

# HOUSE BILL No. 5325

October 30, 1997, Introduced by Reps. Geiger, LeTarte, Lowe, Cropsey, Walberg, Green, McManus, Llewellyn, Richner, Birkholz, Jellema, DeVuyst, Horton and Gernaat and referred to the Committee on Human Services and Children.

A bill to amend 1973 PA 116, entitled

"An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of the department of social services and adoption facilitators; to provide penalties; and to repeal certain acts and parts of acts,"

by amending section 5 (MCL 722.115), as amended by 1995 PA 81.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5. (1) A person, partnership, firm, corporation, asso-  
2 ciation, or nongovernmental organization shall not establish or  
3 maintain a child care organization unless licensed or registered  
4 by the department. Application for a license or certificate of  
5 registration shall be made on forms provided, and in the manner  
6 prescribed, by the department. Before issuing or renewing a  
7 license, the department shall investigate the activities and  
8 proposed standards of care of the applicant and shall make an

1 on-site visit of the proposed or established organization. If  
2 the department is satisfied as to the need for a child care  
3 organization, its financial stability, the good moral character  
4 of the applicant, and that the services and facilities are condu-  
5 cive to the welfare of the children, the department shall issue  
6 or renew the license. As used in this subsection, "good moral  
7 character" means good moral character as defined and determined  
8 pursuant to ~~Act No. 381 of the Public Acts of 1974, being sec-~~  
9 ~~tions 338.41 to 338.47 of the Michigan Compiled Laws~~ 1974 PA  
10 381, MCL 338.41 TO 338.47.

11 (2) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (9),  
12 THE department shall issue a certificate of registration to a  
13 person who has successfully completed an orientation session  
14 offered by the department, and who certifies to the department  
15 that the family day care home has complied with and will continue  
16 to comply with the rules promulgated under this act, and will  
17 provide services and facilities, as determined by the department,  
18 conducive to the welfare of children. The department shall make  
19 available an orientation session to applicants for registration  
20 regarding this act, the rules promulgated under this act, and the  
21 needs of children in family day care before issuing a certificate  
22 of registration. The department shall issue a certificate of  
23 registration to a specific person at a specific location. A cer-  
24 tificate of registration is nontransferable and remains the prop-  
25 erty of the department. Within 90 days after initial registra-  
26 tion, the department shall make an on-site visit of the family  
27 day care home.

1           (3) The department may authorize a licensed child placing  
2 agency or an approved governmental unit to investigate a foster  
3 family home or a foster family group home pursuant to subsection  
4 (1) and to certify that the foster family home or foster family  
5 group home meets the licensing requirements prescribed by this  
6 act. A foster family home or a foster family group home shall be  
7 certified for licensing by the department by only 1 child placing  
8 agency or approved governmental unit. Other child placing agen-  
9 cies may place children in a foster family home or foster family  
10 group home only upon the approval of the certifying agency or  
11 governmental unit.

12           (4) The department may authorize a licensed child placing  
13 agency or an approved governmental unit to place a child who is  
14 16 or 17 years of age in his or her own unlicensed residence, or  
15 in the unlicensed residence of an adult who has no supervisory  
16 responsibility for the child, if a child placing agency or gov-  
17 ernmental unit retains supervisory responsibility for the child.

18           (5) A licensed child placing agency, child caring institu-  
19 tion, and an approved governmental unit shall provide the state  
20 court administrative office and a local foster care review board  
21 established under ~~Act No. 422 of the Public Acts of 1984, being~~  
22 ~~sections 722.131 to 722.139a of the Michigan Compiled Laws~~ 1984  
23 PA 422, MCL 722.131 TO 722.139A, such records as may be requested  
24 pertaining to children in foster care placement for more than 6  
25 months.

26           (6) The department may authorize a licensed child placing  
27 agency or an approved governmental unit to place a child who is

1 16 or 17 years old in an adult foster care family home or an  
2 adult foster care small group home licensed under the adult  
3 foster care facility licensing act, ~~Act No. 218 of the Public~~  
4 ~~Acts of 1979, being sections 400.701 to 400.737 of the Michigan~~  
5 ~~Compiled Laws~~ 1979 PA 218, MCL 400.701 TO 400.737, if a licensed  
6 child placing agency or approved governmental unit retains super-  
7 visory responsibility for the child and certifies to the depart-  
8 ment all of the following:

9 (a) The placement is in the best interests of the child.

10 (b) The needs of the child can be adequately met by the  
11 adult foster care family home or small group home.

12 (c) The child will be compatible with other residents of the  
13 adult foster care family home or small group home.

14 (d) The child placing agency or approved governmental unit  
15 will periodically reevaluate the placement of an individual under  
16 this subsection to determine that the criteria for placement in  
17 subdivisions (a) through (c) continue to be met.

18 (7) The director of the department, or his or her designee,  
19 may authorize, on an exception basis, a licensed child placing  
20 agency or an approved governmental unit to place an adult in a  
21 foster family home, if a licensed child placing agency or  
22 approved governmental unit certifies to the department all of the  
23 following:

24 (a) The adult is a person with a developmental disability as  
25 defined by section ~~600~~ 100A of the mental health code, ~~Act~~  
26 ~~No. 258 of the Public Acts of 1974, being section 330.1600 of the~~  
27 ~~Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1100A, or a person

1 who is otherwise neurologically handicapped, and the person is  
2 also physically limited to such a degree as to require complete  
3 physical assistance with mobility and activities of daily  
4 living.

5 (b) The placement is in the best interest of the adult and  
6 will not adversely affect the interest of the foster child or  
7 children residing in the foster family home.

8 (c) The identified needs of the adult can be met by the  
9 foster family home.

10 (d) The adult will be compatible with other residents of the  
11 foster family home.

12 (e) The child placing agency or approved governmental unit  
13 will periodically reevaluate the placement of an adult under this  
14 subsection to determine that the criteria for placement in subdi-  
15 visions (a) through (d) continue to be met and document that the  
16 adult is receiving care consistent with the administrative rules  
17 for a child placing agency.

18 (8) The director of the department, or his or her designee,  
19 may authorize, on an exception basis, a licensed child placing  
20 agency or an approved governmental unit to place a child in an  
21 adult foster care family home or an adult foster care small group  
22 home licensed under ~~Act No. 218 of the Public Acts of 1979~~ THE  
23 ADULT FOSTER CARE FACILITY LICENSING ACT, 1979 PA 218, MCL  
24 400.701 TO 400.737, if the licensed child placing agency or  
25 approved governmental unit certifies to the department all of the  
26 following:

1 (a) The placement is in the best interests of the child.

2 (b) The placement has the concurrence of the parent or  
3 guardian of the child.

4 (c) The identified needs of the child can be met adequately  
5 by the adult foster care family home or small group home.

6 (d) The psychosocial and clinical needs of the child are  
7 compatible with those of other residents of the adult foster care  
8 family home or small group home.

9 (e) The clinical treatment of the child's condition is simi-  
10 lar to that of the other residents of the adult foster care  
11 family home or small group home.

12 (f) The child's cognitive level is consistent with the cog-  
13 nitive level of the other residents of the adult foster care  
14 family home or small group home.

15 (g) The child is neurologically handicapped and is also  
16 physically limited to such a degree as to require complete physi-  
17 cal assistance with mobility and activities of daily living.

18 (h) The child placing agency or approved governmental unit  
19 will periodically reevaluate the placement of a child under this  
20 subsection to determine that the criteria for placement in subdi-  
21 visions (a) to (g) continue to be met.

22 (9) A FAMILY DAY CARE HOME THAT PROVIDES CARE TO 4 OR FEWER  
23 CHILDREN AND THAT COMPLIES WITH THIS SUBSECTION MAY OPERATE WITH-  
24 OUT A REGISTRATION ISSUED UNDER SUBSECTION (2). A FAMILY DAY  
25 CARE HOME SEEKING TO OPERATE UNDER THIS SUBSECTION SHALL FIRST  
26 OBTAIN FROM THE PARENT OR LEGAL GUARDIAN OF EACH CHILD CARED FOR  
27 A WRITTEN WAIVER ON A FORM APPROVED BY THE DEPARTMENT STATING

1 THAT THE PARENT OR LEGAL GUARDIAN KNOWS THE FAMILY DAY CARE HOME  
2 WILL BE OPERATING WITHOUT A REGISTRATION AND THAT THE HOME MAY  
3 NOT MEET THE REQUIREMENTS OF THE STATE FOR OPERATING A FAMILY DAY  
4 CARE HOME. AFTER OBTAINING THE WRITTEN WAIVERS, THE FAMILY DAY  
5 CARE HOME SHALL FILE WITH THE DEPARTMENT AN AFFIDAVIT IDENTIFYING  
6 THE HOME AS A PROVIDER OF RECORD AND PROVIDING THE NAMES AND  
7 ADDRESSES OF THE OWNER AND OPERATOR OF THE HOME, OF EACH INDIVID-  
8 UAL EMPLOYED AS A CAREGIVER IN THE HOME, AND OF EACH CHILD CARED  
9 FOR IN THE HOME AND THE CHILD'S PARENT OR LEGAL GUARDIAN. UPON  
10 RECEIPT OF AN AFFIDAVIT UNDER THIS SUBSECTION, THE DEPARTMENT  
11 SHALL REQUEST THE DEPARTMENT OF STATE POLICE TO PERFORM A CRIMI-  
12 NAL RECORD HISTORY CHECK ON THE OWNER AND OPERATOR AND EMPLOYEES  
13 NAMED IN THE AFFIDAVIT. THE DEPARTMENT OF STATE POLICE SHALL  
14 CHECK EACH NAME IN THE LAW ENFORCEMENT INFORMATION NETWORK AND  
15 REPORT THE RESULTS TO THE DEPARTMENT. THE DEPARTMENT ALSO SHALL  
16 CHECK THE CENTRAL REGISTRY ESTABLISHED UNDER SECTION 7 OF THE  
17 CHILD PROTECTION LAW, 1975 PA 238, MCL 722.627, FOR INFORMATION  
18 ON SUBSTANTIATED REPORTS OF CHILD ABUSE. IF THE OWNER OR OPERA-  
19 TOR OR AN EMPLOYEE HAS COMMITTED A CRIME THAT WAS REPORTED TO THE  
20 LAW ENFORCEMENT INFORMATION NETWORK OR IS ENTERED IN THE CENTRAL  
21 REGISTRY AS HAVING COMMITTED CHILD ABUSE, THE DEPARTMENT SHALL  
22 REPORT THAT FACT TO EACH PARENT OR LEGAL GUARDIAN NAMED IN THE  
23 AFFIDAVIT WITHIN 3 DAYS AFTER RECEIVING THE INFORMATION FROM THE  
24 DEPARTMENT OF STATE POLICE OR FROM THE CENTRAL REGISTRY.