

By Mrs. Parente of Milford, petition of Marie J. Parente, Carol A. Donovan, Mary Jane Simmons, Ruth W. Provost and Michael E. Festa relative to the licensure and regulation of au pair and nanny agencies by the Office of Child Care Services. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

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 11A, the following new section:—

3 Section 11B. The Office of Child Care Services, hereafter
4 known as the Office, is hereby authorized and directed to estab-
5 lish, implement, provide oversight to, and promulgate regulations
6 for, a licensure and approval process for employment and place-
7 ment agencies as defined in section two of this chapter, who are
8 engaged in placing au pairs and nannies, as defined in section two
9 of this chapter, in a private residence for the purposes of
10 performing child care services and duties on a full time or regu-
11 lar basis.

12 Such agencies shall provide verification to the Office to the
13 effect that each au pair and nanny, prior to being placed in a
14 private residence, and wherein stated during said placement, has
15 met the specific standards and criteria stated in this section, and
16 shall develop forms and procedures approved by the Office for
17 such verification. No employment or placement agency shall place
18 any person defined in section two for the purposes of providing
19 child care services unless the standards approved by the Office
20 and all other statutory and regulatory obligations are fulfilled.

21 The Commissioner of the Office, in conjunction with the
22 employment or placement agency, may exercise discretion and

23 flexibility in the evaluation and consideration of standards to be
24 met and in determinations of substitute or alternative criteria
25 which would fulfill such requirements or their equivalent. The
26 Commissioner may consider documented training or experience in
27 a child care program or school, a nursery, or other acceptable par-
28 ticipation in coursework or experience submitted by the au pair
29 and nanny through the employment or placement agency as equiv-
30 alent criteria required to meet educational and training standards.
31 The Commissioner may accept as fulfillment of the requirements,
32 and may further approve of, programs of education and training in
33 child care services, child development, child welfare, or other, or
34 certification or diplomas or degrees received by au pairs and
35 nannies in their home countries, as approved of and verified by,
36 the placement or employment agency in its submissions to the
37 Office.

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

53 The following standards and criteria shall be required of
54 au pairs and nannies, subject to conditions set forth in this section:
55 (a) two formal standard courses, or six semester hours, in early
56 childhood education, or a certificate or vocational program in
57 early childhood education, or equivalent, either during secondary
58 educational coursework, or during post-secondary coursework in a
59 recognized college, university other educational institution in
60 child care training, child development, child welfare, or other
61 appropriate coursework, classes or training, including substitu-
62 tions in educational courses and/or work experience determined as

63 acceptable by the Commissioner; (b) participation in at least three
64 days in-service training and education in early childhood educa-
65 tion, child development and child welfare and safety, or other such
66 appropriate child care services training, either midway through the
67 year of the placement of the au pair, or at intervals during the year
68 of placement, as approved by the Commissioner, in conjunction
69 with the employment or placement agency; (c) certification in
70 CPR and Basic First Aid; (d) screening and background checks
71 for criminal and juvenile conduct including psychological assess-
72 ments, health and medical examinations, school records and atten-
73 dance, which shall be provided by au pairs and nannies or
74 solicited by the employment or placement agencies through
75 school records, references from counselors, teachers, or other
76 school personnel, police authorities, driving records, or through
77 other means available and as approved by the Commissioner.
78 No au pair or nanny as defined in section two of this chapter, who
79 is eighteen or nineteen years of age, shall be placed in a private
80 residence for the purposes of providing child care to more than
81 two children who are each under the age of five years.

82 The Commissioner shall provide notification to each employ-
83 ment and placement agency to be licensed, that they and all
84 personnel involved with the au pair and nanny programs, are man-
85 dated reporters of child abuse and neglect, as stated in chapter one
86 hundred and nineteen, section fifty-one A of the Massachusetts
87 General Laws.

88 The provisions of this chapter as applied to the licensing of
89 placement or employment agencies for au pairs and nannies, as
90 defined in section two, shall take effect on June 30, 2000.

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
4 shall 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
8 payment, procures, solicits, or attempts to procure or solicit, from
9 outside or within the commonwealth and from outside or within
10 the United States, persons who enter through a J Exchange

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

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

25 “Nanny” – any person 18-26, who is placed by an agency or
26 company in a private residence, and who enters the United States
27 and the commonwealth through any visa or is a citizen of the
28 United States and resides in the commonwealth, and who lives
29 within or without the home, for the purposes of performing child
30 care services and duties, in the capacity of a primary child care
31 worker on a full 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 sys-
3 tems”, the following words, “and au pair and nanny agencies as
4 defined in 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
4 agency 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:—

3 Au Pair and Nanny Agencies, as defined in section two of this
4 chapter, shall be required to provide quarterly reports to the Office
5 of Child Care Services which shall include: a. the location and
6 address of each au pair or nanny placement; b. the total number of
7 au pairs or nannies placed within the commonwealth and the areas

8 of the state in which they are placed; c. any change in placement
9 or disrupted placement, or, removal of an au pair from a place-
10 ment and the reasons for the change or removal; the new place-
11 ment location, if applicable; d. the dates of placement for each au
12 pair or nanny and the duration of the placement; e. the numbers of
13 children and their ages in the care of each au pair or nanny; f. the
14 number of hours required for each au pair or nanny to provide
15 child care, on a weekly basis; g. a summary of the training and
16 education and other requirements to be met under this Act, of each
17 au pair and nanny placed, and the location and duration of the
18 education and training or other requirement; h. the number of
19 hours of in-service training to be required of each au pair or
20 nanny, who will provide the training and when it will occur during
21 the placement. The au pair or nanny agency shall submit to the
22 Office, prior to any placement of an au pair or nanny, documenta-
23 tion of each requirement to be fulfilled by the au pair or nanny
24 and by the agency itself.

25 The Office shall review all records and documents for meeting
26 criteria and standards set forth in section 11B of this chapter for
27 au pair and nanny agencies, as defined in section two of this Act,
28 at the inception of the licensure and approval process, and there-
29 after on an annual basis, or more frequently if deemed necessary
30 by the Commissioner, and shall ascertain by a method developed
31 by the Office that all requirements and credentials set forth in this
32 Act have been fulfilled.

33 No au pair or nanny shall be placed in a private residence for
34 the purposes of providing full time child care or child care on a
35 regular basis, without meeting all credentials and requirements set
36 forth in this Act.

