

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-416
HOUSE BILL 1517**

AN ACT TO CLARIFY THE DEFINITION OF CHILD CARE AS RELATED TO DROP-IN OR SHORT-TERM CARE UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES AND TO MAKE IT A CRIMINAL OFFENSE FOR A BABY SITTING SERVICE TO BE OFFERED OR PROVIDED BY A SEX OFFENDER OR TO BE LOCATED IN THE HOME OF A SEX OFFENDER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-86(2) reads as rewritten:

"§ 110-86. Definitions.

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

...

- (2) Child care. – A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:
- a. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
 - b. Recreational programs operated for less than four consecutive months in a year;
 - c. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
 - d. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
 - d1. Drop-in or short-term care provided by an employer for its part-time employees where (i) the child is provided care not to exceed two and one-half hours during that day, (ii) the parents

are on the premises, and (iii) there are no more than 25 children in any one group in any one room;

- e. Public schools;
- f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
- g. Bible schools conducted during vacation periods;
- h. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;
- i. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
- j. Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

...."

SECTION 2. G.S. 110-99(b) reads as rewritten:

"(b) A person who provides only drop-in or short-term child care as described in ~~G.S. 110-86(2)(d)~~ G.S. 110-86(2)d. and G.S. 110-86(2)d1., excluding drop-in or short-term child care provided in churches, shall ~~notify~~ register with the Department that the person is providing only drop-in or short-term child care. Any person providing only drop-in or short-term child care as described in ~~G.S. 110-86(2)(d)~~ G.S. 110-86(2)d. and G.S. 110-86(2)d1., excluding drop-in or short-term child care provided in churches, shall display in a prominent place at all times a notice that the child care arrangement is not required to be licensed and regulated by the Department and is not licensed and regulated by the Department."

SECTION 3. The Director of the Division of Child Development shall report to the General Assembly no later than May 1, 2006, the number of drop-in and short-term facilities that have registered under G.S. 110-99(b), as enacted by this act.

SECTION 3.1. The Director of the Division of Child Development, in coordination with other child care stakeholder organizations and advocates, shall study current policies, practices, and laws related to drop-in and short-term care and baby sitting services and shall make recommendations to ensure the health and safety of children who utilize this type of care. The Division shall report its findings and recommendations to the General Assembly by April 30, 2006.

SECTION 4. Article 39 of Chapter 14 is amended by adding a new section to read:

"§ 14-321.1. Prohibit baby sitting service by sex offender or in the home of a sex offender.

(a) For purposes of this section the term "baby sitting service" means providing, for profit, supervision or care for a child under the age of 13 years who is unrelated to the provider by blood, marriage, or adoption, for more than two hours per day while the child's parents or guardian are not on the premises.

(b) Notwithstanding any other provision of law, no person who is an adult may provide or offer to provide a baby sitting service in any of the following circumstances:

(1) The baby sitting service is offered in a home and a resident of the home is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.

(2) A provider of care for the baby sitting service is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.

(c) A violation of this section that is a first offense is a Class 1 misdemeanor. A violation of this section that is a second or subsequent offense is a Class H felony."

SECTION 5. Section 4 of this act becomes effective December 1, 2005, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:46 p.m. this 22nd day of September, 2005