

# SENATE BILL No. 335

March 22, 2005, Introduced by Senators JACOBS, SCHAUER, SWITALSKI, GOSCHKA, CHERRY, BASHAM, HARDIMAN, BRATER, BERNERO, BARCIA, HAMMERSTROM, PATTERSON and GEORGE and referred to the Committee on Health Policy.

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 certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,"

by amending section 1 (MCL 722.111), as amended by 2002 PA 696, and by adding section 17a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. (1) As used in this act:

2           (a) "Child care organization" means a governmental or  
3 nongovernmental organization having as its principal function the  
4 receiving of minor children for care, maintenance, training, and  
5 supervision, notwithstanding that educational instruction may be

1 given. Child care organization includes organizations commonly  
2 described as child caring institutions, child placing agencies,  
3 children's camps, child care centers, day care centers, nursery  
4 schools, parent cooperative preschools, foster homes, group homes,  
5 or day care homes. Child care organization does not include a  
6 governmental or nongovernmental organization that does either of  
7 the following:

8 (i) Provides care exclusively to minors who have been  
9 emancipated by court order ~~pursuant to~~ **UNDER** section 4(3) of 1968  
10 PA 293, MCL 722.4.

11 (ii) Provides care exclusively to ~~persons~~ **INDIVIDUALS** who are  
12 18 years of age or older and to minors who have been emancipated by  
13 court order ~~pursuant to~~ **UNDER** section 4(3) of 1968 PA 293, MCL  
14 722.4, at the same location.

15 (b) "Child caring institution" means a child care facility  
16 that is organized for the purpose of receiving minor children for  
17 care, maintenance, and supervision, usually on a 24-hour basis, in  
18 buildings maintained by the child caring institution for that  
19 purpose, and operates throughout the year. An educational program  
20 may be provided, but the educational program shall not be the  
21 primary purpose of the facility. Child caring institution includes  
22 a maternity home for the care of unmarried mothers who are minors  
23 and an agency group home, that is described as a small child caring  
24 institution owned, leased, or rented by a licensed agency providing  
25 care for more than 4 but less than 13 minor children. Child caring  
26 institution also includes institutions for mentally retarded or  
27 emotionally disturbed minor children. Child caring institution does

1 not include a hospital, nursing home, or home for the aged licensed  
2 under article 17 of the public health code, 1978 PA 368, MCL  
3 333.20101 to 333.22260, a boarding school licensed under section  
4 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a  
5 hospital or facility operated by the state or licensed under the  
6 mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an  
7 adult foster care family home or an adult foster care small group  
8 home licensed under the adult foster care facility licensing act,  
9 1979 PA 218, MCL 400.701 to 400.737, in which a child has been  
10 placed pursuant to section 5(6).

11 (c) "Child placing agency" means a governmental organization  
12 or an agency organized ~~pursuant to~~ **UNDER** the nonprofit  
13 corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, for the  
14 purpose of receiving children for placement in private family homes  
15 for foster care or for adoption. The function of a child placing  
16 agency may include investigating applicants for adoption and  
17 investigating and certifying foster family homes and foster family  
18 group homes as provided in this act. The function of a child  
19 placing agency may also include supervising children who are 16 or  
20 17 years of age and who are living in unlicensed residences as  
21 provided in section 5(4).

22 (d) "Children's camp" means a residential, day, troop, or  
23 travel camp conducted ~~in a natural environment~~ for more than 4  
24 school-age children, apart from the children's parents, relatives,  
25 or legal guardians. ~~, for 5 or more days in a 14 day period.~~ A  
26 children's camp provides care and supervision for the same group of  
27 children for usually not more than 12 weeks.

1 (e) "Child care center" or "day care center" means a facility,  
2 other than a private residence, receiving 1 or more preschool or  
3 school-age children for care for periods of less than 24 hours a  
4 day, and where the parents or guardians are not immediately  
5 available to the child. Child care center or day care center  
6 includes a facility that provides care for not less than 2  
7 consecutive weeks, regardless of the number of hours of care per  
8 day. The facility is generally described as a child care center,  
9 day care center, day nursery, nursery school, parent cooperative  
10 preschool, play group, or drop-in center. Child care center or day  
11 care center does not include any of the following:

12 (i) A Sunday school, a vacation bible school, or a religious  
13 instructional class that is conducted by a religious organization  
14 where children are attending for not more than 3 hours per day for  
15 an indefinite period or for not more than 8 hours per day for a  
16 period not to exceed 4 weeks during a 12-month period.

17 (ii) A facility operated by a religious organization ~~where~~  
18 ~~children are cared~~ **THAT PROVIDES CHILD CARE** for not more than 3  
19 hours while ~~persons~~ **INDIVIDUALS** responsible for the children are  
20 attending religious services.

21 (iii) Beginning July 1, 2003, a facility or program for school-  
22 age children that is operated at a school by a public school or by  
23 a person or entity with whom a public school contracts for  
24 services, in accordance with section 1285a(2) of the revised school  
25 code, 1976 PA 451, MCL 380.1285a, if that facility or program has  
26 been granted an exemption under subsection (2).

27 (f) "Private home" means a private residence in which the

1 licensee or registrant permanently resides as a member of the  
2 household, which residency is not contingent upon caring for  
3 children or employment by a licensed or approved child placing  
4 agency. Private home includes a full-time foster family home, a  
5 full-time foster family group home, a group day care home, or a  
6 family day care home, as follows:

7 (i) "Foster family home" is a private home in which 1 but not  
8 more than 4 minor children, who are not related to an adult member  
9 of the household by blood or marriage, or who are not placed in the  
10 household ~~pursuant to~~ **UNDER** the Michigan adoption code, chapter X  
11 of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are  
12 given care and supervision for 24 hours a day, for 4 or more days a  
13 week, for 2 or more consecutive weeks, unattended by a parent or  
14 legal guardian.

15 (ii) "Foster family group home" means a private home in which  
16 more than 4 but fewer than 7 minor children, who are not related to  
17 an adult member of the household by blood or marriage, or who are  
18 not placed in the household ~~pursuant to~~ **UNDER** the Michigan  
19 adoption code, chapter X of the probate code of 1939, 1939 PA 288,  
20 MCL 710.21 to 710.70, are provided care for 24 hours a day, for 4  
21 or more days a week, for 2 or more consecutive weeks, unattended by  
22 a parent or legal guardian.

23 (iii) "Family day care home" means a private home in which 1 but  
24 fewer than 7 minor children are received for care and supervision  
25 for periods of less than 24 hours a day, unattended by a parent or  
26 legal guardian, except children related to an adult member of the  
27 family by blood, marriage, or adoption. Family day care home

1 includes a home in which care is given to an unrelated minor child  
2 for more than 4 weeks during a calendar year.

3 (iv) "Group day care home" means a private home in which more  
4 than 6 but not more than 12 minor children are given care and  
5 supervision for periods of less than 24 hours a day unattended by a  
6 parent or legal guardian, except children related to an adult  
7 member of the family by blood, marriage, or adoption. Group day  
8 care home includes a home in which care is given to an unrelated  
9 minor child for more than 4 weeks during a calendar year.

10 (g) "Licensee" means a person, partnership, firm, corporation,  
11 association, nongovernmental organization, or local or state  
12 government child care organization that has been issued a license  
13 under this act to operate a child care organization.

14 (h) "Provisional license" means a license issued **UNDER THIS**  
15 **ACT** to a child care organization that is temporarily unable to  
16 conform to all of the rules promulgated under this act.

17 (i) "Regular license" means a license issued to a child care  
18 organization indicating that the organization is in compliance with  
19 all rules promulgated under this act.

20 (j) "Guardian" means the guardian of the person.

21 (k) "Minor child" means any of the following:

22 (i) ~~A person~~ **AN INDIVIDUAL** less than 18 years of age.

23 (ii) ~~A person~~ **AN INDIVIDUAL** who is a resident in a child  
24 caring institution, children's camp, foster family home, or foster  
25 family group home; who becomes 18 years of age while residing in  
26 the child caring institution, children's camp, foster family home,  
27 or foster family group home; and who continues residing in the

1 child caring institution, children's camp, foster family home, or  
2 foster family group home to receive care, maintenance, training,  
3 and supervision. ~~However, a~~ **A** minor child under this subparagraph  
4 does not include ~~a person~~ **AN INDIVIDUAL** 18 years of age or older  
5 who is placed in a child caring institution, foster family home, or  
6 foster family group home ~~pursuant to~~ **UNDER** an adjudication under  
7 section 2(a) of chapter XIIIA of the probate code of 1939, 1939 PA  
8 288, MCL 712A.2, or section 1 of chapter IX of the code of criminal  
9 procedure, 1927 PA 175, MCL 769.1. This subparagraph applies only  
10 if the number of those residents who become 18 years of age does  
11 not exceed the following:

12 (A) Two, if the total number of residents is 10 or fewer.

13 (B) Three, if the total number of residents is not less than  
14 11 and not more than 14.

15 (C) Four, if the total number of residents is not less than 15  
16 and not more than 20.

17 (D) Five, if the total number of residents is 21 or more.

18 (iii) ~~A person~~ **AN INDIVIDUAL** 18 years of age or older who is  
19 placed in a foster family home under section 5(7).

20 (l) "Registrant" means a person who has been issued a  
21 certificate of registration under this act to operate a family day  
22 care home.

23 (m) "Registration" means the process by which the department  
24 of consumer and industry services regulates family day care homes,  
25 and includes the requirement that a family day care home certify to  
26 the department that the family day care home has complied with and  
27 will continue to comply with the rules promulgated under this act.

1 (n) "Certificate of registration" means a written document  
2 issued under this act to a family day care home through  
3 registration.

4 (o) "Related" means a parent, grandparent, brother, sister,  
5 stepparent, stepsister, stepbrother, uncle, aunt, cousin, great  
6 aunt, great uncle, or stepgrandparent related by marriage, blood,  
7 or adoption.

8 (p) "Religious organization" means church, ecclesiastical  
9 corporation, or group, not organized for pecuniary profit, that  
10 gathers for mutual support and edification in piety or worship of a  
11 supreme deity.

12 (2) A facility or program for school-age children that is  
13 operated at a school by a public school or by a person or entity  
14 with whom a public school contracts for services and that has been  
15 in operation and approved for a minimum of 4 years may apply to the  
16 department of consumer and industry services to be exempt from this  
17 act. The department of consumer and industry services shall respond  
18 to a facility or program requesting exemption under this subsection  
19 within 45 days from the date the completed application is received.  
20 The department of consumer and industry services may exempt from  
21 this act a facility or program that meets all of the following  
22 criteria:

23 (a) The facility or program has been in operation and approved  
24 for a minimum of 4 years before the application date.

25 (b) During the 4 years before the application date, the  
26 facility or program has not had a substantial violation of this  
27 act, rules promulgated under this act, or the terms of an approval



1 under this act.

2 (c) The school board or board of directors adopts a resolution  
3 supporting the application for exemption described in this  
4 subsection.

5 SEC. 17A. (1) IF THE CONDITIONS PRESCRIBED IN SUBSECTION (2)  
6 ARE MET, NOTWITHSTANDING ANY CHILDREN'S CAMP POLICY TO THE  
7 CONTRARY, A MINOR CHILD MAY POSSESS AND USE 1 OR MORE OF THE  
8 FOLLOWING AT THE CHILDREN'S CAMP, ON CAMP-SPONSORED TRANSPORTATION,  
9 OR AT ANY ACTIVITY, EVENT, OR PROGRAM SPONSORED BY THE CHILDREN'S  
10 CAMP OR IN WHICH THE MINOR CHILD IS PARTICIPATING:

11 (A) A METERED DOSE INHALER OR A DRY POWDER INHALER TO  
12 ALLEVIATE ASTHMATIC SYMPTOMS OR FOR USE BEFORE EXERCISE TO PREVENT  
13 THE ONSET OF ASTHMATIC SYMPTOMS.

14 (B) AN EPINEPHRINE AUTO-INJECTOR OR EPINEPHRINE INHALER TO  
15 TREAT ANAPHYLAXIS.

16 (2) SUBSECTION (1) APPLIES TO A MINOR CHILD IF ALL OF THE  
17 FOLLOWING CONDITIONS ARE MET:

18 (A) THE MINOR CHILD HAS WRITTEN APPROVAL TO POSSESS AND USE  
19 THE INHALER OR EPINEPHRINE AUTO-INJECTOR AS DESCRIBED IN SUBSECTION  
20 (1) FROM THE MINOR CHILD'S PHYSICIAN OR OTHER HEALTH CARE PROVIDER  
21 AUTHORIZED BY LAW TO PRESCRIBE AN INHALER OR EPINEPHRINE AUTO-  
22 INJECTOR AND FROM THE MINOR CHILD'S PARENT OR LEGAL GUARDIAN.

23 (B) THE DIRECTOR OR OTHER CHIEF ADMINISTRATOR OF THE MINOR  
24 CHILD'S CAMP HAS RECEIVED A COPY OF EACH WRITTEN APPROVAL REQUIRED  
25 UNDER SUBDIVISION (A) FOR THE MINOR CHILD.

26 (C) THERE IS ON FILE AT THE CHILDREN'S CAMP A WRITTEN  
27 EMERGENCY CARE PLAN THAT CONTAINS SPECIFIC INSTRUCTIONS FOR THE

1 MINOR CHILD'S NEEDS, THAT IS PREPARED BY A PHYSICIAN LICENSED IN  
2 THIS STATE IN COLLABORATION WITH THE MINOR CHILD AND THE MINOR  
3 CHILD'S PARENT OR LEGAL GUARDIAN, AND THAT IS UPDATED AS NECESSARY  
4 FOR CHANGING CIRCUMSTANCES.

5 (3) A CHILDREN'S CAMP OR AN OWNER, DIRECTOR, OR EMPLOYEE OF A  
6 CHILDREN'S CAMP IS NOT LIABLE FOR DAMAGES IN A CIVIL ACTION FOR  
7 INJURY, DEATH, OR LOSS TO PERSON OR PROPERTY ALLEGEDLY ARISING FROM  
8 EITHER OF THE FOLLOWING:

9 (A) AN EMPLOYEE OF THE CHILDREN'S CAMP HAVING PROHIBITED A  
10 MINOR CHILD FROM USING AN INHALER OR EPINEPHRINE AUTO-INJECTOR  
11 BECAUSE OF THE EMPLOYEE'S REASONABLE BELIEF, FORMED AFTER A  
12 REASONABLE AND ORDINARY INQUIRY, THAT THE CONDITIONS PRESCRIBED IN  
13 SUBSECTION (2) HAD NOT BEEN SATISFIED.

14 (B) AN EMPLOYEE OF THE CHILDREN'S CAMP HAVING PERMITTED A  
15 MINOR CHILD TO USE OR POSSESS AN INHALER OR EPINEPHRINE AUTO-  
16 INJECTOR BECAUSE OF THE EMPLOYEE'S REASONABLE BELIEF, FORMED AFTER  
17 A REASONABLE AND ORDINARY INQUIRY, THAT THE CONDITIONS PRESCRIBED  
18 IN SUBSECTION (2) HAD BEEN SATISFIED.

19 (4) THIS SECTION DOES NOT ELIMINATE, LIMIT, OR REDUCE ANY  
20 OTHER IMMUNITY OR DEFENSE THAT A CAMP OR AN OWNER, DIRECTOR, OR  
21 EMPLOYEE OF A CAMP MAY HAVE UNDER OTHER STATE LAW.

22 (5) A CHILDREN'S CAMP MAY REQUEST A MINOR CHILD'S PARENT OR  
23 LEGAL GUARDIAN TO PROVIDE AN EXTRA INHALER OR EPINEPHRINE AUTO-  
24 INJECTOR TO DESIGNATED CAMP PERSONNEL FOR USE IN CASE OF EMERGENCY.  
25 A PARENT OR LEGAL GUARDIAN IS NOT REQUIRED TO PROVIDE AN EXTRA  
26 INHALER OR EPINEPHRINE AUTO-INJECTOR TO CAMP PERSONNEL.

27 (6) A DIRECTOR OR OTHER CHIEF ADMINISTRATOR OF A CHILDREN'S

1 CAMP WHO IS AWARE THAT A MINOR CHILD POSSESSES AN INHALER OR  
2 EPINEPHRINE AUTO-INJECTOR AS AUTHORIZED UNDER THIS SECTION SHALL  
3 NOTIFY EACH CAMP EMPLOYEE WHO SUPERVISES THE MINOR CHILD OF THAT  
4 FACT AND OF THE PROVISIONS OF THIS ACT.