

## Child Injury Laws *Blog*

# Understanding The Regulations Pertaining To Day Care Facilities Is Crucial To Protecting Your Child

Posted by **Jonathan Rosenfeld** on May 30, 2011

Day Care Centers are facilities that provide child care for less than 24 hours/day for over eight children if it is a family home or over three children in a non-home facility.

In Illinois, these Centers are regulated by the **Part 407 (Licensing Standards for Day Care Centers)** of the Illinois Administrative Code. DCFS inspects and licenses these facilities (license valid for three years).

Day Care Centers must meet certain health and safety guidelines including but not limited to: ensuring that all children are supervised at all times, emergency drills, first aid kit, sanitary and hazard free conditions, hazardous substances kept out of reach. In addition, depending on the time of day and length of stay, the facility must provide nutritious food and snacks.

Day care centers require a director (at least 21 years old with 2 years of college or experience and 15 hours of training/year), and each caregiver must have a medical report as well as a background check. The children to staff ratios can be found in the following table:

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Age of Children	Provider to Child <b>Ratio</b> for Child Care Centers in Illinois	Maximum Group Size
Infants	1:4	12
Toddlers	1:5	15
2 Years	1:8	16
3 Years	1:10	20
4 Years	1:10	20
Preschool (5 years)	1:20	20
School Age (kindergarteners present)	1:20	30
Mixed Age Group	Ratio for youngest child in group	30

## Day Care Homes

Day Care Homes are homes that provide care for more than three, but less than twelve children for less than 24 hours a day. These homes are regulated by **Part 406 (Licensing Standards for Day Care Homes)** of Illinois' Administrative Code. It lists licensing standards and how to apply. As part of the licensing process, DCFS has to inspect the facility to ensure that it meets requirements. The license is valid for three years.

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The facility/home must meet safety guidelines including but not limited to: fire extinguisher and smoke detector, first aid kit, no chipping paint or lead paint, hazardous materials kept out of reach, child proofing, and clean and sanitary conditions. The facility must also provide adequate daily nutrition, which varies depending on the time of day and length of stay.

The caregiver of a day care home must be at least 18 years of age and must complete fifteen hours of training/year. They must also provide proof that they are free of transmissible diseases and undergo a background check. The children to staff ratios for group homes are:

- ≤ eight children under 12 years of age, where only six can be under 5 years of age, and only two can be younger than 30 months, or
- ≤ eight children under 12 years of age, where only five can be under 5 years of age, and only three can be younger than 24 months, or
- Eight school-aged children
- A part-time assistant can provide care for four additional school-aged children
- If there is a full-time assistant, they can care for ≤ eight children under 5 years old where only five can be younger than 24 month

### **Group Day Care Homes**

Group Day Care Homes provide care for 3-16 children for less than 24 hours/day. These Homes are regulated by **Part 408 (Licensing Standards for Group Day Care Homes)** of Illinois Administrative Code. The Code includes licensing requirements (license valid for three years, inspected yearly by DCFS).

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These homes must meet health and safety guidelines including; emergency supplies (first aid kit, flashlight), child proofing, smoke detectors, working phones, and a clean and safe environment. There are also guidelines about night care; these guidelines cover bathing, beds and sleeping arrangements, and food.

Caregivers at group day care homes must be at least 21 years old, full-time assistants must be at least 18 years old, and part-time assistants must be at least 14 years old. Caregivers are required to undergo background checks. The caregiver must have one year of college credit or equivalent work experience, and must undergo 15 years of training every year.

A day care home cannot provide care for more than 16 children. Children to staff ratios are as follows:

1 caregiver (alone) may provide care for:

- ≤ eight children under 12 years old, where only six can be under 5 years old and only two younger than 30 months, or
- ≤ eight children under 12 years old, where only five can be under 5 years old and only three can be younger than 24 months, or
- ≤ eight pre-school aged children, where none are younger than 3 years old, or
- ≤ twelve school age children.
- 1 caregiver + one assistant (at least 18 years of age) may care for:
  - ≤ twelve children 3-6 years old, or
  - ≤ twelve children under 6 years old, where only six can be younger than 30 months and only four can be younger than 15 months

1 caregiver + 1 part-time assistant may care for:

- Four more children before or after school

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## Abuse/Neglect In Child Care Facilities

Unfortunately, **child abuse and neglect** does occur at **child care facilities**. In some situations, there are merely too many children for the caregivers to safely monitor, which leads to unsafe conditions and neglect. In other situations, intentional abuse can occur. That is why it is so important that facilities conduct criminal background checks on all employees and monitors its employees.

The Federal Child Abuse Prevention and Treatment Act (CAPTA) **defines** child abuse and neglect as:

- An act or failure to act by a parent or caregiver that results in death, serious injury (physical or emotional), sexual abuse, or exploitation, or
- An act or failure to act that creates a situation of imminent danger

States are left with the task of providing more specific definitions for child abuse and neglect. Most states include definitions in regulatory **code** (mandatory child abuse reporting statutes (criminal and civil), criminal statutes, and juvenile court statutes). In Illinois, these definitions are found in Child Protection, **325 ILCS 2, 5,15** and Child Welfare **20 ILCS 505, 520; 705 ILCS 405**.

Illinois' licensing requirements specifies what type of behavior and actions are not allowed at day care homes, day care centers, and group day care homes. Prohibited behavior includes, but is not limited to:

- Corporal punishment
- Humiliation or making derogatory comments about a child's family
- Abusive or profane language
- Emotional abuse
- Punishment for toilet accidents
- Depriving or threatening to deprive a child of a meal
- Time-out that exceeds the time in minutes of a child's age in years

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## Physical Abuse (325 ILCS 5/3)

The AN CRA (Abused and Neglected Child Reporting Act) includes a definition of **physical abuse**. The definition includes situations where a parent or caretaker inflicts or causes to be inflicted death, disfigurement, or impairment, creates a high risk of physical injury, tortures, or inflicts excessive bodily punishment.

If a parent/caretaker does not take reasonable steps to stop sexual abuse/physical abuse/exploitation **(325 ILCS 5/3)**, then they can also be charged with abuse. **Sexual abuse** is the sexual penetration of the child (including vaginal, oral, and anal sex). **Sexual exploitation** is defined by DCFS as the “sexual use of a child for sexual arousal, gratification, advantage, or profit” (includes child porn, verbal enticements, masturbating to a child’s presence, or forcing a child to watch sexual acts). **Sexual molestation** is “sexual conduct with a child when such contact, touching, or interaction is used for arousal or gratification of sexual needs or desires” (fondling a child, having a child touch the perpetrator in a sexual manner).

**Neglect (325 ILCS 5/3)** occurs when a parent or caretaker fails to provide or denies a child of adequate food, clothes, shelter, or medical treatment, or leaves a child unsupervised or under the care of a person who is unable to supervise.

In situations where you are unsure whether or not **abuse/neglect** has occurred, ask yourself whether the child has been harmed or is at risk of harm. The laws and regulations are in place to protect a child’s safety and well-being.

**Rosenfeld Injury Lawyers**, utilizes all applicable laws to assist in the prosecution of cases involving **abuse and injury at day care facilities**. Put our experience to work for you today. As always, our personal injury consultations are free and completely confidential.

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