

Lexie's Law protects children from unsafe daycare providers

Lexie Engelman was 13-months-old when she suffered fatal injuries at a home day care in 2004. Last year, 18-month-old Ava Patrick strangled to death on a fence at another day care facility. Neither of these was due to child abuse—both deaths were truly accidents. But, to help prevent these tragedies in the future, the Kansas legislature passed House Bill 2356, also known as Lexie's Law.

Currently, there are 2,600 home day care providers in Kansas. Some are licensed, which hold a higher standard than those that are registered. Licensed homes are inspected yearly. Registered home day care centers are not required to undergo inspection. That will change beginning July 1, 2010.

KDHE will gradually move all day care homes to licensed status, carrying with it assurances of inspections. This bill was heard in the House Health and Human Services Committee. I am not a member of this committee, so I was not involved in the hearings.

The bill was initially intended to get all child daycare centers inspected. It appeared the proponents of the bill were so focused on that issue, they failed to see how other portions of the initial bill would negatively impact children.

The very last night of the regular session (not veto session), there was a plan to concur with the version of the bill that passed out of the Senate. Day care providers began to make calls and send e-mails to legislators encouraging them to vote NO. I was attempting to understand the bill, but as with all legislators, there are some industries that we know very little about. I was having phone conversations with a day care provider in my district. Due to so much going on in the House chambers, with the attempt to get all the needed bills passed, I was uncomfortable voting for this bill. I begged the proponents to slow the process down and not push for a vote late that night. I made it clear I would be voting NO if I had to vote then. I would rather vote NO and slow a bill down, than push poor legislation through—and at that time I wasn't sure whether it was good or poor legislation. I risked relationships with many legislative friends who were encouraging me to vote for the bill. These are very responsible legislators whom I very much respect. I think they, just like me, were naïve about some of these provisions of the bill. They too wanted the uninspected centers to be inspected. This bill did that so they felt it was good.

Fortunately, another bill came up that night for debate that ran several hours. After that bill was done—so were many of the House members. It was 4:00 am. We adjourned the House without debating the daycare bill. We left for our 3 week break before returning for veto session.

During the break, I sat down with two daycare providers to discuss their concerns to determine if they were legitimate. I believed, after talking to them, there were issues that needed to be addressed that were not addressed in the bill.

I did something that I hadn't done before...I called the House Chairman Brenda Landwehr and apologized for coming in late in the game, but asked if I could e-mail her concerns that needed to be addressed. Brenda and I have rarely agreed on any issue in all the years we have served together. However, we both put aside our differences on all other issues so we could join forces to get a good bill as a final result. Brenda invited me to the conference committee meetings to voice my concerns and involved me in determining whether the changes made would be acceptable. During the process-in essence, I was the provider designee in the House. I learned a great deal about child day care from this experience.

In an attempt to prevent deaths in the future, the bill contained unreasonable requirements of providers. In the initial bill, centers that had passed their last inspection would not be required to be inspected for three more years. That was unacceptable. It required providers be in sight of all the children all the time. While the intent was to require attentive supervision, it could cause concerns. Do we really want all the children underfoot when the provider is cooking lunch? Should a provider really need to march all the children into the restroom when one needs to use the potty chair? What about napping children? What about when the provider needs to use the restroom? You get the idea.

In the end, logic prevailed. License fees were raised so personnel could be hired to have all centers inspected annually. Providers need to be attentive, but instead of the initial "in sight" only, it became "within sight or sound" of all the children.

Any future providers will be required to be a high school graduate or have the equivalent education. Any current provider who does not have the equivalent of a high school diploma will be allowed "grandfathering privileges" and be allowed to keep their facility.

The agency will formulate rules to require providers to have training in health, safety, and welfare of the children and will include Sudden Infant Death Syndrome (SIDS), outdoor playground equipment, household dangers and poisons, etc.

KDHE would create a way to access online information about day care providers and a history of citations and substantiated findings so parents may have important information while choosing a center for their child. The information will provide facilities with anonymity for security reasons.

Thanks to constituent Rose Grimes and her fellow providers for helping make Lexie's Law reasonable. They didn't rest until every item was addressed. After all, they are the providers and know what issues needed attention. I was honored to help resolve the problems and I am proud of our outcome.