HOUSE DOCKET, NO. FILED ON: 1/12/2009

**HOUSE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Elizabeth Poirier**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General  
 Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the licensure and regulation of au pair and nanny agencies by the office of child care services.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Elizabeth Poirier | 14th Bristol |

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 129 OF 2007-2008.]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act relative to the licensure and regulation of au pair and nanny agencies by the office of child care services.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 28A of the Mass. General Laws is hereby

amended by adding, after section 11B, the following new section:—

Section 11C. The Office of Child Care Services, hereafter known

as the Office, is hereby authorized and directed to establish, implement,

provide oversight to, and promulgate regulations for, a licensure

and approval process for employment and placement agencies

as defined in section two of this chapter, who are engaged in placing

au pairs and nannies, as defined in section two of this chapter, in a

private residence for the purposes of performing child care services

and duties on a full time or regular basis.

Such agencies shall provide verification to the Office to the effect

that each au pair and nanny, prior to being placed in a private residence,

and wherein stated during said placement, has met the specific

standards and criteria stated in this section, and shall develop

forms and procedures approved by the Office for such verification.

No employment or placement agency shall place any person defined

in section two for the purposes of providing child care services

unless the standards approved by the Office and all other statutory

and regulatory obligations are fulfilled.

The Commissioner of the Office, in conjunction with the employment

or placement agency, may exercise discretion and flexibility in

the evaluation and consideration of standards to be met and in determinations

of substitute or alternative criteria which would fulfill

such requirements or their equivalent. The Commissioner may consider

documented training or experience in a child care program or

school, a nursery, or other acceptable participation in coursework or

experience submitted by the au pair and nanny through the employment

or placement agency as equivalent criteria required to meet

educational and training standards. The Commissioner may accept

as fulfillment of the requirements, and may further approve of, programs

of education and training in child care services, child development,

child welfare, or other, or certification or diplomas or degrees

received by au pairs and nannies in their home countries, as

approved of and verified by, the placement or employment agency in

its submissions to the Office.

The licensing of employment and placement agencies shall be

dependent upon the verification by the employment and placement

agencies, of the following requirements to be met by au pairs and

nannies, which shall be fulfilled in addition to those set forth in the

federal regulations of the USIA, 514.31 Au Pairs, requiring a thirty-two

hour training period, and documented child care experiences

constituting two hundred hours. However, if such thirty-two hour

training period becomes fully accredited by a college, university, or

recognized educational institute, such training hours may be applied

by the Office as partial fulfillment of requirements in education and

training as stated in this section. The Commissioner may ascertain

and approve, in conjunction with the placement or employment

agencies, that the persons teaching child care training and educational

requirements are qualified professionals.

The following standards and criteria shall be required of au pairs

and nannies, subject to conditions set forth in this section: (a) two

formal standard courses, or six semester hours, in early childhood

education, or a certificate or vocational program in early childhood

education, or equivalent, either during secondary educational coursework,

or during post-secondary coursework in a recognized college,

university other educational institution in child care training, child

development, child welfare, or other appropriate coursework, classes

or training, including substitutions in educational courses and/or

work experience determined as acceptable by the Commissioner; (b)

participation in at least three days in-service training and education

in early childhood education, child development and child welfare

and safety, or other such appropriate child care services training,

either midway through the year of the placement of the au air, or at

intervals during the year of placement, as approved by the Commissioner,

in conjunction with the employment or placement agency; (c)

certification in CPR and Basic First Aid; (d) screening and background

checks for criminal and juvenile conduct including psychological

assessments, health and medical examinations, school

records and attendance, which shall be provided by au pairs and nannies

or solicited by the employment or placement agencies through

school records, references from counselors, teachers, or other school

personnel, police authorities, driving records, or through other

means available and as approved by the Commissioner.

No au pair or nanny as defined in section two of this chapter, who

is eighteen or nineteen years of age, shall be placed in a private residence

for the purposes of providing child care to more than two children

who are each under the age of five years.

The Commissioner shall provide notification to each employment

and placement agency to be licensed, that they and all personnel

involved with the au pair and nanny programs, are mandated

reporters of child abuse and neglect, as stated in chapter one hundred

and nineteen, section fifty-one A of the Massachusetts General

Laws.

The provisions of this chapter as applied to the licensing of placement

or employment agencies for au pairs and nannies, as defined in

section two, shall take effect on June 30, 2006.

SECTION 2. Section 2 of chapter 28A is hereby amended by

adding at the end the following new paragraphs:—

For the purposes of this chapter, the following definitions shall

apply.

“Foreign or domestic au pair and nanny placement or employment

agency” — any educational or cultural foundation, institution,

agency, company or otherwise named, which for a fee or other payment,

procures, solicits, or attempts to procure or solicit, from out-

side or within the commonwealth and from outside or within the

United States, persons who enter through a J Exchange Program

visa, or who enter through any other visa, or to whom such persons

seek application, for the purposes of placement and/or employment

in a private residence in the commonwealth, to act in the capacity of

providing child care services as an au pair or nanny, either while

living in the home or by providing child care in the home and living

without the home, on a full time or regular basis.

“Au Pair” — any person, ages 18-26, who, under the auspices of

a cultural or educational agency or foundation or other such entity,

enters the United States through an “exchange visitors” visa program,

to be placed in a private residence in the commonwealth for

the purposes of performing child care services and duties, in the

capacity of a primary child care worker on a full-time or regular

basis.

“Nanny” — any person 18-26, who is placed by an agency or

company in a private residence, and who enters the United States

and the commonwealth through any visa or is a citizen of the United

States and resides in the commonwealth, and who lives within or

without the home, for the purposes of performing child care services

and duties, in the capacity of a primary child care worker on a full

time or regular basis.

SECTION 3. Section 4 of chapter 28A is hereby amended by

adding, in subsection (c), after the words, “family day care systems”,

the following words, “and au pair and nanny agencies as defined in

section two of this chapter,”.

SECTION 4. Section 11 of chapter 28A is hereby amended by

adding, under subsection (a), after the words, “temporary shelter

facility”, the following words, “or placement or employment agency

as defined in section two of this chapter.”

SECTION 5. Section 10B of chapter 28A is hereby amended by

adding at the end, the following paragraphs:— Au Pair and Nanny

Agencies, as defined in section two of this chapter, shall be required

to provide quarterly reports to the Office of Child Care Services

which shall include: a. the location and address of each au pair or

nanny placement; b. the total number of au pairs or nannies placed

within the commonwealth and the areas of the state in which they

are placed; c. any change in placement or disrupted placement, or,

removal of an au pair from a placement and the reasons for the

change or removal; the new placement location, if applicable; d. the

dates of placement for each au pair or nanny and the duration of the

placement; e. the numbers of children and their ages in the care of

each au pair or nanny; f. the number of hours required for each au

pair or nanny to provide child care, on a weekly basis; g. a summary

of the training and education and other requirements to be met under

this Act, of each au pair and nanny placed, and the location and

duration of the education and training or other requirement; h. the

number of hours of in-service training to be required of each au pair

or nanny, who will provide the training and when it will occur

during the placement. The au pair or nanny agency shall submit to

the Office, prior to any placement of an au pair or nanny, documentation

of each requirement to be fulfilled by the au pair or nanny and

by the agency itself. The Office shall review all records and documents

for meeting criteria and standards set forth in section 11B of

this chapter for au pair and nanny agencies, as defined in section two

of this Act, at the inception of the licensure and approval process,

and thereafter on an annual basis, or more frequently if deemed necessary

by the Commissioner, and shall ascertain by a method developed

by the Office that all requirements and credentials set forth in

this Act have been fulfilled. No au pair or nanny shall be placed in a

private residence for the purposes of providing full time child care or

child care on a regular basis, without meeting all credentials and

requirements set forth in this Act.