

SENATE BILL No. 798

January 30, 2018, Introduced by Senator MACGREGOR and referred to the Committee on Oversight.

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
7 the system that matches an individual whose fingerprints are

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

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

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

8 (d) "FBI automatic notification system" means the automatic
9 notification system that is maintained by the Federal Bureau of
10 Investigation.

11 (e) "Minor child" means an individual less than 18 years of
12 age.

13 Sec. 5. (1) By a properly executed power of attorney, a parent
14 or guardian of a minor child may temporarily delegate to another
15 person his or her powers regarding care, custody, or property of
16 the minor child under this act. This temporary delegation of power
17 may be for up to 180 days, except that if a parent or guardian is
18 serving in the United States Armed Forces and is deployed to a
19 foreign nation, a power of attorney may be effective until the
20 thirty-first day after the end of the deployment. A person to whom
21 the parent or guardian delegates these powers is required to have
22 undergone the criminal history records check, home safety
23 assessment and inspection, and training required under this act. A
24 parent or guardian cannot delegate, under this act, his or her
25 power to consent to marriage or adoption of the minor child,
26 consent to an abortion or inducement of an abortion to be performed
27 on or for the minor child, or to terminate parental rights to the

1 minor child.

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

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

13 Sec. 9. (1) For each person over 18 years of age residing in a
14 home where a minor child may be temporarily hosted according to a
15 power of attorney, a criminal history records check must be
16 conducted as follows:

17 (a) A child placing agency must request the department of
18 state police to do both of the following:

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

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

22 (b) Each person must submit his or her fingerprints to the
23 department of state police for the criminal history records check
24 required under this act. Both of the following apply concerning
25 fingerprints submitted to the department of state police under this
26 subdivision:

27 (i) The department of state police shall store and retain all

1 fingerprints submitted under this section in an automated
2 fingerprint identification system database that searches against
3 latent fingerprints and provides for an automatic notification when
4 a subsequent fingerprint is submitted into the system that matches
5 a set of fingerprints previously submitted under this section or
6 when the criminal history of an individual whose fingerprints are
7 retained in the system is updated. Upon receiving a notification
8 under this subparagraph, the department of state police shall
9 immediately notify the child placing agency that requested the
10 criminal history records check under this section. Information in
11 the database maintained under this section is confidential, is not
12 subject to disclosure under the freedom of information act, 1976 PA
13 442, MCL 15.231 to 15.246, and shall not be disclosed to any person
14 except for purposes of this act or for law enforcement purposes.

15 (ii) The department of state police shall forward all
16 fingerprints submitted to it under this section to the Federal
17 Bureau of Investigation to be retained in the FBI automatic
18 notification system that provides for automatic notification if
19 subsequent criminal history record information matches fingerprints
20 previously submitted to the Federal Bureau of Investigation under
21 this section. The fingerprints retained under this section may be
22 searched by using future submissions to the FBI automatic
23 notification system, including, but not limited to, latent
24 fingerprint searches. This subparagraph does not apply until the
25 department of state police is a participant in the FBI automatic
26 notification system.

27 (c) A child placing agency requesting a criminal history

1 records check under this section shall notify the department of
2 state police within 5 days after the individual for which the
3 criminal history records check was requested is no longer residing
4 in a home where a minor child may be temporarily hosted or the
5 individual's home is no longer hosting or available to host a minor
6 child under this act. After receiving this notice from a child
7 placing agency, the department of state police is no longer
8 required to provide any notice to the child placing agency under
9 subdivision (b) (i) for that individual.

10 (2) When a home is hosting or is available to host a minor
11 child according to a power of attorney, each person residing in
12 that home for whom a criminal history records check has been
13 conducted under subsection (1) must report to a child placing
14 agency within 3 business days after he or she has been arraigned
15 for 1 or more of the crimes listed in section 5f(7) of 1973 PA 116,
16 MCL 722.115f or any disqualifying offense under the national child
17 protection act of 1993, Public Law 103-209.

18 (3) If a person residing in a home in which a minor child is
19 or is proposed to be hosted according to a power of attorney is not
20 of good moral character as that term is defined in and determined
21 under 1974 PA 381, MCL 338.41 to 338.47, or has been arraigned for
22 1 or more disqualifying offenses under the national child
23 protection act of 1993, Public Law 103-209, a minor child shall not
24 be hosted in that home.

25 (4) A child placing agency may request the criminal history
26 records checks under this section as allowed under state and
27 federal law, including, but not limited to, being a qualified

1 entity under the national child protection act of 1993, Public Law
2 103-209.

3 Sec. 11. A child placing agency shall conduct a home safety
4 assessment and inspection as follows:

5 (a) A child placing agency shall conduct a home safety
6 assessment for each home where a minor child may be temporarily
7 hosted according to a power of attorney. The home safety assessment
8 must include an inspection of the physical dwelling, assessment of
9 the person's or family's financial ability to provide care for the
10 minor child, and assessment of the person's or family's ability and
11 capacity to provide care for the minor child. As part of the home
12 safety assessment, the child placing agency shall obtain 3 current
13 references from persons not related to the person or family.

14 (b) A child placing agency shall conduct a home safety
15 assessment every 2 years while a home is hosting or is available to
16 host a minor child according to a power of attorney.

17 (c) A child placing agency shall conduct periodic inspections
18 of a home that is hosting a minor child to monitor the well-being
19 of the minor child and any change impacting the most recent home
20 safety assessment. The child placing agency must conduct this
21 inspection within 48 hours after a person or family begins hosting
22 a minor child in a home, 1 day per week for the first month during
23 which a minor child is hosted in the home, and 1 day per month
24 after that for the duration of the period of time that the minor
25 child is being hosted in the home.

26 (d) A child placing agency's home safety assessment and
27 inspection under subdivisions (a), (b), and (c) must result in a

1 determination that a home is safe for a minor child before the home
2 may host or continue to host a minor child under this section.

3 Sec. 13. (1) Before a minor child is hosted in a home
4 according to a power of attorney, a child placing agency shall
5 provide training for the persons in that home. The training must be
6 based on a national model for preparing, developing, training, and
7 supporting resource families for the temporary care of minor
8 children and must include training on identifying child
9 maltreatment, understanding grief and loss, behavior management
10 strategies, environmental safety and universal precautions, and
11 unique child-specific needs-based training.

12 (2) A person to whom power related to a minor child is
13 delegated according to a power of attorney shall not be compensated
14 for serving as the temporary attorney-in-fact. This subsection does
15 not prohibit an individual, private organization, or governmental
16 entity from providing funds to a child placing agency for providing
17 services under this act.

18 Sec. 15. (1) A parent or guardian executing a power of
19 attorney does not, by itself, constitute evidence of abandonment,
20 child abuse, child neglect, delinquency, or other maltreatment of a
21 minor child unless the parent or guardian fails to take custody of
22 the minor child when a power of attorney expires. This act does not
23 prevent or delay an investigation of child abuse, child neglect,
24 abandonment, delinquency, or other mistreatment of a minor child.

25 (2) Executing a power of attorney does not subject a parent,
26 guardian, or person in a home in which a minor child is hosted
27 under this act to any law, rule, or regulation concerning licensing

1 or regulation of foster care or a child care organization.
2 Providing a service under this act does not subject a child placing
3 agency to regulation by the department.

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

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

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

16 (4) The department, a local office of the department, or a law
17 enforcement agency or officer may refer cases or families to a tax-
18 exempt charitable organization that is recruiting persons and
19 families under this act. The services provided under this act are
20 community-based services that may be recommended or needed
21 commensurate with the risk to the child under section 8d(1)(b) and
22 (c) of the child protection law, 1975 PA 238, MCL 733.628d.

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

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

1 (a) Senate Bill No. 489.

2 (b) Senate Bill No. 490.