

Section 38-7-3

License to operate or conduct child-care facility – Requirements; recordkeeping; parental notifications, etc.; affidavits; inspections and investigations.

(a) No person, group of persons, or corporation may operate or conduct any facility for child care, as defined in this chapter, without being licensed or approved as provided in this chapter.

(b)(1) Except as provided in subdivision (2), the licensure requirements of this chapter do not apply to a child-care facility that is operating as an integral part of a local church ministry or a religious nonprofit school, and is so recognized in the church or school's documents, whether operated separately or as a part of a religious nonprofit school unit, secondary school unit, or institution of higher learning under the governing board or authority of the local church or its convention, association, or regional body to which it may be subject.

(2) A child-care facility that receives state or federal funds or is operating for profit is not exempt from licensure under this subsection.

(c) A child-care facility exempt from licensure under subsection (b) shall do all of the following to maintain its license exempt status:

(1) Provide notice of operation on an annual basis to the appropriate fire and health departments so that the facility may be inspected in accordance with the state and local fire and health requirements, provided the facility shall be inspected at least annually by the appropriate fire department and the appropriate health department.

(2) Provide to the department on or before October 1, 2018, and annual thereafter, the following records and certify that the records are being maintained by the church or school:

- a. Documentation indicating the child-care facility is in compliance with fire inspections and health inspections.
- b. Employee names and their criminal history information pursuant to Section 38-13-3.
- c. Proof of property, casualty, and liability insurance, as prescribed by the department.

(3) Provide to the department, upon request, immunization verifications for all children and medical history forms for all staff and children and, certify that the records are being maintained by the church or school.

(4) Provide the department within 30 days of any updated fire inspection report, health inspection report, new criminal background check suitability letter, or receipt of updated insurance information as required under subdivision (2).

(5) Provide notice to parents or guardians of all of the following information prior to enrollment of a child in the child-care facility:

- a. Staff qualifications.
- b. Pupil-staff ratio.
- c. Discipline policies.
- d. The type of curriculum used in the learning program.
- e. The religious teachings to be given each child.
- f. The type of lunch program available.

(6) Post in plain view in a public area a statement that the program is not regulated or licensed by the Department of human Resources.

(7) Require a parent or guardian to sign an affidavit stating that the parent or guardian has been notified by the responsible individual of the church or school that the child-care facility has filed notice to the department and is exempt from licensure and regulation by the department. The child-care facility shall file the affidavits annually with the department. The affidavit shall be substantially in the following form:

Form of Affidavit for Parent/Guardian

STATE OF ALABAMA

COUNTY OF _____.

Before me, a notary public in and for said state and county appeared ____ and is known to me, after being duly sworn or affirmed, says as follows:

That affiant is the parent or legal guardian of the minor child/children ____; that affiant has been notified by ____, a representative of ____ church/school, that said church or school has filed notice and is exempt under law from regulation by the Department of Human Resources.

_____ Parent/Legal Guardian

Sworn, or affirmed to and subscribed before me this ____ day of _____, 20__.

(8) A responsible individual of the child-care facility shall file an affidavit annually with the department certifying that it has satisfied all of the requirements of this section. The affidavit shall be substantially in the following form:

Form of Affidavit for Church/School

STATE OF ALABAMA

COUNTY OF _____.

Before me, a notary public in for said state and county, appeared _____ and is know to me, after being duly sworn or affirmed says as follows:

That the affiant is the designated representative of ____ Church/School and that the below listed parents/guardians have been notified prior to enrollment/reenrollment that ____ church/school has filed notice with and is exempt under law from regulation by the Department of Human Resources: _____

_____ Representative

The affiant certifies that the child-care facility does not receive state or federal funds and, that to the best of the affiant's knowledge, no child enrolled in the program receives a child-care subsidy from the Department of Human resources: the facility is in compliance with all applicable building, fire, and health codes; the facility has provided the information requested under Section 38-7-3, Cod of Alabama 1975, to all parents or guardians of children enrolled in the facility; and the facility has posted notice in plain view in a public area stating that the child-care facility is not licensed or regulated by the Department of Human Resources.

Sworn or affirmed and subscribed before me this ____ day of _____, 20__.

_____ Notary Public

- (d)(1) On and after March 21, 2018, any church or nonprofit religious school intending to operate a new child-care facility in the state shall notify the department at least 30 days prior to operating, and the department shall inspect the facility and ensure compliance with this section before the facility may begin operating.
- (2) The department shall inspect any child-care facility that is exempt from licensure under subsection (b) at any time if it has reasonable cause to believe the facility is not in compliance with this section or the safety of a child is at risk. If the department finds there exists a situation that may put the safety of a child at risk, the department may refer to the fire or health department or to the local district attorney for the proper remedy or action.
- (e) The district attorney of the county in which a child-care facility that is exempt from licensure under subsection (b) is located, upon presentment of charges, shall investigate at his or her discretion, any allegations against the church or nonprofit religious school operating the facility under the laws of the state.
- (f) The department, upon request, shall provide any documentation necessary to confirm any of the information relevant to a determination of whether a child-care facility is exempt under subsection (b) to the district attorney.
- (g) Any child-care facility that is exempt from licensure under subsection (b), upon request by the department, shall provide the department with any information listed in subsection (c) within 15 days.
- (h) Nothing in this section or in this chapter prohibits an employee of the department from carrying out the duties of the department as prescribed in this title.
- (i) Nothing in this section or in this chapter infringes upon the religious teaching or practices of a licensed faith-based child-care facility.
- (j) A child-care facility that is an integral part of a church or nonprofit religious school, other than a child care facility exempt from licensure under subsection (b), shall be licensed in accordance with this chapter no later than August 1, 2019.

(Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §3; Acts 1981, No. 81-310, p. 396; Act 2018-278, §§ 2,4.)