

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2837

BY DELEGATE HIGGINBOTHAM

[Introduced March 02, 2021; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §49-2-115 and §49-2-121 of the Code of West Virginia, 1931, as
2 amended, all relating to providing that no bond may be required as a condition of licensure,
3 approval, certification, or registration of a child care facility.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-115. Conditions of licensure, approval and registration.

1 (a) A license or approval is effective for a period up to two years from the date of issuance,
2 unless revoked or modified to provisional status based on evidence of a failure to comply with this
3 chapter or any legislative rules promulgated by the secretary. The license or approval shall be
4 reinstated upon application to the secretary and a determination of compliance.

5 (b) An initial six-month license or approval shall be issued to an applicant establishing a
6 new service found to be in compliance on initial review with regard to policy, procedure,
7 organization, risk management, human resources, service environment and record keeping
8 regulations.

9 (c) A provisional license or approval may be issued when a licensee is not in compliance
10 with the legislative rules promulgated by the secretary but does not pose a significant risk to the
11 rights, wellbeing, health and safety of a consumer. It shall expire not more than six months from
12 date of issuance, and not be consecutively reissued unless the provisional recommendation is
13 that of the State Fire Marshal.

14 (d) A renewal license or approval may be issued of any duration up to two years at the
15 discretion of the secretary. In the event a renewal license is not issued, the facility must make
16 discharge plans for residents and cease operation within 30 days of the expiration of the license.

17 (e) A certificate of registration is effective for a period up to two years from the date of
18 issuance, unless revoked based on evidence of a failure to comply with this article or any rules
19 promulgated pursuant to this article. The certificate of registration shall be reinstated upon
20 application to the secretary, including a statement of assurance of continued compliance with the

21 legislative rules promulgated pursuant to this article.

22 (f) The license, approval or registration issued under this article is not transferable and
23 applies only to the facility and its location stated in the application. The license, registration or
24 approval shall be publicly displayed. The foster and adoptive family homes, informal family child
25 care homes and relative family child care homes shall be required to display registration
26 certificates of registration or approval upon request rather than by posting.

27 (g) Provisional certificates of registration may be issued to family child care homes.

28 (h) The secretary, as a condition of issuing a license, registration or approval, may:

29 (1) Limit the age, sex or type of problems of children allowed admission to a particular
30 facility;

31 (2) Prohibit intake of any children; or

32 (3) Reduce the number of children which the agency, facility or home operated by the
33 agency is licensed, approved, certified or registered to receive.

34 (i) Notwithstanding any provision of this code to the contrary, no bond may be required
35 as a condition of licensure, approval, certification, or registration of a child care facility.

§49-2-121. Rule-making.

1 (a) The secretary shall promulgate legislative rules in accordance with §29A-3-1 *et seq.*
2 of this code regarding the licensure, approval, certification, and registration of child care facilities
3 and the implementation of this article.

4 (b) The secretary shall review the rules promulgated pursuant to this article at least once
5 every five years, making revisions when necessary or convenient.

6 (c) The rules shall incorporate, by reference, the requirements of the Integrated Pest
7 Management Program established by legislative rule by the Department of Agriculture under
8 §19-16A-4 of this code.

9 (d) Notwithstanding any provision of this code to the contrary, no rule may provide a
10 bonding requirement the licensure, approval, certification, or registration of a child care facility.

NOTE: The purpose of this bill is to provide that no bond may be required as a condition of licensure, approval, certification, or registration of a child care facility.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.