



# Senate

General Assembly

**File No. 640**

*January Session, 2009*

Senate Bill No. 826

*Senate, April 15, 2009*

The Committee on Education reported through SEN. GAFFEY of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE LICENSURE OF CHILD DAY CARE FACILITIES AND YOUTH CAMPS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-80f of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 [In accordance with section 17a-101j, the Commissioner of Children  
4 and Families shall notify the Commissioner of Public Health of all  
5 information concerning substantiated complaints, pursuant to  
6 subsection (b) of said section 17a-101j, of incidents of abuse or neglect  
7 which have occurred at any licensed day care facility. If the  
8 Commissioner of Children and Families determines that there was  
9 abuse or neglect of a child, he shall notify the person about whom the  
10 claim was substantiated of the determination, in writing. Such  
11 notification shall include a description of the abuse or neglect and the  
12 reasons for substantiation. The Commissioner of Public Health shall  
13 compile a listing of the information and of complaints received and  
14 substantiated by the Department of Public Health concerning a

15 licensed day care facility during the prior three-year period. The  
16 Commissioner of Public Health shall disclose information contained in  
17 the listing to any person who requests it, provided the information  
18 does not identify children, families, staff members or employees of any  
19 licensed facility or any person residing in the household of a person  
20 licensed under section 19a-87b.]

21 (a) As used in this section, "facility" means a child day care center, a  
22 group day care home and a family day care home, as defined in section  
23 19a-77, and a youth camp, as defined in section 19a-420, as amended  
24 by this act.

25 (b) Notwithstanding any provision of the general statutes, the  
26 Commissioner of Children and Families, or the commissioner's  
27 designee, shall provide to the Department of Public Health all records  
28 concerning reports of child abuse or neglect: (1) Occurring at any  
29 facility, and (2) by any staff member or licensee of any facility and by  
30 any household member of any family day care home, as defined in  
31 section 19a-77, irrespective of where the abuse or neglect occurred.

32 (c) The Department of Children and Families and the Department of  
33 Public Health shall jointly investigate reports of abuse or neglect  
34 occurring at any facility. All information, records and reports  
35 concerning such investigation shall be shared between agencies as part  
36 of the investigative process.

37 (d) The Commissioner of Public Health shall compile a listing of  
38 allegations of violations that have been substantiated by the  
39 Department of Public Health concerning a facility during the prior  
40 three-year period. The Commissioner of Public Health shall disclose  
41 information contained in the listing to any person who requests it,  
42 provided the information does not identify children or family  
43 members of those children.

44 (e) Notwithstanding any provision of the general statutes, when the  
45 Commissioner of Children and Families has made a finding  
46 substantiating abuse or neglect: (1) That occurred at a facility, or (2) by

47 any staff member or licensee of any facility, or by any household  
48 member of any family day care home and such finding is included on  
49 the state child abuse or neglect registry, maintained by the Department  
50 of Children and Families pursuant to section 17a-101k, such finding  
51 may be included in the listing compiled by the Department of Public  
52 Health pursuant to subsection (d) of this section and may be disclosed  
53 to the public by the Department of Public Health.

54 (f) Notwithstanding any provision of the general statutes, when the  
55 Commissioner of Children and Families, pursuant to section 17a-101j,  
56 has notified the Department of Public Health of suspected child abuse  
57 or neglect at a facility and if such child abuse or neglect resulted in or  
58 involves (1) the death of a child; (2) the risk of serious physical injury  
59 or emotional harm of a child; (3) the serious physical harm of a child;  
60 (4) the arrest of a person due to abuse or neglect of a child; (5) a  
61 petition filed by the Commissioner of Children and Families pursuant  
62 to section 17a-112 or 46b-129; or (6) sexual abuse of a child, the  
63 Commissioner of Public Health may include a finding of child abuse or  
64 neglect in the listing under subsection (d) of this section and may  
65 disclose such finding to the public. If the Commissioner of Children  
66 and Families, or the commissioner's designee, notifies the  
67 Commissioner of Public Health that such child abuse or neglect was  
68 not substantiated, the Commissioner of Public Health shall  
69 immediately remove such information from the listing and shall not  
70 further disclose any such information to the public.

71 (g) Notwithstanding any provision of the general statutes, all  
72 records provided by the Commissioner of Children and Families, or  
73 the commissioner's designee, to the Department of Public Health  
74 regarding child abuse or neglect occurring at any facility, may be  
75 utilized in an administrative proceeding or court proceeding relative to  
76 facility licensing. In any such proceeding, such records shall be  
77 confidential, except as provided by the provisions of section 4-177c,  
78 and such records shall not be subject to disclosure pursuant to section  
79 1-210.

80 Sec. 2. Subdivision (1) of section 19a-420 of the general statutes is  
81 repealed and the following is substituted in lieu thereof (*Effective*  
82 *October 1, 2009*):

83 (1) "Youth camp" means any regularly scheduled program or  
84 organized group activity advertised as a camp or operated only during  
85 school vacations or on weekends by a person, partnership,  
86 corporation, association, the state or a municipal agency for  
87 recreational or educational purposes and accommodating for profit or  
88 under philanthropic or charitable auspices five or more children, who  
89 are at least three years of age and under sixteen years of age, who are  
90 (A) not bona fide personal guests in the private home of an individual,  
91 and (B) living apart from their relatives, parents or legal guardian, for  
92 a period of three days or more per week or portions of three or more  
93 days per week, provided any such relative, parent or guardian who is  
94 an employee of such camp shall not be considered to be in the position  
95 of loco parentis to such employee's child for the purposes of this  
96 chapter, but does not include (i) classroom-based summer instructional  
97 programs operated by any person, provided no activities that may  
98 pose a health risk or hazard to participating children are conducted at  
99 such programs, (ii) public schools, or private schools in compliance  
100 with section 10-188 and approved by the State Board of Education or  
101 accredited by an accrediting agency recognized by the State Board of  
102 Education, which operate a summer educational program, (iii) licensed  
103 day care centers, or (iv) drop-in programs for children who are at least  
104 six years of age administered by a nationally chartered boys' and girls'  
105 club.

106 Sec. 3. Section 19a-423 of the general statutes is repealed and the  
107 following is substituted in lieu thereof (*Effective October 1, 2009*):

108 (a) The commissioner may take any of the actions authorized under  
109 subsection (b) of this section if the youth camp licensee: (1) Is convicted  
110 of any offense involving moral turpitude, the record of conviction  
111 being conclusive evidence thereof; (2) is legally adjudicated insane or  
112 mentally incompetent, the record of such adjudication being

113 conclusive evidence thereof; (3) uses any narcotic or any controlled  
114 drug, as defined in section 21a-240, to an extent or in a manner that  
115 such use impairs the licensee's ability to properly care for children; (4)  
116 fails to comply with the statutes and regulations for licensing youth  
117 camps; (5) furnishes or makes any misleading or any false statement or  
118 report to the department; (6) refuses to submit to the department any  
119 reports or refuses to make available to the department any records  
120 required by it in investigating the facility for licensing purposes; (7)  
121 fails or refuses to submit to an investigation or inspection by the  
122 department or to admit authorized representatives of the department  
123 at any reasonable time for the purpose of investigation, inspection or  
124 licensing; (8) fails to provide, maintain, equip and keep in safe and  
125 sanitary condition premises established for or used by the campers  
126 pursuant to minimum standards prescribed by the department or by  
127 ordinances or regulations applicable to the location of such facility; or  
128 (9) wilfully or deliberately violates any of the provisions of this  
129 chapter.

130 (b) The Commissioner of Public Health, after a contested case  
131 hearing held in accordance with the provisions of chapter 54, may take  
132 any of the following actions, singly or in combination, in any case in  
133 which the commissioner finds that there has been a substantial failure  
134 to comply with the requirements established under sections 19a-420 to  
135 19a-428, inclusive, as amended by this act, the Public Health Code or  
136 regulations adopted pursuant to section 19a-428: (1) Revoke a license;  
137 (2) suspend a license; (3) impose a civil penalty of not more than one  
138 hundred dollars per violation for each day of occurrence; (4) place a  
139 licensee on probationary status and require such licensee to report  
140 regularly to the department on the matters that are the basis of the  
141 probation; [or] (5) restrict the acquisition of other facilities for a period  
142 of time set by the commissioner; or (6) impose limitations on a license.

143 (c) The commissioner shall notify the licensee, in writing, of the  
144 commissioner's intention to suspend or revoke the license or to impose  
145 a licensure action. The licensee may, if aggrieved by such intended  
146 action, make application for a hearing, in writing, over the licensee's

147 signature to the commissioner. The licensee shall state in the  
148 application in plain language the reasons why the licensee claims to be  
149 aggrieved. The application shall be delivered to the commissioner not  
150 later than thirty days after the licensee's receipt of notification of the  
151 intended action.

152 (d) The commissioner shall hold a hearing not later than sixty days  
153 after receipt of such application and shall, at least ten days prior to the  
154 date of such hearing, mail a notice, giving the time and place of the  
155 hearing, to the licensee. The hearing may be conducted by the  
156 commissioner or by a hearing officer appointed by the commissioner,  
157 in writing. The licensee and the commissioner or hearing officer may  
158 issue subpoenas requiring the attendance of witnesses. The licensee  
159 shall be entitled to be represented by counsel and a transcript of the  
160 hearing shall be made. If the hearing is conducted by a hearing officer,  
161 the hearing officer shall state the hearing officer's findings and make a  
162 recommendation to the commissioner on the issue of revocation or  
163 suspension or the intended licensure action.

164 (e) The commissioner, based upon the findings and  
165 recommendation of the hearing officer, or after a hearing conducted by  
166 the commissioner, shall render the commissioner's decision, in writing,  
167 suspending, revoking or continuing the license or regarding the  
168 intended licensure action. A copy of the decision shall be sent by  
169 certified mail to the licensee. The decision revoking or suspending the  
170 license or a decision imposing a licensure action shall become effective  
171 thirty days after it is mailed by registered or certified mail to the  
172 licensee. A licensee aggrieved by the decision of the commissioner may  
173 appeal in the same manner as provided in section 19a-85.

174 (f) The provisions of subsections (c) to (e), inclusive, of this section  
175 shall not apply to the denial of an initial application for a license under  
176 section 19a-421, provided the commissioner notifies the applicant of  
177 any such denial and the reasons for such denial by mailing written  
178 notice to the applicant at the applicant's address shown on the license  
179 application.



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

Enactment of this bill will result in no fiscal impact.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

*Sources: 2/11/09 Public Hearing Testimony*

**OLR Bill Analysis****SB 826*****AN ACT CONCERNING THE LICENSURE OF CHILD DAY CARE FACILITIES AND YOUTH CAMPS.*****SUMMARY:**

This bill expands the types of incidents of child abuse and neglect that the Department of Children and Families (DCF) must report to the Public Health Department (DPH) when they involve certain DPH-licensed facilities. It broadens DCF's reporting requirement to include (1) all records of reports of abuse and neglect, rather than all information on substantiated reports, and (2) incidents in youth camps, as well as day care facilities. It revises the information DPH maintains on its list of abuse and neglect at these facilities and the kind of information it can disclose from that list.

The bill requires DCF and DPH jointly to investigate reports of abuse and neglect occurring at any day care facility or youth camp. The departments must share all information, records, and reports gathered as part of the investigation.

The bill also specifies what types of private school summer education programs are exempt from licensing as a youth camp and permits DPH to order a camp to cease specific activities when people's health, safety, or welfare are threatened.

EFFECTIVE DATE: October 1, 2009

**CHILD ABUSE AT DAY CARE CENTERS AND YOUTH CAMPS*****DCF Reports to DPH***

The bill revises the kind of information DCF must report to DPH about child abuse and neglect. Under current law, when DCF substantiates that abuse or neglect occurred in a day care center, group

day care home, or family day care home, it must notify DPH of all information about the incident. The bill, instead, requires DCF to provide all records concerning reports of abuse or neglect (1) occurring in one of these facilities or in a DPH-licensed youth camp or (2) involving a facility's license holder, any facility staff, or any household member of a family day care home, regardless of where the abuse or neglect occurred. The law governing DCF record confidentiality defines a record as information the department creates or obtains in connection with its child protection activities or activities related to a child in its custody, including information in DCF's child abuse registry. Records DCF does not create can be disclosed only in limited circumstances (CGS § 17a-28).

The bill appears to require DCF to report allegations of abuse or neglect as well as substantiated incidents. It supersedes existing laws that govern DCF reports about allegations of incidents in state-licensed facilities that care for children, such as day care facilities. These require DCF, before notifying the agency and providing investigative records, to (1) first investigate the allegations and find reasonable cause to believe abuse or neglect occurred and (2) exhaust or waive all administrative appeals available to the person suspected of the abuse, unless the act meets certain criteria (CGS §§ 17a-101j(b) and 17a-101g(c)).

The bill allows any child abuse or neglect record DCF provides to DPH to be used in an administrative hearing or court proceeding related to a facility's license. It requires these records to be kept confidential, except in a contested case (a proceeding in which an agency determines a party's rights, duties, or privileges) where the law allows parties to inspect and copy records. The records are not subject to disclosure under the Freedom of Information Act.

### ***DPH Abuse and Neglect List***

Current law requires DPH to keep a list of (1) complaints it substantiated about day care facilities during the prior three years and

(2) the substantiated child abuse and neglect reports DCF sends it. The bill, instead, requires DPH to keep a list of violations (presumably regulatory violations) it substantiates over that period concerning day care facilities and youth camps. As under current law, DPH must disclose information on this list, with certain exceptions, upon request. Information identifying children or their family members continues to be confidential. But the bill permits DPH to disclose information that identifies facility staff and employees and people who live in a family day care home. This information is confidential under current law.

The bill allows DPH to include on this list and disclose information about specific DCF findings and notices of abuse and neglect. It can list and disclose:

1. substantiated findings that DCF includes on its child abuse and neglect registry of abuse or neglect occurring in a covered facility or being committed by the facility license holder, any facility staff member, or anyone living in a family day care home;
2. DCF reports of suspected abuse or neglect at a facility that resulted in or involved (a) a child's death, (b) serious physical harm or the risk of serious physical injury or emotional harm to a child, (c) child sexual abuse, (d) a person's arrest for child abuse or neglect, or (e) DCF filing a petition to commit a child to its care or terminate a parent's rights to the child. If DCF subsequently informs DPH that it did not substantiate this abuse or neglect, DPH must immediately remove the information from its list and stop disclosing the information.

## **YOUTH CAMPS**

The bill specifies that to be exempt from DPH youth camp licensure requirements, summer educational programs must be operated by a public or private school that (1) is approved by the State Board of Education (SBE) and accredited by an SBE-approved agency, and (2) files required attendance reports with the State Education Department.

The bill permits DPH to issue a cease and desist order limiting a youth camp's license and halting a specific activity. It can do so if it determines a camper's or staff member's health, safety, or welfare requires immediate emergency action. As soon as it receives such an order, the camp must stop the activity and notify all parents and staff that the activity is halted until DPH dissolves the order. DPH must hold a hearing on the issue within 10 days of issuing the order.

## **BACKGROUND**

### ***Confidentiality of DCF Information***

With certain exceptions, records DCF maintains are confidential and may not be disclosed without the consent of the person named in the record. One of those exceptions allows DCF to provide copies of records to DPH for its use in determining a person's suitability for a license to care for children (17a-28(f)).

### ***Related Bills***

sHB 6403 (File 490) authorizes the DCF commissioner to refuse to disclose any record that she currently must disclose. It also makes some disclosures that are mandatory under current law discretionary and others that are currently discretionary, mandatory. The bill also makes changes in current disclosure procedures that limit the use recipients can make of disclosed records.

sSB 1116, reported favorably by the Judiciary Committee, and HB 5199, reported favorably by the Children's and Public Health committees, both require youth camp staff and volunteers to submit to criminal background checks.

## **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Change of Reference  
Yea 29 Nay 0 (03/04/2009)

Education Committee

Joint Favorable

Yea 30 Nay 0 (04/01/2009)