

## NINETY-FOURTH SESSION

H. F. No. **135**

1.1 A bill for an act

1.2 relating to child care licensing; allowing variances to licensed capacity; amending

1.3 Minnesota Statutes 2024, section 142B.10, subdivision 16.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2024, section 142B.10, subdivision 16, is amended to read:

1.6 Subd. 16. **Variances.** (a) The commissioner may grant variances to rules that do not

1.7 affect the health or safety of persons in a licensed program if the following conditions are

1.8 met:

1.9 (1) the variance must be requested by an applicant or license holder on a form and in a

1.10 manner prescribed by the commissioner;

1.11 (2) the request for a variance must include the reasons that the applicant or license holder

1.12 cannot comply with a requirement as stated in the rule and the alternative equivalent measures

1.13 that the applicant or license holder will follow to comply with the intent of the rule; and

1.14 (3) the request must state the period of time for which the variance is requested.

1.15 The commissioner may grant a permanent variance when conditions under which the variance

1.16 is requested do not affect the health or safety of persons being served by the licensed program,

1.17 nor compromise the qualifications of staff to provide services. The permanent variance shall

1.18 expire as soon as the conditions that warranted the variance are modified in any way. Any

1.19 applicant or license holder must inform the commissioner of any changes or modifications

1.20 that have occurred in the conditions that warranted the permanent variance. Failure to advise

1.21 the commissioner shall result in revocation of the permanent variance and may be cause for

1.22 other sanctions under sections 142B.17 and 142B.18.

2.1 The commissioner's decision to grant or deny a variance request is final and not subject to  
2.2 appeal under the provisions of chapter 14.

2.3 (b) The commissioner shall consider variances for child care center staff qualification  
2.4 requirements under Minnesota Rules, parts 9503.0032 and 9503.0033, that do not affect  
2.5 the health and safety of children served by the center. A variance request must be submitted  
2.6 to the commissioner in accordance with paragraph (a) and must include a plan for the staff  
2.7 person to gain additional experience, education, or training, as requested by the commissioner.  
2.8 When reviewing a variance request under this section, the commissioner shall consider the  
2.9 staff person's level of professional development, including but not limited to steps completed  
2.10 on the Minnesota career lattice.

2.11 (c) The commissioner shall consider a variance for a child care center's licensed capacity  
2.12 limit if the center's indoor space is within 100 square feet of what would be required for  
2.13 maximum enrollment in the center based on the center's number and qualifications of staff.  
2.14 A variance request must be submitted to the commissioner in accordance with paragraph  
2.15 (a).

2.16 ~~(c)~~ (d) Counties shall use a uniform application form developed by the commissioner  
2.17 for variance requests by family child care license holders.