

# MEMBER REQUEST FOR DECISION

## SPRING MUNICIPAL LEADERS' CAUCUS

**DATE:**

March 30-31, 2023

**TOPIC:**

Strengthening Provincial Regulations to Improve Safety of Unlicensed Private Day Homes

**RECOMMENDATION:**

That Calgary City Council requests that the Alberta Municipalities Board advocate to the Minister of Children's Services to increase protections for the youngest and most vulnerable Albertans by:

1. Mandating minimum safety standards for unlicensed private day homes including, but not limited to:
  - a) Valid First Aid and Cardiopulmonary Resuscitation (CPR) certification for the day home operator and any employees.
  - b) A criminal record check with vulnerable sector search for the day home operator and any employees.
  - c) A criminal record check with vulnerable sector search for any individual 18 years or older who resides at the day home, regardless of whether they are providing care to children.
2. Ensuring all unlicensed private day home providers across the province have access to affordable and timely First Aid/CPR training, criminal record checks and vulnerable sector searches.

**BACKGROUND:**

Alberta families should not have to sacrifice safety when choosing child care for their children. Currently, the *Early Learning and Child Care Act* allows for two types of home-based child care: licensed and unlicensed. Whereas licensed home-based child care providers are recruited, trained, and regularly monitored by provincially-licensed family day home agencies, there is no government oversight of unlicensed home-based child care providers and there are no minimum standards to operate an unlicensed private day home. Private day homes are businesses that provide care to children 12 and under out of the caregiver's own home but do not include babysitters, nannies and informal arrangements with family and friends. Currently, the only regulation in place for unlicensed private day home operators is that they are only permitted to care for a maximum of six children, not including their own.

Serious incidents, including traumatic injury, sexual assault, and death have occurred in unlicensed private day homes across the province. The tragic death of 22-month-old toddler Mackenzy Woolfsmith at an unlicensed private day home in Calgary in 2012 sparked a Public Fatality Inquiry led by Justice Joshua B. Hawkes in February 2018. In the Public Fatality Report, released in December 2018, Justice Hawkes detailed the lack of risk-focused regulation of the child care sector and made 10 recommendations to



enhance child care safety. Notably, in paragraph 63(b) on page 12 of the report, Justice Hawkes recommended that a legislative review of provincial regulations for child care be conducted and that “a specific focus of that legislative review should be to shift the focus from solely regulating the size of unlicensed daycare to a focus on reducing risk and increasing protective factors in all forms of child care. Academic research, the experience of other jurisdictions and the tragedy in this case all illustrate and support the need for risk focused regulation of child care<sup>1</sup>”.

The Ministry of Children’s Services formally responded to the Public Fatality Report in September 2019 and accepted, or accepted in principle, all 10 recommendations proposed by Justice Hawkes. Following a legislative review, a new *Early Learning and Child Care Act* was introduced in February 2021. Although the updated Act made strides toward addressing some of Justice Hawkes’ recommendations, there were no proactive measures introduced to improve safety for children in unlicensed care. While child care providers operating under a provincially-licensed day home agency are required to pass a criminal record check, there are still no restrictions in place to prevent individuals with criminal records from operating an unlicensed private day home and no requirement that they disclose past convictions to prospective families. This leaves the door open for individuals like Mackenzy Woolfsmith’s care provider, who was convicted of manslaughter in connection with her death, to continue operating.

Municipalities across Alberta have been left to address this significant gap in provincial legislation through a variety of municipal interventions. Calgary City Council recently took steps to enhance safety in unlicensed private day homes by approving a municipal business licence to ensure applicants meet minimum standards, including valid first aid/CPR and criminal record checks and vulnerable sector searches for child care providers and residents of the home. Other municipalities have fewer requirements, and many more have no additional rules for private day homes over and above provincial legislation. This has led to a patchwork of regulations across the province, and a two-tiered system where children in licensed child care programs receive significantly more protections from the Government of Alberta than those in unlicensed care. In November 2022, the Children’s Services mandate letter was released and committed to ensuring more transparency and accountability in unlicensed day homes, including increased training. This is a positive step but falls short of the changes needed to ensure the safety of children in unlicensed child care.

All families care deeply about the health and safety of their children but must make decisions regarding their care within constraints such as child care space availability, location, cost, and work schedules. Currently, there are only enough provincially-regulated child care spaces in Alberta for approximately three out of every 10 children<sup>2</sup>. This has made licensed child care unattainable for many families and, in the absence of provincial safety standards, has left municipalities to shoulder the burden of ensuring children in unlicensed private day homes are protected. Although the province recently committed to creating 42,500 new licensed child care spaces over the next five years, Statistics Canada reported in 2001 that 62 per cent of child care providers in Alberta were unlicensed home-based<sup>3</sup>. With so many children still in unlicensed care across the province, and an ever-increasing number of incidents occurring in the 10 years since Mackenzy Woolfsmith’s tragic death, it is time for Alberta Municipalities members to add their collective voices to the call for provincial accountability for improved safety and oversight of unlicensed private day homes.



The City of Calgary appreciates the feedback provided by the Alberta Municipalities Small Communities Committee on an early draft of this request for decision and acknowledges the need for the Government of Alberta to ensure that all unlicensed private day home providers across the province have access to affordable and timely First Aid/CPR training, criminal record checks and vulnerable sector searches.

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<sup>1</sup> Report to the Minister of Justice and Solicitor General Public Fatality Inquiry, 2018:

<https://open.alberta.ca/dataset/c0485cf2-dc5f-4a49-8459-fe60e29d3bac/resource/adc0a267-4d51-4b91-9caf-c4a00fed419/download/woolfsmith-fatality-inquiry-report.pdf>

<sup>2</sup> Headed Up, But Still Behind, Child Care Coverage Rates in Alberta's Top Ten Largest Cities, 2016 – 2021:

<https://static1.squarespace.com/static/5f170b16bf7d977d587e43c4/t/62c46530ba63d74c32d55c64/1657038128826/Coverage+Rates+in+Albertas+Ten+Largest+Cities+2022-06-23.Final.pdf>

<sup>2</sup>Statistics Canada <https://www150.statcan.gc.ca/n1/daily-quotidien/210615/dq210615c-eng.htm>

**ENCLOSURES:**

None