

**SUBSTITUTE FOR
SENATE BILL NO. 798**

A bill to establish the safe families for children program; to prescribe the powers and duties of certain state departments and public and private agencies; to allow for temporary delegation of a parent's or guardian's powers regarding care, custody, or property of a minor child; and to prescribe procedures for providing host families for the temporary care of children.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "safe
2 families for children act".

3 Sec. 3. As used in this act:

4 (a) "Automatic notification system" means a system that stores
5 and retains fingerprints and that provides for an automatic
6 notification to a participant when a fingerprint is submitted into

1 the system that matches an individual whose fingerprints are
2 retained in the system or when the criminal history of an
3 individual whose fingerprints are retained in the system is
4 updated.

5 (b) "Child placing agency" means that term as defined in
6 section 1 of 1973 PA 116, MCL 722.111.

7 (c) "Department" means the department of health and human
8 services.

9 (d) "Family service agency" means an agency that assists a
10 tax-exempt charitable organization recruiting persons and families
11 under section 7 with obtaining and reviewing criminal history
12 records checks required under section 9 and conducting home safety
13 assessments and training as required under sections 11 and 13. A
14 family service agency must also be licensed as a child placing
15 agency.

16 (e) "FBI automatic notification system" means the automatic
17 notification system that is maintained by the Federal Bureau of
18 Investigation.

19 (f) "Minor child" means an individual less than 18 years of
20 age.

21 Sec. 5. (1) By a properly executed power of attorney, a parent
22 or guardian of a minor child may temporarily delegate to another
23 person his or her powers regarding care, custody, or property of
24 the minor child under this act. This temporary delegation of power
25 may be for up to 180 days, except that if a parent or guardian is
26 serving in the United States Armed Forces and is deployed to a
27 foreign nation, a power of attorney may be effective until the

1 thirty-first day after the end of the deployment. A person to whom
2 the parent or guardian delegates these powers is required to have
3 undergone the criminal history records check, home safety
4 assessment and inspection, and training required under this act. A
5 parent or guardian cannot delegate, under this act, his or her
6 power to consent to marriage or adoption of the minor child,
7 consent to an abortion or inducement of an abortion to be performed
8 on or for the minor child, or to terminate parental rights to the
9 minor child.

10 (2) The parent or guardian executing a power of attorney may
11 revoke or withdraw the power of attorney at any time.

12 Sec. 7. A tax-exempt charitable organization, including, but
13 not limited to, a church or faith-based organization, may recruit
14 persons or families to whom a temporary power of attorney may be
15 executed under section 5. A tax-exempt charitable organization
16 recruiting persons and families under this section must use the
17 services of a family service agency to assist the tax-exempt
18 charitable organization in obtaining and reviewing criminal history
19 records checks required under section 9 and conducting home safety
20 assessments and training as required under sections 11 and 13.

21 Sec. 9. (1) For each person over 18 years of age residing in a
22 home where a minor child may be temporarily hosted according to a
23 power of attorney under this act, a criminal history records check
24 must be conducted as follows:

25 (a) A family service agency must request the department of
26 state police to do both of the following:

27 (i) Conduct a criminal history records check on the person.

1 (ii) Conduct a criminal history records check through the
2 Federal Bureau of Investigation on the person.

3 (b) Each person must submit his or her fingerprints to the
4 department of state police for the criminal history records check
5 required under this act. Both of the following apply concerning
6 fingerprints submitted to the department of state police under this
7 subdivision:

8 (i) The department of state police shall store and retain all
9 fingerprints submitted under this section in an automated
10 fingerprint identification system database that searches against
11 latent fingerprints and provides for an automatic notification when
12 a subsequent fingerprint is submitted into the system that matches
13 a set of fingerprints previously submitted under this section or
14 when the criminal history of an individual whose fingerprints are
15 retained in the system is updated. Upon receiving a notification
16 under this subparagraph, the department of state police shall
17 immediately notify the family service agency that requested the
18 criminal history records check under this section. Information in
19 the database maintained under this section is confidential, is not
20 subject to disclosure under the freedom of information act, 1976 PA
21 442, MCL 15.231 to 15.246, and shall not be disclosed to any person
22 except for purposes of this act or for law enforcement purposes.

23 (ii) The department of state police shall forward all
24 fingerprints submitted to it under this section to the Federal
25 Bureau of Investigation to be retained in the FBI automatic
26 notification system that provides for automatic notification if
27 subsequent criminal history record information matches fingerprints

1 previously submitted to the Federal Bureau of Investigation under
2 this section. The fingerprints retained under this section may be
3 searched by using future submissions to the FBI automatic
4 notification system, including, but not limited to, latent
5 fingerprint searches. This subparagraph does not apply until the
6 department of state police is a participant in the FBI automatic
7 notification system.

8 (c) A family service agency requesting a criminal history
9 records check under this section shall notify the department of
10 state police within 5 days after the individual for which the
11 criminal history records check was requested is no longer residing
12 in a home where a minor child may be temporarily hosted or the
13 individual's home is no longer hosting or available to host a minor
14 child under this act. After receiving this notice from a family
15 service agency, the department of state police is no longer
16 required to provide any notice to the family service agency under
17 subdivision (b) (i) for that individual.

18 (2) When a home is hosting or is available to host a minor
19 child according to a power of attorney, each person residing in
20 that home for whom a criminal history records check has been
21 conducted under subsection (1) must report to a family service
22 agency within 3 business days after he or she has been arraigned
23 for 1 or more of the crimes listed in section 5r of 1973 PA 116,
24 MCL 722.115r, or any disqualifying offense under the national child
25 protection act of 1993, Public Law 103-209.

26 (3) If a person residing in a home in which a minor child is
27 or is proposed to be hosted according to a power of attorney is not

1 of good moral character as that term is defined in and determined
2 under 1974 PA 381, MCL 338.41 to 338.47, or has been arraigned for
3 1 or more disqualifying offenses under the national child
4 protection act of 1993, Public Law 103-209, a minor child shall not
5 be hosted in that home.

6 (4) A family service agency may request the criminal history
7 records checks under this section as allowed under state and
8 federal law, including, but not limited to, being a qualified
9 entity under the national child protection act of 1993, Public Law
10 103-209.

11 Sec. 11. A family service agency shall conduct a home safety
12 assessment and inspection as follows:

13 (a) A family service agency shall conduct a home safety
14 assessment for each home where a minor child may be temporarily
15 hosted according to a power of attorney. The home safety assessment
16 must include an inspection of the physical dwelling, assessment of
17 the person's or family's financial ability to provide care for the
18 minor child, and assessment of the person's or family's ability and
19 capacity to provide care for the minor child. As part of the home
20 safety assessment, the family service agency shall obtain 3 current
21 references from persons not related to the person or family.

22 (b) A family service agency shall conduct a home safety
23 assessment every 2 years while a home is hosting or is available to
24 host a minor child according to a power of attorney.

25 (c) A family service agency shall conduct periodic inspections
26 of a home that is hosting a minor child to monitor the well-being
27 of the minor child and any change impacting the most recent home

1 safety assessment. The family service agency must conduct this
2 inspection within 48 hours after a person or family begins hosting
3 a minor child in a home, 1 day per week for the first month during
4 which a minor child is hosted in the home, and 1 day per month
5 after that for the duration of the period of time that the minor
6 child is being hosted in the home.

7 (d) A family service agency's home safety assessment and
8 inspection under subdivisions (a), (b), and (c) must result in a
9 determination that a home is safe for a minor child before the home
10 may host or continue to host a minor child under this section.

11 Sec. 13. (1) Before a minor child is hosted in a home
12 according to a power of attorney, a family service agency shall
13 provide training for the persons in that home. The training must be
14 based on a national model for preparing, developing, training, and
15 supporting resource families for the temporary care of minor
16 children and must include training on identifying child
17 maltreatment, understanding grief and loss, behavior management
18 strategies, environmental safety and universal precautions, and
19 unique child-specific needs-based training.

20 (2) A person to whom power related to a minor child is
21 delegated according to a power of attorney shall not be compensated
22 for serving as the temporary attorney-in-fact. This subsection does
23 not prohibit an individual, private organization, or governmental
24 entity from providing funds to a family service agency for
25 providing services under this act.

26 Sec. 15. (1) A parent or guardian executing a power of
27 attorney does not, by itself, constitute evidence of abandonment,

1 child abuse, child neglect, delinquency, or other maltreatment of a
2 minor child unless the parent or guardian fails to take custody of
3 the minor child when a power of attorney expires. This act does not
4 prevent or delay an investigation of child abuse, child neglect,
5 abandonment, delinquency, or other mistreatment of a minor child.

6 (2) Executing a power of attorney does not subject a parent,
7 guardian, or person in a home in which a minor child is hosted
8 under this act to any law, rule, or regulation concerning licensing
9 or regulation of foster care or a child care organization.

10 Providing a service under this act does not subject a family
11 service agency to regulation by the department.

12 Sec. 17. (1) A family service agency shall maintain records
13 for each criminal history records check, home safety assessment,
14 and training it conducts under this act for a period of not less
15 than 7 years after the minor child attains 18 years of age. The
16 family service agency shall make the records available to any
17 local, state, or federal authority requesting the records as part
18 of an investigation involving the minor child, parent or guardian,
19 or person in a home in which a minor child is or was hosted
20 according to a power of attorney.

21 (2) The department is not liable for any action arising out of
22 this act.

23 (3) The department shall not promulgate rules under this act.

24 (4) The department, a local office of the department, or a law
25 enforcement agency or officer may refer cases or families to a tax-
26 exempt charitable organization that is recruiting persons and
27 families under this act. The services provided under this act are

1 community-based services that may be recommended commensurate with
2 the risk to the child under section 8d(1)(b) and (c) of the child
3 protection law, 1975 PA 238, MCL 722.628d.

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

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

9 (a) Senate Bill No. 489.

10 (b) Senate Bill No. 490.

11 (c) Senate Bill No. 797.