

GAO

Report to the Ranking Member,
Committee on Education and the
Workforce, House of Representatives

August 2011

CHILD CARE

Overview of Relevant Employment Laws and Cases of Sex Offenders at Child Care Facilities

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CHILD CARE

Overview of Relevant Employment Laws and Cases of Sex Offenders at Child Care Facilities

Highlights of [GAO-11-757](#), a report to Ranking Member, Committee on Education and the Workforce, House of Representatives

Why GAO Did This Study

Very little is known about sexual abuse among children that are regularly cared for by more than 1.3 million child care providers every week in the United States. In this context, GAO was asked to (1) provide an overview of federal and state laws related to the employment of sex offenders at child care facilities and (2) examine cases where individuals who were convicted of serious sexual offenses were subsequently employed or present at child care facilities.

To provide an overview of selected laws, GAO searched for prohibitions against offenders being present at child care facilities, requirements for conducting criminal-history checks, and penalties for violating these requirements. The cases GAO examined focus only on individuals who were convicted of serious sexual offenses and cannot be generalized to all child care facilities. To identify the cases, GAO reviewed open-source information from 2000 to 2010. GAO also compared the years 2007 to 2009 in employment databases from 20 states and the District of Columbia to data in the National Sex Offender Registry. GAO ultimately selected 10 cases from eight states and the District of Columbia for review. For each case, GAO reviewed court documents and interviewed law enforcement personnel. Our methodology was not designed to assess the prevalence of sex offenders working at child care facilities. This product contains no recommendations. Where applicable, GAO referred its cases for further investigation.

View [GAO-11-757](#). For more information, contact Richard Hillman at (202) 512-6722 or hillmanr@gao.gov.

What GAO Found

Federal laws regulate the employment of sex offenders at federal child care facilities. For example, federally operated facilities are required to conduct criminal-history checks on employees, as are facilities receiving grants from the Department of Health and Human Services' Head Start program. At the state level, laws vary widely. For example, all 50 states require criminal-history checks for owners and employees of licensed child care facilities, but many state laws exempt facilities from licensing if they do not exceed certain thresholds, such as a minimum number of children. Penalties for violating licensing requirements can range from a \$5 administrative fine to imprisonment for a term of years.

The cases GAO examined show examples of individuals convicted of serious sexual offenses who gained access to child care facilities as maintenance workers, spouses or friends of providers, a cafeteria worker, and a cook. At least seven of these cases involve offenders who previously targeted children, and in three of the cases, the offenders used their access to children at the facilities to offend again. Among the cases, GAO found instances of providers who (1) knowingly hired offenders and (2) did not perform preemployment criminal-history checks. GAO also found examples of facilities operating without licenses, and facilities that employed offenders while receiving federal funds. The following four cases illustrate the nature of the situations GAO identified.

Examples of Cases GAO Examined

Location	Case details
Missouri	<ul style="list-style-type: none">When investigating allegations of child abuse, state officials and police found unsafe conditions and a maintenance worker previously convicted of attempted child molestation working at an unlicensed facility.The facility claimed to operate as a school but investigators found no evidence to support that claim or that the owner of the facility completed a criminal-history check on the offender. In March 2004, the provider pled guilty to felony child endangerment and received 3 years of probation.
Kentucky	<ul style="list-style-type: none">An owner of a licensed child care facility hired a cook to work in her cafeteria in January 2008 because she wanted to help him, even though she knew that he had been convicted for sexually abusing a woman.An investigation by state agencies led to the suspension of the owner's license. She revoked her right to appeal and closed the facility.
Washington, D.C.	<ul style="list-style-type: none">This offender's parents hired him to work as a janitor in a licensed child care facility that received at least \$1 million in federal assistance, even though he had been convicted for attempting to sexually abuse a young girl.In March 2011, after GAO referred the case to the D.C. licensing department, the parents were told to fire their son or lose their license.
New York	<ul style="list-style-type: none">A man convicted for sexually abusing a minor was hired as a janitor in 2007 by an organization that operated multiple licensed child care facilities.The organization, which received over \$750,000 in federal assistance, did not conduct a criminal history check on the offender. His employment was eventually terminated due to downsizing.

Source: State and local agencies, GAO.

Note: The data are from records including police reports, court documents, and interviews.

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G A O

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

August 19, 2011

The Honorable George Miller
Ranking Member
Committee on Education and the Workforce
House of Representatives

Dear Mr. Miller:

We have previously reported on cases in which children were being physically abused at youth residential treatment facilities and sexually abused at public and private schools.¹ However, very little is known about the extent of sexual abuse among children that are regularly cared for by an estimated 1.3 million child care providers every week in the United States as of 2008. The victims of these crimes are typically 12 years old or younger—and according to the Federal Bureau of Investigation’s (FBI) National Incident-Based Reporting System, crimes against children make up a large majority of sexual assaults handled by law enforcement agencies. In this context, and as a follow-on to our December 2010 report on individuals with histories of sexual misconduct in K-12 public and private schools, we agreed to (1) provide an overview of relevant federal and state laws related to the employment of sex offenders at child care facilities and (2) examine cases where individuals who were convicted of serious sexual offenses were subsequently employed or present at child care facilities.

To provide an overview of selected federal and state laws, we searched statutory codes for prohibitions against sexual offenders working or being present in child care facilities, requirements for conducting criminal-history checks, and penalties for violating these requirements. At the state level, we focused solely on statutory provisions because of their greater degree of permanence. We did not analyze state regulations or policies,

¹GAO, *Residential Treatment Programs: Concerns Regarding Abuse and Death in Certain Programs for Troubled Youth*, [GAO-08-146T](#) (Washington, D.C.: Oct. 10, 2007); *Residential Programs: Selected Cases of Death, Abuse, and Deceptive Marketing*, [GAO-08-713T](#) (Washington, D.C.: Apr. 24, 2008); *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers*, [GAO-09-719T](#) (Washington, D.C.: May 19, 2009); *K-12 Education: Selected Cases of Public and Private Schools That Hired or Retained Individuals with Histories of Sexual Misconduct*, [GAO-11-200](#) (Washington, D.C.: Dec. 8, 2010).

or any laws, regulations, or policies at the local level. Additional requirements can be added through regulation by states or at the local level, and these may go beyond what is specified in state statute.

To identify case-study examples of child care facilities that employed or provided residence to registered sexual offenders who committed serious sexual offenses, we performed searches of open-source information and public records and used database matching techniques described in greater detail below.² Our methodology was not designed to assess the prevalence of sex offenders working at child care facilities; nor can it establish the effectiveness of statutes and legislation designed to prevent such occurrences. First, we compared social security numbers (SSN) that we obtained from the Department of Justice's (DOJ) National Sex Offender Registry (NSOR) to SSNs in employment databases maintained by 20 states and the District of Columbia for the years 2007 to 2009. These states and the District of Columbia are not a generalizable sample, but illustrate geographic diversity. From this comparison, we identified 24 potential cases of registered sex offenders working at child care facilities. We identified the facilities by searching the data that we compiled through our comparisons for employers whose business names contained terms such as "children," "child care," and "daycare." The cases we identified focus only on individuals who were convicted of serious sexual offenses prior to being employed at child care facilities and cannot be generalized to all child care facilities. It is possible that our search did not capture sex offenders whose names or social security numbers were inaccurate in NSOR or employment data or who worked at facilities that were not readily identifiable as child care providers, or whose employers did not properly report the sex offender's employment to the state, nor would it capture instances where a registered sex offender was merely present at the child care facility, but was not employed.

To identify additional potential case-study examples, we searched open-source information for reports of individuals who committed serious sexual offenses and gained access to child care facilities. We reviewed open sources published between the years 2000 through 2010. Open-source information refers to publicly available information, and may include information obtained from sources such as the media and public

²For the purposes of our report, we define serious sexual offenses as those sexual offenses that involve children or sexual abuse.

data. It is a key component of traditional law-enforcement, intelligence, and other information-gathering agencies, such as the Central Intelligence Agency. To determine whether the preliminary listing of cases resulting from the above data matches and searches of open-source information was sufficient, we confirmed that both of the following criteria had been met: (1) the individual was a convicted sex offender before he gained employment or was present at the child care facility and (2) the individual was convicted of a serious sexual offense, to include crimes against children or a violent sexual offense, or both.

To refine the list from which to select further cases for review, we attempted to validate the identity of each offender and verify that he was employed or present at a child care facility at some time during 2000 through 2010. We excluded from consideration cases where we could not obtain records or immediately confirm the offender's identity and employment. Further, we interviewed related parties, law-enforcement officials, or representatives from state agencies to validate and investigate the facts in each case. Where applicable and available, we reviewed police reports, and other court documents.

Ultimately, through a combination of our data matching, review of open-source information, public records, and interviews, and by focusing on the offenders who had been convicted of serious sexual offenses in the past, to include violent sexual offenses and crimes involving children, we selected 10 cases from eight states and the District of Columbia. Of these cases, 8 were selected from open-source information while the remaining 2 were selected from our comparison of SSNs in the NSOR with SSNs in employment databases. The 8 cases selected from open-source information cover the years 2002 to 2010. These examples are not representative of the hiring practices of any child care facilities beyond those highlighted in the report.

To the extent possible, we conducted searches to determine whether the sex offenders in our cases had previous criminal histories or were the subject of previous allegations of abuse. In addition, although the focus of our investigation was not to determine whether the child care facilities in our cases received public funds, during our investigation we observed that some of these child care facilities did in fact receive public funding. In these cases, we obtained information from relevant federal, state, and city agencies indicating whether the facility received federal assistance from the Department of Health and Human Services' (HHS) Head Start program or its Child Care Development Fund (CCDF) while a sex offender was employed or a resident in the home of a child care provider.

Although our 10 case studies highlight issues or processes that may have contributed to the employment or presence of sex offenders at the child care facilities that we included in our report, the circumstances of each case are unique and cannot be generalized to all child care facilities.

We performed our work from April 2010 to August 2011 in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Background

Parents who need child care services select from different types of child care providers: in-home care, in which a child is cared for by a provider such as an au pair or nanny in the child's home; family child care or group home care, in which the child is cared for in a private residence other than the child's home;³ and center care, in which a child is cared for by providers in a nonresidential setting, such as in a church, school, or business. Additionally, care can be provided by someone related to the child other than the parents, such as grandparents, aunts, uncles, or siblings, which is referred to as relative care. See table 1.

Table 1: Types of Child Care

Type	Description
In-home care	Care provided in the child's home
Relative care	Care provided by someone related to the child other than the parents in any setting, typically in the child's or relative's home
Family child care	An individual provider who provides child care services as the sole caregiver in a private residence other than the child's home
Group home care	Two or more providers who provide child care services in a private residence other than the child's home (this does not include 24-hour residential facilities)
Child care centers	Nonresidential facilities that provide care for children and include full- and part-time group programs, such as nursery and preschool programs. Child care centers can be commercial, work-site based, school-based (preschool or after school), or a recreational program (such as camps or parks), and care can also be run by a religious organization or by federal, state, or local governments

Source: GAO.

³ Typically, family child care consists of one provider caring for six or fewer children. Group home care usually involves two providers caring for 7 to 12 children.

In general, states and localities are responsible for regulating child care providers and carry out this responsibility by (1) establishing specific requirements that regulated child care providers must comply with in order to legally operate; and (2) enforcing these requirements through activities conducted by state licensing offices. The stringency of the requirements with which providers must comply and the scope and intensity of state enforcement activities differ among the provider types within states as well as among states overall. Many states do not regulate a significant number of providers. This is because, given the competing priorities for limited funds as well as other factors, states must make choices about the extent to which they can conduct enforcement activities and the types of providers to which these activities will apply. State policies regarding child care regulation are also influenced by the supply of child care and its cost to parents. Research has shown that some types of child care regulation may increase the cost of doing business for providers, particularly for small providers like family and group homes.

Overview of Federal and State Laws Related to the Employment of Sex Offenders at Child Care Facilities

Federal laws regulate the employment of sex offenders at federal child care facilities, and widely divergent laws govern state child care facilities, especially with regard to licensing requirements and penalties. We did not analyze state regulations or policies, nor any laws, regulations, or policies at the local level.⁴ In addition, the scope of this review did not include a review of whether these laws were effectively enforced. For a summary of laws related to the employment of sex offenders at child care facilities in all 50 states, see appendix I.

Federal Laws. The National Child Protection Law of 1993 requires the Department of Justice to conduct a criminal-history check at the request of child care facilities or other youth-serving organizations.⁵ This check allows for a fingerprint-based criminal-history search of the FBI's National Crime Information Center database. However, federal law does not

⁴State regulations may be more specific than statutes regarding such things as the type of providers that must complete criminal background checks, and the type of checks that must be conducted. For recent studies looking at current state regulations regarding criminal-history checks, see the National Association for Child Care Resource and Referral Agencies' (NACCRRRA) report *We Can Do Better, 2011* and the National Association of Regulatory Administration's *2008 Child Care Licensing Study*.

⁵42 U.S.C. § 5119a.

require child care facilities to use this service unless the facility is federally owned or operated (or operated under a federal contract).⁶

Other laws governing the employment of sex offenders relate to facilities that receive federal grants. For example, Head Start grantees must either conduct a state or national criminal record check before hiring any employee, depending on state law requirements.⁷ Grantees are prohibited from permanently hiring an individual until these checks have been performed, although they may conditionally hire an individual if it is not feasible to perform a preemployment check. Employees are also required to sign a declaration to all pending and prior criminal arrests and charges related to child sexual abuse and their disposition, along with any convictions related to other forms of child abuse and neglect and convictions of violent felonies. Grantees are then required to determine whether the individual is fit for employment based upon his or her criminal charge or conviction. In addition to requirements for Head Start grantees, CCDF requires that states certify to the federal government that they have requirements in effect to protect the health and safety of children in child care facilities who are subsidized with these funds. However, the block grant does not dictate to states the specificity, stringency, or number of requirements they must have or the manner in which they should enforce them.⁸

Prohibitions on Working in or Being Present at Child Care Facilities.

A majority of states have enacted laws to restrict sex offenders from having access to child care facilities. Fifteen states impose broad statutory restrictions that prohibit registered sex offenders from entering or being a specified distance from childcare facilities.⁹ Twenty-two states and the District of Columbia have enacted statutes prohibiting sex offenders from serving as an owner, operator, employee, or volunteer at a

⁶42 U.S.C. §13041.

⁷45 C.F.R. § 1301.31.

⁸45 C.F.R. § 98.41.

⁹Idaho, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Nevada, New York, North Carolina, Oklahoma, Oregon, Texas, and Utah.

child care facility.¹⁰ Nine additional states more narrowly impose such a prohibition on offenders whose victims were minors.¹¹ Four states also specifically prohibit sex offenders from residing at a facility that provides child care services.¹²

Criminal-History Check Requirements. Although it is not always clear whether criminal-history checks need to be completed prior to employment, all 50 states require such checks for owners and employees of licensed child care facilities. However, the requirements for licensing vary widely. Only 3 states appear to require criminal-history checks for all licensed and unlicensed child care facilities,¹³ while 11 states require that all facilities that receive state or federal funds perform these checks.¹⁴ In addition, 23 states require criminal-history checks for adult residents at licensed child care or group home facilities.¹⁵ Fourteen states and the District of Columbia specifically require checks for volunteers at licensed childcare facilities,¹⁶ and six states specifically require criminal-history checks for contractors.¹⁷ Finally, several states exempt child care facilities associated with schools or religious organizations from the licensing or criminal-history check requirements.

¹⁰Alabama, Arizona, Arkansas, Colorado, District of Columbia, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Montana, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, and Virginia.

¹¹Alaska, California, Delaware, Florida, Iowa, Tennessee, Washington, West Virginia, and Wisconsin.

¹²Colorado, Georgia, Kansas, and South Dakota.

¹³California, Tennessee, and West Virginia.

¹⁴Arkansas, Colorado, Delaware, Iowa, Maine, Missouri, New Hampshire, North Carolina, Utah, Vermont, and Virginia.

¹⁵Alaska, California, Colorado, Georgia, Indiana, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nevada, New Hampshire, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, and Wisconsin.

¹⁶Alabama, Alaska, Arizona, California, District of Columbia, Indiana, Kansas, Maine, Minnesota, New Jersey, New York, South Dakota, Tennessee, Utah, and Virginia. In addition, Idaho and Massachusetts both require criminal-history checks for anyone with unsupervised access to children in child care facilities, which could include volunteers.

¹⁷Alaska, Arkansas, Michigan, Minnesota, New Jersey, and Wisconsin. In addition, Idaho and Massachusetts both require criminal-history checks for anyone with unsupervised access to children in child care facilities, which could include contractors.

Method for Conducting Criminal-History Checks. The vast majority of states require that criminal-history checks for employees and other staff be fingerprint-based and be conducted in both national and state databases, but many do not specify that the checks must be completed prior to an employee's start date. In four states, statutes require criminal-history checks, but they do not specify the use of either national or state databases.¹⁸ In addition, five states limit the check to state databases,¹⁹ while four states require national database checks only if the employee or applicant has not been a resident of the state for a specified period of time.²⁰ Four states require by statute that criminal-history checks be performed at specified intervals.²¹

Penalties for violations. All 50 states provide some type of penalty for violating requirements related to the employment of sex offenders, but these penalties vary widely. For example, 34 states and the District of Columbia attach criminal penalties to licensing requirement violations, failure of an owner or employee to disclose criminal-history information, or failure to perform criminal-history checks.²² In 29 states, violation of licensing requirements and failure to perform criminal-history checks may

¹⁸Kentucky, Massachusetts, Oklahoma, and Vermont.

¹⁹Maine, Michigan, Minnesota, Virginia, and Wyoming.

²⁰Arkansas, Colorado, Montana, and Washington.

²¹Arkansas, Ohio, Oregon, and Wisconsin.

²²Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia and Wisconsin. In three additional states (Montana, West Virginia, and Wyoming), licensing violations may result in license suspension, and criminal penalties attach to continued operation after suspension.

result in civil penalties or fines,²³ ranging from \$5 per violation²⁴ to \$10,000 per violation.²⁵

Cases of Child Care Facilities That Employed or Provided Residence to Sex Offenders

We did not assess the prevalence of sex offenders working or residing at child care facilities; our 10 cases do provide examples of sex offenders who gained access to such facilities as maintenance workers, spouses or friends of providers, a cafeteria worker, and a carpenter. Seven of these cases involve offenders who previously targeted children, and in at least 3 of the cases, the offenders used their access to children at the child care facility to offend again. As discussed below, we identified instances of relatives and acquaintances who knowingly hired offenders to work at child care facilities and facilities that unknowingly hired offenders because they did not perform preemployment criminal-history checks. Our investigation also found instances where child care facilities employing sex offenders operated without licenses or received federal funds.

Relatives or Acquaintances Knowingly Provided Sex Offenders Access to Child Care Facilities. In at least 7 of our 10 cases, sex offenders were hired or allowed to reside at both licensed and unlicensed facilities by relatives or acquaintances who were aware of the offenders' previous offenses. As shown in the cases, the regulatory consequences for allowing a sex offender to have access to a child care facility differ widely, ranging from, for example, no action being taken to suspension of a child care license to a misdemeanor charge for providing child care services in a home where a sex offender resides. Examples from our case studies include the following:

- Operators of a licensed child care facility in the District of Columbia hired their son in April 2008 as an after-hours janitor even though he had been convicted for attempting to sexually abuse a very young girl. The terms of the offender's parole and District of Columbia law

²³Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Indiana, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Utah, Virginia, Washington, and Wisconsin. In Vermont, licensing violations may result in license suspension, and civil penalties attach to continued operation after suspension.

²⁴North Dakota.

²⁵Mississippi.

prohibited him from being employed at a child care facility. After interviewing the child care provider, we confirmed that the offender was working at the facility in November 2010. The offender's father told us that employing his son to work at the child care facility was not a cause for concern, even though he was a convicted sex offender; he also stated that his son's employment was approved by his probation officer and that he only worked after the school was closed. We referred the case to the Metropolitan Police Department, Sex Offender Registry Unit, who told us that they could not take action against the offender because he was no longer under court supervision and the restrictions of his parole no longer applied. We then referred the matter to the Office of the State Superintendent of Education, the office responsible for licensing child care facilities in the District of Columbia. In March 2011, the office required the owners to certify that they had terminated their son's employment and notify him that he was prohibited from visiting the child care facility, in order to maintain their license. As of March 21, 2011, the office was still investigating the matter.

- An Illinois woman allowed her husband to reside at her unlicensed home-based child care facility even though he had prior convictions for sexual assault and abuse. In Illinois, sex offenders are not allowed to be present at any child care facility. Over a 6-year period, the offender sexually molested one of the children under his wife's care. He was sentenced to life in prison and is currently incarcerated. Prosecutors told us that they could not gather enough evidence to prosecute the wife.
- A Kentucky owner of a licensed child care facility hired a cafeteria worker even though she knew that he had been convicted of sexual abuse in the first degree, because she wanted to help him. Kentucky prohibits child care facilities from hiring sex offenders for any position involving direct contact with minors. A series of anonymous tips led to an investigation of the child care facility, which resulted in a suspension of her license and an order to cease operations. She revoked her right to appeal the suspension.
- A woman in North Carolina allowed her husband and his son, both of whom were convicted for taking indecent liberties with a minor, to reside in a house where she was providing child care. North Carolina prohibits sex offenders from being present at child care facilities. In February 2010, the mother of two of the children who attended the child care facility reported that one of the children had witnessed the husband sexually abusing her sibling. The husband was convicted on

felony charges of being an offender in a home where child care is provided and indecent liberties with a child and sentenced to 19 to 23 months in prison with 5 years probation. The offender's son was never charged. Police arrested the offender's wife for the misdemeanor offense of offering child care services in a home where a sex offender resides; her trial was scheduled to begin in September 2011. We could not obtain information regarding the present operation of the child care facility.

Child Care Facilities Not Performing Preemployment Criminal-History Checks. At least two cases show examples in which licensed child care facilities unknowingly hired employees who were sex offenders because they did not conduct required criminal-history checks. The documents we reviewed and the officials we spoke with indicated that the child care facilities did not perform these checks because of poor oversight and an unclear understanding of background check requirements.

- In June 2007, an offender who was convicted for sexually abusing a minor gained employment as a substitute custodian at three child care facilities in New York City. The City of New York requires criminal-history checks on employees of licensed child care facilities; and according to the Director of the child care facility, employees are not authorized to begin working until after the employer receives the results of these checks. However, the offender was not scheduled to have his fingerprints checked for more than 9 months after he began working. He was subsequently terminated as a result of downsizing. The organization only learned of the offender's criminal past through our investigation. The Director of the facility also told us that it was likely that the organization failed in its oversight role because he was hired when the organization was in flux. The child care facility is now owned and operated by a different organization.
- A South Carolina child care facility hired an offender in September 2009 who was convicted of committing sexual battery. The person was hired to provide maintenance and repair services at six different child care facilities. South Carolina requires licensed facilities to perform fingerprint-based state and national criminal-history checks on all employees. The owners said they did not perform a criminal-history check on the offender in this case because he was a self-employed contractor and not an employee of the child care facility. In December 2009, the human resource director at the child care facility reported the offender's employment to law enforcement and child

protective services. We could not obtain information regarding the present operation of the child care facility.

Some Facilities Operated without Required Licenses. At least 3 of our 10 cases involve child care facilities that allegedly cared for more children than legally allowed without a license or did not operate as permitted by the state. States and localities are responsible for regulating child care providers by establishing specific requirements they must meet and enforcing those requirements. Many states set thresholds at which regulation begins according to the number of children served by different types of providers and exempt from regulation those providers falling below these thresholds. For example, in a given state, providers caring for seven or more children in their home might be regulated, while providers caring for four children in their home might be exempted from regulation.²⁶ Licensed providers are generally subject to standard oversight, which includes background checks, inspections, technical assistance and training, and the application of sanctions when providers are found to be out of compliance. Unlicensed providers may be subject to less intense scrutiny or none at all. However, the requirements for licensing vary widely. If enforced, penalties for violating licensing requirements also vary widely, ranging from a \$5 administrative fine to imprisonment for a term of years. Examples from our case studies include the following:

- A Missouri child care facility providing care for 31 children employed as a maintenance man a person convicted of attempted child molestation. He had been working at the facility for approximately 2 years when he was discovered in January 2003. In Missouri, fingerprint-based national and state criminal-history checks are required for all employees of licensed child care facilities—those with 5 or more children. However, Missouri exempts from regulation child care facilities that are affiliated with a school system. The child care facility received an exemption from state regulation after it claimed to be a school; however, during the state’s investigation, it found no evidence to support this claim. The facility was eventually condemned after state officials and police conducted investigations into allegations of child abuse and found unsafe conditions. Subsequently, the offender pled guilty to two misdemeanor counts of child endangerment. The child care provider pled guilty to 31 counts of

²⁶[GAO/HEHS-00-28](#).

felony child endangerment and received 3 years of probation. The Missouri Department of Health and Senior Services told us that as of November 2010 the child care facility was no longer in operation.

- Another Missouri offender convicted for having sexual intercourse with a minor subsequently resided in the trailer where his girlfriend provided child care services when he was arrested by police during a domestic dispute. The offender pled guilty to assaulting his girlfriend, receiving a 1-year suspended sentence with 2 years of probation. An August 2004 report by the offender's probation officer indicated that he was compliant with sex-offender registration requirements; however, he continued to reside at the same home with his girlfriend while he was on probation and she continued to provide child care services. The Missouri Department of Health and Senior Services told us that as of November 2010 the child care facility was no longer in operation.
- An Arizona offender convicted of indecent exposure to a minor was operating an unlicensed facility with his wife in October 2005. The child care facility provided services for more than 15 children, although Arizona required a license for any facility with 5 or more children. Police discovered the offender operating the child care facility after a parent alleged that he abused her child. The offender fled the state, but was eventually apprehended. He subsequently pled guilty to sexual exploitation of a minor and dangerous crimes against children in the first degree and was sentenced to 13 years' imprisonment. According to the prosecutor, his wife has not been charged. We could not obtain information regarding the present operation of the child care facility.

Several Child Care Providers Received Federal Funds. At least four of the child care facilities—two licensed and two unlicensed—received federal funds from HHS's Head Start program or its Child Care Development Fund (CCDF). In all four cases, we attempted to determine the amount of funds received during the time that a sex offender was employed or resided at the child care facility, although we can not be certain when offenders began living or working at some facilities because the operators did not keep comprehensive records. The Head Start program delivers comprehensive educational, social, health, nutritional, and psychological services to low-income families and their children who are below the age of compulsory school attendance. These services include preschool education, family support, health screenings, and dental care. The Office of Head Start makes grants directly to approximately 1,600 local organizations, including community-action

agencies, school systems, tribal governments and associations, and for-profit and nonprofit organizations.²⁷ Administered by HHS as a block grant to the states, CCDF subsidizes child care for low-income children under age 13 whose parents work or attend educational or job-training programs.²⁸ In September 2010, we reported that criminals could obtain CCDF subsidies to provide child care because at least five states did not conduct criminal-history checks, verify SSNs, or compare provider information to sex-offender registries.²⁹ In our current investigation, we notified the Administration for Children and Families (ACF) at HHS of the four cases where sex offenders worked or resided at child care facilities that received federal funds. Details regarding our four cases follow.

In one case, owners of the licensed Washington, D.C., child care facility that hired their son, an offender convicted for attempting to sexually abuse a child, to work as a janitor, received at least \$1 million in assistance from the Head Start program between April 2008 and December 2010. Head Start requires that grantees conduct a state or national criminal-history check on prospective employees, depending on state law. The District of Columbia requires both state and national checks for all owners, volunteers, and employees of licensed child care facilities with 6 or more children. ACF has informed us that this facility's Head Start contract has been terminated. In the three remaining cases, two in Missouri and one in New York, child care facilities received funds from CCDF. In New York, a licensed facility hired a custodian in 2007 who was convicted for sexually abusing a minor and the facility received nearly \$750,000 in financial assistance from CCDF between July 2007 and June 2008. In one Missouri case, a man convicted for attempted child molestation worked at a child care facility that received nearly \$250,000 in federal assistance from the CCDF between 2001 and 2003. In the other, an offender convicted for sexually assaulting a minor resided in his girlfriend's unlicensed, home-based day care, which received more than

²⁷In fiscal year 2010, Congress appropriated approximately \$7.2 billion as well as approximately \$2.1 billion in funds from the American Recovery and Reinvestment Act to serve low-income families and children that participate in this program.

²⁸The CCDF received approximately \$7 billion in fiscal year 2009, including approximately \$2 billion from the American Recovery and Reinvestment Act of 2009, primarily to help eligible low-income families pay for child care.

²⁹GAO, *Child Care and Development Fund: Undercover Tests Show Five State Programs Are Vulnerable to Fraud and Abuse*, [GAO-10-1062](#) (Washington, D.C.: Sept. 22, 2010).

\$4,200 in federal assistance from CCDF between 2001 and 2002. Although Missouri is 1 of 11 states that requires facilities that receive state or federal funds to perform criminal-history checks,³⁰ there are no federal requirements for CCDF grantees to conduct these checks.

Table 2 provides a summary of the 10 cases we examined.

Table 2: Examples of Sex Offenders at Child Care Facilities

Case	Location, licensing status of child care facility and number of children, and offender occupation	Case details
1	<ul style="list-style-type: none"> • Washington, D.C. • Licensed child care facility, 160 children • Janitor 	<ul style="list-style-type: none"> • In March 2000, the offender was convicted for attempting to sexually abuse an 8-year-old child. • In April 2008, the offender's parents hired him to work as an after-hours janitor in their licensed child care facility. In December 2010, the offender's father told us that the offender's employment at the facility was approved by his probation officer. But according to the Court Services and Offender Supervision Agency for the District of Columbia, the offender was never authorized to work at or visit his parents' child care facility. • Between April 2008 and December 2010, this child care facility has received at least \$1 million dollars in assistance from the Head Start program. ACF has informed us that this facility's Head Start contract has been terminated. • We referred the case to the D.C. office responsible for licensing child care facilities, which required the owners to certify that they had terminated the employment of their son and notified him that he was prohibited from being at the facility, in order to maintain their license. In March 2011, the child care facility certified that the offender's employment was terminated and the facility remained open.
2	<ul style="list-style-type: none"> • New York • Three licensed child care facilities operated by the same board of volunteers, number of children unknown • Custodian 	<ul style="list-style-type: none"> • In 1997, this offender was convicted for sexually abusing a minor. He was sentenced to a year in prison and required to register as a sex offender for life. • The offender was hired in June 2007. Although the state of New York requires criminal-history checks on employees of licensed child care facilities, the offender's fingerprints were not scheduled to be checked until more than 9 months after he began working. • The offender's employment was subsequently terminated in March 2008 as a result of downsizing. The organization only learned of his criminal past through our investigation. • During the approximate time the offender was employed, these facilities received nearly \$750,000 in financial assistance from CCDF.^a

³⁰These 11 states are Arkansas, Colorado, Delaware, Iowa, Maine, Missouri, New Hampshire, North Carolina, Utah, Vermont, and Virginia.

Case	Location, licensing status of child care facility and number of children, and offender occupation	Case details
3	<ul style="list-style-type: none"> • Missouri • Unlicensed child care facility , 31 children • Maintenance worker 	<ul style="list-style-type: none"> • In 1996, this offender was convicted of attempted child molestation. • In January 2003, state officials responded to a claim of abuse at two unlicensed child care facilities operated by the same owner and discovered the offender. • The child care facility was exempt from state inspections because it claimed to be a school; however, during the state’s investigation, it found no evidence to support this claim. It also found that the facility’s owner did not have employment records or completed criminal-history checks on the offender or any of its employees. • In March 2004, the offender pled guilty to two misdemeanor counts of child endangerment, because he worked at a child care facility that did not provide sanitary and safe conditions for the children. The child care facility owner pled guilty to 31 counts of felony child endangerment, received 3 years of probation, and was forbidden from working in a child care setting for 6 months. • Between 2001 and 2003, the child care facility received almost \$250,000 in federal assistance from the CCDF.^b • In Missouri, individuals receiving federal or state funds for child care are required to submit to criminal-history checks. As of November 2010, the child care facility was no longer in operation.
4	<ul style="list-style-type: none"> • Arizona • Unlicensed home-based child care facility, more than 15 children • Operator and resident 	<ul style="list-style-type: none"> • In 1988, the offender was convicted in Arizona of indecent exposure to a minor under the age of 15. • In October 2005, police discovered the offender operating a child care facility with his wife after a parent alleged that the offender sexually abused her child. • The offender subsequently pled guilty to sexual exploitation of a minor and dangerous crimes against children. According to the prosecutor, the wife was not charged. We could not obtain information regarding the present operation of the child care facility.
5	<ul style="list-style-type: none"> • South Carolina • Six licensed child care facilities operated by the same owners, 650 children • Maintenance worker 	<ul style="list-style-type: none"> • In 2004, the offender was sentenced for committing sexual battery against a woman in South Carolina in 1999. • The offender began work in September 2009. South Carolina law requires licensed facilities to perform fingerprint-based state and national criminal-history checks on all employees, but not independent contractors. However, state regulations prohibit child care facilities from engaging the services of or allowing access during normal operating hours to anyone convicted of a violent offense or required to register as a sex offender. • The owners of the child care facility stated that they did not perform criminal-history checks on the offender before hiring him because he was a self-employed contractor and not an employee of the child care facility. In December 2009, the human resource director at the child care facility reported the offender’s employment to law enforcement and child protective services. We could not obtain information regarding the present operation of the child care facility.

Case	Location, licensing status of child care facility and number of children, and offender occupation	Case details
6	<ul style="list-style-type: none"> • Kentucky • Licensed child care facility, maximum of 122 children • Cook 	<ul style="list-style-type: none"> • In 1995, this offender was convicted of sexual abuse in the first degree. • In February 2008, shortly after the offender began working at the child care facility, a series of anonymous tips about safety and health led to an investigation by multiple state agencies responsible for regulating child care facilities. • When investigators asked about the offender’s employment, the owner acknowledged that she knew of his past and wanted to help him; she also stated that she was not aware that his offense would prevent him from working at the facility. • In addition to the hiring of a sex offender, the investigation uncovered numerous regulatory violations, including staff working with children without the required background checks and a failure to properly report allegations of abuse and neglect of children. As a result, the owner’s license was suspended and she was directed to cease operation of the facility. • In February 2008, she revoked her right to appeal the suspension of the license and closed the child care facility.
7	<ul style="list-style-type: none"> • Missouri • Unlicensed, home-based child care facility, at least four children • Boyfriend of child care operator and resident 	<ul style="list-style-type: none"> • In 1995, this offender was convicted for having sex with a minor. • In May 2001, the Missouri Department of Health received an anonymous tip that the offender’s girlfriend was caring for too many children in her home without a license. • Missouri requires a license for five or more children. However, the department concluded these allegations were unsubstantiated after the child care owner sent documents listing the names of children under her care. The department did not investigate the offender’s presence at the child care facility. • In October 2002, the police discovered the offender residing in the home where his girlfriend provided child care services, when they arrested him for domestic violence. • The offender pled guilty in February 2003 for assaulting his girlfriend, receiving a 1 year suspended sentence and 2 years of probation. • An August 2004 report by the offender’s probation officer indicates that while he remained compliant with sex-offender registration requirements and had no further violations, he still resided with his girlfriend while she continued to operate the child care. The probation officer told us that she stopped supervising the sex offender in February 2005. The Missouri Department of Health and Senior Services told us that as of November 2010 the child care facility was not in operation. • While the offender resided in the home, the child care provider received more than \$4,200 in federal assistance from CCDF between November 2001 and November 2002. In Missouri, individuals receiving federal or state funds for child care and residents of their homes are supposed to submit to criminal-history checks. However, the provider did not report that the offender lived in her residential child care facility.

Case	Location, licensing status of child care facility and number of children, and offender occupation	Case details
8	<ul style="list-style-type: none"> • Illinois • Unlicensed home-based child care facility, between two and six children • Spouse of child care operator and resident 	<ul style="list-style-type: none"> • The offender had convictions for sexually assaulting and abusing children in 1987 and 1995. • Public records indicate that the offender began living in the child care facility as early as December 1999. Over a 6-year period, the offender sexually molested one of the children under his wife's care. • A representative from the office of the prosecutor involved in the case told us that there were between two and six children present at the facility. Currently in Illinois, homes that provide care for more than 1 child are required to obtain a license. According to the prosecutor's office, the wife never registered or obtained a license for the child care because of her husband's prior convictions for sexual offenses. • In 2009, the offender was sentenced to life in prison for predatory criminal sexual assault and is currently incarcerated. Although the wife knew about her husband's prior convictions and the abuse he committed against the victim, prosecutors told us that it wasn't clear whether they would have enough evidence to prosecute her successfully. We could not obtain information regarding the present operation of the child care facility.
9	<ul style="list-style-type: none"> • North Carolina • Unlicensed home-based child care, at least three children • Spouse of child care operator and resident 	<ul style="list-style-type: none"> • In 1999, an offender was convicted of taking indecent liberties with a child. His son was also convicted for the same crime with the same victim. • In North Carolina, sex offenders may not be present at child care facilities, and any facility servicing three or more children requires a license. In 2010, both father and son were living in the house where the father's wife was providing child care to children, including two girls, ages five and six and another child. • In February 2010, the mother of the two children reported to police that the 6-year had witnessed the elder offender fondle the 5-year-old. In March 2011, the offender was convicted on felony charges of being an offender in a home where child care was provided and indecent liberties with a child and sentenced to 19 to 23 months in prison with 5 years probation. The offender's son was never charged with a crime for being present at the day care. • In early March 2010, police also arrested the offender's wife for the misdemeanor offense of offering child care services in the home where a sex offender resides. Her trial is scheduled for September 2011. We could not obtain information regarding the present operation of the child care facility.

Case	Location, licensing status of child care facility and number of children, and offender occupation	Case details
10	<ul style="list-style-type: none"> • Arkansas • Licensed day care, unknown number of children • Carpentry work 	<ul style="list-style-type: none"> • This offender had convictions for rape, attempted murder, and battery. • In Arkansas, registered sex offenders may not operate or serve as a contractor or employee of a child care facility. • In March 2010, police responded to a tip that the offender was doing carpentry work in a child care facility owned by his niece. He told the police that he was not aware that he could not be employed at the facility and claimed that he only worked on nights and weekends when children were not present. Statements from other employees alleged that he was present at the facility during its hours of operation and on occasions handed out snacks to children. • He was arrested a week after police responded to the tip, and served nearly 6 months in jail before he received a suspended sentence of 36 months for failure to comply with sex-offender registry requirements. • The niece was arrested on charges of endangering the welfare of a minor. However, county officials told us they could not prove that the offender was present during the facility's hours of operation and dropped the charge. The niece eventually pled to a misdemeanor charge of obstructing governmental operations. We do not know if the facility is still in operation; however, the niece registered another organization with a different name at the same address as the child care facility.

Source: State and local agencies, GAO.

Note: The data are from records including police documents, court documents, and interviews.

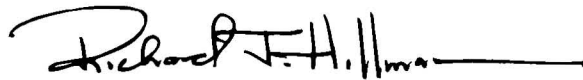
^aThe figure provided is shown to approximate the amount of funds received by the child care facility during the period of time that the offender was employed. The offender was employed by the facility between June 2007 and March 2008, however, the fiscal year for the New York City Administration for Children's Services, the agency responsible for funding the child care facility, begins in July and ends in June. Thus, the funding period for the facility includes about 3 months in which the offender was no longer employed.

^bThe offender was employed at the facility during calendar years 2001 to 2003; however, because we do not know his exact dates of hire, the funding period may represent some time in which the offender was not employed.

As we agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this report. At that time, we will send copies of this report to appropriate congressional committees, the Department of Health and Human Services, the Department of Education, and the Department of Justice. This report will also be available at no charge on GAO's Web site at <http://www.gao.gov>. If you or your staff have any questions about this report or need additional information, please contact me at (202) 512-6722 or hillmanr@gao.gov.

Contact points for our Offices of Congressional Relations and Public Affairs can be found on the last page of this report.

Sincerely yours,

A handwritten signature in black ink that reads "Richard J. Hillman" followed by a horizontal line extending to the right.

Richard Hillman
Managing Director
Forensic Audits and Investigative Service

Appendix I: Summary of State Laws Related to the Employment of Sex Offenders at Child Care Facilities

State	Prohibitions on sex offenders working in or being present in child care facilities	Criminal-history check requirements for child care facilities	Civil and criminal penalties for violations of licensing requirements
AL	Convicted sex offenders may not be employed within 2,000 feet of a child care facility.	Fingerprint-based national and state criminal-history checks are required of all employment applicants, employees, and volunteers of licensed child care facilities (1 or more children).	Violation of the licensing requirements, including failing to report criminal-history information, is a misdemeanor.
AK	Convicted sex offenders with child victims may not operate a licensed child care facility.	Fingerprint-based national and state criminal-history checks are required of all owners, employees, contractors, unsupervised volunteers, and other persons present on the premises of licensed child care facilities (5 or more children).	Intentional or criminally negligent violation of the licensing requirements related to health or safety is a misdemeanor.
AZ	Registered sex offenders may not volunteer or be employed at a licensed child care center.	Fingerprint-based national and state criminal-history checks are required of all employees and volunteers of licensed child care facilities (5 or more children).	Violation of the licensing requirements is a misdemeanor and may also result in civil penalties of up to \$100 per violation per day.
AR	Registered sex offenders may not operate or serve as a contractor or employee of a child care center.	State fingerprint-based criminal-history checks are required of all operators, employees, contractors, and employment applicants of licensed child care facilities (6 or more children or one that accepts state or federal funds). National checks are required if the individual has not been a state resident during the last 5 years. Periodic checks are required every 5 years.	Violation of the licensing requirements, including failure to perform criminal-history checks, may result in civil penalties of up to \$100 per violation per day.
CA	Registered sex offenders with child victims may not be an employer, employee, contractor, or volunteer that involves working with children.	Fingerprint-based national and state criminal-history checks are required of all operators, employees, volunteers, and adult residents of child care facilities. Abuse-registry checks are also required of all operators.	Willful or repeated violation of the licensing requirements is a misdemeanor. Failure to perform criminal-history checks may result in civil penalties of up to \$500 (or \$3,000 for repeated offenses).
CO	Convicted sex offenders may not operate or be employed or reside at a licensed child care facility.	Abuse-registry and fingerprint-based state criminal-history checks are required of all owners, employees, and other adult residents of licensed child care facilities (5 or more children) and those accepting state funds. National checks are required if the individual has not been a state resident during the last 2 years.	Violation of the licensing requirements is a misdemeanor and may also result in civil penalties of up to \$100 per day.

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CT	None located.	Abuse-registry and national and state criminal-history checks are required of all prospective employees (who will care for children) of licensed day care centers (13 or more children), group day care homes (7 to 12 children cared for in a residence), and family day care homes (1 to 6 children cared for in a residence).	Violation of the licensing requirements, including failure to report criminal-history information, may result in civil penalties of up to \$100 per day. Failure to report criminal convictions to a day care center by an employee or prospective employee is a misdemeanor.
DE	Convicted sex offenders with child victims are prohibited from being employed in a position having direct access to children.	National and state criminal-history checks are required of all prospective employees (with regular, direct access to children) of licensed child care centers (1 or more children) and child care facilities receiving federal funds.	Failure by a child care center to perform a criminal-history check of an employee is a misdemeanor. Failure by a prospective employee to report accurate sex-offense history is a felony.
DC	Convicted sex offenders may not be employed at a licensed day care center.	Abuse-registry and fingerprint-based national and state criminal-history checks are required of all owners, volunteers, and employees of licensed child care centers (6 or more children).	Failure by a prospective employee or volunteer to report criminal-history information is punishable by fines of up to \$1,000 or imprisonment of up to 180 days, or both.
FL	Sex offenders on supervised release whose victims were minors may not work or volunteer at any child care facility.	Fingerprint-based national and state criminal-history checks are required of all prospective employees of licensed child care centers (6 or more children) or family day care homes (children from more than one family cared for in a residence).	Violation of the licensing requirements may result in fines of up to \$100 per violation per day (\$500 for violations that could cause serious harm). Misrepresentation associated with an employment or licensing application is a misdemeanor.
GA	Registered sex offenders may not be employed by or reside at any child care facility.	Fingerprint-based national and state criminal-history checks are required of all owners and employees (and adult residents present when children are present) of licensed day care centers (19 or more children), group day care homes (7-18 children), or family day care homes (3-6 children cared for in a residence).	Violation of the licensing requirements is a misdemeanor and may also result in civil penalties of up to \$500 per day.
HI	None located.	Fingerprint-based national and state criminal-history and abuse registry checks are required of all operators and employees of licensed child care facilities (generally 3 or more children).	Violation of the licensing requirements may result in civil penalties of up to \$1,000 for the first violation and up to \$3,000 for subsequent violations.

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ID	Registered sex offenders may not be employed by or be present at any day care center.	National and state criminal-history checks are required of all operators, employees, and other persons with unsupervised direct contact with children at child care facilities with 4 or more children.	Failure to perform the criminal-history checks is a misdemeanor.
IL	Registered sex offenders may not operate, be employed by, volunteer, or be present at any day care center.	Fingerprint-based national and state criminal-history checks are required of all owners and employees of licensed child care facilities (1 or more children).	Violation of the licensing requirements is a misdemeanor.
IN	Convicted sex offenders may not be employed or volunteer at child care facilities.	National and state criminal-history checks are required of all employees, volunteers, and adult residents of licensed child care facilities (1 or more children).	Violation of the licensing requirements is a misdemeanor and may also result in civil penalties of up to \$1,000.
IA	Registered sex offenders whose victims were minors may not be employed by, volunteer at, or serve as a contractor for a child care facility.	Fingerprint-based national and state criminal-history and abuse-registry checks are required of all operators and employees (with direct responsibility or access to children) and residents of licensed child care facilities (7 or more children) and individuals who accept public funds for child care.	Failure to perform criminal-history checks is a misdemeanor.
KS	Convicted violent or sexual offenders may not reside, work, or volunteer at a child care facility.	Fingerprint-based national and state criminal-history checks are required of all employees, volunteers, and residents of licensed child care facilities (1 or more children).	Violation of the licensing requirements that significantly and adversely affect the health or safety of children may result in civil penalties of up to \$500 per day.
KY	Registered sex offenders may not enter a licensed child care facility without advance permission of the director. Child care centers may not hire sex offenders for any position involving direct contact with a minor.	Criminal-history checks are required of all employees of licensed child care facilities (7 or more children) or family child care homes (4 to 6 children).	Violation of the licensing requirements may result in fines of up to \$500. Violations involving allowing violent and sexual offenders to have contact with children may result in fines between \$500 and \$1,000.
LA	Persons convicted of sexual offenses against victims under 13 may not be present within 1,000 feet of a day care center without permission. Registered sex offenders may not operate, own, or participate in the governance of a child care facility.	Licensed child care facilities (7 or more children) must arrange to have criminal background checks on any employees given supervisory or disciplinary authority over children. Abuse-registry checks are required of all owners, operators, employees, and volunteers of licensed child care facilities.	Failure by an owner, operator, employee, or volunteer to report abuse history is a misdemeanor.

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ME	Convicted sex offenders whose victims were under 14 may not initiate contact with a child under 14 at a child care facility.	State criminal-history and child-protection checks are required of all employees, owners, and volunteers of licensed child care centers (3 or more children), as well as persons who provide for care for children in their home and accept state or federal funds.	Violation of children's rights, including abuse, may result in financial penalties of up to \$50 per incident. Providing false information in the licensure process may result in financial penalties of up to \$500 per incident.
MD	Registered sex offenders may not enter child care facilities.	National and state criminal-history checks are required of all employees, adult residents, and owners of licensed child care centers and registered child care homes.	Failure to perform criminal-history checks or to disclose criminal-history information is a misdemeanor. Violation of the licensing requirements is a misdemeanor.
MA	The commissioner of probation must establish exclusion zones for persons on probation for sexually violent offenses or offenses against children to minimize contact with children.	Criminal-history checks are required of all persons with the potential for unsupervised contact with children (including adult residents) in licensed child care facilities (the nonoccasional care of children).	Violation of the licensing requirements may result in criminal sanctions of up to a \$5,000 fine or 2-½ years imprisonment, as well as civil fines up to \$250 per violation.
MI	None located.	State criminal-history checks are required of all employees and contractors of licensed child care organizations (1 or more children). Fingerprint-based national and state criminal-history checks are required of all owners and operators of licensed facilities.	Violation of the licensing requirements is a misdemeanor.
MN	Sexual and violent offenders may not have direct contact with children at a child care facility.	Abuse registry and state criminal-history checks are required of all operators, adult residents, and current and prospective employees, volunteers and contractors with direct contact with children of licensed child care facilities (providing care to the children of more than one family). National checks are required if there is reasonable cause to do so.	Violation of the licensing requirements, including failure to perform criminal-history checks, may result in fines of up to \$200 per violation.
MS	Registered sex offenders may not own, operate, work, or volunteer at a child care facility.	Abuse registry and fingerprint-based national and state criminal-history checks are required of all operators and adult residents of licensed child care facilities (6 or more children).	Failure to perform criminal-history checks may result in a penalty of up to \$10,000 per violation. Operation of a child care facility by a sex offender is a felony. Employment of a sex offender by a child care facility is a misdemeanor.

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MO	None located.	Fingerprint-based national and state criminal-history and abuse-registry checks are required of all employees of licensed child care facilities (5 or more children). Individuals receiving federal or state funds for child care and any other residents of their homes must submit to criminal-history checks.	Violation of the licensing requirements may result in fines of up to \$200. Subsequent violations are misdemeanors.
MT	A mandatory condition of probation/parole for sexual offenders is employment restrictions to protect potential future victims of the offender	State criminal-history and child-protection checks are required of all owners, employees, and adult residents of licensed day care facilities (3 or more children). National fingerprint-based checks are required if the individual lived outside of the state during the last 5 years.	Violation of the licensing requirements may result in license revocation; continued operation after revocation is a misdemeanor.
NE	None located.	The Nebraska Department of Health and Human Services is authorized to conduct national and state criminal-history checks of the owners and employees of licensed child care facilities (4 or more children).	Violation of the licensing requirements may result in civil penalties of up to \$5 per child authorized to be enrolled per day.
NV	A mandatory condition of probation/parole for sexual offenders is a prohibition of coming within 500 feet of a child care facility.	Fingerprint-based national and state criminal-history checks are required of all owners, employees, and adult residents of licensed child care facilities (5 or more children).	Violation of the licensing requirements may result in administrative fines of up to \$100 per violation.
NH	None located.	Abuse-registry and fingerprint-based national and state criminal-history checks are required of all employees with regular contact with children and adult residents of licensed and registered child day care centers (4 or more children) and those that receive state funds.	Violation of the licensing requirements is a misdemeanor and may also result in administrative fines of up to \$2,000 per violation.
NJ	Felons with violent, sexual, or child-victim convictions are prohibited from employment at a licensed child care center.	National and state criminal-history checks are required of all owners, volunteers, contractors, and employees of licensed child care centers (6 or more children). Abuse-registry checks are required of any day care provider and adult residents of their household accepting state subsidies.	Violation of the licensing requirements may result in criminal penalties, including up to 18 months imprisonment.

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NM	None located.	Fingerprint-based national and state criminal-history checks are required of all operators, employees, and staff of child care facilities that provide care for children for 20 hours or more per week.	Violation of the licensing requirements may result in civil penalties of up to \$5,000 per day.
NY	A mandatory condition of parole for sexual offenders whose victims were minors is a prohibition on entering any facility used for the care or treatment of children. Sex offenders are prohibited from operating or working or volunteering at a day care center unless the Office of Children & Family Services determines there is no risk to the health, safety, or welfare of the children.	Fingerprint-based national and state criminal-history checks are required of all operators, employees, and volunteers of all child care facilities (providing care for children for more than 3 hours per day).	Willful violation of the licensing requirements is a misdemeanor.
NC	Registered sex offenders may not be present at child care facilities or work or volunteer at any position involving the supervision, care, or instruction of minors.	Fingerprint-based national and state criminal-history checks are required of all operators and employees of licensed child care facilities (3 or more children) and all providers who accept federal or state subsidies.	Violation of the licensing requirements is a misdemeanor and may also result in civil penalties of up to \$1,000 per violation per day. Willful or repeated violations are a felony.
ND	Registered sex offenders may not provide child care services.	Abuse-registry and fingerprint-based national and state criminal-history checks are required of all operators, residents, and employees of licensed child care facilities (more than 4 infants or 5 children).	Violation of the licensing requirements, including employment of a sex offender, is a misdemeanor and may also result in fiscal sanctions of \$5 per violation per day.
OH	None located.	Fingerprint-based national and state criminal-history checks are required of all owners, operators, and employees (with responsibility for the care, custody, or control of children) of licensed child care facilities (7 or more children). Periodic checks are required every 4 years.	Failure to disclose criminal-history information is a misdemeanor.
OK	Registered sex offenders may not work in businesses providing services to children or loiter within 500 feet of a licensed child care facility.	Criminal-history checks are required of all operators, employees, and adult residents and of licensed child care facilities (providing care for more than 15 hours per week).	Violation of the licensing requirements or failure to perform criminal-history checks is a misdemeanor. Employment of a sex offender in a child care facility may result in an administrative penalty up to \$10,000.
OR	Predatory and violent sex offenders may not be on the premises of a child care facility.	National and state criminal-history and abuse-registry checks are required of all operators and employees of child care facilities with 4 or more children. Periodic checks are required every 2 years.	Violation of the licensing requirements may result in civil penalties of up to \$100 per violation or up to \$500 for subsequent violations.

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Care Facilities**

State	Prohibitions on sex offenders working in or being present in child care facilities	Criminal-history check requirements for child care facilities	Civil and criminal penalties for violations of licensing requirements
PA	Violent and sexual felons are prohibited from working at a licensed child care facility.	Abuse-registry and fingerprint-based national and state criminal-history checks are required of all employees (with direct contact with children) of licensed child care facilities (7 or more children) and of all employees and adult residents of registered family day care homes (4 or more children).	Violation of the criminal-history check requirements may result in civil penalties up to \$2,500.
RI	None located.	Fingerprint-based national and state criminal-history checks are required of all operators and employees of licensed child care facilities (1 or more children) and registered family day care homes (4 or more children cared for in a residence).	Violation of the licensing requirements may result in criminal penalties of up to \$500 fine or 6 months imprisonment, or both (\$1,000 or 1 year imprisonment, or both, for subsequent offenses).
SC	Registered sex offenders may not work at a child care center.	Fingerprint-based national and state criminal-history checks are required of all operators and employees of licensed child care facilities (13 or more children) or licensed group child care homes (7 to 12 children cared for in a residence) and of operators and adult residents of family child care homes (no more than 6 children cared for in a residence).	Violation of the licensing requirements is a misdemeanor.
SD	Registered sex offenders may not reside or be employed at any child care facility or day care home.	Abuse-registry and fingerprint-based national and state criminal-history checks are required of all operators, administrators, adult residents, and employees or volunteers who provide care or supervision to children in licensed child care facilities (13 or more children).	Hiring a sex offender or recent felon or employment by a sex offender or recent felon in a child care facility is a misdemeanor.
TN	Registered sex offenders whose victims were minors may not be employed within 1,000feet of any licensed child care facility.	Fingerprint-based national and state criminal-history checks are required of all employees and volunteers (who work more than 20 hours per month) of all child care facilities.	Misrepresentation in the licensure process, including in regards to the eligibility of employees to work in a child care facility, is a misdemeanor.
TX	A mandatory condition of parole for sexual offenders whose victims were minors is a prohibition on entering a day care facility.	Fingerprint-based national and state criminal-history checks are required of all operators, owners, employees, and adult residents of licensed child care facilities (more than 1 child).	Failure to perform criminal background checks or to preclude an individual with a criminal history from employment or residence at a child care facility is a misdemeanor.

Appendix I: Summary of State Laws Related to the Employment of Sex Offenders at Child Care Facilities

State	Prohibitions on sex offenders working in or being present in child care facilities	Criminal-history check requirements for child care facilities	Civil and criminal penalties for violations of licensing requirements
UT	Registered sex offenders may not enter the premises of a licensed day care facility.	Fingerprint-based national and state criminal-history checks are required of all operators, directors, employees, volunteers, and adult residents of licensed child care facilities and those accepting public funds.	Violation of the licensing requirements is a misdemeanor and may also result in civil penalties of up to \$1,000 per day if the violation is likely to lead to the harm of a child or \$5,000 if actual harm to a child occurs.
VT	None located.	Abuse-registry and criminal-history checks are required of all employees of licensed child care facilities (3 or more families) and any facility that accepts public subsidies.	Violation of the licensing requirements may result in license revocation; continued operation after revocation may result in civil penalties of up to \$100 per violation.
VA	Sexual or violent offenders may not be employed or volunteer at a day care facility. Registered sex offenders may not operate a family day care home.	Abuse-registry and fingerprint-based state criminal-history checks are required of all operators, employees, adult residents, and volunteers of licensed child care facilities (1 or more children cared for in a residence; or 2 or more children cared for elsewhere) and of any facility that receives state funds.	Employment of a sexual offender or child abuser is a misdemeanor. Misrepresentation in the licensure process is a misdemeanor. Violation of the licensing requirements may result in civil penalties of up to \$500 if the health and safety of children are at risk.
WA	A mandatory condition of supervised release for sexual offenders whose victims were minors is a prohibition on serving in a paid or volunteer capacity in a position involving control or supervision of children.	Fingerprint-based national and state criminal-history checks are required of all operators and employees who have not lived in the state for the past 3 years of licensed child care facilities.	Violation of the licensing requirements may result in civil penalties of up to \$250 per violation per day.
WV	A mandatory condition of supervised release for sexual offenders whose victims were minors is a prohibition on employment within 1,000 feet of a child care facility.	Fingerprint-based national and state criminal-history checks are required of all operators and employees responsible for the care of children in all child care facilities.	Violation of the licensing requirements may result in license revocation; continued operation after revocation is a misdemeanor.
WI	Convicted sex offenders whose victims were minors may not be employed or volunteer in a position that requires interaction with children.	Abuse-registry and fingerprint-based national and state criminal-history checks are required of all operators, adult residents, and employees and contractors with regular, direct contact with children, and adult residents of licensed child care facilities (4 or more children). Periodic checks are required every 4 years.	Violation of the licensing requirements may result in civil penalties of up to \$1,000 per violation per day.
WY	None located.	Abuse-registry and state criminal-history checks are required of all staff of licensed child care facilities (3 or more children).	Violation of the licensing requirements may result in license revocation; continued operation after revocation is a misdemeanor.

Source: GAO analysis of relevant state laws.

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