

HOUSE No. 129

By Mrs. Poirier of North Attleborough, petition of Elizabeth A. Poirier and others relative to the licensure and regulation of au pair and nanny agencies by the Office of Child Care Services. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

PETITION OF:

Elizabeth A. Poirier	Kathi-Anne Reinstein
Paul J. Donato	Gale D. Candaras
Christine E. Canavan	Barbara A. L'Italien
Stanley C. Rosenberg	

In the Year Two Thousand and Seven.

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
- 2 amended by adding, after section 11B, the following new section:—
- 3 Section 11C. The Office of Child Care Services, hereafter known
- 4 as the Office, is hereby authorized and directed to establish, imple-
- 5 ment, provide oversight to, and promulgate regulations for, a licen-
- 6 sure and approval process for employment and placement agencies
- 7 as defined in section two of this chapter, who are engaged in placing
- 8 au pairs and nannies, as defined in section two of this chapter, in a
- 9 private residence for the purposes of performing child care services
- 10 and duties on a full time or regular basis.
- 11 Such agencies shall provide verification to the Office to the effect
- 12 that each au pair and nanny, prior to being placed in a private resi-
- 13 dence, and wherein stated during said placement, has met the spe-
- 14 cific standards and criteria stated in this section, and shall develop
- 15 forms and procedures approved by the Office for such verification.
- 16 No employment or placement agency shall place any person defined
- 17 in section two for the purposes of providing child care services

18 unless the standards approved by the Office and all other statutory
19 and regulatory obligations are fulfilled.

20 The Commissioner of the Office, in conjunction with the employ-
21 ment or placement agency, may exercise discretion and flexibility in
22 the evaluation and consideration of standards to be met and in deter-
23 minations of substitute or alternative criteria which would fulfill
24 such requirements or their equivalent. The Commissioner may con-
25 sider documented training or experience in a child care program or
26 school, a nursery, or other acceptable participation in coursework or
27 experience submitted by the au pair and nanny through the employ-
28 ment or placement agency as equivalent criteria required to meet
29 educational and training standards. The Commissioner may accept
30 as fulfillment of the requirements, and may further approve of, pro-
31 grams of education and training in child care services, child develop-
32 ment, child welfare, or other, or certification or diplomas or degrees
33 received by au pairs and nannies in their home countries, as
34 approved of and verified by, the placement or employment agency in
35 its submissions to the Office.

36 The licensing of employment and placement agencies shall be
37 dependent upon the verification by the employment and placement
38 agencies, of the following requirements to be met by au pairs and
39 nannies, which shall be fulfilled in addition to those set forth in the
40 federal regulations of the USIA, 514.31 Au Pairs, requiring a thirty-
41 two hour training period, and documented child care experiences
42 constituting two hundred hours. However, if such thirty-two hour
43 training period becomes fully accredited by a college, university, or
44 recognized educational institute, such training hours may be applied
45 by the Office as partial fulfillment of requirements in education and
46 training as stated in this section. The Commissioner may ascertain
47 and approve, in conjunction with the placement or employment
48 agencies, that the persons teaching child care training and educa-
49 tional requirements are qualified professionals.

50 The following standards and criteria shall be required of au pairs
51 and nannies, subject to conditions set forth in this section: (a) two
52 formal standard courses, or six semester hours, in early childhood
53 education, or a certificate or vocational program in early childhood
54 education, or equivalent, either during secondary educational course-
55 work, or during post-secondary coursework in a recognized college,
56 university other educational institution in child care training, child

57 development, child welfare, or other appropriate coursework, classes
58 or training, including substitutions in educational courses and/or
59 work experience determined as acceptable by the Commissioner; (b)
60 participation in at least three days in-service training and education
61 in early childhood education, child development and child welfare
62 and safety, or other such appropriate child care services training,
63 either midway through the year of the placement of the au pair, or at
64 intervals during the year of placement, as approved by the Commis-
65 sioner, in conjunction with the employment or placement agency; (c)
66 certification in CPR and Basic First Aid; (d) screening and back-
67 ground checks for criminal and juvenile conduct including psycho-
68 logical assessments, health and medical examinations, school
69 records and attendance, which shall be provided by au pairs and nan-
70 nies or solicited by the employment or placement agencies through
71 school records, references from counselors, teachers, or other school
72 personnel, police authorities, driving records, or through other
73 means available and as approved by the Commissioner.

74 No au pair or nanny as defined in section two of this chapter, who
75 is eighteen or nineteen years of age, shall be placed in a private resi-
76 dence for the purposes of providing child care to more than two chil-
77 dren who are each under the age of five years.

78 The Commissioner shall provide notification to each employment
79 and placement agency to be licensed, that they and all personnel
80 involved with the au pair and nanny programs, are mandated
81 reporters of child abuse and neglect, as stated in chapter one hundred
82 and nineteen, section fifty-one A of the Massachusetts General
83 Laws.

84 The provisions of this chapter as applied to the licensing of place-
85 ment or employment agencies for au pairs and nannies, as defined in
86 section two, shall take effect on June 30, 2006.

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

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

5 “Foreign or domestic au pair and nanny placement or employ-
6 ment agency” — any educational or cultural foundation, institution,
7 agency, company or otherwise named, which for a fee or other pay-
8 ment, procures, solicits, or attempts to procure or solicit, from out-

9 side or within the commonwealth and from outside or within the
10 United States, persons who enter through a J Exchange Program
11 visa, or who enter through any other visa, or to whom such persons
12 seek application, for the purposes of placement and/or employment
13 in a private residence in the commonwealth, to act in the capacity of
14 providing child care services as an au pair or nanny, either while
15 living in the home or by providing child care in the home and living
16 without the home, on a full time or regular basis.

17 “Au Pair” — any person, ages 18-26, who, under the auspices of
18 a cultural or educational agency or foundation or other such entity,
19 enters the United States through an “exchange visitors” visa pro-
20 gram, to be placed in a private residence in the commonwealth for
21 the purposes of performing child care services and duties, in the
22 capacity of a primary child care worker on a full-time or regular
23 basis.

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

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

1 SECTION 4. Section 11 of chapter 28A is hereby amended by
2 adding, under subsection (a), after the words, “temporary shelter
3 facility”, the following words, “or placement or employment agency
4 as defined in section two of this chapter.”

1 SECTION 5. Section 10B of chapter 28A is hereby amended by
2 adding at the end, the following paragraphs:— Au Pair and Nanny
3 Agencies, as defined in section two of this chapter, shall be required
4 to provide quarterly reports to the Office of Child Care Services
5 which shall include: a. the location and address of each au pair or
6 nanny placement; b. the total number of au pairs or nannies placed

7 within the commonwealth and the areas of the state in which they
8 are placed; c. any change in placement or disrupted placement, or,
9 removal of an au pair from a placement and the reasons for the
10 change or removal; the new placement location, if applicable; d. the
11 dates of placement for each au pair or nanny and the duration of the
12 placement; e. the numbers of children and their ages in the care of
13 each au pair or nanny; f. the number of hours required for each au
14 pair or nanny to provide child care, on a weekly basis; g. a summary
15 of the training and education and other requirements to be met under
16 this Act, of each au pair and nanny placed, and the location and
17 duration of the education and training or other requirement; h. the
18 number of hours of in-service training to be required of each au pair
19 or nanny, who will provide the training and when it will occur
20 during the placement. The au pair or nanny agency shall submit to
21 the Office, prior to any placement of an au pair or nanny, documen-
22 tation of each requirement to be fulfilled by the au pair or nanny and
23 by the agency itself. The Office shall review all records and docu-
24 ments for meeting criteria and standards set forth in section 11B of
25 this chapter for au pair and nanny agencies, as defined in section two
26 of this Act, at the inception of the licensure and approval process,
27 and thereafter on an annual basis, or more frequently if deemed nec-
28 essary by the Commissioner, and shall ascertain by a method devel-
29 oped by the Office that all requirements and credentials set forth in
30 this Act have been fulfilled. No au pair or nanny shall be placed in a
31 private residence for the purposes of providing full time child care or
32 child care on a regular basis, without meeting all credentials and
33 requirements set forth in this Act.