

# CONSENT CALENDAR

January 31, 2022

## HOUSE OF REPRESENTATIVES

### REPORT OF COMMITTEE

**The Committee on Health, Human Services and Elderly Affairs to which was referred HB 1507,**

**AN ACT requiring childcare investigatory findings to be timely published. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.**

**Rep. Jerry Knirk**

**FOR THE COMMITTEE**

## **COMMITTEE REPORT**

Committee:	<b>Health, Human Services and Elderly Affairs</b>
Bill Number:	<b>HB 1507</b>
Title:	<b>requiring childcare investigatory findings to be timely published.</b>
Date:	<b>January 31, 2022</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>OUGHT TO PASS</b>

### **STATEMENT OF INTENT**

This bill requires childcare investigatory findings to be published in a timely fashion. It amends the process of posting for the public on the Department of Health and Human Services (DHHS) website the findings of investigatory and monitoring visits and final decisions regarding licensing of childcare agencies. At least 15 business days before the posting, DHHS must provide notification to the child daycare agency of its findings. If the agency responds before the posting, their response will be posted as well. It gives DHHS 21 business days to post the findings. This information shall remain on the website for a period of 3 years.

Vote 19-0.

Rep. Jerry Knirk  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Health, Human Services and Elderly Affairs

**HB 1507**, requiring childcare investigatory findings to be timely published. **OUGHT TO PASS.**

Rep. Jerry Knirk for Health, Human Services and Elderly Affairs. This bill requires childcare investigatory findings to be published in a timely fashion. It amends the process of posting for the public on the Department of Health and Human Services (DHHS) website the findings of investigatory and monitoring visits and final decisions regarding licensing of childcare agencies. At least 15 business days before the posting, DHHS must provide notification to the child daycare agency of its findings. If the agency responds before the posting, their response will be posted as well. It gives DHHS 21 business days to post the findings. This information shall remain on the website for a period of 3 years. **Vote 19-0.**

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on Bill # 1507

**BILL TITLE:** An Act requiring investigatory findings to be timely published.

**DATE:** 1/31/2002

**LOB ROOM:** 210-11

---

**MOTION: (Please check one box)**

Adoption of Amendment # 2022-0354h

Moved by Rep. Knirk      Seconded by Rep. Layon      Vote: 19-0

---

**MOTION: (Please check one box)**

OTP/A

Moved by Rep. Knirk      Seconded by Rep. Layon      Vote: 19-0

---

**CONSENT CALENDAR:**  YES       NO

**Minority Report?**  Yes       No      If yes, author, Rep: \_\_\_\_\_ Motion \_\_\_\_\_

Respectfully submitted: \_\_\_\_\_ baf \_\_\_\_\_  
Rep. Beth Folsom, Clerk

STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK



9/28/2021 11:15:01 AM  
Roll Call Committee Registers  
Report

2022 SESSION

**Health, Human Services and Elderly Affairs**

Bill #: 1507 Motion: OTP AM #: 2022-0354h Exec Session Date: 1/31/2022

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearson, Mark A. Chairman	Y		
Layon, Erica J. Vice Chairman	Y		
McMahon, Charles E.	Y		
Acton, Dennis F.	Y		
Gay, Betty I.	Y		
Cushman, Leah P.	Y		
Folsom, Beth A. Clerk	Y		
Love, D	Y		
King, Bill C.	Y		
Kofalt, Jim	Y		
DeLemus, Susan	Y		
Weber, Lucy M.			absent
MacKay, James R.	Y		
Snow, Kendall A.	Y		
Knirk, Jerry L.	Y		
Salloway, Jeffrey C.			absent
Cannon, Gerri D.	Y		
Nutter-Upham, Frances E.	Y		
Schapiro, Joe	Y		
Woods, Gary L.	Y		
Merchant, Gary	Y		
<b>TOTAL VOTE:</b>	19	0	2

STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK



9/28/2021 11:15:01 AM  
Roll Call Committee Registers  
Report

2022 SESSION

**Health, Human Services and Elderly Affairs**

Bill #: 1507- Motion: OTPA AM #: 2022-0354h Exec Session Date: 1/31/2022

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearson, Mark A. Chairman	Y		
Layon, Erica J. Vice Chairman	Y		
McMahon, Charles E.	Y		
Acton, Dennis F.	Y		
Gay, Betty I.	Y		
Cushman, Leah P.	Y		
Folsom, Beth A. Clerk	Y		
Love, D	Y		
King, Bill C.	Y		
Kofalt, Jim	Y		
DeLemus, Susan	Y		
Weber, Lucy M.			absent
Mackay, James R.	Y		
Snow, Kendall A.	Y		
Knirk, Jerry L.	Y		
Salloway, Jeffrey C.			absent
Cannon, Gerri D.	Y		
Nutter-Upham, Frances E.	Y		
Schapiro, Joe	Y		
Woods, Gary L.	Y		
Merchant, Gary	Y		
<b>TOTAL VOTE:</b>	19	0	2

Rep. Knirk, Carr. 3  
January 28, 2022  
2022-0354h  
07/04

Amendment to HB 1507

1 Amend RSA 170-E:10, II as inserted by section 1 of the bill by replacing it with the following:

2

3 II. Information submitted in the application process shall be private, confidential, and not  
4 available for review. However, the license itself, the findings of investigatory and monitoring visits,  
5 and final decisions relative to licensure of the child day care agency shall be considered public  
6 information, posted on the department's website, and available for review by members of the public.  
7 The findings of investigatory and monitoring visits and final decisions relative to licensure shall be  
8 posted on the department's website not less than 21 business days from the date of the finding or  
9 decision, and shall be available on the website for a period of 3 years.

**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS**

**PUBLIC HEARING on Bill # HB 1507**

**BILL TITLE:** An Act requiring investigatory findings to be timely published.

**DATE:** 01/12/2022

**ROOM:** LOB 210-11

**Time Public Hearing Called to Order:** 1:40 pm

**Time Adjourned:** 2:03 pm

**Committee Members:** Reps. M. Pearson, Layon, Folsom, , Acton, Gay, Cushman, Kelsey, B. King, Kofalt, Weber, MacKay, Query, Knirk, Salloway, Cannon, Nutter-Upham, Schapiro, Woods and Merchant, Murray

**TESTIMONY**

**\*Representative McWilliams - Presented the bill**

This primary issue is the length of time that negative findings stay on a permanent record and published record i.e.. website.

- explain appeal process
- if public record is shortened, will it still remain longer on permanent record available upon request.

**Doreen Shockley, DHHS -Supports**

Requests line 21 add "business" days

- currently only listed 3-5 years on website, permanent record available upon request
- if an infraction is cured can it come off sooner than 3 years.
- does it have public comments - how long do they remain
- are corrections shown
- remove a cured infraction would require a new law
- what is a reasonable length of time
- can name changes be noted
- is there a noted difference between complaints/inspections, a recent study committee found that complaints often stay on too long.
- There have been concerns raised regarding "revenge" inspections has this been addressed

Respectfully submitted,

Rep. Beth Folsom, Clerk





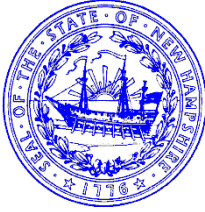
# House Remote Testify

Health, Human Services and Elderly Affairs Committee Testify List for Bill HB1507 on 2022-01-11

Support: 3 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Watters, Senator David	Dover, NH david.watters@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/5/2022 2:30 PM
POST, LISA CM	Lyndeborough, NH Lisa.Post@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/11/2022 7:32 AM
Meuse, David	Portsmouth, NH David.Meuse@leg.state.nh.us	An Elected Official	Rockingham 29	Support	No	No	1/11/2022 7:39 AM



# State of New Hampshire

GENERAL COURT

CONCORD

## MEMORANDUM

---

**DATE:** November 1, 2019. Revised December 6, 2019.

**TO:** Honorable Christopher Sununu, Governor  
Honorable Stephen J. Shurtleff, Speaker of the House  
Honorable Donna M. Soucy, President of the Senate  
Honorable Paul C. Smith, House Clerk  
Honorable Tammy L. Wright, Senate Clerk  
Michael York, State Librarian

**FROM:** Representative Rebecca McWilliams, Chair

**SUBJECT:** Final Report on HB 524, Chapter 173, Laws of 2019

---

Pursuant to HB 524, Chapter 173, Laws of 2019, enclosed please find the Final Report of the Committee to Study Issues and Impediments to Starting, Running, and Growing Home and Commercial Day Care Facilities in New Hampshire.

If you have any questions or comments regarding this report, please do not hesitate to contact me.

Enclosure

cc: Committee Members  
Acting Commissioner, Department of Health and Human Services  
State Fire Marshall's Office

# FINAL REPORT

## Committee to Study Issues and Impediments to Starting, Running, and Growing Home and Commercial Day Care Facilities in New Hampshire

HB524, Chapter 173, Laws of 2019

Issued November 1, 2019, Revised December 6, 2019.

### **MEMBERS:**

Rep. Rebecca McWilliams, Chair  
Rep. Dennis Acton, Clerk  
Rep. Samantha Fox  
Sen. Sharon Carson

### **CHARGE OF THE STUDY:**

The committee was charged to:

- (a) Examine the adequacy of day care programs and facilities across the state;
- (b) Identify issues and impediments to starting, running, and growing both home and commercial day care facilities; and
- (c) Identify ways to reverse the current trend of childcare facility closures.

### **PROCESS AND PROCEDURES:**

The committee met five times in October, 2019. Public hearings allowed time for stakeholders to testify, while many others submitted written statements. The committee is pleased with the level of interest from all involved who provided testimony and information. Our final meeting on October 30, 2019 allowed the members to compile this information into this report.

### **HISTORY:**

NH maintains and licenses a private industry of both home-based and commercial facility-based childcare centers, which may be structured as either nonprofit or for-profit. These centers provide services for infants and toddlers as well as school-age children in need of services before and after school.

The childcare industry in New Hampshire is currently experiencing serious problems with facility closures across the state and an exodus of employees to other jobs and other industries with better paid positions. The end result is less choice and availability for working parents, which is in turn, hurting the state economy.



## **FINDINGS:**

This study committee was created to address reports of difficulties encountered by licensed childcare facilities throughout the state. Numerous facility owners have publicly questioned their ability to remain open and support employees without immediate change through DHHS rules and legislation. This is especially critical in the North Country, where the committee heard testimony that losing just two childcare centers would cause a local economic and employment disaster. Nonetheless, addressing these challenges is a major need throughout the state.

These concerns were brought before the study committee in public hearings as well as numerous written testimony entries. Input was received by DHHS representatives, childcare facility owners, and operators through in-person testimony and submitted information. We also heard testimony from a representative of the State Fire Marshall's office.

As a study committee, our findings indicate that there is cause for concern that the current regulatory environment is creating conditions that hurt small business childcare. Facility owners face a matrix of complicated regulations in order to locate a childcare facility and open their doors. There is a tense and adversarial relationship between the state licensing division and many owner/operators who testified. The business structure of a typical childcare facility is employee-centered. A typical childcare uses 85% of its budget for teachers and 15% for operations including fingerprinting, CPR, and roof leaks. There is also a shortage of workers and high level of competition between facilities for qualified employees.

We address these issues within our report by offering immediate legislation as well as longer term recommendations. Our goal is to ensure that we continue to take good care of the next generation.

## **RECOMMENDATIONS:**

### **Immediate:**

The Department of Health and Human Services is implementing a new DHHS childcare employee background check rule, which takes effect on January 1, 2020. The new rule requires new childcare employee hires to complete a background check prior to starting work. The current timeframe for a DHHS background check can take several months, which will render potential new workers to the industry unemployable under the procedures applied with the new rule. Workers are currently allowed to provisionally begin work after submission of the background check paperwork, which in some cases is received by the employer from DHHS up to six month later.

The committee's concern is the potential fiscal impact on the business of childcare in the state of New Hampshire following the promulgation of the new rule, if DHHS is unable to increase turnaround times to a reasonable standard. The committee recommends that DHHS prioritize childcare employees' background check paperwork over other applications, and ensure that the turnaround time is less than one week from submission. Otherwise, childcare employees will be unable to provisionally work during this wait period, which will force these potential employees to seek a job outside the field.

## Proposed Legislation:

1. Clarification and updates to statutory guidelines regarding the forced closure of a facility.
2. Home-based Childcare Enabling Bill:
  - **SPRINKLERS:**  
State Building Code 2015 IBC Section 308.6.4, 310.5.1 and 903.2.6 require a sprinkler system in home childcares. The proposed legislation provides an exemption for Home and Home Group-licensed childcare providers from the sprinkler system requirements and creates a standard across all controlling entities for ease of compliance.
  - **COMMERCIAL KITCHEN REQUIREMENTS:**  
Adopts a commercial kitchen exemption for Home and Home Group-licensed childcare providers to allow food prep including serving of federally provided lunch benefits without commercial kitchen requirements such as hood/fires suppression, triple sink, grease trap, etc. Towns cannot require that a Home or Home group-licensed childcare be required to obtain a food service license.
  - **ZONING:**  
Allows Home and Home Group-licensed childcare providers to operate in all residential zones. Makes adjustments to parking space requirements and allowed size of home-based facilities to bring standards across the state into alignment and thus reduce the regulatory burden of starting and operating a facility. Allow a second employee for more than 6 children who does not need to be a family member of the operator.
3. **Online Posting of Infractions** - Change posting deadline from the current 5 to 21 days when DHHS posts findings online. At least 10 business days before posting the results online, the department must contact the facility to allow the facility to respond. Each online post shall allow a public, unedited response from the facility owner or licensee. In addition, set a takedown cycle of from one year to no more than three years because internet posting can impact the reputation of a business long after issues are corrected. Licensing can retain copies of findings in their office, which are still available upon public request.
4. **Continuing Education is excessive, leading to over-professionalization of the field and lack of workers.** Licensure currently requires 18 annual continuing education hours for childcare workers which is widely seen as excessive and a major cause of the labor shortage in this industry. Other professionals in high paying jobs with master's degrees require fewer hours. Police need 8 hours and lawyers need 12. Childcare is a lower educated workforce, some credits or associates degrees are typical for the industry. Proposed legislation reduces the requirement to 6.
5. **Lack of Affordable Housing is a serious issue for childcare employees.** Particularly in the North Country, but also in the cities, and in more affluent areas such as Dartmouth and Portsmouth, the cost of housing for a single individual significantly exceeds the amount a childcare employee can make working 40 hours a week in the position. The committee recommends working during the 2020 session with relevant housing groups to

come up with reasonable housing solutions for childcare staff, as part of the overall bipartisan push for more affordable housing in NH.

6. **The lack of an Independent Panel to review Appeals of DHHS decisions regarding childcare businesses is concerning.** The committee heard testimony from business owners that the same DHHS staff who visit and cite a facility for infractions are also the judge and jury when the facility wants to appeal their decision. For minor issues, this is frustrating and patently one-sided. But minor infractions add up, and over time, the lack of a neutral appeals process could contribute to the forced closure of a facility without an opportunity for a rebuttal or recourse. The committee recommends putting together another study committee to evaluate the appeals process for citations.

### **Recommendations regarding DHHS Rules and NH Education:**

1. **Inspection, Infraction and Appeals Process:** We heard widespread concern from numerous childcare facility owners and operators about how infractions and complaints are handled by inspectors, and the lack of due process in the current appeals process. Here are some recommendations that we strongly suggest be addressed in a meaningful way to avoid the need for future legislation.
  - We call for the Childcare Licensing Division to streamline and standardize their inspection criteria through a written form, preferably on a portable electronic device with the ability to take photos, and train their inspectors accordingly. These expectations should then be communicated to the licensed facilities to help build trust and cooperation between licensee and the state. There are too many gray areas in interpreting regulations, state licensers have varying interpretations of the same issue.
  - We also see the need to create an appeals board for DHHS violations, that is similar to those used in the Allied Health Licensing Division or the NH Board of Realtors. Right now, appeals for childcare facility violations are not heard by a neutral authority. The proposed board should include a balance of members in addition to DHHS staff; including facility owners, operators, and employee representatives, appointed by the Governor's office.
2. **Change or eliminate the rule requiring a Director to be on-site for  $\frac{2}{3}$  of the open hours of the facility.** This creates an undue burden, sometimes over 50 hours per week on Directors with facilities with more open hours. Recommend  $\frac{1}{2}$  the open hours as a reasonable reduction.
3. **Reduce the burden of 9 hour health and safety training with 3 credits in Early Childhood Growth and Development from a nationally accredited college/university.** This requirement applies to everyone, including high school and part-time helpers. Requiring the 3 credit course creates higher employment costs because programs cannot hire staff without credits to even cover nap periods, and cannot hire entry level workforce who have plenty of life experience, or students who are passionate about children and interested in the field. There is a very real concern that this

requirement prevents otherwise qualified new Americans from working in childcare, and the teaching staff should reflect the diversity of the students. Propose allowing credentialed staff to manage a class for up to 120 minutes in a classroom without the 3 credit course. Also propose creating a NH childcare approved condensed community college/online course that contains just the necessary Early Growth and Development milestones that would allow more applicants to meet the requirements. Propose allowing life experience to account for a portion or the entirety of the 9 hour training. Propose a compromise where 50% of teachers must have the required credits, advanced knowledge of educational philosophy, and are mentors, and 50% are in a supporting role and may be left alone with children. The current lack of qualified teachers and staff has led to a critical staffing crisis in the industry.


4. **Reduce or eliminate the \$50 fee for the child care employment eligibility card.** This is an unreasonable burden for employees and childcare centers. We recommend a proposal to make the card valid for five years with a replacement card fee of \$15. Also, exempt substitutes from the eligibility card requirement.
5. **Allow reciprocity for background checks and fingerprinting through the NH Department of Education.** It is unacceptable that in 2019 DHHS and DOE cannot use a combined database, or check one another's completed database searches, to substitute for either department. The lack of reciprocity for an already performed state background check and fingerprinting process is expensive, time consuming, inefficient, and prevents teachers from being able to work at a child care facility after school or during the summer without undergoing a second, unnecessary check.
6. **Reinstate annual NH Criminal Background Checks for \$10 fee.** Applicants are given five years under RSA 170:E-7, but employers and licensing have no way to know if the employee has committed a crime during that time period. This is a safety issue.
7. **Track and report data annually.** There is no reporting of municipal applications to open a childcare facility. The data is not clear as to which facilities close only to re-open under new management or with a new name. This is misleading and leads to relying on anecdotes to whether more facilities are opening than closing each year. DHHS must perform an exit interview after closure, whether voluntary or otherwise. Need a statewide database on how many childcare slots are available in each county/city in any given week.
8. **Encourage proactive training for inspections.** Provide a few best practices training recommendations from DHHS at each site visit such as "here is what DHHS recommends a childcare facility say to kids at mealtime" rather than writing up teachers for telling kids to eat everything else before a cookie.
9. **Notifications for local emergencies vary greatly from town to town.** Recommend an emergency alert system, similar to public school notifications and police scanners, to alert home and commercial childcare facilities to ensure children are safe in an emergency situation.



- 10. Department of Education Perkins funds for high school early childhood education programs.** Technical high schools should be encouraged to reinstate early childhood education classes using the still-available Federal Perkins funds. Many of these programs were shut down during a period of non-funding, and have not restarted. The pipeline of young people who want to work in childcare careers needs to be fostered, rather than reduced. Encourage high school students to get their background checks during school, as well as take the two required courses, so they are employable by childcare employers during the summer and immediately following graduation.

## **End of Recommendations**

Report submitted on November 1st.

**Archived:** Thursday, January 20, 2022 3:39:09 PM  
**From:** [Rebecca McWilliams](#)  
**Sent:** Tuesday, January 11, 2022 12:21:46 PM  
**To:** ~House Health Human Services and Elderly Affairs  
**Subject:** HB1507 2019 Study Committee Report  
**Importance:** Normal  
**Attachments:**  
[Child Care Impediments Report 2019.pdf](#) 

---

I'm providing this report as background to my testimony today regarding HB1507. This is a business friendly bill based on testimony during the study committee and subsequent hearings on a similar bill last year to provide fairness in State policy.

There is a concern to not penalize facilities who have been in business for a long time (ie. 20 years) in comparison to new or newly-rebranded facilities without old historic findings that could skew a potential clients comparison. Therefore, the bill keeps findings publicly available on the state website for 3 years.

Also, in fairness, there is a concern to provide notice of State findings first to a facility to allow facilities to provide a response prior to publishing the finding to the public. The current process does not provide a fair process for responses and publication of responses.

Thank you and glad to discuss this further ith you.

Rebecca J. McWilliams, Esq.

State Representative, Merrimack 27  
House Science, Technology & Energy Committee

HB 1507 - AS INTRODUCED

2022 SESSION

22-2809

07/05

HOUSE BILL **1507**

AN ACT requiring childcare investigatory findings to be timely published.

SPONSORS: Rep. McWilliams, Merr. 27; Rep. Wazir, Merr. 17; Rep. Chretien, Hills. 42; Rep. McGuire, Merr. 29; Rep. Bartlett, Merr. 19; Rep. Marsh, Carr. 8; Rep. Vail, Hills. 30; Rep. Grossman, Rock. 18; Rep. Mangipudi, Hills. 35; Sen. Watters, Dist 4

COMMITTEE: Health, Human Services and Elderly Affairs

---

ANALYSIS

This bill revises the procedure for posting results of child day care monitoring visits on the department of health and human services website and expands the licensees' opportunity to respond to the department's findings.

-----

Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT requiring childcare investigatory findings to be timely published.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Child Day Care Licensing; Record of Licenses and Investigatory and Monitoring Visits. RSA  
2 170-E:10, II and III are repealed and reenacted to read as follows:

3           II. Information submitted in the application process shall be private, confidential, and not  
4 available for review. However, the license itself, the findings of investigatory and monitoring visits,  
5 and final decisions relative to licensure of the child day care agency shall be considered public  
6 information, posted on the department's website, and available for review by members of the public.  
7 The findings of investigatory and monitoring visits and final decisions relative to licensure shall be  
8 posted on the department's website not less than 21 days from the date of the finding or decision,  
9 and shall be available on the website for a period of 3 years.

10           III. At least 15 business days before posting the results or findings of an investigatory visit,  
11 monitoring visit, or a final decision relative to licensure on the department's website, the department  
12 shall notify the child day care agency of its findings and the date on which the information shall be  
13 posted on the department's website. The department may provide such notice by email or, if the  
14 child day care agency has not provided an email address, by United States mail. If the child day  
15 care agency submits a response prior to the date of posting, the child day care agency's response  
16 shall also be posted on the department's website.

17           2 Effective Date. This act shall take effect 60 days after its passage.