



Interim Legislative Report

Minnesota Family Child Care Task Force

March 2020



For accessible formats of this information or assistance with additional equal access to human services, write to DHS.info@state.mn.us, call 651-431-4670, or use your preferred relay service.

Minnesota Statutes, Chapter 3.197, requires the disclosure of the cost to prepare this report. The estimated cost of preparing this report is \$5,060.

Family Child Care Task Force Membership

Ann McCully, Child Care Aware of Minnesota

Ariane Bromberg, representing DHS-recognized family child care associations from Greater Minnesota

Cyndi Cunningham, Minnesota Child Care Provider Information Network

Dan Dorman, Greater Minnesota Partnership

Department of Human Services
Commissioner's Designee: Cindi Yang or Reggie Wagner

Erin Echternach, parent of a child enrolled in a family child care program

Erin Johnson-Balstad, parent of a child enrolled in a family child care program

Heidi Hagel Braid, First Children's Finance

Hollee Saville, family child care provider from Greater Minnesota

JoAnn Smith, parent of a child enrolled in a family child care program

Julie Seydel, Minnesota Association of Child Care Professionals

Kelly Martini, representing DHS-recognized family child care associations from Greater Minnesota

Kim Leipold, metropolitan area representative, Association of Minnesota Child Care Licensors

Lanay Miller, Greater Minnesota representative, Association of Minnesota Child Care Licensors

Lauryn Schothorst, Minnesota Chamber of Commerce

Liz Harris, family child care provider from the metropolitan area

Marit Woods, parent of a child enrolled in a family child care program

Representative Ami Wazlawik, Co-chair

Representative Lisa Demuth

Samantha Chukuske, family child care provider from Greater Minnesota

Scott Marquardt, representing the Minnesota Initiative Foundations

Senator Mary Kiffmeyer, Co-chair

Senator Melissa Wiklund

Stephanie Hogenson, Minnesota Children's Cabinet

Tiffany Grant, family child care provider from the metropolitan area

Family Child Care Task Force Website

<http://mn.gov/dhs/family-child-care-task-force/>

Contents

Family Child Care Task Force Membership 3

I. Introduction 5

II. Legislation 5

III. Topics Discussed 7

IV. Findings and Recommendations..... 8

I. Introduction

The Family Child Care Task Force was created by the Minnesota Legislature in 2019 to discuss and make recommendations related to family child care licensing and the Parent Aware program. This report was submitted by the Family Child Care Task Force pursuant to Minnesota Laws 2019, 1st Special Session, Chapter 9, Art. 2, Sec. 132.

II. Legislation

[Minnesota Laws 2019, 1st Special Session, Chapter 9, Art. 2, Sec. 132](#) established the Family Child Care Task Force.

Sec. 132. FAMILY CHILD CARE TASK FORCE.

Subdivision 1. **Membership.** (a) The Family Child Care Task Force shall consist of 25 members, appointed as follows:

- (1) two members representing family child care providers from greater Minnesota, including one appointed by the speaker of the house and one appointed by the senate majority leader;
- (2) two members representing family care providers from the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2, including one appointed by the speaker of the house and one appointed by the senate majority leader;
- (3) one member appointed by the Minnesota Association of Child Care Professionals;
- (4) one member appointed by the Minnesota Child Care Provider Information Network;
- (5) two members from the house of representatives, including one appointed by the speaker of the house and one appointed by the minority leader;
- (6) two members from the senate, including one appointed by the senate majority leader and one appointed by the senate minority leader;
- (7) the commissioner of human services or designee;
- (8) two members representing Department of Human Services-recognized family child care associations from greater Minnesota, appointed by the commissioner of human services;
- (9) two members appointed by the Association of Minnesota Child Care Licensors, including one from greater Minnesota and one from the metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2;
- (10) four parents of children enrolled in family child care programs, appointed by the commissioner of human services;
- (11) one member appointed by the Greater Minnesota Partnership;
- (12) one member appointed by the Minnesota Chamber of Commerce;
- (13) one member appointed by Child Care Aware of Minnesota;
- (14) one member appointed by the Minnesota Initiative Foundation;
- (15) one member appointed by Minnesota's Children's Cabinet; and

(16)one member appointed by First Children’s Finance.

(b) Appointments to the task force must be made by July 15, 2019.

Subd. 2. **Compensation.** Public members of the task force may be compensated as provided by Minnesota Statutes, section 15.059, subdivision 3.

Subd. 3. **Duties.** The task force shall:

1. identify difficulties that providers face regarding licensing and inspection, including specific licensing requirements that have led to the closure of family child care programs, by reviewing previous survey results and conducting follow-up surveys, if necessary;
2. propose regulatory reforms to improve licensing efficiency, including discussion of criteria that would qualify a provider for an abbreviated licensing review based on statistically significant key indicators that predict full compliance with all applicable rules and statutes, and discussion of the development of a risk-based, data-driven, tiered violation system with corresponding enforcement mechanisms that are appropriate to the risk presented by a violation;
3. review existing variance authority delegated to counties and recommend changes, if needed;
4. recommend business development and technical assistance resources to promote provider recruitment and retention, including the potential need for mentors, a family child care provider network, or shared services;
5. develop recommendations for alternative child care delivery systems that could be more financially viable in smaller communities with unmet child care capacity needs in greater Minnesota, which could include new licensure models for large group family child care or small capacity child care centers;
6. review Parent Aware program participation and identify obstacles and suggested improvements;
7. review how trainings for licensed family child care providers are offered, provided, coordinated, and approved, and make a recommendation on the establishment of a family child care continuing education training committee, to advise on compliance with federal and state training requirements; and
8. consider methods to improve access to and understanding of the rules and statutes governing family child care providers.

Subd. 4. **Officers; meetings.** (a) The task force shall be cochaired by the task force member from the majority party of the house of representatives and the task force member from the majority party of the senate, and may elect other officers as necessary.

(b) The commissioner of human services shall convene the first meeting by August 15, 2019.

(c) The cochairs shall alternate possession of the gavel between meetings.

(d) Each meeting shall be moderated by a neutral third-party facilitator.

(e) The agenda for each meeting shall be determined by the cochairs, the commissioner of human services or designee, and the facilitator.

(d) Meetings of the task force are subject to the Minnesota Open Meeting Law under Minnesota Statutes, chapter 13D.

Subd. 5. **Report required.** The task force shall submit an interim written report by March 1, 2020, and a final written report by February 1, 2021, to the chairs and ranking minority members of the committees in the house of representatives and the senate with jurisdiction over child care. The reports shall explain the task force's findings and recommendations relating to each of the duties under subdivision 3, and include any draft legislation necessary to implement the recommendations.

Subd. 6. **Expiration.** The task force expires upon submission of the final report in subdivision 5 or February 1, 2021, whichever is later.

III. Topics Discussed

The Family Child Care Task Force met six times. The meeting agendas, audio recordings, transcripts, and other meeting materials for each meeting are available on the [Minnesota Family Child Care Task Force website](#).

At the first meeting on September 18, 2019, the Task Force reviewed the duties assigned to them in the enacting legislation and prioritized which to focus on prior to this Interim Report. They prioritized:

Duty #1: Identify difficulties that providers face regarding licensing and inspection, including specific licensing requirements that have led to the closure of family child care programs, by reviewing previous survey results and conducting follow-up surveys, if necessary;

Duty #2: Propose regulatory reforms to improve licensing efficiency, including discussion of criteria that would qualify a provider for an abbreviated licensing review based on statistically significant key indicators that predict full compliance with all applicable rules and statutes, and discussion of the development of a risk-based, data-driven, tiered violation system with corresponding enforcement mechanisms that are appropriate to the risk presented by a violation;

Duty #3: Review existing variance authority delegated to counties and recommend changes, if needed; and

Duty #5: Develop recommendations for alternative child care delivery systems that could be more financially viable in smaller communities with unmet child care capacity needs in greater Minnesota, which could include new licensure models for large group family child care or small capacity child care centers.

The next meetings were held on the following dates and focused on the following duties:

- October 12, 2019: Duties 1 and 3
- November 12, 2019: Duties 1, 2, and 3
- December 16, 2019: Duty 1
- January 14, 2020: Duties 1 and 3
- February 4, 2020: Discussed and approved the interim report

Due to time constraints, the Task Force did not yet discuss Duty 5.

The Task Force will not hold meetings during the 2020 legislative session. It will resume meeting after the 2020 legislative session concludes.

IV. Findings and Recommendations

This interim report identifies findings and recommendations based on the three duties the Task Force examined. The Task Force will provide draft legislative language as part of its final report in 2021.

Duty #1: *Identify difficulties that providers face regarding licensing and inspection, including specific licensing requirements that have led to the closure of family child care programs, by reviewing previous survey results and conducting follow-up surveys, if necessary.*

Duty #1 Findings and Recommendations:

After reviewing [summary results of prior surveys](#) conducted of former licensed family child care providers, task force members agreed that a survey of providers who have closed their licenses should be conducted. The Task Force discussed the survey questions and methodology at several meetings.

Minnesota Management and Budget's (MMB) Results Management Team is partnering with the Minnesota's Children's Cabinet to conduct a survey of former family child care providers, based upon Task Force discussions. The Task Force will review and discuss the survey results when it reconvenes later in 2020.

Duty #2: *Propose regulatory reforms to improve licensing efficiency, including discussion of criteria that would qualify a provider for an abbreviated licensing review based on statistically significant key indicators that predict full compliance with all applicable rules and statutes, and discussion of the development of a risk-based, data-driven, tiered violation system with corresponding enforcement mechanisms that are appropriate to the risk presented by a violation.*

Duty #2 Findings and Recommendations:

The Task Force had a presentation from Dr. Rick Fiene, Research Psychologist and retired Professor of Psychology at Penn State University, a leading international researcher/scholar on licensing measurement and differential monitoring systems. He described how other states are replacing their

licensing framework with a risk-based violation system. In this type of system, licensing standards are categorized based upon the risk of harm that a violation would pose to the children in care. There are tiers of enforcement mechanisms, so that the sanction for a violation reflects the risk that a violation posed to children. For example, in a risk-based violation licensing system, a family child care provider could receive technical assistance for violating a licensing standard that poses a low risk of harm to children in care, and a steep fine for a violation that poses a significant risk of harm. A paper written by Dr. Fiene, [*Monitoring Strategies for Determining Compliance: Differential Monitoring, Risk Assessment, and Key Indicators*](#), described risk-based violation licensing systems being used in Ohio, Oklahoma, Florida, Texas, and Utah. Task Force members also suggested that Colorado's system be examined, as a model that Minnesota may not want to copy.

Dr. Fiene also described licensing systems that include abbreviated inspections for providers with a history of being in compliance. Currently, licensors look at more than 100 items during a typical family child care provider's annual licensing inspection. With abbreviated inspections, in contrast, the licensor monitors historically-compliant child care providers using a shortened list of licensing standards. The items on the abbreviated list are carefully chosen using a statistical analysis developed by Dr. Fiene so that providers who are in compliance with the shortened list of items can be presumed to also be in substantial compliance with all of the licensing requirements. When conducting an abbreviated inspection, if the licensor finds that the provider was out-of-compliance with any of the items on the shortened list, the licensor would then conduct a full inspection. Dr. Fiene's paper described abbreviated inspections in use in Washington State and North Carolina.

The Task Force recommends:

- Legislative funding for a consultant to work with the Task Force to:
 - develop a model for a risk-based violation licensing system, as described by Dr. Fiene, after new licensing standards for family child care providers have been developed; and
 - add abbreviated inspections to the family child care licensing model, as described by Dr. Fiene.

Duty #3: *Review existing variance authority delegated to counties and recommend changes, if needed.*

Duty #3 Findings and Recommendations:

Several members of the Task Force, including the county licensors, the licensed family child care providers and the DHS representative, brought firsthand knowledge about variances to the Task Force discussion. In addition, the Task Force heard from Matt Freeman, the Executive Director of the Minnesota Association of County Social Services Administrators (MACSSA), about that organization's position on variances.

A variance is written permission by the commissioner or the county licensing agency for a licensed family child care provider or applicant to depart from the standards required by the Rule. Providers must explain how they will otherwise ensure the health, safety, and protection of children in care.

With limited exceptions, family child care providers make requests to counties, who have the final say. Counties do not report data about variances to DHS. If a county denies a request for a variance, a family child care provider cannot appeal the decision. With 87 counties, there are differences among the counties about when variances are considered and what criteria are used in reaching a decision.

In addition, state statutes relating to county civil liability includes a provision that holds counties liable when a licensor has actual knowledge that a licensed family child care provider failed to meet a licensing standard that resulted in a dangerous condition. Some task force members have pointed to this law as part of what has made some counties reluctant to grant variances to the rules governing family child care providers.

The Task Force recommends:

The adoption of legislation to:

- Change the liability that hinders granting variances, including consideration of removing liability from county licensors and county agencies for knowledge of noncompliance with licensing standards;
- Require counties to post on their websites information about the process for applying for a variance and the circumstances under which it will be considered; and
- Require counties to distribute to license holders information about the process for applying for a variance and the circumstances under which it will be considered.

That DHS:

- Collaborate with counties to develop best practices for counties and licensors on the circumstances under which variances are or are not appropriate;
- Communicate with County Attorneys and County Boards to educate and encourage use of variances;
- Collaborate with counties to develop guidance and training for licensors to ensure that licensors and counties understand alternatives to variances; and
- Create a uniform variance form to be used by all Minnesota counties.