

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 241**

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 sections 1, 2a, 2b, 3c, 3d, 3e, 5, 5f, 5g, 9a, and 11b (MCL 722.111, 722.112a, 722.112b, 722.113c, 722.113d, 722.113e, 722.115, 722.115f, 722.115g, 722.119a, and 722.121b), section 1 as amended by 2005 PA 202, section 2a as amended by 1998 PA 440, section 2b as added by 2004 PA 531, section 3c as added by 1993 PA 219, section 3d as added by 1993 PA 218, section 3e as added by 2002 PA 717, sections 5 and 5f as amended by 2006 PA 580, section 5g as added by 2005 PA 128, section 9a as amended by 2004 PA 315, and section 11b as added by 2002 PA 645.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 (a) "Child care organization" means a governmental or
2 nongovernmental organization having as its principal function ~~the~~
3 receiving ~~of~~ minor children for care, maintenance, training, and
4 supervision, notwithstanding that educational instruction may be
5 given. Child care organization includes organizations commonly
6 described as child caring institutions, child placing agencies,
7 children's camps, **CHILDREN'S CAMPSITES, CHILDREN'S THERAPEUTIC**
8 **GROUP HOMES**, child care centers, day care centers, nursery schools,
9 parent cooperative preschools, foster homes, group homes, or ~~day~~
10 **CHILD** care homes. Child care organization does not include a
11 governmental or nongovernmental organization that does either of
12 the following:

13 (i) Provides care exclusively to minors who have been
14 emancipated by court order under section 4(3) of 1968 PA 293, MCL
15 722.4.

16 (ii) Provides care exclusively to persons who are 18 years of
17 age or older and to minors who have been emancipated by court order
18 under section 4(3) of 1968 PA 293, MCL 722.4, at the same location.

19 (b) "Child caring institution" means a child care facility
20 that is organized for the purpose of receiving minor children for
21 care, maintenance, and supervision, usually on a 24-hour basis, in
22 buildings maintained by the child caring institution for that
23 purpose, and operates throughout the year. An educational program
24 may be provided, but the educational program shall not be the
25 primary purpose of the facility. Child caring institution includes
26 a maternity home for the care of unmarried mothers who are minors
27 and an agency group home, that is described as a small child caring

1 institution owned, leased, or rented by a licensed agency providing
2 care for more than 4 but less than 13 minor children. Child caring
3 institution also includes institutions for mentally retarded or
4 emotionally disturbed minor children. Child caring institution does
5 not include a hospital, nursing home, or home for the aged licensed
6 under article 17 of the public health code, 1978 PA 368, MCL
7 333.20101 to 333.22260, a boarding school licensed under section
8 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a
9 hospital or facility operated by the state or licensed under the
10 mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an
11 adult foster care family home or an adult foster care small group
12 home licensed under the adult foster care facility licensing act,
13 1979 PA 218, MCL 400.701 to 400.737, in which a child has been
14 placed under section 5(6).

15 (c) "Child placing agency" means a governmental organization
16 or an agency organized under the nonprofit corporation act, 1982 PA
17 162, MCL 450.2101 to 450.3192, for the purpose of receiving
18 children for placement in private family homes for foster care or
19 for adoption. The function of a child placing agency may include
20 investigating applicants for adoption and investigating and
21 certifying foster family homes and foster family group homes as
22 provided in this act. The function of a child placing agency may
23 also include supervising children who are 16 or 17 years of age and
24 who are living in unlicensed residences as provided in section
25 5(4).

26 (d) "Children's camp" means a residential, day, troop, or
27 travel camp that provides care and supervision and is conducted in

1 a natural environment for more than 4 children, apart from the
2 children's parents, relatives, or legal guardians, for 5 or more
3 days in a 14-day period.

4 (E) "CHILDREN'S CAMPSITE" MEANS THE OUTDOOR SETTING WHERE A
5 CHILDREN'S RESIDENTIAL OR DAY CAMP IS LOCATED.

6 (F) "CHILDREN'S THERAPEUTIC GROUP HOME" MEANS A CHILD CARING
7 INSTITUTION RECEIVING NOT MORE THAN 6 MINOR CHILDREN WHO ARE
8 DIAGNOSED WITH A DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION
9 100A OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100A, OR A
10 SERIOUS EMOTIONAL DISTURBANCE AS DEFINED IN SECTION 100D OF THE
11 MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100D. A CHILDREN'S
12 THERAPEUTIC GROUP HOME MEETS ALL OF THE FOLLOWING REQUIREMENTS:

13 (i) PROVIDES CARE, MAINTENANCE, AND SUPERVISION, USUALLY ON A
14 24-HOUR BASIS.

15 (ii) COMPLIES WITH THE RULES FOR CHILD CARING INSTITUTIONS,
16 EXCEPT THAT BEHAVIOR MANAGEMENT ROOMS, PERSONAL RESTRAINT,
17 MECHANICAL RESTRAINT, OR SECLUSION WHICH IS ALLOWED IN CERTAIN
18 CIRCUMSTANCES UNDER LICENSING RULES ARE PROHIBITED IN A CHILDREN'S
19 THERAPEUTIC GROUP HOME.

20 (iii) IS NOT A PRIVATE HOME.

21 (iv) IS NOT LOCATED ON A CAMPUS WITH OTHER LICENSED FACILITIES.

22 (G) ~~(e)~~ "Child care center" or "day care center" means a
23 facility, other than a private residence, receiving 1 or more
24 preschool or school-age children for care for periods of less than
25 24 hours a day, ~~and~~ where the parents or guardians are not
26 immediately available to the child. Child care center or day care
27 center includes a facility that provides care for not less than 2

1 consecutive weeks, regardless of the number of hours of care per
2 day. The facility is generally described as a child care center,
3 day care center, day nursery, nursery school, parent cooperative
4 preschool, play group, before- or after-school program, or drop-in
5 center. Child care center or day care center does not include any
6 of the following:

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

12 (ii) A facility operated by a religious organization where
13 children are ~~caared~~ **IN THE RELIGIOUS ORGANIZATION'S CARE** for not
14 more than 3 hours while persons responsible for the children are
15 attending religious services.

16 (iii) A program that is primarily supervised, school-age-child-
17 focused training in a specific subject, including, but not limited
18 to, dancing, drama, music, or religion. This exclusion applies only
19 to the time a child is involved in supervised, school-age-child-
20 focused training.

21 (iv) A program that is primarily an incident of group athletic
22 or social activities for school-age children sponsored by or under
23 the supervision of an organized club or hobby group, including, but
24 not limited to, youth clubs, scouting, and school-age recreational
25 or supplementary education programs. This exclusion applies only to
26 the time the school-age child is engaged in the group athletic or
27 social activities and if the school-age child can come and go at

1 will.

2 (H) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES OR A
3 SUCCESSOR AGENCY OR DEPARTMENT RESPONSIBLE FOR LICENSURE AND
4 REGISTRATION UNDER THIS ACT.

5 (I) ~~(f)~~—"Private home" means a private residence in which the
6 licensee or registrant permanently resides as a member of the
7 household, which residency is not contingent upon caring for
8 children or employment by a licensed or approved child placing
9 agency. Private home includes a full-time foster family home, a
10 full-time foster family group home, a group ~~day~~-CHILD care home, or
11 a family ~~day~~-CHILD care home, as follows:

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

20 (ii) "Foster family group home" means a private home in which
21 more than 4 but fewer than 7 minor children, who are not related to
22 an adult member of the household by blood or marriage, or who are
23 not placed in the household under the Michigan adoption code,
24 chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to
25 710.70, are provided care for 24 hours a day, for 4 or more days a
26 week, for 2 or more consecutive weeks, unattended by a parent, ~~or~~
27 legal guardian, **OR LEGAL CUSTODIAN.**

1 (iii) "Family ~~day~~-CHILD care home" means a private home in which
2 1 but fewer than 7 minor children are received for care and
3 supervision for periods of less than 24 hours a day, unattended by
4 a parent or legal guardian, except children related to an adult
5 member of the family by blood, marriage, or adoption. Family ~~day~~
6 CHILD care home includes a home in which care is given to an
7 unrelated minor child for more than 4 weeks during a calendar year.

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

15 (J) "LEGAL CUSTODIAN" MEANS AN INDIVIDUAL WHO IS AT LEAST 18
16 YEARS OF AGE IN WHOSE CARE A MINOR CHILD REMAINS OR IS PLACED AFTER
17 A COURT MAKES A FINDING UNDER SECTION 13A(5) OF CHAPTER XIIIA OF THE
18 PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.13A.

19 (K) ~~(g)~~"Licensee" means a person, partnership, firm,
20 corporation, association, nongovernmental organization, or local or
21 state government child care organization that has been issued a
22 license under this act to operate a child care organization.

23 (L) ~~(h)~~"Provisional license" means a license issued to a child
24 care organization that is temporarily unable to conform to all of
25 the rules promulgated under this act.

26 (M) ~~(i)~~"Regular license" means a license issued to a child
27 care organization indicating that the organization is in compliance

1 with all rules promulgated under this act.

2 (N) ~~(j)~~—"Guardian" means the guardian of the person.

3 (O) ~~(k)~~—"Minor child" means any of the following:

4 (i) A person less than 18 years of age.

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

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

22 (B) Three, if the total number of residents is not less than
 23 11 and not more than 14.

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

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

27 (iii) A person 18 years of age or older who is placed in a

1 foster family home under section 5(7).

2 (P) ~~(I)~~ "Registrant" means a person who has been issued a
3 certificate of registration under this act to operate a family ~~day~~
4 **CHILD** care home.

5 (Q) ~~(m)~~ "Registration" means the process by which the
6 department ~~of human services~~ regulates family ~~day~~ **CHILD** care homes,
7 and includes the requirement that a family ~~day~~ **CHILD** care home
8 certify to the department ~~of human services~~ that the family ~~day~~
9 **CHILD** care home has complied with and will continue to comply with
10 the rules promulgated under this act.

11 (R) ~~(n)~~ "Certificate of registration" means a written document
12 issued under this act to a family ~~day~~ **CHILD** care home through
13 registration.

14 (S) ~~(o)~~ "Related" means a parent, grandparent, brother,
15 sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin,
16 great aunt, great uncle, or stepgrandparent related by marriage,
17 blood, or adoption.

18 (T) ~~(p)~~ "Religious organization" means **A** church,
19 ecclesiastical corporation, or group, not organized for pecuniary
20 profit, that gathers for mutual support and edification in piety or
21 worship of a supreme deity.

22 (U) ~~(q)~~ "School-age child" means a child who is eligible to be
23 enrolled in a grade of kindergarten or above, but is less than 13
24 years of age.

25 (2) A facility or program for school-age children that is
26 currently operated and has been in operation and licensed or
27 approved as provided in this act for a minimum of 2 years may apply

1 to the department ~~of human services~~ to be exempt from inspections
2 and on-site visits required under section 5. The department ~~of~~
3 ~~human services~~ shall respond to a facility or program requesting
4 exemption from inspections and on-site visits required under
5 section 5 as provided under this subsection within 45 days from the
6 date the completed application is received. The department ~~of human~~
7 ~~services~~ may grant exemption from inspections and on-site visits
8 required under section 5 to a facility or program that meets all of
9 the following criteria:

10 (a) The facility or program has been in operation and licensed
11 or approved under this act for a minimum of 2 years ~~before~~
12 **IMMEDIATELY PRECEDING** the application date.

13 (b) During the 2 years ~~before~~ **IMMEDIATELY PRECEDING** the
14 application date, the facility or program has not had a substantial
15 violation of this act, rules promulgated under this act, or the
16 terms of a licensure or an approval under this act.

17 (c) The school board, board of directors, or governing body
18 adopts a resolution supporting the application for exemption from
19 inspections and on-site visits required under section 5 as provided
20 for in this subsection.

21 (3) A facility or program granted exemption from inspections
22 and on-site visits required under section 5 as provided ~~for~~ under
23 subsection (2) is required to maintain status as a licensed or
24 approved program under this act and must continue to meet the
25 requirements of this act, the rules promulgated under this act, or
26 the terms of a license or approval under this act. A facility or
27 program granted exemption from inspections and on-site visits

1 required under section 5 as provided ~~for~~ under subsection (2) is
2 subject to an investigation by the department ~~of human services~~
3 ~~when~~ **IF** a violation of this act or a violation of a rule
4 promulgated under this act is alleged.

5 (4) A facility or program granted exemption from inspections
6 and on-site visits required under section 5 as provided ~~for~~ under
7 subsection (2) is not subject to interim or annual licensing
8 reviews. A facility or program granted exemption from inspections
9 and on-site visits required under section 5 as provided ~~for~~ under
10 subsection (2) is required to submit documentation annually
11 demonstrating compliance with the requirements of this act, the
12 rules promulgated under this act, or the terms of a license or
13 approval under this act.

14 (5) An exemption provided under subsection (2) may be
15 rescinded by the department ~~of human services~~ if the facility or
16 program willfully and substantially violates this act, the rules
17 promulgated under this act, or the terms of a license or approval
18 granted under this act.

19 Sec. 2a. (1) A child caring institution, child care center, or
20 group ~~day~~ **CHILD** care home shall have on duty at all times while the
21 institution, center, or home is providing care to 1 or more
22 children at least 1 person who has been certified within the
23 preceding 36 months in first aid and within the preceding 12 months
24 in age-appropriate cardiopulmonary resuscitation by the American
25 red cross, the American heart association, or an equivalent
26 organization or institution approved by the department.

27 (2) Section 15 does not apply to this section.

1 Sec. 2b. (1) As used in this section and sections 2c, 2d, and
2 2e, unless the context requires otherwise:

3 (a) "Adaptive device" means a mechanical device incorporated
4 in the individual plan of services that is intended to provide
5 anatomical support or to assist the minor child with adaptive
6 skills.

7 (b) "Chemical restraint" means a drug that meets all of the
8 following criteria:

9 (i) Is administered to manage a minor child's behavior in a way
10 that reduces the safety risk to the minor child or others.

11 (ii) Has the temporary effect of restricting the minor child's
12 freedom of movement.

13 (iii) Is not a standard treatment for the minor child's medical
14 or psychiatric condition.

15 (c) "Emergency safety intervention" means use of personal
16 restraint or seclusion as an immediate response to an emergency
17 safety situation.

18 (d) "Emergency safety situation" means the onset of an
19 unanticipated, severely aggressive, or destructive behavior that
20 places the minor child or others at serious threat of violence or
21 injury if no intervention occurs and that calls for an emergency
22 safety intervention.

23 (e) "Individual plan of services" means that term as defined
24 in section 100b of the mental health code, 1974 PA 258, MCL
25 330.1100b.

26 (f) "Licensed practitioner" means an individual who has been
27 trained in the use of personal restraint and seclusion, who is

1 knowledgeable of the risks inherent in the implementation of
2 personal restraint and seclusion, and who is 1 of the following:

3 (i) A physician licensed under article 15 of the public health
4 code, 1978 PA 368, MCL 333.16101 to 333.18838.

5 (ii) An individual who has been issued a specialty
6 certification as a nurse practitioner under article 15 of the
7 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

8 (iii) A physician's assistant licensed under article 15 of the
9 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

10 (iv) A registered nurse licensed under article 15 of the public
11 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

12 (v) A psychologist and a limited licensed psychologist
13 licensed under article 15 of the public health code, 1978 PA 368,
14 MCL 333.16101 to 333.18838.

15 (vi) A counselor and a limited licensed counselor licensed
16 under article 15 of the public health code, 1978 PA 368, MCL
17 333.16101 to 333.18838.

18 ~~(vii) Until July 1, 2005, a certified social worker registered~~
19 ~~under article 15 of the public health code, 1978 PA 368, MCL~~
20 ~~333.16101 to 333.18838. Beginning July 1, 2005, a~~ **A** licensed
21 master's social worker licensed under article 15 of the public
22 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

23 (g) "Mechanical restraint" means a device attached or adjacent
24 to the minor child's body that he or she cannot easily remove and
25 that restricts freedom of movement or normal access to his or her
26 body. Mechanical restraint does not include the use of a protective
27 or adaptive device or a device primarily intended to provide

1 anatomical support. Mechanical restraint does not include use of a
2 mechanical device to ensure security precautions appropriate to the
3 condition and circumstances of a minor child placed in the child
4 caring institution as a result of an order of the family division
5 of circuit court under section 2(a) of chapter XIIA of the probate
6 code of 1939, 1939 PA 288, MCL 712A.2.

7 (h) "Personal restraint" means the application of physical
8 force without the use of a device, for the purpose of restraining
9 the free movement of a minor child's body. Personal restraint does
10 not include:

11 (i) The use of a protective or adaptive device.

12 (ii) Briefly holding a minor child without undue force in order
13 to calm or comfort him or her.

14 (iii) Holding a minor child's hand, wrist, shoulder, or arm to
15 safely escort him or her from 1 area to another.

16 (iv) The use of a protective or adaptive device or a device
17 primarily intended to provide anatomical support.

18 (i) "Protective device" means an individually fabricated
19 mechanical device or physical barrier, the use of which is
20 incorporated in the individualized written plan of service. The use
21 of a protective device is intended to prevent the minor child from
22 causing serious self-injury associated with documented, frequent,
23 and unavoidable hazardous events.

24 (j) "Seclusion" means the involuntary placement of a minor
25 child in a room alone, where the minor child is prevented from
26 exiting by any means, including the physical presence of a staff
27 person if the sole purpose of that staff person's presence is to

1 prevent the minor child from exiting the room. Seclusion does not
2 include the use of a sleeping room during regular sleeping hours to
3 ensure security precautions appropriate to the condition and
4 circumstances of a minor child placed in the child caring
5 institution as a result of an order of the family division of
6 circuit court under section 2(a) and (b) of chapter XIIIA of the
7 probate code of 1939, 1939 PA 288, MCL 712A.2, if the minor child's
8 individual case treatment plan indicates that the security
9 precautions would be in the minor child's best interest.

10 (k) "Serious injury" means any significant impairment of the
11 physical condition of the minor child as determined by qualified
12 medical personnel that results from an emergency safety
13 intervention. This includes, but is not limited to, burns,
14 lacerations, bone fractures, substantial hematoma, and injuries to
15 internal organs, whether self-inflicted or inflicted by someone
16 else.

17 (2) The provisions of this section and sections 2c, 2d, and 2e
18 only apply to a child caring institution that contracts with or
19 receives payment from a community mental health services program or
20 prepaid inpatient health plan for the care, treatment, maintenance,
21 and supervision of a minor child in that child caring institution.

22 Sec. 3c. (1) An individual shall not smoke on the premises of
23 a family ~~day-CHILD~~ care home during the hours of operation of the
24 family ~~day-CHILD~~ care home. The operator of a family ~~day-CHILD~~ care
25 home may permit smoking on the premises during a period other than
26 the hours of operation of that family ~~day-CHILD~~ care home if the
27 operator has provided to a parent or legal guardian of each child

1 participating in a family ~~day~~-**CHILD** care home activity notice that
 2 smoking on the premises occurs or may occur when the family ~~day~~
 3 **CHILD** care home is not in operation.

4 (2) As used in this section **AND SECTION 3D**:

5 (a) "Child" means an individual less than 18 years of age who
 6 is not related to an adult member of the family ~~day~~-**CHILD** care home
 7 or group ~~day~~-**CHILD** care home operator.

8 (b) "Smoke" and "smoking" mean those terms as defined in
 9 section 12601 of the public health code, ~~Act No. 368 of the Public~~
 10 ~~Acts of 1978, being section 333.12601 of the Michigan Compiled Laws~~
 11 **1978 PA 368, MCL 333.12601.**

12 Sec. 3d. (1) An individual shall not smoke on the premises of
 13 a group ~~day~~-**CHILD** care home during the hours of operation of the
 14 group ~~day~~-**CHILD** care home. The operator of a group ~~day~~-**CHILD** care
 15 home shall conspicuously post on the premises a notice ~~which~~-**THAT**
 16 specifies that smoking on the premises is prohibited during the
 17 hours of operation of the group ~~day~~-**CHILD** care home.

18 (2) A group ~~day~~-**CHILD** care home operator may permit smoking on
 19 the premises during a period other than the hours of operation of
 20 that group ~~day~~-**CHILD** care home if the operator has provided to a
 21 parent or legal guardian of each child participating in a group ~~day~~
 22 **CHILD** care home activity notice that smoking on the premises occurs
 23 or may occur when the group ~~day~~-**CHILD** care home is not in
 24 operation.

25 ~~—— (3) As used in this section:~~

26 ~~—— (a) "Child" means an individual less than 18 years of age who~~
 27 ~~is not related to an adult member of the group day care home~~

1 operator's family.

2 ~~_____ (b) "Smoke" and "smoking" mean those terms as defined in~~
3 ~~section 12601 of the public health code, Act No. 368 of the Public~~
4 ~~Acts of 1978, being section 333.12601 of the Michigan Compiled~~
5 ~~Laws.~~

6 Sec. 3e. The operator of a child care center or child caring
7 institution shall conspicuously post on the premises a notice
8 stating whether or not that child care center or child caring
9 institution requires a criminal history check on its employees or
10 volunteers. The department ~~of consumer and industry services~~ shall
11 promulgate rules to implement this section ~~pursuant to~~ **UNDER** the
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
13 24.328.

14 Sec. 5. (1) A person, partnership, firm, corporation,
15 association, or nongovernmental organization shall not establish or
16 maintain a child care organization unless licensed or registered by
17 the department. Application for a license or certificate of
18 registration shall be made on forms provided, and in the manner
19 prescribed, by the department. Before issuing or renewing a
20 license, the department shall investigate the applicant's
21 activities and proposed standards of care and shall make an on-site
22 visit of the proposed or established organization. If the
23 department is satisfied as to the need for a child care
24 organization, its financial stability, the applicant's good moral
25 character, and that the services and facilities are conducive to
26 the welfare of the children, the department shall issue or renew
27 the license. If a county juvenile agency as defined in section 2 of

1 the county juvenile agency act, 1998 PA 518, MCL 45.622, certifies
2 to the department that it intends to contract with an applicant for
3 a new license, the department shall issue or deny the license
4 within 60 days after it receives a complete application as provided
5 in section 5b.

6 (2) The department shall issue a certificate of registration
7 to a person who has successfully completed an orientation session
8 offered by the department and who certifies to the department that
9 the family ~~day~~-CHILD care home has complied with and will continue
10 to comply with the rules promulgated under this act and will
11 provide services and facilities, as determined by the department,
12 conducive to the welfare of children. The department shall make
13 available to applicants for registration an orientation session to
14 applicants for registration regarding this act, the rules
15 promulgated under this act, and the needs of children in family ~~day~~
16 CHILD care before issuing a certificate of registration. The
17 department shall issue a certificate of registration to a specific
18 person at a specific location. A certificate of registration is
19 nontransferable and remains the property of the department. Within
20 90 days after initial registration, the department shall make an
21 on-site visit of the family ~~day~~-CHILD care home.

22 (3) The department may authorize a licensed child placing
23 agency or an approved governmental unit to investigate a foster
24 family home or a foster family group home according to subsection
25 (1) and to certify that the foster family home or foster family
26 group home meets the licensing requirements prescribed by this act.
27 Before certifying to the department that a foster family home or

1 foster family group home meets the licensing requirements
2 prescribed by this act, the licensed child placing agency or
3 approved governmental unit shall receive and review a medical
4 statement for each member of the household indicating that he or
5 she does not have a known condition that would affect the care of a
6 foster child. The medical statement required under this section
7 shall be signed and dated by a physician licensed under article 15
8 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
9 a physician's assistant licensed under article 15 of the public
10 health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a
11 certified nurse practitioner licensed as a registered professional
12 nurse under part 172 of the public health code, 1978 PA 368, MCL
13 333.17201 to 333.17242, who has been issued a specialty
14 certification as a nurse practitioner by the board of nursing under
15 section 17210 of the public health code, 1978 PA 368, MCL
16 333.17210, within the 12 months immediately preceding the date of
17 the initial evaluation. This subsection does not require new or
18 additional third party reimbursement or worker's compensation
19 benefits for services rendered. A foster family home or a foster
20 family group home shall be certified for licensing by the
21 department by only 1 child placing agency or approved governmental
22 unit. Other child placing agencies may place children in a foster
23 family home or foster family group home only upon the approval of
24 the certifying agency or governmental unit.

25 (4) The department may authorize a licensed child placing
26 agency or an approved governmental unit to place a child who is 16
27 or 17 years of age in his or her own unlicensed residence, or in

1 the unlicensed residence of an adult who has no supervisory
2 responsibility for the child, if a child placing agency or
3 governmental unit retains supervisory responsibility for the child.

4 (5) A licensed child placing agency, child caring institution,
5 and an approved governmental unit shall provide the state court
6 administrative office and a local foster care review board
7 established under 1984 PA 422, MCL 722.131 to 722.139a, those
8 records requested pertaining to children in foster care placement
9 for more than 6 months.

10 (6) The department may authorize a licensed child placing
11 agency or an approved governmental unit to place a child who is 16
12 or 17 years old in an adult foster care family home or an adult
13 foster care small group home licensed under the adult foster care
14 facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if a
15 licensed child placing agency or approved governmental unit retains
16 supervisory responsibility for the child and certifies to the
17 department all of the following:

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

19 (b) The child's needs can be adequately met by the adult
20 foster care family home or small group home.

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

23 (d) The child placing agency or approved governmental unit
24 will periodically reevaluate the placement of a child under this
25 subsection to determine that the criteria for placement in
26 subdivisions (a) through (c) continue to be met.

27 (7) On an exception basis, the director of the department, or

1 his or her designee, may authorize a licensed child placing agency
2 or an approved governmental unit to place an adult in a foster
3 family home if a licensed child placing agency or approved
4 governmental unit certifies to the department all of the following:

5 (a) The adult is a person with a developmental disability as
6 defined by section 100a of the mental health code, 1974 PA 258, MCL
7 330.1100a, or a person who is otherwise neurologically disabled and
8 is also physically limited to a degree that requires complete
9 physical assistance with mobility and activities of daily living.

10 (b) The placement is in the best interests of the adult and
11 will not adversely affect the interests of the foster child or
12 children residing in the foster family home.

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

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

17 (e) The child placing agency or approved governmental unit
18 will periodically reevaluate the placement of an adult under this
19 subsection to determine that the criteria for placement in
20 subdivisions (a) through (d) continue to be met and document that
21 the adult is receiving care consistent with the administrative
22 rules for a child placing agency.

23 (8) On an exception basis, the director of the department, or
24 his or her designee, may authorize a licensed child placing agency
25 or an approved governmental unit to place a child in an adult
26 foster care family home or an adult foster care small group home
27 licensed under the adult foster care **FACILITY** licensing act, 1979

1 PA 218, MCL 400.701 to 400.737, if the licensed child placing
2 agency or approved governmental unit certifies to the department
3 all of the following:

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

5 (b) The placement has the concurrence of the parent or
6 guardian of the child.

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

9 (d) The child's psychosocial and clinical needs are compatible
10 with those of other residents of the adult foster care family home
11 or small group home.

12 (e) The clinical treatment of the child's condition is similar
13 to that of the other residents of the adult foster care family home
14 or small group home.

15 (f) The child's cognitive level is consistent with the
16 cognitive level of the other residents of the adult foster care
17 family home or small group home.

18 (g) The child is neurologically disabled and is also
19 physically limited to such a degree as to require complete physical
20 assistance with mobility and activities of daily living.

21 (h) The child placing agency or approved governmental unit
22 will periodically reevaluate the placement of a child under this
23 subsection to determine that the criteria for placement in
24 subdivisions (a) to (g) continue to be met.

25 (9) Beginning October 1, 2007, except as provided in
26 subsection (1) and section 5b, the department shall issue an
27 initial or renewal license or registration under this act for child

1 care centers, group ~~day-CHILD~~ care homes, and family ~~day-CHILD~~ care
2 homes not later than 6 months after the applicant files a completed
3 application. Receipt of the application is considered the date the
4 application is received by any agency or department of this state.
5 If the application is considered incomplete by the department, the
6 department shall notify the applicant in writing or make notice
7 electronically available within 30 days after receipt of the
8 incomplete application, describing the deficiency and requesting
9 additional information. This subsection does not affect the time
10 period within which an on-site visit to a family ~~day-CHILD~~ care
11 home shall be made. If the department identifies a deficiency or
12 requires the fulfillment of a corrective action plan, the 6-month
13 period is tolled until either of the following occurs:

14 (a) Upon notification by the department of a deficiency, until
15 the date the requested information is received by the department.

16 (b) Upon notification by the department that a corrective
17 action plan is required, until the date the department determines
18 the requirements of the corrective action plan have been met.

19 (10) The determination of the completeness of an application
20 is not an approval of the application for the license and does not
21 confer eligibility on an applicant determined otherwise ineligible
22 for issuance of a license.

23 (11) Except as provided in subsection (1) and section 5b, if
24 the department fails to issue or deny a license or registration to
25 a child care center, group ~~day-CHILD~~ care home, or family ~~day-CHILD~~
26 care home within the time required by this section, the department
27 shall return the license or registration fee and shall reduce the

1 license or registration fee for the applicant's next renewal
2 application, if any, by 15%. Failure to issue or deny a license to
3 a child care center, group ~~day~~-**CHILD** care home, or family ~~day~~-**CHILD**
4 care home within the time period required under this section does
5 not allow the department to otherwise delay the processing of the
6 application. A completed application shall be placed in sequence
7 with other completed applications received at that same time. The
8 department shall not discriminate against an applicant in the
9 processing of an application based on the fact that the application
10 fee was refunded or discounted under this subsection.

11 (12) If, on a continual basis, inspections performed by a
12 local health department delay the department in issuing or denying
13 licenses or registrations for child care centers, group ~~day~~-**CHILD**
14 care homes, and family ~~day~~-**CHILD** care homes under this act within
15 the 6-month period, the department may use department staff to
16 complete the inspections instead of the local health department
17 causing the delays.

18 (13) Beginning October 1, 2008, the director of the department
19 shall submit a report by December 1 of each year to the standing
20 committees and appropriations subcommittees of the senate and house
21 of representatives concerned with human services and children's
22 issues. The director shall include all of the following information
23 regarding applications for licenses and registrations only for
24 child care centers, group ~~day~~-**CHILD** care homes, and family ~~day~~
25 **CHILD** care homes filed under this act in the report concerning the
26 preceding fiscal year:

27 (a) The number of initial and renewal applications the

1 department received and completed within the 6-month time period
2 described in subsection (9).

3 (b) The number of applications requiring a request for
4 additional information.

5 (c) The number of applications rejected.

6 (d) The number of licenses and registrations not issued within
7 the 6-month period.

8 (e) The average processing time for initial and renewal
9 licenses and registrations granted after the 6-month period.

10 (14) Except as provided in section 5c(8), the department shall
11 not issue to or renew the license of a child care center or day
12 care center under this act without requesting a criminal history
13 check and criminal records check as required by section 5c. If a
14 criminal history check or criminal records check performed under
15 section 5c reveals that an applicant for a license under this act
16 has been convicted of a listed offense, the department shall not
17 issue a license to that applicant. If a criminal history check or
18 criminal records check performed under section 5c reveals that an
19 applicant for renewal of a license under this act has been
20 convicted of a listed offense, the department shall not renew that
21 license. If a criminal history check or criminal records check
22 performed under section 5c reveals that a current licensee has been
23 convicted of a listed offense, the department shall revoke the
24 license of that licensee.

25 (15) Except as provided in section 5f(13), the department
26 shall not issue or renew a certificate of registration to a family
27 ~~day-CHILD~~ care home or a license to a group ~~day-CHILD~~ care home

1 under this act without requesting a criminal history check and
2 criminal records check as required by ~~section~~ **SECTIONS** 5f and a
3 ~~department of state police ICHAT check required by section 5g~~. If a
4 criminal history check or criminal records check performed under
5 section 5f or an ~~ICCHAT check performed under section 5g~~ reveals
6 that an applicant for a certificate of registration or license
7 under this act or a person over 18 years of age residing in that
8 applicant's home has been convicted of a listed offense, the
9 department shall not issue a certificate of registration or license
10 to that applicant. If a criminal history check or criminal records
11 check performed under section 5f or an ~~ICCHAT check performed under~~
12 ~~section 5g~~ reveals that an applicant for renewal of a certificate
13 of registration or license under this act or a person over 18 years
14 of age residing in that applicant's home has been convicted of a
15 listed offense, the department shall not renew a certificate of
16 registration or license to that applicant. If a criminal history
17 check or criminal records check performed under section 5f or an
18 ~~ICCHAT check performed under section 5g~~ reveals that a current
19 registrant or licensee under this act or a person over 18 years of
20 age residing in that registrant's or licensee's home has been
21 convicted of a listed offense, the department shall revoke that
22 registrant's certificate of registration or licensee's license.

23 (16) As used in this section:

24 (a) "Completed application" means an application complete on
25 its face and submitted with any applicable licensing or
26 registration fees as well as any other information, records,
27 approval, security, or similar item required by law or rule from a

1 local unit of government, a federal agency, or a private entity but
2 not from another department or agency of this state. A completed
3 application does not include a health inspection performed by a
4 local health department.

5 (b) "Good moral character" means that term as defined in and
6 determined under 1974 PA 381, MCL 338.41 to 338.47.

7 (c) "Member of the household" means any individual, other than
8 a foster child, who resides in a foster family home or foster
9 family group home on an ongoing or recurrent basis.

10 Sec. 5f. (1) Except as provided in subsection (13), when a
11 person applies for or to renew a certificate of registration to
12 operate a family ~~day~~-CHILD care home or a license to operate a
13 group ~~day~~-CHILD care home under section 5, the department shall
14 request the department of state police to perform both of the
15 following on that person:

16 (a) Conduct a criminal history check on the person.

17 (b) Conduct a criminal records check through the federal
18 bureau of investigation on the person.

19 (2) Each person applying for a certificate of registration to
20 operate a family ~~day~~-CHILD care home or a license to operate a
21 group ~~day~~-CHILD care home shall give written consent at the time of
22 application for the department of state police to conduct a
23 criminal history check and a criminal records check required under
24 this section. The department shall require the person to submit his
25 or her fingerprints to the department of state police for the
26 criminal history check and criminal records check described in
27 subsection (1).

1 (3) The department shall request a criminal history check and
2 criminal records check required under this section on a form and in
3 the manner prescribed by the department of state police.

4 (4) Within a reasonable time after receiving a complete
5 request by the department for a criminal history check on a person
6 under this section, the department of state police shall conduct
7 the criminal history check and provide a report of the results to
8 the department. The report shall contain any criminal history
9 record information on the person maintained by the department of
10 state police.

11 (5) Within a reasonable time after receiving a proper request
12 by the department for a criminal records check on a person under
13 this section, the department of state police shall initiate the
14 criminal records check. After receiving the results of the criminal
15 records check from the federal bureau of investigation, the
16 department of state police shall provide a report of the results to
17 the department.

18 (6) The department of state police may charge the department a
19 fee for a criminal history check or a criminal records check
20 required under this section that does not exceed the actual and
21 reasonable cost of conducting the check. The department may pass
22 along to the registrant, licensee, or applicant the actual cost or
23 fee charged by the department of state police for performing a
24 criminal history check or a criminal records check required under
25 this section.

26 (7) A person to whom a certificate of registration or license
27 has been issued under this act shall report to the department

1 within 3 business days after he or she has been arraigned for 1 or
2 more of the following crimes and within 3 business days after he or
3 she knows or should reasonably know that an employee or a person
4 over 18 years of age residing in the home has been arraigned for 1
5 or more of the following crimes:

6 (a) Any felony.

7 (b) Any of the following misdemeanors:

8 (i) Criminal sexual conduct in the fourth degree or an attempt
9 to commit criminal sexual conduct in the fourth degree.

10 (ii) Child abuse in the third or fourth degree or an attempt to
11 commit child abuse in the third or fourth degree.

12 (iii) A misdemeanor involving cruelty, torture, or indecent
13 exposure involving a child.

14 (iv) A misdemeanor violation of section 7410 of the public
15 health code, 1978 PA 368, MCL 333.7410.

16 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
17 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
18 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
19 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
20 MCL 750.81, 750.81a, and 750.145d.

21 (vi) A misdemeanor violation of section 701 of the Michigan
22 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

23 (vii) Any misdemeanor that is a listed offense.

24 (c) A violation of a substantially similar law of another
25 state, of a political subdivision of this state or another state,
26 or of the United States.

27 (8) A person who violates subsection (7) is guilty of a crime

1 as follows:

2 (a) If the person violates subsection (7) and the crime
3 involved in the violation is a misdemeanor that is a listed offense
4 or is a felony, the person is guilty of a felony punishable by
5 imprisonment for not more than 2 years or a fine of not more than
6 \$2,000.00, or both.

7 (b) If the person violates subsection (7) and the crime
8 involved in the violation is a misdemeanor that is not a listed
9 offense, the person is guilty of a misdemeanor punishable by
10 imprisonment for not more than 1 year or a fine of not more than
11 \$1,000.00, or both.

12 (9) The department shall delete from the registrant's or
13 licensee's records all information relating to an arraignment
14 required to be reported under this section if the department
15 receives documentation that the person arraigned for the crime is
16 subsequently not convicted of any crime after the completion of
17 judicial proceedings resulting from that arraignment.

18 (10) Not later than January 31, 2006, the department shall
19 inform all persons currently issued a certificate of registration
20 or license and all applicants for a certificate of registration or
21 license of the requirement to report certain arraignments as
22 required in this section and the penalty for not reporting those
23 arraignments.

24 (11) At the time the department issues a certificate of
25 registration to operate a family ~~day~~**CHILD** care home or a license
26 to operate a group ~~day~~**CHILD** care home under this act, the
27 department shall notify the registrant or licensee of the

1 requirement to report certain arraignments as required in this
2 section and the penalty for not reporting those arraignments.

3 (12) Not later than January 1, 2007, the department shall
4 conduct a criminal history check and criminal records check on all
5 persons currently issued a certificate of registration under this
6 act to operate a family ~~day-CHILD~~ care home or a license under this
7 act to operate a group ~~day-CHILD~~ care home.

8 (13) Beginning January 1, 2006, if a person applying to renew
9 a certificate of registration to operate a family ~~day-CHILD~~ care
10 home under section 5 or a license to operate a group ~~day-CHILD~~ care
11 home under section 5 has previously undergone a criminal history
12 check and criminal records check required under subsection (1) and
13 has continuously maintained a certificate of registration to
14 operate a family ~~day-CHILD~~ care home or license to operate a group
15 ~~day-CHILD~~ care home after the criminal history check and criminal
16 records check have been performed, that person is not required to
17 submit to another criminal history check or criminal records check
18 upon renewal of the certificate of registration or license obtained
19 under section 5.

20 Sec. 5g. (1) When a person applies for a certificate of
21 registration to operate a family ~~day-CHILD~~ care home or a license
22 to operate a group ~~day-CHILD~~ care home under section 5, the
23 department shall perform a criminal history check ~~using~~ **WITH** the
24 department of state ~~police's internet criminal history access tool~~
25 ~~(ICHAT)~~ **POLICE** on all persons over 18 years of age residing in the
26 home in which the family ~~day-CHILD~~ care home or group ~~day-CHILD~~
27 care home is operated. This section does not apply to a person

1 residing in the home for a period of not more than 14 days.

2 (2) Not later than ~~1 year after the effective date of the~~
3 ~~amendatory act that added this section~~ **JANUARY 1, 2007**, the
4 department shall perform an ~~ICHAT~~ **A CRIMINAL HISTORY** check on all
5 persons over 18 years of age residing in the home in which a family
6 ~~day~~ **CHILD** care home or group ~~day~~ **CHILD** care home is currently
7 operated.

8 (3) If a ~~search of ICHAT~~ **CRIMINAL HISTORY CHECK** reveals that a
9 person over 18 years of age residing in the home has been convicted
10 of a listed offense, the department shall not issue a certificate
11 of registration or license to the applicant, shall not renew a
12 certificate of registration to the registrant or license to the
13 licensee applying for renewal, or shall revoke a current
14 registrant's certificate of registration or current licensee's
15 license.

16 Sec. 9a. (1) A certificate of registration shall be in force
17 for 3 years unless revoked under section 11. ~~A~~ **UNTIL SEPTEMBER 30,**
18 **2007, A RENEWAL CERTIFICATE OF REGISTRATION SHALL BE ISSUED IN THE**
19 **SAME MANNER AS PROVIDED IN SECTION 5(2) FOR INITIALLY ISSUING THE**
20 **CERTIFICATE, EXCEPT THAT AN ON-SITE VISIT OF THE FAMILY CHILD CARE**
21 **HOME AND THE ORIENTATION SESSION ARE NOT REQUIRED. BEGINNING**
22 **OCTOBER 1, 2007, A** renewal certificate of registration shall be
23 issued in the same manner as provided in section 5(2), (9), and
24 (11) for the initial issuance of the certificate, except that an
25 on-site visit of the family ~~day~~ **CHILD** care home and the orientation
26 session are not required. The certificate shall state that the
27 registrant may operate a family ~~day~~ **CHILD** care home and the number

1 and the ages of the children that may be received and maintained.

2 (2) This section does not limit the right or the duty of the
3 department to assess periodically, randomly, or at the time of
4 renewal, the continued compliance with this act and rules
5 promulgated under this act. The department shall make on-site
6 visits as provided in this act to a 10% sample of the family ~~day~~
7 **CHILD** care homes in each county each year, or when a complaint
8 about a family ~~day~~**CHILD** care home or registrant is received by the
9 department.

10 Sec. 11b. (1) The department ~~of consumer and industry services~~
11 shall establish and maintain a database of child care centers,
12 family ~~day~~**CHILD** care homes, and group ~~day~~**CHILD** care homes as a
13 central clearinghouse for persons seeking information on child care
14 options. The database shall include, at a minimum, all of the
15 following information:

16 (a) The name, address, and telephone number of the child care
17 center, family ~~day~~**CHILD** care home, or group ~~day~~**CHILD** care home.

18 (b) The days and general hours of operation of the child care
19 center, family ~~day~~**CHILD** care home, or group ~~day~~**CHILD** care home.

20 (c) The license or registration number, effective date, and
21 expiration date of the child care center, family ~~day~~**CHILD** care
22 home, or group ~~day~~**CHILD** care home.

23 (d) The number and nature of any adverse action taken against
24 the child care center, family ~~day~~**CHILD** care home, or group ~~day~~
25 **CHILD** care home by the department. ~~of consumer and industry~~
26 ~~services.~~

27 (2) The department ~~of consumer and industry services~~ shall

1 make the database available to the public on the internet, without
2 charge, through that department's website.

3 (3) The department ~~of consumer and industry services~~ shall
4 inform the public, through press releases or other media avenues,
5 of the information available in the database established under
6 subsection (1) and how to access that database.