

Act No. 434
Public Acts of 2018
Approved by the Governor
December 20, 2018
Filed with the Secretary of State
December 20, 2018
EFFECTIVE DATE: March 20, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senator MacGregor

ENROLLED SENATE BILL No. 798

AN ACT 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:

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

Sec. 3. As used in this act:

(a) "Automatic notification system" means a system that stores and retains fingerprints and that provides for an automatic notification to a participant when a fingerprint is submitted into the system that matches an individual whose fingerprints are retained in the system or when the criminal history of an individual whose fingerprints are retained in the system is updated.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The department of state police shall store and retain all fingerprints submitted under this section in an automated fingerprint identification system database that searches against latent fingerprints and provides for an automatic notification when a subsequent fingerprint is submitted into the system that matches a set of fingerprints previously submitted under this section or when the criminal history of an individual whose fingerprints are retained in the system is updated. Upon receiving a notification under this subparagraph, the department of state police shall immediately notify the family service agency that requested the criminal history records check under this section. Information in the database maintained 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Executing a power of attorney does not subject a parent, guardian, or person in a home in which a minor child is hosted under this act to any law, rule, or regulation concerning licensing or regulation of foster care or a child care organization. Providing a service under this act does not subject a family service agency to regulation by the department.

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

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

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

(4) The department, a local office of the department, or a law enforcement agency or officer may refer cases or families to a tax-exempt charitable organization that is recruiting persons and families under this act. The services provided under this act are community-based services that may be recommended commensurate with the risk to the child under section 8d(1)(b) and (c) of the child protection law, 1975 PA 238, MCL 722.628d.

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

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

(a) Senate Bill No. 489.

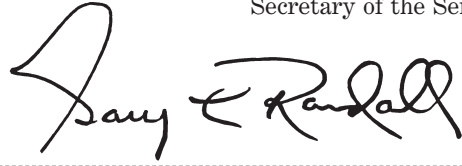
(b) Senate Bill No. 490.

(c) Senate Bill No. 797.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor