

HOUSE No. 167

The Commonwealth of Massachusetts

In the Year Two Thousand 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:

1 SECTION 1. Chapter 28A of the Mass. General Laws is hereby amended by adding, after
2 section 11B, the following new section:—

3 Section 11C. The Office of Child Care Services, hereafter known as the Office, is hereby
4 authorized and directed to establish, implement, provide oversight to, and promulgate regulations
5 for, a licensure

6 and approval process for employment and placement agencies as defined in section two
7 of this chapter, who are engaged in placing au pairs and nannies, as defined in section two of this
8 chapter, in a private residence for the purposes of performing child care services and duties on a
9 full time or regular basis.

10 Such agencies shall provide verification to the Office to the effect that each au pair and
11 nanny, prior to being placed in a private residence, and wherein stated during said placement, has
12 met the specific

13 standards and criteria stated in this section, and shall develop forms and procedures
14 approved by the Office for such verification. No employment or placement agency shall place
15 any person defined in section two for the purposes of providing child care services unless the
16 standards approved by the Office and all other statutory and regulatory obligations are fulfilled.
17 The Commissioner of the Office, in conjunction with the employment or placement agency, may
18 exercise discretion and flexibility in the evaluation and consideration of standards to be met and
19 in determinations of substitute or alternative criteria which would fulfill such requirements or
20 their equivalent. The Commissioner may consider

21 documented training or experience in a child care program or school, a nursery, or other
22 acceptable participation in coursework or experience submitted by the au pair and nanny through
23 the employment

24 or placement agency as equivalent criteria required to meet educational and training
25 standards. The Commissioner may accept as fulfillment of the requirements, and may further
26 approve of, programs of education and training in child care services, child development, child
27 welfare, or other, or certification or diplomas or degrees received by au pairs and nannies in their
28 home countries, as approved of and verified by, the placement or employment agency in its
29 submissions to the Office. The licensing of employment and placement agencies shall be
30 dependent upon the verification by the employment and placement agencies, of the following
31 requirements to be met by au pairs and nannies, which shall be fulfilled in addition to those set
32 forth in the federal regulations of the USIA, 514.31 Au Pairs, requiring a thirty-two hour training
33 period, and documented child care experiences constituting two hundred hours. However, if such
34 thirty-two hour training period becomes fully accredited by a college, university, or recognized
35 educational institute, such training hours may be applied by the Office as partial fulfillment of

36 requirements in education and training as stated in this section. The Commissioner may ascertain
37 and approve, in conjunction with the placement or employment agencies, that the persons
38 teaching child care training and educational requirements are qualified professionals. The
39 following standards and criteria shall be required of au pairs and nannies, subject to conditions
40 set forth in this section: (a) two formal standard courses, or six semester hours, in early
41 childhood education, or a certificate or vocational program in early childhood education, or
42 equivalent, either during secondary educational coursework, or during post-secondary
43 coursework in a recognized college, university other educational institution in child care training,
44 child development, child welfare, or other appropriate coursework, classes or training, including
45 substitutions in educational courses and/or work experience determined as acceptable by the
46 Commissioner; (b) participation in at least three days in-service training and education in early
47 childhood education, child development and child welfare and safety, or other such appropriate
48 child care services training, either midway through the year of the placement of the au air, or at
49 intervals during the year of placement, as approved by the Commissioner, in conjunction with
50 the employment or placement agency; (c) certification in CPR and Basic First Aid; (d) screening
51 and background checks for criminal and juvenile conduct including psychological assessments,
52 health and medical examinations, school records and attendance, which shall be provided by au
53 pairs and nannies or solicited by the employment or placement agencies through school records,
54 references from counselors, teachers, or other school personnel, police authorities, driving
55 records, or through other means available and as approved by the Commissioner. No au pair or
56 nanny as defined in section two of this chapter, who is eighteen or nineteen years of age, shall be
57 placed in a private residence for the purposes of providing child care to more than two children
58 who are each under the age of five years. The Commissioner shall provide notification to each

59 employment and placement agency to be licensed, that they and all personnel involved with the
60 au pair and nanny programs, are mandated reporters of child abuse and neglect, as stated in
61 chapter one hundred and nineteen, section fifty-one A of the Massachusetts General Laws.

62 The provisions of this chapter as applied to the licensing of placement or employment
63 agencies for au pairs and nannies, as defined in section two, shall take effect on June 30, 2006.

64 SECTION 2. Section 2 of chapter 28A is hereby amended by adding at the end the
65 following new paragraphs:—

66 For the purposes of this chapter, the following definitions shall apply.

67 “Foreign or domestic au pair and nanny placement or employment agency” — any
68 educational or cultural foundation, institution, agency, company or otherwise named, which for a
69 fee or other payment, procures, solicits, or attempts to procure or solicit, from out- side or within
70 the commonwealth and from outside or within the United States, persons who enter through a J
71 Exchange Program visa, or who enter through any other visa, or to whom such persons seek
72 application, for the purposes of placement and/or employment in a private residence in the
73 commonwealth, to act in the capacity of providing child care services as an au pair or nanny,
74 either while living in the home or by providing child care in the home and living without the
75 home, on a full time or regular basis. “Au Pair” — any person, ages 18-26, who, under the
76 auspices of a cultural or educational agency or foundation or other such entity, enters the United
77 States through an “exchange visitors” visa program, to be placed in a private residence in the
78 commonwealth for the purposes of performing child care services and duties, in the capacity of a
79 primary child care worker on a full-time or regular basis.

80 “Nanny” — any person 18-26, who is placed by an agency or company in a private
81 residence, and who enters the United States and the commonwealth through any visa or is a
82 citizen of the United States and resides in the commonwealth, and who lives within or without
83 the home, for the purposes of performing child care services and duties, in the capacity of a
84 primary child care worker on a full time or regular basis.

85 SECTION 3. Section 4 of chapter 28A is hereby amended by adding, in subsection (c),
86 after the words, “family day care systems”, the following words, “and au pair and nanny
87 agencies as defined in section two of this chapter.”.

88 SECTION 4. Section 11 of chapter 28A is hereby amended by adding, under subsection
89 (a), after the words, “temporary shelter facility”, the following words, “or placement or
90 employment agency

91 as defined in section two of this chapter.”

92 SECTION 5. Section 10B of chapter 28A is hereby amended by adding at the end, the
93 following paragraphs:—

94 Au Pair and Nanny Agencies, as defined in section two of this chapter, shall be required
95 to provide quarterly reports to the Office of Child Care Services which shall include:

96 a. the location and address of each au pair or nanny placement;

97 b. the total number of au pairs or nannies placed within the commonwealth and the areas
98 of the state in which they are placed;

99 c. any change in placement or disrupted placement, or, removal of an au pair from a
100 placement and the reasons for the change or removal; the new placement location, if applicable;

101 d. the dates of placement for each au pair or nanny and the duration of the placement;

102 e. the numbers of children and their ages in the care of each au pair or nanny;

103 f. the number of hours required for each au pair or nanny to provide child care, on a
104 weekly basis;

105 g. a summary of the training and education and other requirements to be met under
106 this Act, of each au pair and nanny placed, and the location and duration of the education
107 and training or other requirement;

108 h. the number of hours of in-service training to be required of each au pair or nanny, who
109 will provide the training and when it will occur during the placement. The au pair or nanny
110 agency shall submit to

111 the Office, prior to any placement of an au pair or nanny, documentation of each
112 requirement to be fulfilled by the au pair or nanny and by the agency itself. The Office shall
113 review all records and documents for meeting criteria and standards set forth in section 11B of
114 this chapter for au pair and nanny agencies, as defined in section two of this Act, at the inception
115 of the licensure and approval process, and thereafter on an annual basis, or more frequently if
116 deemed necessary by the Commissioner, and shall ascertain by a method developed by the
117 Office that all requirements and credentials set forth in this Act have been fulfilled. No au pair or
118 nanny shall be placed in a private residence for the purposes of providing full time child care or
119 child care on a regular basis, without meeting all credentials and requirements set forth in this
120 Act.