

HOUSE No. 255

The Commonwealth of Massachusetts

PRESENTED BY:

Michael P. Kushmerek and Natalie M. Higgins

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 adoption of the accompanying bill:

An Act relative to enabling access and empowering early educators.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>1/14/2025</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/14/2025</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/18/2025</i>

HOUSE No. 255

By Representatives Kushmerek of Fitchburg and Higgins of Leominster, a petition (accompanied by bill, House, No. 255) of Michael P. Kushmerek, Natalie M. Higgins and James B. Eldridge relative to family child care homes. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to enabling access and empowering early educators.

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. Notwithstanding any general or special law or any rule or regulation to the
2 contrary, chapter 23B of the General Laws is hereby amended by inserting after section 30 the
3 following new sections:

4 Section 31. Definitions applicable to Secs. 32 to 36

5 As used in sections thirty-two to thirty-six, the following words shall have the following
6 meanings, unless a different meaning clearly is indicated from the context:

7 "Applicant," the individual who has been designated as the person responsible for the
8 administration of the program or facility and is the duly authorized agent of the person applying
9 for licensure or approval.

10 "Child," any person younger than 14 years old, or 16 years old with special needs.

11 “Children with Special Needs,” a child who, because of temporary or permanent
12 disabilities arising from intellectual, sensory, emotional, physical, or environmental factors, or
13 other specific learning disabilities, is or would be unable to progress effectively in a regular
14 school program.

15 “Day,” calendar days unless otherwise specified.

16 “Department,” the Department of Early Education and Care.

17 “Family child care home,” a private residence which, on a regular basis, receives for
18 temporary custody and care during part or all of the day, children under 7 years of age, or
19 children under 16 years of age if those children have special needs, and receives for temporary
20 custody and care for a limited number of hours children of school age under regulations adopted
21 by the board. The total number of children under 16 in a family child care home shall not exceed
22 6, including participating children living in the residence. Family child care home shall not mean
23 a private residence used for an informal cooperative arrangement among neighbors or relatives,
24 or the occasional care of children with or without compensation.

25 "Large family child care home", a private residence which, on a regular basis, receives
26 for temporary custody and care during part, or all of the day, children under 7 years of age, or
27 children under 16 years of age if such children have special needs, and receives for temporary
28 custody and care for a limited number of hours children of school age under regulations
29 promulgated by the board, but the number of children under the age of 16 in a large family child
30 care home shall not exceed 10, including participating children living in the residence. A large
31 family child care home shall have at least 1 approved assistant when the total number of children
32 participating in child care exceeds 6. Large family child care home shall not mean a private

33 residence used for an informal cooperative arrangement among neighbors or relatives, or the
34 occasional care of children with or without compensation.

35 “Restriction,” included, but not limited to, a limiting condition or measure imposed
36 orally, in writing, or by conduct and including prohibition.

37 “Unreasonably impracticable,” that the measures necessary to comply with the
38 regulations, ordinances, or by-laws adopted pursuant to this chapter subject licensees to
39 unreasonable risk or require such a high investment of risk, money, time, or any other resource
40 or asset that a reasonably prudent business person would not operate a family child care home.

41 Section 32. regarding use and occupancy of family child care homes; restrictive
42 covenants prohibited.

43 a) A city or town may adopt ordinances and by-laws that impose reasonable safeguards
44 on the operation of family child care homes, provided that they are not unreasonably
45 impracticable and are not in conflict with this chapter or with regulations made pursuant to this
46 chapter and that:

47 (1) they do not preclude the operation of a family child care home through zoning
48 ordinances or bylaws;

49 (2) they do not limit the number of family child care homes in the city or town;

50 (3) they do not restrict licensed family child care homes as a public nuisance;

51 (4) they do not enact an additional business license requirement or fee above the
52 Department’s standard.

53 b) No city or town shall prohibit the operation of family child care homes within the
54 city or town or adopt an ordinance or by-law that makes the operation of a family child care
55 home unreasonably impracticable.

56 c) No city or town shall require payment of a fee to that city or town that is not directly
57 proportional and reasonably related to the costs imposed upon the city or town by the operation
58 of the family child care home. Any cost to a city or town by the operation of a family child care
59 home shall be documented and considered a public record as defined by clause Twenty-Sixth of
60 section 7 of chapter 4 of the General Laws.

61 Section 33. Restrictions on use or occupancy of real property as family child care home
62 prohibited; notice to landlord or owner.

63 a) Every provision in a written instrument relating to real property that purports to
64 restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or
65 occupancy as a family child care home is void, and every restriction in that written instrument as
66 to the use or occupancy of the property as a family child care home is void.

67 b) An attempt to deny, restrict, or encumber the conveyance, leasing, or mortgaging of
68 real property for use or occupancy as a family child care home is void. A restriction related to the
69 use or occupancy of the property as a family child care home is void. A property owner or
70 manager shall not refuse to sell or rent, or refuse to negotiate for the sale or rental of, or
71 otherwise make unavailable or deny, a detached single-family dwelling, a townhouse, a dwelling
72 unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the
73 underlying zoning allows for residential use to a person because that person is a family child care
74 provider.

75 c) Except as provided in subdivision (d), a restriction, whether by way of covenant,
76 contract, condition upon use or occupancy, or by transfer of title to real property, that restricts
77 directly or indirectly limits the acquisition, use, or occupancy of a detached single-family
78 dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered
79 multifamily dwelling in which the underlying zoning allows for residential use as a family child
80 care home is void.

81 d) (1) A prospective family child care home provider who resides in a rental
82 property shall provide thirty (30) days' written notice to the landlord or owner of the rental
83 property prior to the commencement of operation of the family child care home.

84 (2) A family child care home provider who has relocated an existing licensed
85 family child care home program to a rental property, may provide less than 30 days' written
86 notice when the department approves the operation of the new location of the family daycare
87 home in less than 30 days, or the property is licensed in less than 30 days, so that service to the
88 children served in the former location not be interrupted.

89 e) During the license application process for a small or large family daycare home, the
90 department shall notify the applicant that the remedies and procedures in chapter 186, section
91 15F of the General Laws and chapter 151B, sections four through eight of the General Laws to
92 fair housing are available to family child care home providers, family child care home provider
93 applicants, and individuals who claim that any of the protections provided by sections 31 through
94 36 of this chapter have been denied.

95

96 Section 34. Use of home as family child care home considered residential use of property.

97 The use of a home as a family child care home, operated under the standards of state law,
98 in a residentially zoned area shall be considered a residential use of property for the purposes of
99 all local ordinances, regulations, and rules, and shall not fundamentally alter the nature of the
100 underlying residential use.

101 Section 35. Restrictions on use or occupancy of real property as family daycare home
102 prohibited; notice to landlord or owner.

103 a) The use of a home as a family daycare home shall be considered a residential use of
104 property and a use by right for the purposes of all local ordinances, including, but not limited to,
105 zoning ordinances.

106 b) A local jurisdiction shall not impose any additional business license, fee, or tax for
107 the privilege of operating a family daycare home.

108 c) Use of a home as a family daycare home shall not constitute a change of occupancy
109 for purposes of local building codes.

110 d) The provisions of this chapter do not preclude a city, county, or other local public
111 entity from placing restrictions on building heights, setback, or lot dimensions of a family
112 daycare home, as long as those restrictions are identical to those applied to all other residences
113 with the same zoning designation as the family daycare home. This chapter does not preclude a
114 local ordinance that deals with health and safety, building standards, environmental impact
115 standards, or any other matter within the jurisdiction of a local public entity, as long as the local
116 ordinance is identical to those applied to all other residences with the same zoning designation as
117 the family daycare home. This chapter also does not prohibit or restrict the abatement of
118 nuisances by a city, county, or city and county. However, the ordinance or nuisance abatement

119 shall not distinguish family daycare homes from other homes with the same zoning designation,
120 except as otherwise provided in this chapter.

121 Section 36. Severability and existing licenses and approvals.

122 a) If any provision contained in sections 31-36 or the application thereof is held invalid
123 to any person or circumstances, the remainder of sections 31-36 and the application of the
124 provision in question to other persons not similarly situated, or to other circumstances, shall not
125 be affected thereby.

126 b) Any license or approval issued under the existing provisions of the chapter 15D of
127 the General Laws and regulations made pursuant to that chapter in effect prior to the passage of
128 this legislation shall, notwithstanding its expiration date, remain in effect, unless suspended or
129 revoked, until a new license or approval is issued or expressly refused or revoked by the
130 Department.