

Proposal for Legislation – 2023 Legislative Session Montana Child Care Act Revisions

Return to:

Sue O'Connell
Legislative Services Division
E-mail: soconnell@mt.gov
Phone: 444-3597 Fax: 444-3036

PROPOSER'S NAME/TITLE: Tracy Moseman / ECFSD Division Administrator
ORGANIZATION: DPHHS – Early Childhood & Family Supports Division
ADDRESS: 111 N. Sanders. Helena, MT. 59601
PHONE:
E-MAIL: tracy.moseman@mt.gov

1. What is the problem or issue?

Childcare is an ongoing discussion at the legislative, departmental, and stakeholder levels. Businesses have expressed concern that the lack of childcare is impacting recruitment and retention of employees. Stakeholders have indicated that child-care regulations are confusing between MCA and ARM. There is an expressed interest in having a license category for out of school time care for school age providers. Additionally, the Child Care and Development Block Grant was reauthorized at the federal level which affords the opportunity to align MCA to language required in the block grant. Finally, through an extensive regulatory review process, the department has identified MCA that should be repealed as it is obsolete or has not been enacted due to funding and programming limitations. This MCA revision, in conjunction with DPHHS's childcare licensing rule reform, has been proposed as part of the Department's commitment to reducing barriers to entry for new childcare providers while simultaneously retaining existing providers.

2. What do you want the legislation to do?

Revise statutes to clarify and align MCA with current regulations, state practices, and recommendations from the Child Care Licensing Business Process and Regulation Improvement project which included stakeholder feedback.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

Specific section of MCA to be amended: MCA 52-2-703, 52-2-704, 52-2-710, 52-2-711, 52-2-721, 52-2-722, 52-2-723, 52-2-724, 52-2-725, 52-2-726, 52-2-732, 52-2-733, 52-2-734 (possibly pending further discussion), 52-2-735 (possibly pending further discussion), and 52-2-741.

4. If the proposed change requires additional funding, what funding sources do you propose?

The agency does not require additional funding for this legislation.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

HB 113 was introduced during the 2019 Montana legislative session. The main changes related to MCA Title 52 Chapter 2 that were proposed in that bill focused adding mandatory licensing requirements for preschools and family, friend, and neighbor (FFN) child care providers. Neither of these changes are included in this proposed legislation. The proposed legislation does not include any new or changed requirements for preschools. The proposed legislation allows for family, friend and neighbor providers to request a license-exempt status in order to receive child care subsidies and other financial support and technical assistance. Most states consider FFN providers to be license-exempt or self-declared¹, and North Dakota 75-03-07.1² and Nebraska Annotated Code 392-4-005(01)³ include this status in their child care regulations.

The only substantive changes included in both HB 113 in 2019 and in this proposed legislation for the 2023 legislative session relate to licensing options for family and group child care providers, and for providers with no deficiencies on their record. This proposed legislation aligns with both federal requirements and current Montana ARM by requiring family or group child care providers to be licensed, and removing the registration option. The same change was proposed in HB 113 in 2019. This proposed legislation removes the possibility of a three-year license for providers that have had no deficiencies for a set amount of time. Most states do not include this option, and instead have the same set duration of licenses for each provider type. For example, see North Dakota 50-11.1-03(7).⁴

1 https://childcareta.acf.hhs.gov/sites/default/files/public/supporting_exempt_fcc.pdf

2 <https://www.ndlegis.gov/information/acdata/pdf/75-03-07.1.pdf>

3 https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-392/Chapter-4.pdf

4 https://licensingregulations.acf.hhs.gov/sites/default/files/licensing_regulation/ND_Statute_2021_508.pdf