

Act No. 258
Public Acts of 2017
Approved by the Governor
December 28, 2017
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STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017

Introduced by Senators Hopgood, Hildenbrand and Schuitmaker

ENROLLED SENATE BILL No. 182

AN ACT 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 7, 8, and 11b (MCL 722.117, 722.118, and 722.121b), section 8 as amended by 1980 PA 232 and section 11b as amended by 2010 PA 86, and by adding sections 4a, 5m, 7a, and 8c.

The People of the State of Michigan enact:

Sec. 4a. An applicant, licensee, or licensee designee must present a valid driver license or a valid state or federal government-issued identification card in order to obtain or renew a license for a child care center, group child care home, or family child care home under this act.

Sec. 5m. (1) This section and sections 5n to 5s apply only to a child care center, group child care home, or family child care home.

(2) A person, partnership, firm, corporation, association, nongovernmental organization, or governmental organization shall not establish or maintain a child care center, group child care home, or family child care home unless licensed by the department. Application for a child care center, group child care home, or family child care home license shall be made on forms provided, and in the manner prescribed, by the department, including the fees required under subsection (10). Before issuing or renewing a child care center, group child care home, or family child care home license, the department shall investigate the applicant’s activities and proposed standards of care and shall make an on-site visit of the proposed or established child care center, group child care home, or family child care home. Except as otherwise provided in this subsection and sections 5q and 5r, if the department is satisfied as to the need for a child care center, group child care home, or family child care home, as to its financial stability, and that the service, facility, applicant, licensee, child care staff member, or member of the household is conducive to the welfare of the children, the department shall issue or renew the child care center, group child care home, or family child care home license. If the department determines that a service, facility, applicant, licensee, child care staff member, or member of the household is not conducive to the welfare of the children, the department shall deny that application or revoke that licensee’s license according to section 11.

(3) To assess whether the service, facility, applicant, licensee, child care staff member, or member of the household is conducive to the welfare of the children, the department may utilize available information, including, but not limited to, any of the following:

- (a) Investigative report, such as a law enforcement report and a children’s protective services report.
- (b) Medical report.
- (c) Public record.

(d) Child care center, group child care home, or family child care home record.

(e) Inspection of the child care center, group child care home, or family child care home.

(4) The department may use information obtained under section 5k to obtain reports prepared independently for police, law enforcement, or other purposes to make a determination under this section.

(5) The department shall issue a group child care home or family child care home license to a person who has successfully completed an orientation session offered by the department and who meets the requirements of this act. The department shall make available to group child care home or family child care home applicants for licensure an orientation session regarding this act, the rules promulgated under this act, and the needs of children in child care before issuing a group child care home or family child care home license.

(6) Except as provided in subsection (2), the department shall issue an original or renewal license under this act for a child care center, group child care home, or family child care home not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by the department. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

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

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

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

(8) Except as provided in subsection (2), if the department fails to issue, deny, or refuse to renew a license to a child care center, group child care home, or family child care home within the time required by this section, the department shall return the application fee required under subsection (10) and shall reduce the application fee for the applicant's next renewal application, if any, by 15%. Failure to issue, deny, or refuse to renew a license to a child care center, group child care home, or family child care home within the time period required under this section does not allow the department to otherwise delay the processing of the application. A completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(9) If, on a continual basis, inspections performed by a local health department delay the department in issuing or denying a license for a child care center, group child care home, or family child care home under this act within the 6-month period, the department may use department staff to complete the inspection instead of the local health department causing the delays.

(10) The department shall assess fees as provided in the following schedule:

(a) Family child care home license, \$50.00 for an original license application and \$25.00 for renewal.

(b) Group child care home license, \$100.00 for an original license application and \$50.00 for renewal.

(c) Child care center license with a capacity of 1 to 20, \$150.00 for an original license application and \$75.00 for renewal.

(d) Child care center license with a capacity of 21 to 50, \$200.00 for an original license application and \$100.00 for renewal.

(e) Child care center license with a capacity of 51 to 100, \$250.00 for an original license application and \$125.00 for renewal.

(f) Child care center license with a capacity of over 100, \$300.00 for an original license application and \$150.00 for renewal.

(11) The department shall use the fees collected under this section only to fund the program licensing child care centers, group child care homes, and family child care homes. Funds remaining at the end of the fiscal year shall not lapse to the general fund but shall remain available to fund the program in subsequent years.

(12) Fees described in this section are payable to the department at the time an application is submitted for original issuance or renewal. If a license is denied, revoked, or refused renewal, or an application is rejected as provided in section 15(4), the department shall not refund fees paid to the department.

(13) As used in this section:

(a) "Completed application" means an application complete on its face and submitted with any applicable fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, a state department or agency of another state, or a private entity but not from another

department or agency of this state. A completed application does not include a health inspection performed by a local health department.

(b) “Conducive to the welfare of the children” means:

(i) The service and facility comply with this act and the administrative rules promulgated under this act.

(ii) The disposition, temperament, condition, and action of the applicant, licensee, licensee designee, program director, child care staff member, and member of the household promote the safety and well-being of the children served.

Sec. 7. An original license shall be issued to a new child care organization during the first 6 months of operation. An original license expires 6 months after the date of issuance. The renewal of an original license is contingent upon the submission of a new application and approval by the department. At the end of the first 6 months of operation, the department shall either renew as a regular license or refuse to renew the original license as provided in section 11 or modify to a provisional license as provided under section 7a(3).

Sec. 7a. (1) A provisional license may be issued to a child care organization that is temporarily unable to conform to the rules. The issuance of a provisional license shall be contingent upon the submission to the department of an acceptable plan to overcome the deficiency present in the child care organization within the time limitations of the provisional licensing period.

(2) A provisional license expires 6 months after the date of issuance and may be issued not more than 3 times. The renewal of a provisional license shall be contingent upon the submission of a new application and approval by the appropriate department. At the end of the 6 months, the department shall either issue a regular license, refuse to renew the license as provided in section 11, or modify to a provisional license as provided in this section.

(3) The department may modify the license of a child care organization to a provisional license when the licensee willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license. A license cannot be modified unless the licensee is given written notice of the grounds of the proposed modification. If the proposed modification is not appealed, the license will be modified. The proposed modification must be appealed within 30 days after receipt by writing the director or director’s designee. Upon receipt of the appeal, the director or director’s designee must initiate the provisions of chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292. Notice of a hearing must be given to the licensee by personal service or delivery to the proper address by certified mail not less than 2 weeks before the date of the hearing. The decision of the director must be made as soon as practicable after the hearing and forwarded to the licensee by certified mail not more than 10 days after that. The formal notice and hearing requirement in this subsection does not apply if the licensee and the department comply with subsection (4).

(4) The department may immediately modify a license without providing written notice of the grounds of the proposed action or giving the licensee 30 days to appeal if the licensee, in writing, does the following:

(a) Waives the requirement that the department provide written notice of the grounds for the proposed action.

(b) Waives the 30-day time frame in which to submit a written appeal to the proposed action.

(c) Waives the right to implement the provisions of chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292.

(5) As used in this section:

(a) “Substantially violates” means repeated violations or noncompliance of this act, a rule promulgated under this act, or the terms of a license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services.

(b) “Willfully violates” means, after receiving a copy of the act, the rules promulgated under the act and, for a license, a copy of the terms of a license, or a previous citation for a violation of this act or a rule promulgated under this act, a licensee or an applicant knew or had reason to know that his or her conduct was a violation of the act, rules promulgated under the act, or the terms of a license.

Sec. 8. (1) A regular license is effective for 2 years after the date of issuance unless revoked or refused renewal as provided in section 11 or modified to a provisional as provided in section 7a. The license shall be renewed biennially on application and approval. A license shall specify in general terms the kind of child care organization the licensee may undertake, and the number, and ages of children that can be received and maintained.

(2) The department may accept a licensee’s written request to close a license if the department does not have an active investigation against the licensee or is not pursuing revocation or refusal to renew as provided in section 11.

(3) A certification of registration issued by the department before the effective date of the amendatory act that added this subsection shall be reissued as a license. The reissuance shall be completed in the manner determined by the department within 1 year after the amendatory act that added this subsection.

Sec. 8c. A license shall be issued to a specific person or organization at a specific location, shall be nontransferable, and shall remain the property of the department.

Sec. 11b. (1) The department shall establish and maintain a database of child care centers, family child care homes, and group child care homes. The database shall include, at a minimum, all of the following information:

(a) The name, address, and telephone number of the child care center, family child care home, or group child care home.

(b) The days and general hours of operation of the child care center, family child care home, or group child care home.

(c) The license number, effective date, expiration date, and date of the last inspection of the child care center, family child care home, or group child care home.

(d) The number and nature of any adverse action taken against the child care center, family child care home, or group child care home by the department.

(e) The number and nature of any special investigations regarding the child care center, family child care home, or group child care home conducted by the department. This information shall remain in the database as long as the licensee is licensed under this act.

(2) The department shall make the following database information available to the public on the internet for persons seeking information on child care options, without charge, through that department's website:

(a) The items listed in subsection (1)(a) to (c).

(b) The results of any monitoring inspections conducted in the past 3 years and information on corrective actions taken, if applicable.

(c) The results of any substantiated complaint investigations conducted in the past 3 years and information on corrective actions taken.

(3) The department shall inform the public, through press releases or other media avenues, of the information available as provided under subsection (2).

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

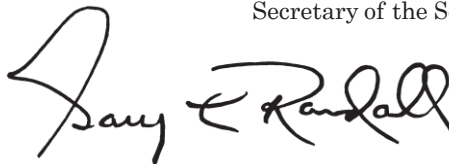
(a) Senate Bill No. 180.

(b) Senate Bill No. 181.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved.....

Governor

Compiler's note: Senate Bill No. 180, referred to in enacting section 2, was filed with the Secretary of State December 28, 2017, and became 2017 PA 256, Eff. Mar. 28, 2018.

Senate Bill No. 181, also referred to in enacting 2, was filed with the Secretary of State December 28, 2017, and became 2017 PA 257, Eff. Mar. 28, 2018.