

PERFORMANCE AUDIT REPORT

**Reviewing the
Department of Health and Environment's
Regulation of Child Care Facilities and
Family Day Care Homes**

Executive Summary *with Conclusions and Recommendations*

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
November 1997**



Legislative Post Audit Committee

Legislative Division of Post Audit

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November 17, 1997

To: Members of the Kansas Legislature

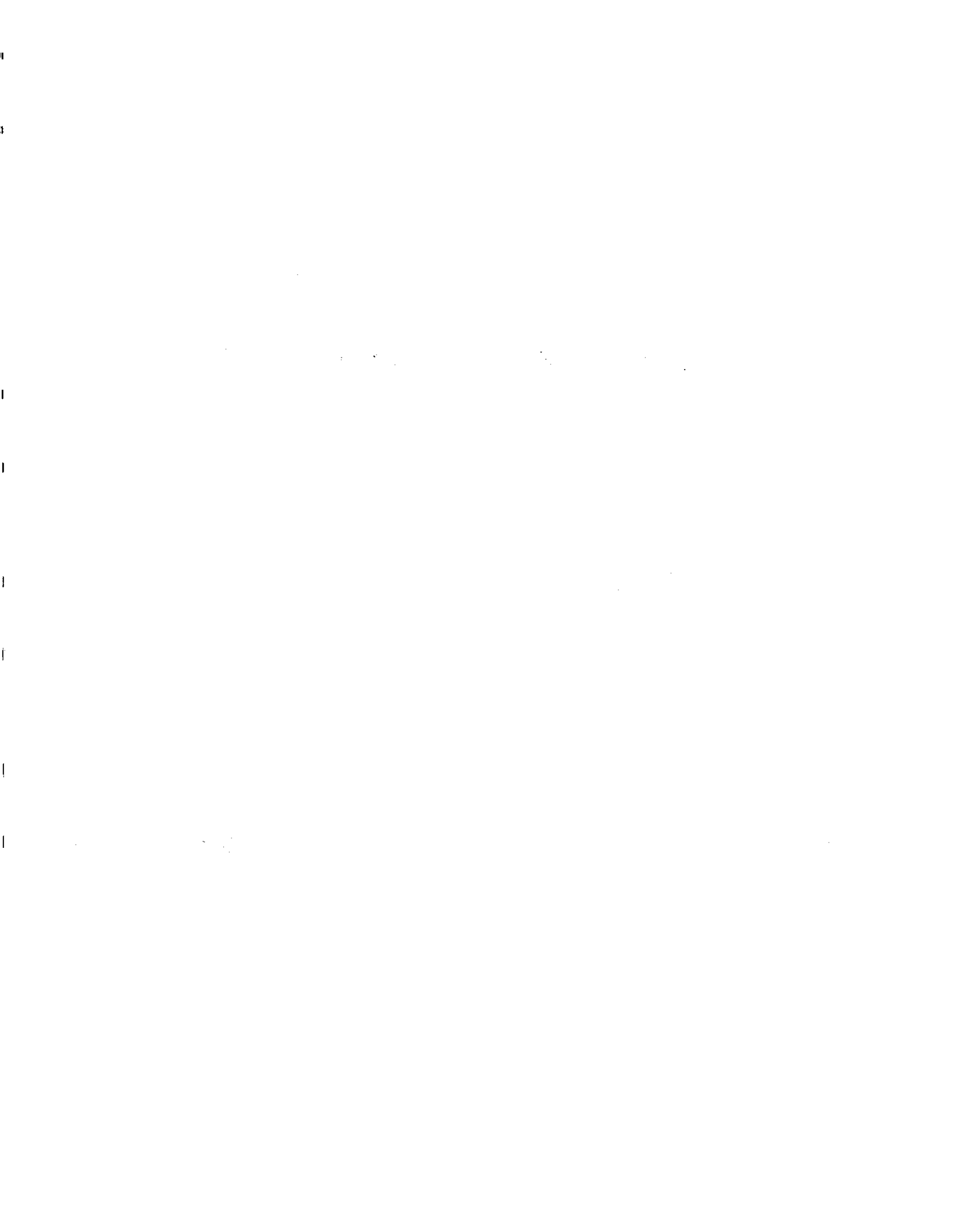
This executive summary contains the findings and conclusions, together with a summary of our recommendations and the agency responses, from our completed performance audit, *Reviewing the Department of Health and Environment's Regulation of Child Care Facilities and Family Day Care Homes*.

This report includes several recommendations for improving the regulation of child care facilities and homes in Kansas. We would be happy to discuss these recommendations or any other items in the report with you at your convenience.

If you would like a copy of the full audit report, please call our office and we will send you one right away. We would be happy to discuss these recommendations or any other items in the report with you at your convenience.

A handwritten signature in black ink that reads "Barbara J. Hinton". The signature is written in a cursive, flowing style.

Barbara J. Hinton
Legislative Post Auditor



**Reviewing the Department of Health and Environment's
Regulation of Child Care Facilities and
Family Day Care Homes**

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

**Question 1: Has the Department of Health and Environment
Exercised Sufficient Regulatory Oversight of
Child Care Facilities and Family Day Care Homes to
Ensure the Safety and Well-Being of Children in Those Facilities?**

Many of the regulatory activities relating to child care in Kansas page 4
aren't being adequately carried out by local health departments and
private contractors. *Inspections of child care providers often identify
regulatory violations, some of which represent serious risks to children.
Some common violations include unsafe conditions (i.e., stairs not being
gated off, or guns, poisons, and matches being accessible to children),
unsanitary conditions (i.e., diaper areas not being sanitized, or pet feces not
being cleaned up), and poor physical conditions (i.e., yards not being fenced,
cabinets not being latched, or swimming pools not being safe).*

*A lot of the problems we identified in this area related to how quickly
actions were taken to determine whether children were being adequately
cared for in safe and secure facilities. For example, in nearly half the 56
cases we reviewed, local inspectors weren't inspecting new child care
facilities or homes until an average of 73 days after their license applications
were submitted or temporary permits issued, rather than the required 30
days. Because new applicants usually receive temporary licenses to care
for children as soon as they apply, there's no assurance until that initial
licensing inspection is done that children are being cared for in a safe
environment. We also noted that annual inspections of child care providers
weren't unannounced, which negates the benefits of a surprise inspection.*

*Another example: in nearly one-fourth the 41 complaints we re-
viewed alleging such things as possible harm to children and unsafe condi-
tions, local inspectors didn't investigate those complaints within five working
days as the Department requires. For five of those complaints—including
one alleging that children were being left in the child care provider's base-
ment alone and that one of those children had marks on his face and neck—
an on-site inspection would have been the first logical action to take. Howev-
er, the on-site inspection for this complaint didn't happen for more than a
month. In addition, we found that 7% of the complaints we reviewed weren't
investigated as thoroughly as they should have been. For example, in
response to one complaint that a child had been bruised and scratched at the
child care home, the local inspector interviewed only the father, who didn't
have custody of the child, and the child care provider. On that basis, the
inspector concluded the complaint was unsubstantiated.*

*Inadequate staffing resources and training apparently have contrib-
uted to problems in this area.*

At the State level, backlogged information within the Department is causing significant delays in getting criminal background checks for staff in the larger child care facilities. page 9
These background checks identify individuals who shouldn't have contact with children because they've committed crimes like assault, rape, abuse, or other crimes against persons. However, we found that as many as an estimated 18,000 child care center or preschool staff haven't been checked against the Kansas Bureau of Investigations' criminal records because the Department hasn't yet entered their names into the computer. Department officials told us they haven't had enough staff to keep up with this task.

The Department's enforcement efforts also haven't been sufficient to ensure that children are sufficiently protected once regulatory violations have been identified. page 10
The Department almost always uses the least serious enforcement action available to it—sending the child care provider a notice of noncompliance—even in response to serious and continuing violations, like leaving children alone in the home, or leaving children outdoors unsupervised. In addition, the Department didn't send out notices of noncompliance until an average of six weeks after a violation had been confirmed.

Once the Department issued notices of noncompliance, its staff didn't ensure that violations were corrected quickly, or at all. In nine of the 41 cases we reviewed, corrections weren't made in a timely manner, and neither the Department nor local health inspectors followed up on a timely basis to ensure that problems were corrected. In one case, for example, a child care provider never responded to a notice of noncompliance issued for such things as unsanitary conditions and inappropriate napping facilities, and it took the local inspector more than six months to conduct a reinspection to determine whether the problems had been corrected.

Finally, we found that the Department didn't follow its own policy for assessing fines. We identified nine instances of violations that should have resulted in total fines of \$1,250, but no fines were levied.

Question 1 Conclusion: *In regulating child care, the Department of Health and Environment must balance the need for safety and well-being of children in care, the need for parents to have child care readily available, and the needs of child care providers to operate profitably in a competitive environment. Nevertheless, because the children in care aren't in a position to look out for their own safety and wellbeing, the Department must place primary importance on the childrens' interests in carrying out its regulatory responsibilities. That calls for monitoring efforts that are both timely and thorough, and responses to problems found that are both swift and appropriately strong. We didn't always see that.* page 15

Recommendations: *A brief summary of the report's recommendations, together with a summary of applicable comments from the agencies, is presented below.* page 15

We made several recommendations to the Department of Health and Environment to improve the effectiveness of the child care regulatory program. They include:

- *ensuring that county health departments and private contractors conduct thorough inspections and investigations in a timely manner*

- *taking steps to reduce the degree to which providers can anticipate inspections*
- *taking steps to reduce the backlog causing delays in completion of criminal background checks*
- *reassessing regulations and State law related to such things as child-adult ratios in family day care homes and training hours for child care workers*
- *taking enforcement actions that are consistent with violation severity and history and done in a timely manner*
- *following up on enforcement actions*

We also recommended that the Department work with the Governor, Legislature, and other parties involved in child care to identify additional funding needs to improve the effectiveness of the child care program.

Finally, we recommended that the Legislative Post Audit Committee consider introducing legislation that requires regular inspections of all registered child care homes, and that amends State law regarding civil fines for child care providers who violate regulations, making it clear whether the fine applies on a per provider, per violation, or per day basis.

The Department of Health and Environment generally concurred with our recommendations, as did the Kansas Association of Local Health Departments.

Question 2: Are the Departments of Social and Rehabilitation Services and Health and Environment Coordinating Their Efforts To Ensure the State Will Be Able to Meet the Demands On Child Care That Will Result from Federal Welfare Reform?

There may be enough child care “slots” to handle the 2,700 additional children the Department of Social and Rehabilitation Services estimated will need child care over the next three years, but those openings may not be in the right places or of the right type. page 17
Based on information child care providers gave us, there may be from 5,500 to 7,300 child care slots available in the homes and facilities across the State. These estimates suggest there may be enough overall child care openings to meet the increased need caused by welfare reform. However, these slots may not be in the areas of the State where they’re needed. In addition, they may not be the right types of openings. According to people we talked with who work in the child care field in Kansas, the greatest need will be for infant and toddler care, odd-hour care such as weekends and nights, and care for children with special medical needs. There’s no information about how many of these child care openings are available.

To encourage expanded child care services in Kansas, officials at the Department of Social and Rehabilitation Services told us they’ve increased their efforts in several areas. page 18
Through grants to improve or expand availability, the Department has been encouraging child care providers who are interested in creating alternative types of care, such as weekend and overnight care. The Department also has increased the amount it paid child care providers on behalf of low-income

clients, and is considering further increases in subsidies for infants and toddlers. In addition, the Department has granted funds to resource and referral agencies across the State to provide information to families on child care options. Finally, the Department has funded a pilot project in Wyandotte County to train former welfare recipients to become child care providers. During this audit, we didn't try to assess whether the Department's efforts in these areas have been adequate, but the Department appears to be implementing programs similar to those in other states.

The Department of Health and Environment seems to be well aware of the Department of Social and Rehabilitation Services' welfare reform efforts, but it may not be positioned to handle an increase in workload with existing resources. Two areas are of concern here. First, officials from both Departments have discussed the possibility of creating an emergency child care provider status that would, at least temporarily, bypass the current licensing or registration requirements. If that happens it would result in a lowering of current standards, and it could place more children at risk. Second, with the expanded efforts to increase child care availability in the State, the Department of Health and Environment (as well as local health departments) will need sufficient resources to license, inspect, and investigate the new facilities that may be established. Although it's difficult to say how big that increase might be, our findings from question one point out that the current system isn't always adequate to ensure that children are safe and well cared for.

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Question 2 Conclusion: *It's too early to really tell what effect the new federal welfare reform law will have on the State's child care facilities. It does appear the Departments of Social and Rehabilitation Services and Health and Environment are working together on various related issues, even though their roles are very different. Considering some of the deficiencies we found in the Department of Health and Environment's regulatory activities, it will be even more important for the Departments to work together to ensure that any increased child care needs can be met with facilities and homes of high quality. Additional funding may be needed to accomplish this, as addressed by the recommendation in question one.*

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The Department of Social and Rehabilitation Services responded to this question, stating it would work with the Department of Health and Environment to identify funding sources for use in the Department's child care regulatory program.

APPENDIX A: Child Care Regulation in Kansas Compared to Other States

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APPENDIX B: Agency Response

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This audit was conducted by Sharon Patnode, Chris Clarke, and Sonja Erickson. Randy Tongier was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Patnode at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call (785) 296-3792, or contact us via the Internet at: LPA@mail.ksleg.state.ks.us.

