-7-2, and such.~~ The licensed child-placing agency may
283 examine ~~said the~~ foster family home and investigate the
284 persons ~~therein in the home~~ responsible for the care of
285 children, ~~and, upon being.~~ If the licensed child-placing
286 agency is satisfied that the foster family home and the
287 responsible persons reasonably meet the standards prescribed
288 by the department, ~~said the~~ licensed child-placing agency may
289 issue an approval to ~~said the~~ foster family home."

290 "§38-7-7

291 (a) The department shall prescribe and publish minimum
292 standards for licensing and for approving all child-care
293 facilities, ~~as defined in this chapter.~~ In establishing such
294 standards, the department shall seek the advice and assistance
295 of persons representative of the various types of child-care
296 facilities. The standards ~~prescribed and published~~ adopted
297 under this chapter shall include ~~regulations~~ rules pertaining
298 to all of the following:

299 (1) The operation and conduct of the child-care
300 facility and the responsibility ~~it the facility~~ assumes for
301 child care, including assuming the duty to adhere to
302 department rules regarding children in the facility and their
303 families.

304 (2) The character, suitability, and qualifications of
305 the applicant and other persons directly responsible for the
306 care and welfare of children served.

307 (3) The general financial ability and competence of the
308 applicant to provide necessary care for children and to



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309 maintain prescribed standards~~;~~.

310 (4) The number of individuals or staff required to
311 ~~insure~~ ensure adequate supervision and care of the children
312 served~~;~~.

313 (5) The appropriateness, safety, cleanliness, and
314 general adequacy of the premises, including maintenance of
315 adequate fire prevention and health standards conforming to
316 state laws and municipal codes, to provide for the physical
317 comfort, care, well-being and safety of children served~~;~~.

318 (6) Provisions for food, clothing, educational
319 opportunities, program equipment, and individual supplies to
320 ~~assure~~ ensure the healthy physical and mental development of
321 children served, ~~consistent with the definitions contained in~~
322 ~~this chapter;~~.

323 (7) The use of video surveillance in the common areas
324 of group homes and child-care institutions, including a
325 requirement that all recordings be kept for a minimum of 30
326 calendar days.

327 ~~(7)~~ (8) Maintenance of records pertaining to the
328 admission, progress, health, and discharge of children, and
329 provisions for confidentiality of ~~such~~ the records, which
330 shall include maintaining and storing the record for a minimum
331 of six years or until the child reaches 21 years of age,
332 whichever occurs last. Records shall be stored by the name of
333 the child;.

334 ~~(8)~~ (9) Filing of reports with the department~~;~~ and.

335 ~~(9)~~ (10) Discipline of children.

336 (b) If, in a facility for child care, there are



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337 children diagnosed as ~~mentally ill, mentally retarded~~ having a
338 mental illness, having a mild to severe impairment in
339 intellectual ability, or being physically handicapped who are
340 determined to be in need of special mental treatment or of
341 nursing care, or both mental treatment and nursing care, the
342 department ~~shall~~ may seek the advice and recommendation of the
343 Department of Mental Health or the State Board of Health, or
344 of both, regarding the residential treatment and nursing care
345 provided by the facility.

346 (c) A child-care facility subject to this chapter shall
347 provide written notification to the department within 24 hours
348 of the arrival, enrollment, or admittance of any child to the
349 facility. The written notification shall be provided on a
350 standard form prepared by the department.

351 ~~(e)~~ (d) The department, in applying standards prescribed
352 and published, as ~~herein~~ provided under this chapter, shall
353 offer consultation through employed staff or other specified
354 persons to assist applicants and licensees in meeting and
355 maintaining minimum requirements for a license and to help
356 them otherwise to achieve programs of excellence related to
357 the care of children served."

358 "§38-7-11

359 (a) The department shall have the right and its
360 authorized representatives shall be afforded reasonable
361 opportunity~~r~~ to inspect any of the following:

362 (1) A child-care facility seeking a license or an
363 approval or a six-month permit pursuant to this chapter~~, any.~~

364 (2) A child-care facility seeking a renewal of a



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365 license or an approval or a six-month permit pursuant to this
366 chapter ~~and any.~~

367 (3) A child-care facility ~~which is~~ operating under a
368 license or an approval or a six-month permit issued pursuant
369 to this chapter.

370 (b) ~~Such~~ The inspection ~~shall~~ may include, but is not
371 ~~be~~ limited to, premises, services, personnel, ~~program~~
372 programs, accounts and records, interviews with agents and
373 employees of the child-care facility being inspected, and
374 interviews with any child or other person within the custody
375 or control of ~~said~~ the child-care facility.

376 (c) ~~Such~~ The inspection ~~shall~~ may be made at any
377 reasonable time, without prior notice, and as often as
378 necessary to enforce and administer ~~the provisions of~~ this
379 chapter. It shall be the duty of the department, through its
380 agents, to conduct the inspections authorized ~~hereinabove~~ by
381 this section.

382 (d) If any ~~such~~ inspection of a licensed or approved
383 child-care facility discloses any condition, deficiency,
384 dereliction, or abuse which is, or could be, hazardous to the
385 health, the safety, or the physical, moral, or mental
386 well-being of the children in the care of the child-care
387 facility being inspected, the same shall at once be brought to
388 the attention of the department, and the department shall have
389 the power to revoke without notice the license or approval or
390 six-month permit of ~~such~~ the child-care facility. In this
391 event, the child-care facility shall not operate during the
392 pendency of any proceeding for fair hearing or judicial



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393 review, except under court order.

394 (e) (1) If a law enforcement agency receives a complaint
395 that abuse or neglect has occurred at a child-care facility
396 subject to this chapter, or if the law enforcement agency
397 otherwise has reason to believe that abuse or neglect has
398 occurred, the law enforcement agency, at any time and without
399 notice or permission, may enter the premises of the facility
400 in furtherance of the investigation.

401 (2) If the law enforcement agency has received a
402 complaint of abuse or neglect, the agency shall be allowed to
403 speak with the child in person and may take the child into
404 custody for the pendency of the investigation.

405 (3) Any person who refuses to comply with a lawful
406 request issued pursuant to this subsection shall be guilty of
407 a Class B misdemeanor."

408 "§38-7-16

409 (a) ~~Any~~ It shall be unlawful for any ~~person~~ individual,
410 group of ~~persons~~ individuals, association, or corporation who
411 does any of the following:

412 (1) Conducts, operates or acts as a child-care facility
413 without first obtaining a license, ~~or~~ a six-month permit, or
414 an approval from the department to do so in violation of the
415 provisions of this chapter~~†~~.

416 (2) Makes materially false statements in order to
417 obtain a license or permit~~†~~.

418 (3) Fails to keep the records and make the reports
419 provided under this chapter~~†~~.

420 (4) Advertises any service not authorized by the



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421 license or permit held~~+~~.

422 (5) Publishes any advertisement in violation of this
423 chapter~~+~~.

424 (6) Receives within this state any child in violation
425 of Section 38-7-15~~+~~.

426 (7) Violates any other provision of this chapter or any
427 ~~reasonable rule or regulation~~ adopted ~~and published~~ by the
428 department for the enforcement of the provisions of this
429 chapter, ~~shall~~.

430 (b) (1) A person who violates this section shall be
431 guilty of a Class C misdemeanor and shall be fined not less
432 than ~~\$100.00~~ one hundred dollars (\$100) nor more than
433 ~~\$1,000.00~~ one thousand dollars (\$1,000) or be imprisoned in
434 the county jail not longer than one year, or both, ~~and, in~~
435 ~~ease of~~.

436 (2) If the violation is committed by an association or
437 corporation, the imprisonment may be imposed upon ~~its~~ the
438 officers of the association or corporation who knowingly
439 participated in the violation.

440 (c) In a prosecution under this chapter, a defendant
441 who relies upon the relationship of any child to himself has
442 the burden of proof as to that relationship."

443 Section 2. Section 38-7-16.1 is added to Chapter 7 of
444 Title 38, Code of Alabama 1975, to read as follows:

445 §38-7-16.1

446 (a) Any individual who has resided in, received
447 treatment in, or received rehabilitation in the care of a
448 child-care facility subject to this chapter who is subjected



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449 to a violation of this chapter shall have a private cause of
450 action and may recover from the individual, association, or
451 corporation that engaged in the violation any of the
452 following:

453 (1) Compensatory damages.

454 (2) Statutory damages of not less than ten thousand
455 dollars (\$10,000) per violation.

456 (3) Reasonable attorney fees.

457 (4) Court costs.

458 (b) If the court finds that the defendant child-care
459 facility has committed three or more separate violations in
460 the preceding five-year period, in addition to the other
461 damages, the court shall order the compensatory damages under
462 subdivision (a) (1) to be tripled.

463 (c) An individual alleging a violation of this chapter
464 must commence an action under this section within two years of
465 the violation or, if the individual is under 19 years of age,
466 within two years of the individual attaining 19 years of age.

467 Section 3. Section 38-15-10 is added to Chapter 15 of
468 Title 38, Code of Alabama 1975, to read as follows:

469 §38-15-10

470 (a) Any individual who has resided in, received
471 treatment in, or received rehabilitation in the care of a
472 youth residential facility, institution, school, or program
473 required to be registered with the department pursuant to
474 Section 38-15-4 who is subjected to a violation of this
475 chapter shall have a private cause of action and may recover
476 from the individual, association, or corporation that engaged



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477 in the violation any of the following:

478 (1) Compensatory damages.

479 (2) Statutory damages of not less than ten thousand
480 dollars (\$10,000) per violation.

481 (3) Reasonable attorney fees.

482 (4) Court costs.

483 (b) If the court finds that the defendant child-care
484 facility has committed three or more separate violations in
485 the preceding five-year period, in addition to the other
486 damages, the court shall order the compensatory damages under
487 subdivision (a)(1) to be tripled.

488 (c) An individual alleging a violation of this chapter
489 must commence an action under this section within two years of
490 the violation or, if the individual is under 19 years of age,
491 within two years of the individual attaining 19 years of age.

492 Section 4. This act shall become effective on October
493 1, 2026.