



# North Dakota Legislative Council

Prepared for the Human Services Committee  
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## STUDY OF CHILD CARE PROVIDER LICENSING - BACKGROUND MEMORANDUM

Section 1 of House Bill No. 1119 (2025) ([appendix](#)) provides for a study of the laws, administrative rules, and policies relating to child care provider licensing. The study must be informed by a program evaluation of the Department of Health and Human Services child care services conducted by the Legislative Council. The study must include input from the Department of Health and Human Services (DHHS), the Child Care Services Advisory Committee, and child care providers. As introduced, the bill included significant changes to the early childhood services framework and the elimination of the group child care license under North Dakota Century Code Chapter 50-11.1. The bill was subsequently amended to provide for this study.

### BACKGROUND

The federal Child Care Development Block Grant Act along with Section 418 of the Social Security Act, authorize the Child Care Development Fund (CCDF).<sup>1</sup> The CCDF is the primary federal funding source devoted to supporting families with low incomes to afford child care and to enhance the quality of child care for all children. As required by the Child Care Development Block Grant Act, the CCDF program plan includes requirements for how a state program (lead agency) may apply for CCDF funds and is the mechanism the United States Department of Health and Human Services Office of Child Care determines state program compliance with requirements of federal statutes and regulations, including licensing requirements. The CCDF requires states to set minimum standards and licensing requirements to ensure the health and safety of children.

The Department of Health and Human Services is responsible for the licensure of early childhood service providers in the state. A license serves as permission to legally operate a child care program and provides basic protection to children receiving services. North Dakota Century Code (NDCC) Chapter 50-11.1 sets the general parameters for child care licensing. North Dakota Administrative Code (NDAC) Article 75-03 further defines the child care licensure framework.

### NORTH DAKOTA CHILD CARE LICENSING North Dakota Century Code

Chapter 50-11.1 governs early childhood services, defined as "the care, supervision, education, or guidance of a child provided in exchange for money, goods, or other services." Early childhood services do not include foster care, education provided in accordance with Title 15.1, child care provided in connection with an organization for less than 4 hours, classes for religious instruction, summer or day camps for children over age 6 for more than 2 weeks, sports activities, Head Start programs, child care in a medical facility to ill children, or United States Department of Defense family child care certification programs.

Except for onsite child care services for fewer than 10 children per location and which are located in the actual building in which the child's parent is employed, a person may not operate a family child care, group child care, preschool, school-age child care, or child care center unless licensed by DHHS.

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<sup>1</sup> 42 U.S.C. § 9857 et seq.; 42 U.S.C. § 618.

Section 50-11.1-02 defines:

- Family child care as "a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children."
- Group child care as "a child care program licensed to provide early childhood services for thirty or fewer children."
- A preschool as "a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day."
- School-age child care as "a child care program licensed to provide early childhood services on a regular basis for children aged at least five years through eleven years."
- A child care center as "an early childhood program licensed to provide early childhood services to nineteen or more children."

Section 50-11.1-03 requires a license for:

- Family child care if early childhood services are provided for 4 or more children under 24 months, or 6 or 7 children through age 11 at any one time including no more than 3 children under 24 months;
- Group child care if early childhood services are provided for at least 8 but no more than 30 children at one time; or
- A child care center if early childhood services are provided for more than 30 children at one time.

Section 50-11.1-06 allows an in-home provider to apply for a voluntary annual registration document from DHHS. An in-home provider is defined under Section 50-11.1-02 as "any person who provides early childhood services to children in the children's home."

To obtain a license to operate an early childhood program, an applicant must submit an application and a license fee to DHHS. In addition, Section 50-11.1-04 requires the department or an authorized agent of the department to investigate the applicant's activities, proposed standards of care, and the premises. The applicant for a license, all staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence, must be investigated in accordance with department rules to determine whether a criminal record or a finding of services required for child abuse or neglect exists for each applicable individual.

Section 50-11.1-06.2 requires, upon a determination by the department that a criminal history record check is appropriate, a provider holding or an applicant for early childhood services licensure, self-declaration, or in-home provider, as well as new staff members of early childhood services programs and new household members of a residence out of which early childhood services are provided, must obtain two sets of the individual's fingerprints from a law enforcement agency or other local agency authorized to take fingerprints. The individual is required to request the agency to submit the fingerprints and a completed fingerprint card for each set to the DHHS Division of Children and Family Services or to the department's authorized agent. If the division has no record of a determination of services required for child abuse or neglect, the division is required to submit the fingerprints to the Bureau of Criminal Investigation to determine if there is any criminal history record information regarding the applicant, household members, or staff members. The results of the investigations must be forwarded to the division or to the department's authorized agent.

In addition to licensed early childhood programs, Chapter 50-11.1 provides for a voluntary self-declaration for documentation of an individual providing early childhood services in a private residence for up to three children below the age of 24 months or for no more than five children through

age 11. An individual may apply to DHHS for a self-declaration, and the department is responsible for determining whether the individual meets the standards determined by its rules for self-declaration.

Section 50-11.1-07 authorizes DHHS to investigate and inspect an early childhood program or a holder of a self-declaration or registration document. This authority includes department inspection of the conditions of the premises, the qualifications of an early childhood services provider, current and prospective staff members, and any in-home provider or applicant seeking or holding a license, self-declaration, or registration document. In addition, Chapter 50-11.1 provides procedures under which the department may issue correction orders, fiscal sanctions, or suspension or revocation of a license, self-declaration, or registration document.

Section 50-11.1-08 authorizes DHHS to adopt reasonable minimum standards for early childhood programs and adopt rules for the regulation of early childhood services. Section 50-11.1-14 authorizes DHHS to establish a statewide system to build systematic early childhood workforce voluntary training which may include distance learning formats, a professional registry, certificates, and specializations.

Section 50-11.1-14.1 also addresses early childhood care and education workforce issues. Under that section, the department is required to provide voluntary, progressive training opportunities leading to credentials, provide supports for the early childhood care and education workforce, and implement a registry to track workforce participation. In addition, that section requires the department to implement a voluntary quality improvement process for licensed early childhood facilities. The department is authorized to provide a quality incentive payment and a higher reimbursement rate for child care assistance program payments to a participating early childhood facility, provide technical assistance and support to an early childhood facility that applies for quality improvement, and provide financial incentives to an early childhood facility that sustains and increases program quality. The department may contract with a private, nonprofit agency to provide technical assistance.

### North Dakota Administrative Code

Article 75-03 outlines seven types of child care providers recognized by DHHS. Among these, the department recognizes and administratively regulates two unlicensed provider types, in-home and self-declaration providers.<sup>2</sup> The remaining five types--family, group, center, preschool, and school-age providers--must comply with the statutory requirements of NDCC Chapter 50-11.1, in addition to the licensing standards provided in NDAC Chapters 75-03-08 through 75-03-11.1, which outline health, safety, and educational requirements for each operation type.

The following is an overview of child care provider types in the state:

Type of Child Care	Statutory Requirements	Traditional Setting	Age Range (Years)	Number of Children	Food Program Eligibility	Assistance Program Eligibility
<b>In-home</b> NDAC Chapter 75-03-07	No	Private residence	0-11	Up to 5	No	No
<b>Self-Declaration</b> NDAC Chapter 75-03-07.1	No	Private residence	0-12	Up to 5	No	Yes
<b>Family</b> NDAC Chapter 75-03-08	Yes	Private residence	0-11	Up to 7	Yes	Yes
<b>Group</b> NDAC Chapter 75-03-09	Yes	Private residence or nonresidential building	0-11	Up to 30	Yes	Yes
<b>Center</b> NDAC Chapter 75-03-10	Yes	Nonresidential building	0-11	19 or more	Yes	Yes
<b>Preschool</b> NDAC Chapter 75-03-11	Yes	Varies	2-5	Varies	Yes	No
<b>School-age</b> NDAC Chapter 75-03-11.1	Yes	Varies	5-11	19 or more	Yes	Yes

<sup>2</sup> N.D.A.C. Chapters 75-03-07 and 75-03-07.1.

All child care operation staff members, except for in-home registrants, are mandatory reporters of suspected child abuse or neglect. Applicants may not have committed or pled no contest to certain criminal offenses. Owners, operators, directors, supervisors, teachers, providers, staff members, household members, and any other individuals in proximity to children in care are subject to criminal history record checks. Additionally, an individual with a significant or serious criminal history cannot obtain licensure or employment in early childhood services.

The main provider or supervisor for each license type is required to be over age 18 and must meet specific education and training requirements. An individual over age 14 may provide care for children as a staff member under some license types, with parental consent required for individuals under age 16. An applicant, provider, supervisor, or staff member must be of good physical, cognitive, social, and emotional health, and complete all department required training and orientation. The department may require an applicant, provider, or staff member to prove their physical, cognitive, social, and emotional health, if questionable.

### **In-Home Child Care**

After meeting minimum requirements to ensure proper care, supervision, and protection of children in the applicant's care, an in-home provider may register with the department. An in-home provider may provide early childhood services in a private residence for up to five children through age 11, of which no more than three may be under age 24 months.

### **Self-Declaration**

A self-declared provider does not hold an official license but is authorized to provide care and participate in child care assistance benefits. A self-declared applicant can provide care for up to five children under age 12, including the applicant's own children, subject to the following:

- The provider may care for up to three children under 24 months, and additional children over 24 months, but not exceeding seven children; or
- The provider may care for up to four children under the age of 24 months with additional children over 24 months, but not exceeding seven children.

### **Family Child Care License**

Family child care is provided in a private residence by a licensed provider. Family child care providers must complete at least 9 hours of department-approved training annually to maintain licensure. Family child care programs are eligible for food and child care assistance. Licensed family child care providers may care for up to seven children, plus an additional two school-age children. The family provider's own children under age 2 must be included in the total.

A provider with a family child care license may either:

- Care for up to three children under the age of 24 months with additional children over 24 months, plus two school-age children; or
- Care for up to four children under the age of 24 months plus school-age children.

### **Group Child Care License**

Licensed group child care may be provided in a private residence or in a nonresidential building, and programs are eligible for food and child care assistance. Group providers may care for up to 30 children, depending on local ordinance. The group child care provider's own children under age 2 must be included in the total. The total number of children who may attend at any given time is based on age, adult-to-child ratios, square footage, and point levels. The provider may care for children totaling 1.34 points. However, ratio requirements must be followed, and a group may not contain more than four children under 18 months of age per provider. Each additional adult counts as 1.0 point. Group providers also may care for children according to the family child care guidelines.

A group care supervisor is the individual responsible for the day-to-day operation of the group child care. The supervisor must be present at least 60 percent of the time children are present and must

complete a minimum of 10 hours of department-approved training annually. Additionally, a supervisor is required to hold the following qualifications:

- A bachelor's degree in the field of early childhood education or child development;
- An associate's degree with at least one of the following:
  - 8 semester hours or 12 credit-hours of department-approved early childhood education or child development;
  - 120 hours of department-approved early childhood training; or
  - A director's credential approved by the department;
- Current certification as a child development associate or successful completion of a department-approved diploma program with an emphasis in early childhood or child care;
- Certification from a Montessori teacher training program;
- At least 1 year of exclusive experience as a self-declaration holder or licensed child care provider with positive references from at least two parents whose children were in the provider's care;
- A high school degree or equivalency with certification of completion in a secondary occupational child care program and at least 1 year of exclusive experience working with young children, with references from at least two individuals who either had their children in the group child care supervisor's care or instructed the group child care supervisor in child care programming; or
- A minimum of 1 year of exclusive experience providing care to three or more children, with positive references from at least two parents whose children were in the group child care supervisor's care or a center director or teacher who observed the group child care supervisor's care of children first hand.

### **Child Care Center License**

Licensed centers provide child care in nonresidential buildings and are eligible for food and child care assistance programs. A licensed child care center may care for 19 or more children. The total number of children able to attend at any given time is based on age, adult-to-child ratios, square footage, point levels, and maximum group size. Each adult may care for children totaling 1.34 points while complying with ratio and maximum group size requirements.

A child care center director is the individual responsible for overseeing the general operation and implementing the policies and procedures of the child care center. The director must be present at least 60 percent of the time children are present and must complete a minimum of 13 hours of department-approved training annually. Additionally, a director is required to hold one of the following qualifications:

- A bachelor's degree in the field of early childhood education or child development;
- A bachelor's degree with at least 6 months of experience in a child care center or similar setting, and one of the following:
  - 8 semester hours or 12 credit-hours of department-approved early childhood education or child development;
  - 120 hours of department-approved early childhood training; or
  - A director's credential approved by the department;
- An associate's degree in early childhood education or child development with at least 6 months of experience in a child care center or similar setting;
- An associate's degree with at least 1 year of experience in a child care center or similar setting, and one of the following:
  - 8 semester hours or 12 credit-hours of department-approved early childhood education or child development;

120 hours of department-approved early childhood training; or

A director's credential approved by the department;

- A teaching certificate in elementary education with at least 6 months of experience in a child care center or similar setting;
- Current certification as a child development associate or successful completion of a department-approved diploma program with emphasis in early childhood or child care, with at least 1 year of experience in a child care center or similar setting; or
- Certification from a Montessori teacher training program with at least 1 year of experience in a Montessori school, child care center, or similar setting and at least one of the following:

8 semester hours or 12 quarter hours of department-approved child development or early childhood education;

120 hours of department-approved early childhood training; or

A director's credential approved by the department.

If a child care center director is not present at the center, an individual who meets the qualification of a supervisor must be on duty. A child care supervisor must complete a minimum of 13 hours of department-approved training annually and is responsible for the organization and supervision of daily child care center activities. The supervisor of a child care center must hold at least one of the following qualifications:

- An associate degree in the field of early childhood development;
- Current certification as a child development associate or successful completion of a department-approved diploma program with an emphasis in early childhood or child care;
- Certification from a Montessori teacher training program; or
- A high school diploma or high school equivalency with at least 1 year of experience in a child care or similar setting.

### **Preschool Programs**

Licensed preschool programs provide part-time care, with programs permitted to operate up to 3 hours per day. Preschools are eligible for the food program, but do not qualify for child care assistance. Care may be provided in several settings, including schools, churches, and nonresidential buildings. Children ages 2 to 5 years are served by preschool programs. The total number of children able to attend at any given time is based on age, adult-to-child ratios, and square footage.

A preschool director is responsible for supervising and organizing program activities in a preschool. The director of a preschool is required to hold at least one of the following:

- A bachelor's degree in the field of early childhood education with 8 or more weeks of supervised student teaching experience in a preschool or similar setting;
- A bachelor's degree with at least 6 months of experience in a preschool or similar setting and one of the following:

8 semester hours or 12 quarter hours of department-approved early childhood education or child development;

120 hours of department-approved early childhood training; or

A director's credential approved by the department;

- An associate degree in the field of early childhood education or child development with at least 6 months of experience in a preschool or similar setting;

- An associate's degree with at least 1 year of experience in a preschool or similar setting and one of the following:
  - 8 semester hours or 12 quarter hours of department-approved early childhood education or child development;
  - 120 hours of department-approved early childhood training; or
  - A director's credential approved by the department;
- Current certification as a child development associate or similar status, with at least 1 year of experience in a preschool or similar setting; or
- Certification from a Montessori teacher training program with at least 1 year of experience in a Montessori school, preschool, or similar setting.

Preschool programs also have teachers who implement program activities. Teachers serve under the supervision of the director. One individual may serve as both the director and as a teacher; however, the individual must meet director qualifications. A preschool teacher must hold one of the following:

- A bachelor's degree with at least 8 semester hours or 12 quarter hours of department-approved early childhood education or child development;
- A teaching certificate in elementary education or kindergarten endorsement;
- An associate's degree in the field of early childhood education or child development;
- An associate's degree with at least 1 year of experience in a preschool or similar setting and one of the following:
  - 8 semester hours or 12 quarter hours of department-approved early childhood education or child development; or
  - 120 hours of department-approved early childhood training;
- Current certification as a child development associate or similar status; or
- Certification from a Montessori teacher training program.

A preschool assistant is an individual working directly with children under the supervision of a teacher or director. Assistants are required to hold a high school diploma or equivalent.

### **School-Age Care**

School-age programs offer care before and after school, as well as on school holidays and throughout the summer. Programs are offered in a number of settings and qualify for both food and child care assistance. The total number of children able to attend at any given time is based on adult-to-child ratios, square footage, and local ordinances.

The director is responsible for overseeing the general operation of a school-aged program and the implementation of policies and procedures. A director must complete a minimum of 13 hours of department-approved training annually, and must hold one of the following:

- A bachelor's degree in the field of early childhood education, child development, or elementary education;
- A bachelor's degree with at least 6 months of experience in a school-age program or similar setting and one of the following:
  - 8 semester hours or 12 quarter hours of department-approved early childhood education or child development;
  - 120 hours of department-approved early childhood training; or
  - A director's credential approved by the department;

- An associate degree in the field of early childhood education or child development with at least 6 months of experience in a school-age program or similar setting;
- An associate's degree with at least 1 year of experience in a school-age program or similar setting and one of the following:
  - 8 semester hours or 12 quarter hours of department-approved early childhood education or child development;
  - 120 hours of department-approved early childhood training; or
  - A director's credential approved by the department;
- Current certification as a child development associate or similar status, with at least 1 year of experience in a school-age program or similar setting; or
- Certification from a Montessori teacher training program with at least 1 year of experience in a Montessori school, school-age program, or similar setting, and at least one of the following:
  - 8 semester hours or 12 quarter hours of department-approved early childhood education or child development;
  - 120 hours of department-approved early childhood training; or
  - A director's credential approved by the department.

A school-aged child care supervisor is responsible for the organization and supervision of daily program activities. A supervisor must complete a minimum of 13 hours of department-approved training annually and is required to hold one of the following:

- An associate degree in the field of early childhood development or elementary education, or a secondary degree with an emphasis on middle school or junior high training;
- Current certification as a child development associate;
- Certification from a Montessori teacher training program; or
- A high school diploma or high school equivalency with at least one year of experience in a child care program or similar setting.

Staff members are required to be at least 16 years old and must complete between 7 to 13 hours of annual training, depending on how many hours the staff member works per week.

### **Space and Staffing Requirements**

The CCDF requires DHHS to set space and staffing requirements applicable to child care services provided in the state. The department may establish differing rules for provider types and exempt certain provider types from a requirement if the department provides justification as to why the health, safety, or development of participating children is not impacted. Common space and staffing requirements include square footage, group size, and adult-to-child ratio requirements. The department sets specific requirements for each license type by administrative rule.

### **Space Requirements**

Group, center, pre-school, and school-age licensed programs must have a minimum of 35 square feet of indoor space and 75 square feet of outdoor space per child. If the outdoor space does not accommodate the licensed capacity of the program at one time, the total outdoor space must be no less than the number of children in the largest class or group, multiplied by 75.

### **Point System Requirements**

The Department of Health and Human Services uses a point system for some license types to determine the number of children each provider can monitor safely. In group child care, the licensed provider is assigned 1.34 points, and each additional adult is assigned 1.0 point. In the center setting,



each adult is assigned 1.34 points. The department has set the following point values for children in child care groups and centers:

Age of Children	Point Level
0-17 months	.25 points
18-35 months	.20 points
3 years	.14 points
4 years	.10 points
5 years	.08 points
6-12 years	.05 points

### Child Care Ratio Requirements

Child care ratios represent the number of children per adult caregiver in early education settings. States use adult-to-child ratios as a policy tool to ensure quality and safety in child care, often alongside limits on group size. Ratios vary based on the child's age, the type of care setting, and the state. Generally, younger children require lower ratios (fewer children per adult). The United States Department of Health and Human Services recommends a maximum of six children to one provider, with a cap of two children under age 2 among six children. The federal government uses "family child care home" to refer to a setting with one provider and uses the term "group child care home" when multiple providers care for children in a single home.

The following table is a summary of recommended maximum ratios for child care centers by age from the National Association for the Education of Young Children (NAEYC), the American Academy of Pediatrics (AAP), and the American Public Health Association (APHA):

Age	NAEYC <sup>1</sup>	AAP/APHA
Infant (0-15 months)	1:4	1:3
Toddler (12-36 months)	1:6	1:4
Preschooler (30-60 months)	1:10	1:7 for 3-year-olds 1:8 for 4-year-olds

<sup>1</sup>NAEYC's broad age categories intentionally overlap as standards within each age group depend on child age and classroom size.

The Department of Health and Human Services uses ratios for center licensure. If mixed ages are grouped in a center classroom, group size must be consistent with the age of the majority of children. However, when children under 18 months of age are part of the mixed age group, the maximum group size of 10 for 0-17 months applies.

The department set the following adult-to-child ratios and group size requirements for child care center classrooms:

Age of Children	Adult-to-Child Ratio	Maximum Group Size
0-17 months	1:4	10
18-35 months	1:5	15
3 years	1:7	20
4 years	1:10	25
5 years	1:12	30
6-12 years	1:20	40

Preschools are required to meet adult-to-child ratios based upon the number and age of the children in the program. In addition to an assigned ratio, DHHS uses a decimal ratio system when age groups are mixed. The following chart summarizes the values assigned to preschool programs:

Age of Children	Adult-to-Child Ratio	Decimal Ratio
2-3 years	1:6	.167
3-4 years	1:11	.09
4-5 years	1:13	.077
5-6 years	1:16	.063

**NOTE:**

- There must be at least one director or teacher, in addition to at least one staff member per group of 10 children, if the group includes 2-year-olds.
- There must be at least one director or teacher, in addition to at least one staff member per group of 20 children, if the group includes 3-year-olds.
- There must be at least one director or teacher, in addition to at least one staff member per group of 24 children, if the group includes 4- to 6-year-olds.

To determine the number of staff members required in a preschool program at any given time:

- The number of children in each category is multiplied by the corresponding ratio number, converted to decimal form, and carried to the nearest hundredth; and
- The number of staff members across all age categories is totaled, and any fractional staff member count is rounded up to the next whole number if it is .35 or more (if less than .35, the fractional amount is dropped).

## **CHILD CARE LICENSING IN OTHER STATES**

### **Montana**

The Department of Public Health and Human Services Child Care Licensing (CCL) program establishes regulations for the health, safety, and well-being of children in Montana child care facilities. In addition, CCL also monitors, inspects, and supports licensed and registered child care facilities.

Montana offers five main licensure types for child care services:

- A **registered family, friend, neighbor** provider provides care in a child's home or provider's residence for a sibling group of any size or no more than four unrelated children.
- A **registered family home** provides care in a private residence for 3 to 8 children.
- A **registered group home** provides care in a private residence or other nonresidential building for 9 to 15 children.
- A **licensed center** provides care in a nonresidential setting for 16 or more children.
- A **license exempt relative care provider** has a familial relationship with the children and provides care for a sibling group of any size or no more than two children from separate households.

Montana has a single chapter of administrative rules governing all license type requirements.<sup>3</sup> All registered and licensed providers are required to provide at least 35 square feet of indoor and 75 square feet of outdoor space per child. Family and group child care facilities serving mixed age groups must maintain a 1:8 adult-to-child ratio, with no more than three children under age 2. If there are more than three children under age 2 in a program serving mixed age groups, there must be at least two adults present. Family and group facilities that only serve children under age 2 must maintain a 1:4 adult-to-child ratio.

The following chart summarizes child care center staffing requirements:

<b>Montana Child Care Center Staffing Requirements</b>		
<b>Age of Children</b>	<b>Adult-to-Child Ratio</b>	<b>Maximum Group Size</b>
0-11 months	1:4	12
12-23 months	1:6	12
2 years	1:8	16
3-5 years	1:10	20
6+ years	1:20	40

<sup>3</sup> Mont. Admin. R. Chapter 37.96 (2025).

### Minnesota

The Department of Children, Youth, and Families Licensing Division of the Minnesota Department of Human Services monitors and supports approximately 10,600 licensed child care programs in the state.<sup>4</sup> Minnesota has three main provider types--licensed child care centers, family child care providers, and certified child care centers. Minnesota state law sets group size and adult-to-child ratio requirements, with Minnesota Rules Chapter 9502 governing family child care and group child care, and Minnesota Rules Chapter 9503 defining standards for child care centers.<sup>5</sup>

The following tables outline the child care framework in Minnesota:

Child Care Center Ratios and Group Sizes		
Age Category	Adult-to-Child Ratio	Maximum Group Size
Infant: 6 weeks to 16 months	1:4	8
Toddler: 16 to 33 months	1:7	14
Preschooler: 33 months to kindergarten	1:10	20
School-age: kindergarten to age 12	1:15	30

Setting	Class	Capacity	Adults	Children Under School-Age	Infant and Toddler Restrictions
Family child care	A	10	1	6	Of the children under school-age (age 5-11), three may be infants (6 weeks - 12 months) and toddlers (12-24 months) with a maximum of two infants
Specialized infant and toddler family child care	B1	5	1	3	Maximum of three infants
	B2	6	1	4	Maximum of two infants
Group family child care	C1	10	1	8	Of the children under school-age, two may be infants and toddlers with a maximum of two infants
	C2	12	1	10	Of the children under school-age, two may be infants and toddlers with a maximum of one infant
	C3	14	2	10	Of the children under school-age, four may be infants and toddlers with a maximum of three infants
Specialized infant and toddler group family child care	D	9	2	7	Maximum of four infants

### South Dakota

The South Dakota Department of Social Services licenses child care center and school-age programs that serve 13 or more children. Facilities serving 13 or more children may be in a home, nonresidential building, or school. The department also works with in-home and informal providers who submit documentation and complete federal orientation training, to receive child care assistance funding and resources.

South Dakota recognizes three main child care providers:<sup>6</sup>

- A **family day care**, which provides care and supervision for no more than 12 children, including the provider's own children under age 6;
- A **group family day care home**, which is a facility licensed for the care and supervision of 13 to 20 children; and
- A **day care center**, which is a facility licensed for the care and supervision of 21 or more children.

<sup>4</sup> Licensing Help for Child Care Providers; Minnesota Department of Human Services.

<sup>5</sup> Minn. Stat. Chapter 142B (2025); Minn. R. Chapters 9502 and 9503 (2025).

<sup>6</sup> S.D. Admin. R. Chapter 67:42:17 (2025).

Maximum group sizes are determined by the department and identified on a license. The department determines maximum group sizes based upon room capacity and overall space.

A family day care provider may care for up to 12 children in the provider's home, with no more than four children under age 2 and no more than three of those four children under age 1. If an assistant is present, no more than eight children may be under age 2. Center and school-age programs must maintain the following ratios:

<b>Center and School-Age Ratios</b>	
<b>Age of Children</b>	<b>Adult-to-Child Ratio</b>
Under 3 years	1:5
3-4 years	1:10
5+ years	1:15

If a center or school-age program routinely operates with a mixed age group, a ratio of 1 to 10 must be maintained. Each provider may care for a maximum of four children under age 2, with no more than two children under age 1. A center program that serves more than 20 children in a mixed age group, must:

- Maintain a ratio of five children to one staff, if the group includes three or more children under age 3; and
- In all other circumstances, maintain the children to staff ratio that is based on the age range of the majority of children in the group.

A center program must have a minimum of 35 square feet of indoor space and 50 square feet of outdoor space for each child. A school-age program must have a minimum of 25 square feet of indoor space and 50 square feet of outdoor space for each child.

## **PREVIOUS LEGISLATION**

### **2015 Legislation**

House Bill No. 1247 (2015) required the department to adopt rules to require an early childhood service provider and the provider's staff members who are responsible for the care or teaching of children under age 1 to annually complete a department-approved sudden infant death syndrome prevention training course.

Senate Bill No. 2080 (2015) increased the maximum number of children permitted at one time in a group child care facility and a child care center from 18 to 30. The bill also clarified maximum group sizes for self-declared providers and expanded grant programs for the inclusion of children with developmental disabilities to self-declared providers.

### **2017 Legislation**

Senate Bill No. 2090 (2017) expanded the scope of individuals for whom the department may require criminal history record checks. The bill also amended the definition of "staff member", clarified the timeline, protocol, and fees for renewal of a license or recognition, and revised licensure and self-declaration requirements for required safety training to include infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator.

### **2023 Legislation**

House Bill No. 1144 (2023) required child care providers to complete and provide documentation to DHHS verifying the provider and the provider's staff members have completed annual training on suspected child abuse or neglect. The bill also required the training qualify for continuing education credits that count toward a child care provider's license renewal.

Senate Bill No. 2104 (2023) clarified terms, roles, and responsibilities for early childhood licensing. The bill:

- Provided children on the premises under age 12 must be counted for an in-home, self-declaration, family child care, group child care, child care center, and preschool, for purposes of reporting the number of children receiving early childhood services;
- Provided a provider's own child, foster child, or grandchild over the age of 11 is exempt from the department report on the number of children receiving early childhood services, but all children on the premises age 5-11 must be counted for school-age child care;
- Required early childhood staff members responsible for children under the age of 1 to complete an annual safe sleep training course;
- Replaced the term "operator" with "owner" regarding application for a license to operate an early childhood service program;
- Removed certain application for licensure requirements for the operation of early childhood services relating to pediatric pulmonary resuscitation and first aid programs;
- Permitted the department to mail or email inspection notices and notices of noncompliance with correction orders to the owner and operator of an early childhood service;
- Permitted a public or private nonprofit entity or the department to provide early childhood services resources and referrals and revises the technical assistance requirements;
- Allowed for 20 days, instead of 15, for early childhood providers to pay fiscal sanctions, and allowed for 15 days, instead of 10, to request an administrative hearing regarding fiscal sanctions; and
- Renamed the "Early Childhood Services Inclusion Support Services and Grant Program" to the "Early Childhood Inclusion Support Services Program."

### **2025 Legislation**

Senate Bill No. 2107 (2025) expands annual training for licensure requirements to permit a staff member to count training completed after fee and application submission towards annual licensing requirements for the following year.

### **STUDY APPROACH**

In conducting the study of child care provider licensing in accordance with Section 1 of House Bill No. 1119, the committee is required to:

- Review the findings of the program evaluation of DHHS child care services conducted by the Legislative Council; and
- Seek input from DHHS, the Child Care Services Advisory Committee, and child care providers.

ATTACH:1