

SENATE BILL NO. 100

February 03, 2021, Introduced by Senator BIZON and referred to the Committee on Families, Seniors, and Veterans.

A bill 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 section 13a (MCL 722.123a), as added by 2020 PA 8.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 13a. (1) In the case of a child in foster care who is
2 placed in a qualified residential treatment program, the following

1 requirements apply:

2 (a) Within 30 days after the start of each placement in a
3 qualified residential treatment program, a qualified individual
4 ~~shall~~**must** do all of the following:

5 (i) Assess the strengths and needs of the child using an age-
6 appropriate, evidence-based, validated, functional assessment tool
7 approved by the secretary.

8 (ii) Determine whether the needs of the child can be met with
9 family members or through placement in a foster family home or, if
10 not, which setting would provide the most effective and appropriate
11 level of care for the child in the least restrictive environment
12 and be consistent with the short-term and long-term goals for the
13 child, as specified in the child's permanency plan.

14 (iii) Develop a list of child-specific short-term and long-term
15 mental and behavioral health goals.

16 (b) The child placing agency responsible for care and
17 supervision of the child ~~shall~~**must** assemble a team for the child
18 in accordance with the requirements of subdivision (a) (i) and (ii).
19 The qualified individual conducting the assessment required under
20 subdivision (a) ~~shall~~**must** work in conjunction with the child's
21 team while conducting and making the assessment.

22 (c) The child's team, as described in subdivision (b), ~~shall~~
23 **must** consist of all appropriate biological family members,
24 relatives, and other supportive adults of the child, as well as
25 professionals who are a resource to the family of the child, such
26 as teachers, medical or mental health providers who have treated
27 the child, or clergy. In the case of a child who has attained age
28 14, the team ~~shall~~**must** include members of the permanency planning
29 team for the child that are selected by the child.

1 (d) The child placing agency responsible for the child's care
2 and supervision ~~shall~~**must** document in the child's case plan all
3 the following:

4 (i) The reasonable and good-faith effort to identify and
5 include all the individuals described in subdivision (c) on the
6 child's team.

7 (ii) All contact information for members of the team, as well
8 as contact information for other relatives and supportive adults
9 who are not part of the child's team.

10 (iii) Evidence that meetings of the team, including meetings
11 relating to the assessment required under subdivision (a), are held
12 at a time and place convenient for family.

13 (iv) If reunification is the goal, evidence demonstrating that
14 the parent from whom the child was removed provided input to the
15 members of the child's team.

16 (v) Evidence that the assessment required under subdivision
17 (a) is determined in conjunction with the child's team.

18 (vi) The placement preference of the child's team relative to
19 the assessment that recognizes a child should be placed with his or
20 her sibling unless there is a finding by the court that such
21 placement is contrary to the child's best interests.

22 (vii) If the placement preferences of the child's team and the
23 child are not the placement setting recommended by the qualified
24 individual conducting the assessment under subdivision (a), the
25 reason why the preferences of the child's team and of the child
26 were not recommended.

27 (2) If the qualified individual conducting the assessment
28 determines the child should not be placed in a foster family home,
29 the qualified individual shall specify in writing the reason why

1 the needs of the child cannot be met by the family of the child or
2 in a foster family home. A shortage or lack of foster family homes
3 is not an acceptable reason for determining that the needs of the
4 child cannot be met in a foster family home. The qualified
5 individual ~~shall~~**must** specify in writing why the recommended
6 placement in a qualified residential treatment program is the
7 setting that will provide the child with the most effective and
8 appropriate level of care in the least restrictive environment and
9 how that placement is consistent with the short-term and long-term
10 goals for the child, as specified in the permanency plan for the
11 child.

12 (3) Within 60 days after the start of each placement in a
13 qualified residential treatment program, the court, or an
14 administrative body appointed or approved by the court,
15 independently, ~~shall~~**must** do the following:

16 (a) Consider the assessment, determination, and documentation
17 made by the qualified individual.

18 (b) Determine whether the needs of the child can be met
19 through placement in a foster family home or, if not, whether
20 placement of the child in a qualified residential treatment program
21 provides the most effective and appropriate level of care for the
22 child in the least restrictive environment and whether that
23 placement is consistent with the goals for the child, as specified
24 in the permanency plan for the child.

25 (c) Approve or disapprove the qualified residential treatment
26 program placement.

27 (4) The written documentation of the determination and
28 approval or disapproval of the placement in a qualified residential
29 treatment program by a court or administrative body under

1 subsection (3) shall be included in and made part of the case plan
2 for the child.

3 (5) As long as a child remains placed in a qualified
4 residential treatment program, the department ~~shall~~**must** submit
5 evidence at each dispositional review hearing and each permanency
6 planning hearing held with respect to the child that does the
7 following:

8 (a) Demonstrates that ongoing assessment of the strengths and
9 needs of the child continues to support the determination that the
10 needs of the child cannot be met through placement in a foster
11 family home, that the placement in a qualified residential
12 treatment program provides the most effective and appropriate level
13 of care for the child in the least restrictive environment, and
14 that the placement is consistent with the short-term and long-term
15 goals for the child, as specified in the permanency plan for the
16 child.

17 (b) Documenting the specific treatment or service needs that
18 will be met for the child in the placement and the length of time
19 the child is expected to need the treatment or services.

20 (c) Documents the reasonable efforts made by the department to
21 prepare the child to return home or to be placed with a fit and
22 willing relative, a legal guardian, or an adoptive parent, or in a
23 foster family home.

24 (6) At each dispositional review hearing and permanency
25 planning hearing held with respect to the child, the court shall
26 approve or disapprove the qualified residential treatment program
27 placement.

28 (7) In the case of a child who is placed in a qualified
29 residential treatment program for more than 12 consecutive months

1 or 18 nonconsecutive months, or, in the case of a child who has not
2 attained age 13, for more than 6 consecutive or nonconsecutive
3 months, the department shall obtain the signed approval of the
4 director of the department for the continued placement of the child
5 in that setting.

6 (8) In response to the restrictions on title IV-E foster care
7 payments for child caring institutions in section 472(k) of the
8 family first prevention services act, 42 USC 672(k), the department
9 shall not enact or advance policies or practices that would result
10 in a significant increase in the population of youth in the
11 juvenile justice system.

12 (9) As used in this section:

13 (a) **"Foster care" means 24-hour substitute care for a child**
14 **placed away from his or her parent or guardian and for whom the**
15 **title IV-E agency has placement and care responsibility.**

16 (b) ~~(a)~~—"Qualified individual" means a trained professional or
17 licensed clinician who is not an employee of the department and who
18 is not connected to, or affiliated with, any placement setting in
19 which children are placed by the department. The department may
20 seek a waiver from the secretary to approve a qualified individual
21 who does not meet the criteria in this subdivision to conduct the
22 assessment. The individual must maintain objectivity with respect
23 to determining the most effective and appropriate placement for the
24 child.

25 (c) ~~(b)~~—"Secretary" means the United States Secretary of the
26 Department of Health and Human Services.