

**Testimony**  
**Engrossed House Bill 1422**  
**Senate Human Services Committee**  
**Senator Judy Lee, Chairman**  
**March 11, 2013**

Chairman Lee, and members of the Senate Human Services Committee, I am Jennifer Barry, the Early Childhood Services Administrator with the Department of Human Services (Department). I am here today to provide testimony on Engrossed House Bill 1422 and to propose an amendment on behalf of the Department.

You have before you the Department's proposed amendments. I'd like to go through each section of Engrossed House Bill 1422 and explain the changes that would result from these amendments:

Section 1: The proposed amendments do not make any changes to Section 1. The Department has no concerns with increasing the licensing capacity of group child care programs from 18 to 30. It is important to note that many group child care programs may still be otherwise limited by square footage requirements or by local ordinances.

Section 2: The proposed amendments do not make any changes to Section 2; however, the Department does have some concerns in regard to this section. Section 2 of Engrossed House Bill 1422 exempts from licensing onsite child care provided by an employer for the children of employees. The current language does not require the parents to be working at the site where the child care program is located. There are many employers whose employees are working out of the office or at a remote site, so it cannot be assumed that an employer provided child care program means that parents would be nearby and able to monitor

health and safety while their children were in care. The Department's primary concern is that the Department would not know where care was being provided in these types of settings or if basic health and safety standards were being met, such as having child care staff who had undergone background checks and were trained in CPR, First Aid, and Basic Child Care. The Department is also concerned that Section 2 provides no means to track these types of child care programs. To maintain data on capacity and demand, it would be helpful if the Department knows which employers open unlicensed child care programs and how many children the programs serve.

Section 3: Section 3 of Engrossed House Bill 1422 says the Department may not require recreation areas to be indoors. The Department's licensing rules require a child care facility to have adequate outdoor play space. In previous situations like this, the Department has been flexible in approving outdoor play space which is offsite, such as a nearby park that the children and staff can safely walk to. The proposed amendment clarifies that if a child care facility has sufficient space for indoor recreation, the Department may not require outdoor space.

Section 4: This section of Engrossed House Bill 1422 made changes to the group sizes of children in care and to the staff to child ratios that child care centers and group child care facilities are required to maintain. The proposed amendments remove group child care from the section, because including them within these requirements would make their staffing requirements more restrictive by assigning a maximum group size; currently, there is no maximum group size for group providers. Additionally, the proposed amendments remove the changes in ratio, but keep the increases in maximum group size. [Attachment A](#) to my

testimony provides examples of how the increase in maximum group size would impact the staffing of licensed child care centers. Increasing the ratio is not necessary to allow more flexibility in staffing for child care centers, as changes to administrative rules for mixed age groups and the option of a waiver of ratio have already provided some flexibility in staffing. Setting ratio requirements in statute would make those changes to administrative rules ineffective and would remove some of that flexibility. Increasing the maximum group sizes, however, would allow child care center providers to utilize the additional ratio points for a mixed age group more effectively. The proposed amendments do not change the increased maximum group sizes found in Engrossed House Bill 1422, except for the maximum group size for children age six to twelve years. The proposed amendments assign a maximum group size of 40 children to this age group.

Section 5: Engrossed House Bill 1422 contains an appropriation for \$1.6 million in funding for technical assistance and shared services and \$500,000 for data collection and evaluation. The Department understands that this amount was the amount of funding estimated to be needed to administer the \$13 million in child care grants that was included in the original bill. The proposed amendments to section 5 give the Department the ability to administer the funding to help accomplish the objectives found in section N.D.C.C. section 50-11.1-14.1.

Section 6: This is a new section created by the proposed amendments. Section 6 provides an expiration date for Section 4, as of the effective date of the administrative rules adopted to reflect the requirements of Section 4.

This concludes my testimony. I am happy to answer any questions you might have.