

TITLE 4. PUBLIC CARE SYSTEMS
CHAPTER 14. PLACEMENT OF CHILDREN IN FAMILY HOMES
SUBCHAPTER I. GENERAL

(Law authorizing the licensing of child-placing agencies)¹

D.C. Code § 4-1401 (2006)

§ 4-1401. Purpose of subchapter [Formerly § 32-1001]

The purpose of this subchapter is to secure for each child under 16 years of age who is placed in a family home, other than his own or that of a relative within the third degree, such care and guidance as will serve the child's welfare and the best interests of the District of Columbia; and to secure for him custody and care as near as possible to that which should have been given him by his parents.

§ 4-1402. "Child-placing agency" defined; license required [Formerly § 32-1002]

(a) Any person, firm, corporation, association, or public agency that receives or accepts a child under 16 years of age and places or offers to place such child for temporary or permanent care in a family home other than that of a relative within the third degree shall be deemed to be maintaining a child-placing agency. No child-placing agency shall be maintained in the District of Columbia without a license issued by the Mayor of the District of Columbia; provided, that notwithstanding any provisions of § 4-1404 such a license shall be issued forthwith to any corporation or association chartered by special act of Congress and having under its charter the purposes or powers of a child-placing agency as herein defined.

(b) Any license issued pursuant to this section shall be issued as a Public Health: Child Health and Welfare endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

§ 4-1403. Appointment of committee to promulgate rules and regulations; composition and tenure [Formerly § 32-1003]

(a) The Mayor shall appoint a committee to formulate and adopt rules and regulations, prescribing standards of placement, care, and services to be required of child-placing agencies, pursuant to the intent and purposes of this subchapter. The committee shall be composed of 3 representatives of the Department of Human Services, of whom 2 shall be from the Commission on Social Services, and one shall be from the Office of Licensing and Certification; 8 representatives of the charitable organizations of the District of Columbia licensed to place children in family homes who shall be representative of child-placing agencies, including, but not limited to, foster care, group home care, and infant, special needs, and international adoptions; and 5 public members, including a lawyer, a representative of the medical profession, and individuals or representatives of organizations, other than child-placing organizations, concerned with the adoption of foster care of children. The Mayor shall appoint one member to serve as chairperson. The term of office of each member of the committee shall be 3 years, staggered so that one third of the appointments expire each year. Any member appointed to fill a vacancy occurring

¹ See legislative history at the end.

prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Upon expiration of his or her term of office, a member shall continue to serve until his or her successor is appointed.

(b) Rules and regulations promulgated by the committee shall be:

(1) Issued according to Chapter 5 of Title 2 within 12 months of the appointment of the committee;

(2) Reviewed by the committee annually and amended when deemed necessary; and

(3) Subject to the approval of the Mayor.

§ 4-1404. Application for issuance of licenses [Formerly § 32-1004]

(a) An application for a license as a child-placing agency shall be made to the Mayor on forms provided by him and in the manner prescribed. Before such license is issued the Department of Human Services shall arrange to have an investigation made of the activities and standards of care of the agency and shall consult with persons having official connection with the agency. If the Department is satisfied as to the good character and intent of the applicant, and that the agency is adequately financed, and that its staff, procedures, and services conform to the established standards of care, said Department shall recommend to the Mayor that a license be issued.

(b) A provisional license may be issued to any agency which is temporarily unable to conform to all the provisions of the established standards of care upon terms and conditions prescribed by the Mayor upon recommendation of the Department of Human Services.

(c) All licenses shall be issued for one year from the date thereof and may be renewed annually on the application of the agency, except that provisional licenses may be issued for not more than 3 successive years.

§ 4-1405. Persons and agencies authorized to place children; custody, control and visitation by agencies; confidentiality of records [Formerly § 32-1005]

(a) No person other than the parent, guardian, or relative within the third degree, and no firm, corporation, association, or agency, other than a licensed child-placing agency, may place or arrange or assist in placing or arranging for the placement of a child under 16 years of age in a family home or for adoption. In accordance with the rules and regulations promulgated hereunder, any licensed child-placing agency may accept children for placement in family homes and shall have and maintain care, custody, and control of any such child until returned to the person from whom received or until responsibility for the child is transferred to another child welfare agency or terminated by the order of a court of competent jurisdiction.

(b) Every such agency shall keep and maintain careful supervision of all children under its care, including those placed in family homes, and its officers or agents shall visit all such homes and families as often as may be necessary to promote the welfare of such child; provided, that legally adopted children shall not be subject to

such supervision and visitation, or other supervision or visitation. Every such agency shall keep such records as shall be required by the rules and regulations promulgated hereunder and all records regarding children and all facts learned about children and their parents or relatives shall be deemed confidential.

(c) Records which are deemed confidential shall not be available for inspection by nor disclosed to any person, firm, corporation, association, or public agency, except that such records shall be available for inspection by authorities authorized by law to license child-placing agencies. Such records shall not be subject to judicial subpoena in collateral proceedings, except that the licensed child-placing agency and the Mayor in accordance with rules and regulations promulgated hereunder, may make such records, or any information contained in such records, available:

(1) When the Mayor or such agency determines that any information contained in such records shall promote or protect the interest and welfare of any child the Mayor or such agency has served; and

(2) For the purpose of research if adequate safeguards are taken against the disclosure or publication in any manner of the identity of any person contained in such records.

§ 4-1405.01. Agreements with foreign agencies [Formerly § 32-1006]

Notwithstanding the provisions of this subchapter, the Mayor is authorized to enter into agreements with any person, firm, corporation, association, or public agency licensed or authorized by a state or country for the care and placement of minors, permitting such person, firm, corporation, association, or public agency to place nonresident children in foster or adopting homes in the District of Columbia. The Mayor shall act pursuant to regulations promulgated as provided in § 4-1403.

§ 4-1406. Parental rights; termination or relinquishment; vesting in agencies or Mayor; exercise in adoption proceedings [Formerly § 32-1007]

(a) (1) Whenever a licensed child-placing agency shall have been given the permanent care and guardianship of any child and the rights of the parent or parents of such child have been terminated by order of the court of competent jurisdiction or by a legally executed relinquishment of parental rights, the agency is vested with parental rights and may consent to the adoption of the child pursuant to the statutes regulating adoption procedure. Minority of a natural parent shall not be a bar to such parent's relinquishment to a licensed agency.

(2) For purposes of this section, "licensed child-placing agency" shall mean any child-placing agency licensed pursuant to this chapter or any child-placing agency licensed or authorized by any state, territory, or possession of the United States, by the Commonwealth of Puerto Rico, or by any foreign country or any state, province or other governmental division of any foreign country for the care and placement of minors.

(b) No relinquishment of parental rights shall be made within the first 72 hours after birth. Prior to any relinquishment any corporation, association, or public agency that conducts a licensed child-placing agency shall provide counseling, by a professional social worker, to the relinquishing parent regarding the alternative services available in addition to psychological and emotional counseling to both the parent and the

child.

(c) Any relinquishment of parental rights executed by a single natural parent or by both natural parents, other than by court order as provided in this subsection, may be automatically revoked by a verified writing executed by the single parent or both parents respectively and submitted to the agency within 10 calendar days of executing a legal relinquishment. Where both natural parents execute a relinquishment of parental rights, other than by court order, either parent may automatically revoke his or her relinquishment of parental rights by executing a verified writing submitted to the agency within 10 calendar days of executing the relinquishment. The rights of the parent not seeking custody shall be terminated and such parent shall not have the power to obstruct the revocation. If the 10th day falls on a Saturday, Sunday, or legal holiday, the deadlines for filing the revocation shall be extended to the next working day. No relinquishment of parental rights shall be considered final until the revocation period has expired with no revocation having been made by the natural parent. Automatic revocation of relinquishment can be exercised only once.

(d) A waiting period of 30 days from the date of revocation of the first relinquishment shall expire before a second relinquishment can be executed. A relinquishment, if exercised a second time, shall be irrevocable, unless an additional right to revoke is granted by court order upon a finding by the court that the relinquishment was not given voluntarily, e.g., the relinquishment was induced by fraud, coercion, material mistake or other factors that bear on a determination of voluntariness.

(e) Any relinquishment of parental rights and revocation thereof may be transferred from one licensed child-placing agency to another child-placing agency in which case the second agency shall assume all the rights and duties of the first agency.

(f) Except in proceedings for adoption, no parent may voluntarily assign or otherwise transfer to another his rights and duties with respect to the permanent care and control of a child under 16 years of age, unless such relinquishment of parental rights is made to a licensed child-placing agency. Such relinquishment of parental rights shall be a statement in writing signed by the person relinquishing such parental rights who shall subscribe his name thereto and acknowledge the same before a representative of the licensed child-placing agency in the presence of at least 1 witness. Each transfer or relinquishment of parental rights and any revocation of said relinquishment shall be recorded and filed by the child-placing agency in a properly sealed file in the Family Division of the Superior Court for the District of Columbia within 20 days after the expiration of the revocation period. Any subsequent relinquishment shall be filed by the child-placing agency in a properly sealed file in the Family Division of the Superior Court of the District of Columbia within 30 days after the date of relinquishment. The seal of said file shall not be broken except for good cause shown and upon the written order of a judge of said Court.

(g) The relinquishment form used by the child-placing agency shall contain the following notice to the parent in clear and conspicuous language:

(1) Notice to the relinquishing parent of the parent's automatic right of revocation within 10 calendar days from the date of relinquishment;

(2) Notice that a relinquishment if exercised a second time shall be irrevocable;

(3) Notice that the child-placing agency has a statutory obligation to file all notices of the relinquishment and revocation thereof with the Superior Court for the District of Columbia.

(h) Relinquishing parents shall be orally advised of their rights as described in subsection (g) of this section. The child-placing agency shall orally advise the relinquishing parent as to the nature and consequences resulting from the execution of the relinquishment document prior to relinquishment.

(i) The Mayor or his designated agents are empowered to accept permanent care and guardianship of any child by a legally executed relinquishment of parental rights and when vested with such parental rights shall exercise them in the same manner as prescribed herein for a licensed child-placing agency. Such parental relinquishment taken by the Mayor or his designated agents shall be subject to the same rights and requirements as to form, transfer, and disposition as are prescribed herein for a licensed child-placing agency.

§ 4-1407. Refusal to issue, revocation or suspension of licenses; reinstatement or reissuance [Formerly § 32-1008]

The Mayor may refuse to reissue or may revoke or suspend the license of any child-placing agency after full hearing on proof of violation of any provisions of this subchapter or the rules and regulations promulgated hereunder. Before any license shall be suspended or revoked the holder thereof shall have notice in writing of the charge or charges and shall, at the date and place specified in said notice, which shall be at least 5 days after the service thereof, be given a hearing by said Mayor, or his designated agents, with a full opportunity to produce testimony in his, her, or its behalf. Any licensee whose license has been suspended or revoked may, after the expiration of 90 days, on application to the said Mayor, have the same reinstated or reissued upon satisfactory proof that the disqualification has ceased.

§ 4-1407.01. Agency required to check enumerated registers for child abuse or neglect; effect of failure of agency to check or obtain information [Formerly § 32-1008.1]

Prior to placement of a child in a family home, a child-placing agency licensed in the District of Columbia and the Department of Human Services shall:

(1) Obtain written consent from applicants for release of information from:

(A) The D.C. Child Protection Register established under subchapter I of Chapter 13 of this title;

(B) Registers of child abuse and neglect located in all states, territories and possessions of the United States in which the applicant has resided within the previous 5 years; and

(C) If applicable, from any registers maintained by any branch of the armed forces of the United States.

(2) Check the proposed placement of a child in a family home with the Child

Protection Register and, where applicable, with other registers pursuant to subparagraphs (B) and (C) of paragraph (1) of this section for the purpose of determining whether there has been a report of child abuse or neglect. Failure of an agency to make such check prior to placement may result in suspension, revocation, or refusal to renew that agency's child placement license. Failure of any agency to obtain information from a register due to policies and procedures in those jurisdictions other than the District of Columbia or the various branches of the armed forces of the United States, prohibiting release of such information, shall not constitute a violation under this paragraph.

§ 4-1408. Violations; prosecution [Formerly § 32-1009]

Any person, firm, corporation, association, or public agency who conducts a child-placing agency without a license as provided for in this chapter or who violates any of the provisions of this subchapter shall, upon conviction, be fined not more than \$ 300 or imprisoned for not more than 90 days, or both. Prosecution for violations of such sections shall be upon information in the Criminal Division of the Superior Court of the District of Columbia by the Corporation Counsel of the District of Columbia. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

§ 4-1409. Investigations and inspections [Formerly § 32-1010]

The Department of Human Services is authorized to make such investigations and inspections as are necessary to carry out the provisions of this subchapter.

§ 4-1410. Authority to charge or receive compensation for services; inability to pay adoption costs [Formerly § 32-1011]

Neither the Mayor nor any child-placing agency authorized to perform services in connection with placing a child in a family home for adoption may make or receive any charge or compensation whatsoever for such services, except that a licensed child-placing agency which is organized and operated exclusively for religious or charitable purposes and no part of the net earnings of which can inure to the benefit of any private shareholder or individual may be allowed to charge adoptive parents, within prescribed limits, for such services an amount not to exceed the average costs incurred; such average costs and prescribed limits to be determined in accordance with rules and regulations promulgated by the committee created by § 4-1403. Inability of adoptive applicants to pay for all or any part of such costs shall not be a disqualifying factor in determining whether applicants are suitable parents for the child.

HISTORY: Apr. 22, 1944, 58 Stat. 193, ch. 174, § 2; 1973 Ed., § 32-782; Apr. 23, 1980, D.C. Law 3-59, § 2(a), 27 DCR 983; 1981 Ed., § 32-1002; Apr. 20, 1999, D.C. Law 12-261, § 2003(z), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(f), 50 DCR 6913.

NOTES:

SECTION REFERENCES. --This section is referenced in § 4-1305.01.

EFFECT OF AMENDMENTS. --D.C. Law 15-38, in (b), deleted "Class A" preceding

"Public Health" and substituted "basic business license" for "master business license" twice.

EMERGENCY LEGISLATION. --For temporary amendment of (b), see § 3(f) of the Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

LEGISLATIVE HISTORY OF LAW 3-59. --Law 3-59 was introduced in Council and assigned Bill No. 3-193. The Bill was adopted on first and second readings on January 22, 1980, and February 5, 1980, respectively. Signed by the Mayor on February 26, 1980, it was assigned Act No. 3-155 and transmitted to both Houses of Congress for its review.

LEGISLATIVE HISTORY OF LAW 12-261. --Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-615. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1999, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

LEGISLATIVE HISTORY OF LAW 15-38. --Law 15-38, the "Streamlining Regulation Act of 2003," was introduced in Council and assigned Bill No. 15-19. The Bill was adopted on first and second readings on June 3, 2003, and July 8, 2003, respectively. Signed by the Mayor on August 11, 2003, it was assigned Act No. 15-146 and transmitted to Congress for its review. D.C. Law 15-38 became effective on October 28, 2003.