

Act No. 256
Public Acts of 2017
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Senators Schuitmaker, Hildenbrand and Hopgood

ENROLLED SENATE BILL No. 180

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 5c, 5d, 5e, 5g, 5h, 5i, 5j, 5k, and 5l (MCL 722.115c, 722.115d, 722.115e, 722.115g, 722.115h, 722.115i, 722.115j, 722.115k, and 722.115l), sections 5c and 5d as amended by 2010 PA 379, section 5e as added by 2005 PA 133, section 5g as amended by 2007 PA 217, sections 5h, 5i, 5j, and 5k as added by 2007 PA 218, and section 5l as added by 2008 PA 15, and by adding sections 5n, 5o, 5p, 5q, 5r, and 5s.

The People of the State of Michigan enact:

Sec. 5c. (1) Except as provided in subsection (6), when a person or partnership, or licensee designee if the applicant is a limited liability corporation, firm, corporation, association, nongovernmental organization, or governmental organization applies for a license for a child care organization under section 5, the department shall request the department of state police to perform a criminal history check on the person, licensee designee, chief administrator, and program director of a child care organization.

(2) Each person applying for a license to operate a child care organization shall give written consent at the time of the license application for the department of state police to conduct the criminal history check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check described in subsection (1).

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

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

(5) The department of state police may charge the department a fee for a criminal history check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass along to the licensee or applicant the actual cost or fee charged by the department of state police, the Federal Bureau of

Investigation, or a vendor approved by the department of state police for performing a criminal history check required under this section.

(6) If a person, licensee designee, chief administrator, or program director of a child care organization applying to renew a license to operate a child care organization has previously undergone a criminal history check required under subsection (1) and has remained continuously licensed after the criminal history check has been performed and section 5k continues to apply, that person, licensee designee, chief administrator, or program director of a child care organization is not required to submit to another criminal history check upon renewal of the license obtained under section 5.

Sec. 5d. (1) Before a child care organization makes an offer of employment to a person or allows a person to regularly and continuously work under contract at the child care organization, the child care organization shall perform a criminal history background check on that person using the department of state police's internet criminal history access tool (ICHAT) or equivalent check on that person from the state or province of residence.

(2) If a search of the department of state police's ICHAT or equivalent check on the person from the state or province of residence reveals that the person described in subsection (1) has been convicted of a listed offense, the child care organization shall not make an offer of employment to that person or allow that person to regularly and continuously work under contract at the child care organization. If a search of the department of state police's ICHAT reveals that a current employee has been convicted of a listed offense, the child care organization shall not continue to employ that person. If a search of the department of state police's ICHAT or equivalent check on that person from the state or province of residence reveals that a person who regularly and continuously works under contract at the child care organization has been convicted of a listed offense, the child care organization shall not allow that person to regularly or continuously work under contract at the child care organization.

(3) A child care organization may pass along the actual cost of a search of the department of state police's ICHAT or equivalent check on that person from the state or province of residence to the employee or applicant on whom the search is being performed.

Sec. 5e. (1) A child care center licensee, licensee designee, or program director, group child care home licensee, and family child care home licensee shall report to the department within 3 business days after he or she has been arraigned for or convicted of 1 or more of the crimes listed in section 5r.

(2) Except as provided in subsection (1), a child care staff member shall report to the child care center, group child care home, or family child care home within 3 business days after he or she has been arraigned for or convicted of 1 or more of the crimes listed in section 5r.

(3) A child care center licensee, licensee designee, or program director, group child care home licensee, and family child care home licensee shall report to the department within 3 business days after receiving a report from a child care staff member under subsection (2).

(4) A group child care home licensee or family child care home licensee shall report to the department within 3 business days after he or she knows or should reasonably know that a member of the household has been arraigned for or convicted of 1 or more of the crimes listed in section 5r.

(5) A person who violates subsection (1), (2), (3), or (4) is guilty of a crime as follows:

(a) If the person violates subsection (1), (2), (3), or (4) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(b) If the person violates subsection (1), (2), (3), or (4) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

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

(7) A child care center, group child care home, or family child care home shall delete from the child care staff member's records all information relating to an arraignment required to be reported under this section if it receives documentation that the child care staff member is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(8) At the time a child care center, group child care home, or family child care home allows a person to become a child care staff member, the child care center, group child care home, or family child care home shall notify that person of the requirement under this section to report when he or she is arraigned for or convicted of certain crimes and the penalty for not reporting.

Sec. 5g. If the department becomes aware that a member of the household of a group child care home or family child care home has been convicted of a listed offense, the department shall not issue a license to the applicant, shall not renew a license to the licensee applying for renewal, or shall revoke a current licensee's license.

Sec. 5h. (1) Except as provided in subsection (6), when a person applies for or to renew a license to operate a foster family home or foster family group home under this act, the department shall request the department of state police to perform a criminal history check on that person.

(2) Each person applying for a license to operate a foster family home or foster family group home shall give written consent at the time of application for the department of state police to conduct a criminal history check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check described in subsection (1).

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

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

(5) The department of state police may charge the department a fee for a criminal history check required under this section that does not exceed the actual and reasonable cost of conducting the check.

(6) If a person applying to renew a license to operate a foster family home or foster family group home under this act has previously undergone a criminal history check required under subsection (1) and has continuously maintained a license to operate a foster family home or foster family group home under this act after the criminal history check has been performed, that person is not required to submit to another criminal history check upon renewal of the license obtained to operate a foster family home or foster family group home under this act.

Sec. 5i. (1) A person to whom a license to operate a foster family home or foster family group home has been issued under this act shall report to the department within 3 business days after he or she has been arraigned for or convicted of 1 or more of the following crimes and within 3 business days after he or she knows or should reasonably know that an adult member of the household has been arraigned for or convicted of 1 or more of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

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

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

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

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

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

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

(vii) Any misdemeanor that is a listed offense.

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

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

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

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

Sec. 5j. (1) When a person applies for or to renew a license to operate a foster family home or foster family group home under this act, the department shall perform a criminal history background check on an adult member of the

household using the department of state police's internet criminal history access tool (ICHAT). This section does not apply to a person residing in the home for a period of not more than 14 days.

(2) If a search of the department of state police's ICHAT reveals that an adult member of the household has been convicted of a listed offense, the department shall not issue a license to the applicant, shall not renew a license to the licensee applying for renewal, or shall revoke a current licensee's license.

Sec. 5k. (1) The department of state police shall store and retain all fingerprints submitted under this act in an automated fingerprint identification system database that provides for an automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted in accordance with this act. Upon that notification, the department of state police shall immediately notify the department and the department shall immediately contact the respective child care organization with which that individual is associated. Except for child placing agencies, the criminal history record information shall only be released to the individual to whom the criminal history record information pertains. Information in the database retained under this section is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(2) When the department of state police is able to participate with the Federal Bureau of Investigation's automatic notification system similar to the system administered by the department of state police under subsection (1), all fingerprints submitted to the Federal Bureau of Investigation may be stored and retained. When a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints for an individual retained in accordance with this act, the department of state police shall immediately notify the department. The department shall immediately contact the child care organization with which the individual is associated if a conviction results from the arrest. Except for child placing agencies, the criminal history record information shall only be released to the individual to whom the criminal history record information pertains.

Sec. 5l. (1) A person acting in good faith who makes a report, cooperates in an investigation, or assists in any other requirement of this act is immune from civil or criminal liability that might otherwise be incurred by that action. A person making a report or assisting in any other requirement of this act is presumed to have acted in good faith. This immunity from civil or criminal liability extends only to an act performed according to this act for reporting a potential violation or assisting or cooperating with the department in an investigation conducted by the department.

(2) Except as provided in section 10(3), the identity of a person making a report and cooperating with or assisting the department relative to that report under this act is confidential, subject only to disclosure with the consent of that person or by judicial process.

(3) If the department receives a complaint by an individual remaining anonymous, the department may take no action on the complaint if the complaint does not include sufficient information to reasonably investigate.

(4) A person who intentionally makes a false report to the department regarding a child care organization that causes the department to initiate a special investigation that the department classifies as high-risk for which the child care organization is required to send notice under section 3f is guilty of a crime as follows:

(a) If the incident reported would not constitute a crime or would constitute a misdemeanor if the report were true, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(b) If the incident reported would constitute a felony if the report were true, the person is guilty of a felony punishable by the lesser of the following:

(i) The penalty for the incident falsely reported.

(ii) Imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

Sec. 5n. (1) Except as otherwise provided in subsection (13), when a person, partnership, firm, corporation, association, governmental organization, or nongovernmental organization applies for or applies to renew a license to operate a child care center, group child care home, or family child care home under section 5m and before a group child care home or family child care home allows an individual to be a member of the household, or a child care center, group child care home, or family child care home allows an individual to become a child care staff member, the department shall do all of the following:

(a) Review its database of individuals with previous disciplinary action within a child care center, group child care home, or family child care home or an adult foster care facility.

(b) Conduct a search of the individual through the national sex offender registry.

(c) Request a search of the individual through all state criminal registries or repositories for any states of residence in the past 5 years.

(d) Request that the department of state police perform a criminal history check on the individual, child care staff member, or adult member of the household.

(2) If the individual, child care staff member, or adult member of the household has resided out of the United States within the preceding 5 years, equivalent clearances of those described in subsection (1)(b) and (d) and section 5q from each country must be provided, if available. If the country does not have the equivalent clearance, the individual must sign a self-certifying statement that he or she is not ineligible to receive a license, to be an adult member of the household, or to be a child care staff member as prescribed by sections 5q and 5r. An individual who provides or is determined to have provided false information or knowingly omits information in the self-certification statement is ineligible for that application.

(3) Each individual listed in subsection (1) shall give written consent at the time of the license application and before a group child care home or family child care home allows an individual to be a member of the household, or before becoming a child care staff member to allow the department of state police to conduct the criminal history check required under subsection (1). The department shall require the individual to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check as required in subsection (1).

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

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

(6) The department of state police may charge the department a fee for a criminal history check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass along to the individual fingerprinted the actual cost or fee charged by the department of state police, the Federal Bureau of Investigation, or a vendor approved by the department of state police for performing a criminal history check required under this section.

(7) The department shall provide whether the individual is eligible or ineligible as provided by sections 5q and 5r within 45 days after the date on which the request was submitted.

(8) The individual may serve as a child care staff member pending the results of the record and database checks required by this section and section 5q if the individual is supervised at all times.

(9) Within 45 days after the date on which the request was submitted, the department shall provide a statement to the child care center, group child care home, or family child care home that indicates whether the individual is eligible or ineligible to be, a licensee, an adult member of the household, or a child care staff member as provided under sections 5q and 5r without revealing any disqualifying crime or other related information regarding the individual.

(10) If the individual is ineligible due to the records or database checks required under this section and section 5q, the department shall provide information related to each disqualifying item in a report to the individual who has been determined ineligible.

(11) An individual who has been determined to be ineligible as provided under sections 5q and 5r may request a redetermination by the department if he or she believes that the basis for the ineligible determination is inaccurate. The individual shall file the request for redetermination with the department within 30 calendar days after receiving the written notice that he or she was determined to be ineligible. If an individual has been determined to be ineligible based upon a conviction that has been expunged or set aside or a central registry case that has been expunged, the individual shall provide the supporting court, law enforcement, or department of health and human services, or equivalent department from another state, documents along with the request for redetermination. The individual shall not be determined to be ineligible based upon a conviction that has been set aside or expunged or a central registry case that has been expunged. The department shall review the request and issue a written decision within 30 business days after receiving the request for redetermination. The decision of the department is final.

(12) Each ineligible individual shall be given instructions about how to complete the request for redetermination process as provided in subsection (11).

(13) Except as otherwise provided in this subsection, not later than September 30, 2017, every child care center licensee, group child care home licensee, family child care home licensee, child care staff member, and adult member of the household shall submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation in order to carry out the records and database checks required under this section and section 5q. If the department of education obtains an extension on the implementation of this program from the federal government, the provisions of this section may be implemented no later than September 30, 2018.

(14) If a licensee, licensee designee, or program director of a child care center, group child care home, or family child care home applying for a new license or to renew a license to operate a child care center, group child care home, or family child care home has previously undergone a criminal history check required under subsections (1) and (13) and has remained continuously licensed after the criminal history check has been performed, that licensee, licensee designee,

or program director of a child care center, group child care home, or family child care home is not required to submit to another criminal history check upon renewal of, or application for, the license obtained under this act.

(15) Upon consent of an applicant as required in subsection (3) and upon request from a child care center, group child care home, or family child care home, the department shall review the information received from the criminal history check, if any, and notify the requesting child care center, group child care home, or family child care home of the information in the manner prescribed in subsection (7). Until the Federal Bureau of Investigation implements an automatic notification system as outlined in section 5k, a child care center, group child care home, or family child care home may rely on the criminal history record information provided by the department under this subsection and a new request as provided under this section is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 5-year period.

(b) The applicant has been continuously employed by a child care center, group child care home, or family child care home since the criminal history check was conducted in compliance with this section.

(c) The applicant can provide evidence acceptable to the department that he or she has been a resident of this state for the immediately preceding 5-year period.

(16) The checks and clearances required in subsection (1)(a) to (c) and section 5q shall be updated at least every 5 years if the individual has been continuously licensed, has continuously been serving as a child care staff member, or has continuously been an adult member of the household.

Sec. 5o. (1) Except as provided in section 5n(14), the department shall not issue a license to operate a child care center, group child care home, or family child care home under this act without requesting a criminal history check as required by section 5n.

(2) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license to operate a child care center under this act has been convicted of a crime as described in section 5r, the department shall not issue a license to that applicant.

(3) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license to operate a child care center under this act has been convicted of a crime as described in section 5r, the department shall not renew that license.

(4) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that a current child care center licensee has been convicted of a crime as described in section 5r, the department shall revoke the license of that licensee.

(5) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license to operate a group child care home or family child care home under this act or an adult member of the household has been convicted of a crime as described in section 5r, the department shall not issue a license to that applicant.

(6) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license to operate a group child care home or family child care home under this act or an adult member of the household has been convicted of a crime as described in section 5r, the department shall not renew a license to that applicant.

(7) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that a current group child care home or family child care home licensee under this act or an adult member of the household has been convicted of a crime as described in section 5r, the department shall revoke that licensee's license.

Sec. 5p. (1) Except as provided in section 5n(14) and (15), a child care center, group child care home, or family child care home shall not allow an individual to be a child care staff member without requesting a criminal history check as required by section 5n.

(2) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that a potential or current child care staff member has been convicted of a crime as described in section 5r, the department shall notify the child care center, group child care home, or family child care home. The child care center, group child care home, or family child care home shall not allow the individual to be a child care staff member.

Sec. 5q. (1) Except as provided in section 5n(8), a licensee, child care staff member, or adult member of the household may not have contact with a child who is in the care of a child care center, group child care home, or family child care home, until the department obtains documentation from the department of health and human services that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. Upon request by the

department, the licensee, child care staff member, or adult member of the household shall provide the department with an updated authorization for a central registry clearance. If a central registry clearance documents that a licensee, child care staff member, or adult member of the household is named in a central registry case as a perpetrator of child abuse or child neglect, he or she is ineligible to receive a license to operate a child care center, group child care home, or family child care home, be an adult member of the household, or be a child care staff member.

(2) If the licensee, child care staff member, or adult member of the household has resided outside of this state as an adult within the 5 years immediately preceding the date of application for a license, or the date that he or she was hired as a child care staff member or resided in a group child care home or family child care home, except as provided in section 5n(8), the individual may not have contact with a child who is in the care of a child care center, group child care home, or family child care home until the department obtains documentation equivalent to the department of health and human services central registry clearance for the states of previous residence that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. If the documentation equivalent to the department of health and human services central registry clearance for the states of previous residence indicates that the individual is named as a perpetrator of child abuse or child neglect, the individual is ineligible to receive a license, be an adult member of the household, or be a child care staff member.

(3) Each child care center, group child care home, or family child care home that has volunteers on site shall establish and maintain a policy regarding supervision of volunteers including volunteers who are parents of a child receiving care at the child care center, group child care home, or family child care home.

(4) As used in this section, "child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

Sec. 5r. (1) An individual required to undergo a criminal history check as described in section 5n is ineligible for that application only, to receive a license, be an adult member of the household or be a child care staff member if the individual does either of the following:

(a) Refuses to consent to the criminal history check or central registry check as required under section 5q.

(b) Knowingly makes a materially false statement or knowingly omits information in connection with a criminal history check or central registry check as required under section 5q.

(2) An individual required to undergo a database check as required under section 5n(1)(a) who has a confirmed history of disciplinary action or violations as outlined in section 11(5) and (6) may be considered ineligible to receive a license, be an adult member of the household, or be a child care staff member.

(3) An individual required to undergo a criminal history check as described in section 5n is ineligible to receive a license, be an adult member of the household, or be a child care staff member if the individual satisfies 1 or more of the following:

(a) Is registered, or is required to be registered, on a state sex offender registry or repository or the national sex offender registry.

(b) Has been convicted of a felony consisting of 1 or more of the following or any other state or federal equivalent:

(i) Murder or homicide.

(ii) Child abuse or child neglect.

(iii) A crime against a minor child, including, but not limited to, child pornography.

(iv) Spousal abuse or domestic violence.

(v) A crime involving rape or sexual assault.

(vi) Kidnapping.

(vii) Arson.

(viii) Physical assault or battery.

(ix) Human trafficking or involuntary servitude.

(c) Has been convicted of a violent misdemeanor against a child, including, but not limited to, 1 or more of the following crimes:

(i) Child abuse.

(ii) Child endangerment.

(iii) Sexual assault.

(d) Has been convicted of a misdemeanor involving child pornography.

(4) An individual required to undergo a criminal history check as described in section 5n is ineligible to receive a license, be an adult member of the household, or be a child care staff member if the individual has been convicted of 1 or more of the following felonies, an attempt or conspiracy to commit 1 or more of the following felonies, or any other state or federal equivalent, unless 10 years have lapsed since the conviction, before the date of application or before the date

a group child care home or family child care home allows an individual to be an adult member of the household, or a child care center, group child care home, or family child care home allows an individual to be a child care staff member:

- (a) A felony involving harm or threatened harm to an individual.
- (b) A felony involving the use of a firearm or dangerous weapon.
- (c) A felony involving cruelty or torture of any person.
- (d) A felony involving a substantial misrepresentation of any material fact, bribery, fraud, larceny, embezzlement, theft, home invasion, breaking and entering, receiving and concealing stolen property or a crime of similar statute.
- (e) A felony involving operating a motor vehicle while intoxicated or impaired causing serious injury or death.
- (f) A felony involving the use of a computer or the internet to commit a crime.
- (g) A felony involving cruelty to animals, including, but not limited to, fighting, killing, torturing, and abandoning.
- (h) A felony involving aggravated stalking, aggravated indecent exposure, indecent exposure by a sexually delinquent person, pandering, transporting an individual for prostitution, and keeping, maintaining, or operating a house of ill fame.
- (i) A felony as a habitual offender.

(5) An individual required to undergo a criminal history check as described in section 5n is ineligible to receive a license, be an adult member of the household, or be a child care staff member if the individual has been convicted of a felony drug offense, an attempt or conspiracy to commit a felony drug offense, or any other state or federal equivalent, unless 7 years have lapsed since the conviction before the date of application or before the date a group child care home or family child care home allows an individual to be an adult member of the household or a child care center, group child care home, or family child care home allows an individual to be a child care staff member.

(6) An individual required to undergo a criminal history check as described in section 5n is ineligible to receive a license, be an adult member of the household, or be a child care staff member if the individual has been convicted of 1 or more of the following misdemeanors, an attempt or conspiracy to commit any of those misdemeanors, or any other state or federal equivalent, unless 5 years have lapsed since the conviction before the date of application or before the date a group child care home or family child care home allows an individual to be an adult member of the household or a child care center, group child care home, or family child care home allows an individual to be a child care staff member:

- (a) A misdemeanor involving operating under the presence of a controlled substance, use or possession of a controlled substance, and selling or furnishing a controlled substance to a minor.
- (b) A misdemeanor involving using computers to commit a crime, a substantial misrepresentation of a material fact, embezzlement, breaking and entering, and any other fraudulent crime except retail fraud in the third degree, petty theft, or shoplifting.
- (c) A misdemeanor involving stalking, assault, spousal abuse, domestic violence, weapons offense, harboring runaways, aiding and abetting, and arson.

Sec. 5s. (1) If an individual was previously reviewed and approved by the department as a licensee of a child care center or group child care home, as a registrant of a family child care home, as a licensee designee or program director for a child care center, or as an adult member of the household before the effective date of the amendatory act that added this section, the department may find the individual to be eligible to receive a license under this section, eligible to be a member of the household, or eligible to be a child care staff member if all of the following apply:

- (a) The offense was previously known and approved by the department before the effective date of the amendatory act that added this section.
- (b) The offense is not listed in section 5r(3).
- (c) The individual has remained continuously licensed under this act or continuously employed with an active child care center license, group child care home license, or family child care home registration since the date of approval.

(2) An individual determined to be ineligible under section 5r, excluding section 5r(3), who was a licensee, child care staff member, or adult member of the household at the time the records and database checks required under section 5n were completed, may request a redetermination of his or her eligibility. A redetermination must be requested in writing by the individual determined to be ineligible within 30 days after receipt of that determination. The request for a redetermination must include all evidence of rehabilitation that the individual wishes the department to consider. The department has 60 days, after all requested information has been received by the department, to respond in writing with the recommendation for the redetermination. The decision of the director is final.

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

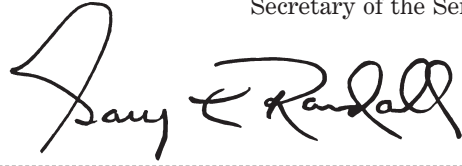
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

- (a) Senate Bill No. 181.
- (b) Senate Bill No. 182.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor