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Senate Bill 692 through 695 (as introduced 1-18-24)
Sponsor: Senator Sam Singh (S.B. 692 & S.B. 695)
Senator Veronica Klinefelt (S.B. 693)
Senator Mary Cavanagh (S.B. 694)
Committee: Oversight

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INTRODUCTION

The bills would reorganize current law governing camp programs, such as day or overnight camps for youth or adults, within the proposed "Camp Licensing Act". Generally, the Act would reflect current law and regulation by the Department of Licensing and Regulatory Affairs (LARA) concerning the care and supervision of campers; however, it would establish camp-specific licensing procedures and requirements and include provisional and temporary licenses for camps that did not meet all its licensure requirements. The Act would establish a \$120 application fee for all types of camp licenses.

Additionally, the Act would require more significant criminal history checks through the Michigan State Police (MSP) for licensees and camp staff members who could be unsupervised around campers. It also would specify convictions that would make an individual ineligible for a license or staff position. Finally, the Act would prescribe a misdemeanor penalty for any violation of the Act and a felony penalty for a false report that led to LARA conducting a high-risk special investigation as provided by the Act.

Senate Bill 693, Senate Bill 694, and Senate Bill 695 are tie-barred to Senate Bill 692.

BRIEF FISCAL IMPACT

The bills would have a negative fiscal impact on the State. While the bills reorganize the licensure of child camps under LARA, licensure for the camps already exists and is paid for by existing appropriation; however, some additional costs may be incurred if LARA were to undertake significant new responsibilities and incur additional staffing costs. Senate Bill 692 could result in a negative impact due to the requirement that staff members undergo a background check, administered by the MSP and the potential increase in demands on law enforcement, court systems, and correctional facilities.

MCL 777.15g (S.B. 693)
722.111 et al. (S.B. 694)
400.703 et al. (S.B. 695)

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CONTENT

Senate Bill 692 would enact the "Camp Licensing Act" to do the following:

- Prohibit an individual or legal entity from operating a camp without a license and prescribe a \$120 license application fee.
- Prescribe licensure requirements for camps.
- Require LARA to promulgate rules for the care and supervision of campers and specify the parameters of such rules.
- Prescribe the procedures for the inspection of a camp, including the inspection of a camp at least once every two-years.
- Allow LARA to issue provisional licenses to camps on the basis of a need to overcome a deficiency or because of willful or substantial noncompliance with the Act or promulgated rules.
- Require a camp to orally notify a parent or guardian of a high-risk special investigation, generally an investigation into conditions of child abuse or neglect, within 24-hours after the camp received notice of the investigation.
- Prescribe the procedure for LARA to revoke, refuse an application for, or deny a license and specify an appeal process for a licensee or applicant.
- Create the Camp Licensing Fund within LARA.
- Require a licensee, licensee designee, administrator, or program director of a camp to undergo a criminal background check as a condition of licensure.
- Require camps to conduct background checks on any staff members prior to unsupervised contact with a camper.
- Require the MSP to retain all camp submitted fingerprints in an automated notification system and require the MSP to immediately notify LARA and the applicable camp of a notification of a crime.
- Provide for certain civil and criminal liability immunity for an individual who acted in good faith and made a report, cooperated in an investigation, or assisted in the Act's requirements.
- Prescribe misdemeanor and felony penalties for making a false report that resulted in a high-risk special investigation.
- Prohibit individuals who have been involved in child abuse or child neglect cases from being present at a camp.
- Require a parent or guardian of a camper to preauthorize emergency care.
- Prescribe a misdemeanor penalty for a violation of the Act and prohibit a violator from having connection with a camp for at least five years.

Senate Bill 693 would amend the Code of Criminal Procedure to include sentencing guidelines for the felony penalty proposed by Senate Bill 692.

Senate Bill 694 would amend the childcare licensing Act to delete requirements to the licensure of children's camps.

Senate Bill 695 would amend the Adult Foster Care Facilities Licensing Act to do the following:

- Delete licensure requirements for adult foster camps, youth camps, and camps.
- Create the Adult Foster Care Licensing Fee Fund within LARA and prescribe the Fund's use.

Also, Senate Bill 694 would repeal Section 17a of the childcare licensing act, which governs the use of an inhaler or epinephrine auto-injector by a child at a children's camp.

Senate Bill 692

Camps and Campers Defined

"Camp" would mean a camp program operated at a campsite, or a day camp, residential camp, or travel camp conducted in a natural environment. "Camp program" would mean a program that receives more than four campers for care and supervision, apart from the camper's parents, relatives, or guardians, for five or more days in a 14-day period, stationed in a campsite or as a travel camp.

"Guardian" would mean an individual granted authority over another individual by legal instrument or court of law. "Relative" would mean in the relationship by blood, marriage, or adoption, as parent, grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the individuals described in this definition, even after the marriage has ended by death or divorce.

"Supervision" would mean a licensee's continual responsibility to reasonably know, commensurate on a camper's maturity, physical condition, or mental abilities, the whereabouts and management of the camper.

"Adult residential camp" would mean a type of residential camp with the approved capacity to receive more than four adult campers who are provided care and supervision in a natural environment.

"Campsite" would mean the area of a natural environment located where a camp primarily operates, including, but not limited to, land, bodies of water, indoor and outdoor facilities, furnishings, and installations that support outdoor living or activities. "Natural environment" would mean an out-of-doors setting where a camp is run at least 51% of the time.

"Day camp" would mean a camp program for youth campers located at a campsite where care and supervision are provided each day for more than four hours a day with no overnight sleeping.

"Residential camp" would mean a camp program conducted at a campsite that provides care and supervision to campers each day for at least 12 hours a day with overnight sleeping.

"Travel camp" would mean a camp program that provides care and supervision for 12 or more hours a day with overnight sleeping and is not stationed at a specific campsite.

"Care" would mean continual responsibility of the licensee to take reasonable action to ensure the health, safety, and well-being of a camper while attending camp, including protection from physical harm, emotional harm, and personal exploitation under the supervision of the licensee or staff of the licensee.

"Camper" would mean a youth camper; or an adult camper who is at least 18 years of age, has a mental health disorder, is developmentally disabled, or is physically disabled. "Youth camper" would mean a child of at least four but younger than 18 years of age who receives care and supervision.

"Developmentally disabled" would mean a severe and chronic disability that causes physical, learning, or behavioral impairment, that begins during an individual's developmental period, that usually lasts throughout an individual's lifetime, and that causes an individual to require care and supervision overseen by a parent or guardian. "Physically disabled" would mean a

diagnosed, substantial, and long-term condition that affects a part of an individual's body, that impairs and limits that individual's physical functioning, mobility, stamina, or dexterity, and that causes an individual to require care and supervision overseen by a parent or guardian.

"Mental health disorder" would mean a diagnosed mental health condition or disorder that affects an individual's mood, thinking, and behavior, and that causes an individual to require care and supervision overseen by a parent or guardian.

Care and Supervision Rules

The bill would require LARA to promulgate rules for the care and supervision of campers according to the Administrative Procedures Act. The rules could only pertain to the following standards and conduct:

- The operation and conduct of camps and the responsibility the camps assume for care and supervision of a camper.
- The suitability, health, training, and qualifications of applicants and other persons directly responsible for the care and supervision of campers.
- The general financial ability and competence of applicants to provide necessary care and supervision for campers to maintain prescribed standards.
- The number of individuals or staff required to ensure adequate care and supervision of the campers.
- The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire prevention and health standard to provide for the physical comfort, care, and wellbeing of the campers.
- Provisions for food, clothing, educational opportunities, camp programs, equipment, and individual supplies to ensure the healthy physical, emotional, and mental development of campers.
- Provisions to safeguard the legal rights of the campers.
- Maintenance of records pertaining to admission, progress, health, and discharge of campers.
- Requirements for filing reports with LARA.
- Appropriate behavior management of campers.
- Standards for transportation safety.
- The inspection process for camps with deemed status.

The Act would require LARA to provide consultation to camps to assist them in meeting the bill's requirements and rules. Additionally, LARA would have to offer assistance, training, and education within fiscal limitations, upon request, in developing methods for the improvement of services.

Camp Licenses; Generally

Under the Act, an individual or legal entity could not establish or maintain a camp unless licensed by LARA. An application for a license would have to be made on forms provided and in a manner prescribed by LARA. Before LARA could issue or renew a license, LARA would have to investigate the applicant's activities and proposed standards of care and supervision and make an onsite visit of the proposed or established camp. Unless otherwise specified, if LARA were satisfied that the services and facilities were conducive to the care and supervision of campers, LARA would have to issue or renew the license, as applicable.

"Legal entity" would mean a governmental entity, sole proprietorship, partnership, corporation, limited liability company, or any other nongovernmental entity authorized to conduct business in the State.

A regular license would be effective for a maximum of one year and would expire on August 31 following the date the license was issued, except that a regular license could be revoked, modified to a provisional license, or renewal could be denied. The Act would require LARA to renew a regular license, if approved, following an application and payment of a license fee described below.

Under the Act, LARA could accept a licensee's written request to close a license if LARA did not have an active investigation against the licensee or was not pursuing revocation or refusal to renew. Additionally, LARA would have to periodically assess a camp's continued compliance with the provisions of the Act and LARA's rules and make an on-site inspection of the camp at least once every two-years.

A license would have to be issued to a specific licensee, at a specific location, would have to be nontransferable, and would have to remain property of LARA.

Temporary Camp License

Under the Act, LARA would have to issue a temporary license for a camp upon approving a new application. A new camp would have to receive a temporary license before operation and the license would expire on August 31 following its issuance. The renewal of a temporary license would be contingent on the submission of a renewal application, fee, and LARA approval. At the completion of the temporary license period, LARA would have to issue a regular license, refuse to issue a license, or issue a provisional license.

An existing camp program that relocated to a new address would not have to apply for or receive a temporary license. A new license could be issued at LARA's discretion at the new address.

Provisional Camp License

A provisional license could be issued to a camp that was temporarily unable to conform to the Act's provisions or LARA's rules. The issuance of a provisional license would have to be contingent on the submission to LARA of an acceptable plan to overcome the deficiency present in the camp within the time limitations of the provision license period described below.

A provisional license would have to expire on August 31 following the date the license was issued and could only be issued two consecutive times. The renewal of a provisional license would have to be contingent on the submission of a new application, fee, and LARA approval. At the end of the license period, LARA would have to issue a regular license, refuse to renew, or modify to a second provisional license.

The Act would allow LARA to modify the regular license of a camp to a provisional license if the licensee were in willful and substantial noncompliance with the Act's provisions or LARA's rules.

"Noncompliance" would mean a violation of the Act or LARA's rules under the Act, or the terms of a license. "Substantial noncompliance" would mean repeated violation or noncompliance of the Act, rules promulgated under the Act, or terms of a license that may jeopardize the health, safety, care, treatment, maintenance, or supervision of campers. "Willful noncompliance"

would mean conduct that an applicant or licensee knew or had reason to believe to know was a violation of the Act or LARA's rules under the Act, or the terms or a license.

A license could not be modified unless the licensee were given written notice of the grounds of the proposed modification. If the proposed modification were not appealed, the license would be modified. A proposed modification would have to be appealed by writing the Director of LARA or the Director's designee within 30 days of receipt. Upon receipt of the appeal, the Director or the Director's designee would have to initiate the provisions of Chapter 4 (Procedures for Processing and Publishing Rules) and Chapter 5 (Licenses) of the Administrative Procedures Act. Notice of a hearing would have to be given to the licensee by personal service or delivery to the proper address by certified mail within two weeks before the date of the hearing. The decision of the Director would have to be made as soon as practicable after the hearing and forwarded to the licensee by certified mail within the following 10 days. The formal notice and hearing requirement would not apply if the licensee and LARA complied as described below.

The Act would allow LARA to immediately modify a license without providing notice of the grounds of the proposed action or giving the licensee 30 days to appeal if the licensee, in writing, did the following:

- Waived the requirement that LARA provide written notice of the grounds for the proposed action.
- Waived the 30-day time frame in which to submit a written appeal to the notice.
- Waived the right to implement the provisions of Chapter 4 or Chapter 5 of the Administrative Procedures Act.

License Application Fees and Camp Licensing Fund

Under the Act, application fees for an individual or legal entity licensed or seeking licensure for a temporary or renewal license would be as follows:

- \$120 for a camp program.
- \$120 for a campsite.

The Act would create the Camp Licensing Fund within LARA and the money received from the fees described above would be deposited in the Fund. The State Treasurer would have to direct the investment of money in the Fund and credit interest and earnings from the investments to the Fund. The money in the Fund at the close of the fiscal year would not lapse to the General Fund.

Under the Act, LARA would be the administrator of the Camp Licensing Fund for audits. Additionally, LARA would have to spend money from the Fund on appropriation to implement the Act's licensing requirements.

Camp Inspections

The rules promulgated by LARA under the Act would apply to LARA, the Bureau of Fire Services, and local authorities in the inspection of and reporting on camps covered by the Act's provisions. The Act would require inspections to be completed by LARA, or upon request by LARA, the Bureau of Fire Services or a local authority.

Additionally, if an inspection were not completed in the manner described above, a person who owned or operated, or proposed to own or operate a camp could enter a contract with a

local authority or other person qualified by LARA to conduct an inspection and pay for that inspection after its completion.

Inspection reports completed by State agencies and local authorities would have to be furnished to LARA and become part of its evaluations for licensing of camps. After careful consideration of the reports and consultations where necessary, LARA would have to assume responsibility for the final determination of the issuance, denial, revocation, or provisional nature of licenses issued. A report of findings would have to be furnished to the applicant or licensee.

An inspection would have to be unannounced unless LARA, in its discretion considered it necessary to schedule an inspection appointment.

High-Risk Special Investigations

"High-risk special investigation" would mean an investigation that LARA conducts within 24 hours of becoming aware that one or more of the following conditions exist:

- Child abuse or child neglect is the suspected cause of a child's death.
- The child is the victim of suspected sexual abuse or sexual exploitation.
- Child abuse or child neglect resulting in serious physical harm to the child.
- Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.
- The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.
- The child has been exposed to or had contact with methamphetamine production.

Within 24-hours after a camp received notice that a high-risk special investigation was being conducted by LARA, the camp would have to make a good-faith effort to make oral notification to each parent or guardian of one or more of the following:

- Children who were under the camp care and supervision at the site and the time the incident being investigated occurred.
- If the individual being investigated were present at the camp at the time of the investigation, children who had or would have come into contact with the individual being investigated as long as that individual were present at the camp.

The camp would have to send written notification within one business day after the initial notification attempt described above. Written notification would have to be given by one of the following:

- Mail service.
- Facsimile transmission.
- Email.
- Text message.

The Act would allow LARA to suspend a camp license if the camp did not comply with either notification requirement.

If, upon completion of the high-risk special investigation, LARA decided that there were no substantial rule violations, LARA would have to provide the camp with written notification of such determination that the camp could share with the applicable parents or guardians.

Criminal History Check as Condition for Licensure

Unless a person, licensee, licensee designee, administrator, or program director met previous background check conditions described below, LARA could not issue or renew a license of a camp if a criminal history check had not been completed. The bill would prohibit LARA from issuing or renewing a camp license if a criminal history check or information obtained because of a notification from the MSP revealed that any entity described above had been convicted of an ineligible conviction. Additionally, LARA would have to revoke a camp license if a criminal history check or information obtained because of a notification from the MSP revealed that any entity described above had been convicted of an ineligible conviction.

"Criminal history check" would mean a fingerprint-based criminal history record information background check through the MSP and the Federal Bureau of Investigation (FBI).

"Program director" would mean an individual that assists with the management of the day-to-day operations for a camp program or campsite. "Administrator" would mean an individual that has oversight of day-to-day camp management and ensures compliance with this act and rules promulgated under the Act.

"Conviction" would mean a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime, or a conviction in a tribal court or a military court.

"Ineligible conviction" would mean a conviction for any of the following crimes unless 15 year or more have lapsed from the date the convicted individual completed all the terms and conditions of sentencing for that conviction before the date of application for employment, the date of granting clinical privileges, or the date of the execution of a contract:

- A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.
- A felony involving cruelty or torture.
- A felony under Chapter XXA (Vulnerable Adults) of the Michigan Penal Code.
- A felony involving criminal sexual conduct.
- A felony involving abuse or neglect or a misdemeanor involving abuse or neglect of a vulnerable adult.
- A felony involving the use of a firearm or dangerous weapon.
- A felony involving the diversion or adulteration of a prescription drug or other medication.
- A felony under Section 227b of the Michigan Penal Code, which generally prescribes felonies for carrying a firearm while attempting to commit a felony.
- A state or federal crime that is similar to a crime listed above.

Additionally, except for a conviction described above, "ineligible conviction" would include a conviction for any of the following crimes unless 10 or more years had lapsed from the date the convicted individual completed all the terms and conditions of sentencing for that conviction before the date of application for employment, the date of granting clinical privileges, or the date of the execution of a contract:

- A misdemeanor under Chapter XXA of the Michigan Penal Code.
- A misdemeanor involving criminal sexual conduct.
- Except for a conviction of a misdemeanor involving assault, a misdemeanor involving cruelty or torture.

- A misdemeanor involving abuse or neglect.
- A misdemeanor involving a vulnerable adult as a victim.
- A misdemeanor or felony for a violation of the Act.
- A state or federal misdemeanor that is similar to a misdemeanor listed above.
- A felony other than a felony for nonpayment of child support.

Except for a conviction described above, "ineligible conviction" also would include a conviction for any of the following misdemeanors unless five years or more had lapsed from the date of conviction to the date of application for employment, the date of granting clinical privileges, or the date of execution of a contract:

- A misdemeanor involving cruelty if the individual was less than 16 years of age at the time of the conviction.
- A misdemeanor involving embezzlement.
- A state or Federal misdemeanor that is similar to a misdemeanor listed above.

Also, except for a 15-year or 10-year prohibited conviction described above, "ineligible conviction" would include a conviction for any of the following misdemeanors unless three or more years had lapsed from the date of conviction to the date of application for employment, the date of granting clinical privileges, or the date of the execution of a contract:

- A misdemeanor involving assault.
- A misdemeanor under Part 74 (Offenses and Penalties) of the Public Health Code, if the individual convicted were 18 years of age or older at the time of the conviction.
- A misdemeanor involving the possession or delivery of a controlled substance, if the individual convicted was 18 years of age or older at the time of the conviction.
- A state or Federal misdemeanor that is similar to a misdemeanor listed above.

Unless otherwise provided under a 15-year, 10-year, or five-year prohibited conviction described above, "ineligible conviction" would include a misdemeanor under Part 74 of the Public Health Code, or any other misdemeanor involving the possession or delivery of a controlled substance, if the individual was less than 18 years old at the time of the conviction. Additionally, the term would include an order or disposition under Section 16b of Chapter IX of the Code of Criminal Procedure or a substantiated finding of neglect, abuse, or misappropriation of resident property by an agency of the State or a Federal agency under 42 USC 1395i-3 or 1396r.

(Section 16b of Chapter IX of the Code of Criminal Procedure prescribes the procedure for finding an individual not guilty by reason of insanity. Generally, 42 USC 1395i-3 or 1396r provides for the requirements for, and assuring quality of care in skilled nursing facilities and general requirements for nursing facilities, respectively.)

"Terms and conditions of sentencing" would mean all terms and conditions of sentencing, parole, and probation for a conviction. Terms and conditions of sentencing would exclude the payment of fines, costs, or restitution.

If a person, licensee, licensee designee, administrator or program director of a camp applying to renew a license to operate a camp had previously undergone a criminal history check as a condition of licensure and had remained continually affiliated with the same license after the criminal history check had been performed, and that person's fingerprints were maintained by the MSP in the MSP's automated fingerprint identification system database continued to apply, that person would not be required to submit to another criminal history check upon renewal of a camp license.

Except as provided above, when one or more of the following occurred, LARA would have to request that the MSP perform a criminal history check on the individual, licensee, licensee designee, administrator, and camp director, as applicable:

- An individual or legal entity applied for a camp license.
- A new licensee, licensee designee, administrator, or program director were appointed.

Each person applying for a license to operate a camp and each person described above would have to give written consent at the time of the license application for the MSP to conduct the criminal background check. Additionally, LARA would have to require that the individual submit his or her fingerprints to the MSP and the FBI for the criminal history check.

The Act would require LARA to request the criminal history check in a manner and form prescribed by the MSP. The MSP would have to conduct the criminal history check and provide a report of the results to LARA within a reasonable time after receiving the complete request. The report would have to contain any criminal history record information on the individual maintained by the MSP and the FBI.

The MSP could charge the licensee or the applicant a fee for the criminal history check that did not exceed the actual and reasonable cost of conducting the check.

"Criminal history information" would mean name; date of birth; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; social security number, driver's license number, and other identifying numbers; and information on misdemeanor arrests and convictions and felony arrests and convictions.

Staff Background Check

Under the Act, before a camp allowed a staff member to have unsupervised contact with a camper, at least annually, the camp would have to perform a background check on that staff member using the MSP internet criminal history access tool (ICHAT) or equivalent to check on that staff member from the state or county of residence.

"Staff member" would mean either a paid employee or volunteer of a camp who may have unsupervised access to campers.

A camp would have to rescind an offer of employment or terminate employment of a staff member that was found to have been convicted of a listed offense through MSP's ICHAT or equivalent check. If a subsequent background check revealed that a current staff member had been convicted of a listed offense, the camp could not continue to employ that individual.

"Listed offense" would mean a tier I, tier II, or tier III offense under the Sex Offenders Registry Act.

If a background check revealed that a staff member described above had been convicted of any crime other than a listed offense, the licensee or licensee designee would have to complete a written evaluation of each conviction. The evaluation would have to address the nature of the conviction, the length of time since the conviction, and the relationship of the conviction to the regulated activity to determine whether the prospective staff member was suitable for unsupervised access to campers.

The camp could pass along the actual cost of a background check to the staff member or applicant on whom the search would be performed.

Fingerprint Retention

The Act would require the MSP to store and retain all camp submitted fingerprints in an automated fingerprint identification system database that provided for an automatic notification at the time a subsequent criminal arrest fingerprint card was submitted into the system matched a set of camp submitted fingerprints. Upon such a notification, the MSP would have to immediately notify LARA and contact the respective camp with which that individual was associated.

Any criminal history record information could only be released to the individual to whom the information pertained. Information in the database would have to be confidential and would not be subject to disclosure under the Freedom of Information Act and could not be disclosed to any person except for purposes of the Act or law enforcement purposes.

If the MSP were able to participate with the FBI's automatic notification system, similar to the ICHAT system, all fingerprints submitted to the FBI could be stored and retained. The MSP would have to notify LARA when a subsequent criminal arrest fingerprint card submitted to the system matched a set of fingerprints for an individual. If such a conviction excluded an individual from employment, LARA would have to immediately contact the camp with which the individual was associated. The criminal history record information could only be released to the individual to whom the criminal history record information pertained.

Incident Reports; Civil Liability and False Reports

A person who acted in good faith who made a report, cooperated in an investigation, or assisted in any other requirement of the Act would be immune from civil or criminal liability that otherwise could be incurred by that action. A person who made a report or assisted in any other requirement would have to be presumed to have acted in good faith. The immunity from civil or criminal liability would extend only to an act performed for reporting a potential violation or assisting or cooperating with LARA in an investigation conducted by LARA. Unless otherwise provided to LARA by request, the identity of a person who made a report and cooperated with or assisted LARA relative to that report would have to be confidential, subject only to disclosure with the consent of that person or by judicial process.

If LARA received a complaint by an anonymous individual, LARA would not have to act on the complaint if the complaint did not include sufficient information to reasonably investigate.

A person who intentionally made a false report to LARA regarding a camp that caused LARA to initiate a high-risk special investigation where the camp would have to send notice would be guilty of a crime described below:

- If the incident reported would not constitute a crime or could constitute a misdemeanor if the report were true, the person would be guilty of a misdemeanor punishable by up to 93 days' imprisonment and a maximum fine of \$100, or both.
- If the incident reported would constitute a felony if the report were true, the person would be guilty of a felony punishable by the lesser of the penalty for the reported incident or up to four years' imprisonment or a maximum fine of \$5,000, or both.

Prohibited Persons and Camp Guests

A licensee, licensee designee, administrator, or program director of a camp could not be present in the camp if that individual had been convicted of a listed offense or an ineligible crime.

A staff member could not have contact with campers who were in the care and supervision of a camp if the staff member had been convicted of either of the following:

- Child abuse under Section 136b of the Michigan Penal Code.
- A felony involving harm or threatened harm to an individual within 10 years immediately preceding the date of hire or appointment.

(Generally, Section 136b of the Michigan Penal Code provides for the definition of child abuse in the first-, second-, or third- degree and prescribes penalties for committing each of those offenses.)

A licensee, licensee designee, administrator, program director, or staff member who was 18 years of age or older could not have contact with a camper who was in the care of the camp until that individual provided the camp with documentation from LARA that the staff member had not been named in a central registry case as the perpetrator of child abuse or child neglect.

At least once every five years, an individual described above would have to provide LARA with an updated authorization for central registry clearance. If the updated clearance documented that an individual was named as a perpetrator in a central registry case, that individual could not be present at the camp.

"Child abuse" would mean harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, any other person responsible for the child's health or welfare, a teacher, a teacher's aide, a member of the clergy, or an individual 18 years of age or older who is involved with a youth program. "Child neglect" would mean harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

- Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care, though financially able to do so, or by the failure to seek financial or other reasonable means to provide adequate food, clothing, shelter, or medical care.
- Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person can do so and has, or should have, knowledge of the risk.

A camp would have to establish and maintain a policy regarding supervision of guests, including those who were parents or guardians of a camper receiving care and supervision at the camp. "Guest" would mean an individual at a camp, regardless of the individual's role, who is supervised by an adult staff member when campers are at camp.

Investigation of a Camp

The Act would allow LARA to investigate, inspect, and examine conditions of a camp and investigate and examine the licensee's books and records. The licensee would have to cooperate with LARA by doing all the following:

- Admitting members of LARA into the camp, which would include full access to all facilities and access to the camp's books, records, reports, and documents necessary to show compliance.
- Allowing LARA to perform routine investigative functions, during an investigation, inspection, or examination.

- Providing accurate and truthful information to LARA, and encouraging witnesses, such as staff members and guests, to provide accurate and truthful information to LARA.

Routine investigative functions described above would include interviewing potential witnesses, such as staff, guests, and campers, and taking photographs to assess and document the conditions of the camp and its compliance.

The licensee would have to allow LARA, the Bureau of Fire Services, or local authorities access to the camp to carry out the Act's provisions and LARA's rules under the Act related to the health or fire protection of campers.

Camp Records

A licensee would have to keep the records LARA prescribed regarding each camper in its care and supervision and would have to report the facts LARA required with reference to the campers upon LARA's request. Unless otherwise specified, records regarding campers and facts compiled about campers and their guardians would have to be confidential, and disclosure of such information would have to be properly safeguarded by the camp, LARA, and any other entity in possession of the information.

The Act would allow LARA to release available records that were confidential to one or more of the following:

- A standing or select committee or appropriations subcommittee of the Senate or House of Representatives that had jurisdiction of protective matters for children, according to Section 7 of the Child Protection Law.
- The Children's Ombudsman.
- An employee of an agency, bureau, division, or other entity within LARA or other investigative governmental agency, but only to the extent necessary.

(Section 7 of the Child Protection Law provides for the confidentiality and release or inspection of documents from agencies or organizations for the purposes of sharing records.)

Other than described above and in Sections 5 and 7(2) of the Child Protection Law, information or records in the possession of LARA or the Department of Health and Human Services (DHHS) could only be shared to the extent necessary for the proper functioning of LARA or the DHHS in administering camp licensure under the Act or in an investigation conducted under Section 43b of the Social Welfare Act.

(Generally, Sections 5 and 7(2) of the Child Protection Law provide for the confidentiality subject to consent or judicial process of the identity of an individual who made a report. Section 43b of the Social Welfare Act establishes the Office of Inspector General within the DHHS and prescribes its duties.)

Information or records that were shared could not be released by LARA or the DHHS unless otherwise permitted under the Act or other State or Federal Law. Additionally, LARA or the DHHS would be prohibited from releasing or opening for inspection any document, report, or record authored by or obtained from another agency or organization unless one of the conditions of Section 7(5) applied. (Section 7(5) of the Child Protection Law requires that documents, reports, or records authored by or obtained from another agency or organization must not be released or open for inspection unless required by other State or Federal law, in response to an order issued by a judge, magistrate, or other authorized judicial officer, or unless the documents, reports, or records are requested for a child abuse or child neglect

case or for a criminal investigation of a child abuse or child neglect case conducted by law enforcement.)

The Act would allow LARA to suspend, revoke, or refuse to renew a camp license if the licensee did not cooperate with an investigation, inspection, or examination described above.

License Review, Denial, Refusal, or Revocation

Under the Act, LARA could deny, revoke, or refuse to renew a camp license if the licensee or applicant falsified information on the application or was in willful noncompliance and substantial noncompliance with the Act's provisions or rules promulgated.

A license could not be revoked, a renewal could not be refused, or an application could not be denied, unless the applicant were given notice of the grounds of the proposed decision in writing. If revocation, denial, or refusal were appealed within 30 days after receipt of the notice by writing addressed to the Director. The Director or the Director's designee would have to conduct a hearing at which the licensee or application could present testimony and confront witnesses. If the proposed revocation, refusal, or denial were not appealed, the license would have to be revoked, refused, or the application would have to be denied. The proposed revocation, refusal, or denial would have to be appealed within 30 days after receipt by writing the Director or the Director's designee. Upon receipt of the appeal the Director or designee would have to initiate Chapter 4 and Chapter 5 of the Administrative Procedures Act.

Notice of the hearing would have to be given to the licensee or applicant by personal service or delivery to the proper address by certified mail within two weeks before the date of the hearing. The Director's decision would have to be made as soon as practicable after the hearing and forwarded to the licensee or the applicant by certified mail within 10 days of the decision. The formal notice and hearing requirements would not apply if the licensee or applicant complied with the provision described below.

Under the Act, LARA could immediately revoke or refuse to renew a license or deny an application for a license without providing written notice on the grounds of the proposed action or giving the licensee or applicant 30 days to appeal if the licensee or applicant, in writing, did the following:

- Waived the requirement that LARA provide written notice on the grounds for the proposed action.
- Waived the 30-day time frame in which to submit a written appeal to the action.
- Waived the right to implement the provisions of Chapter 4 or Chapter 5 of the Administrative Procedures Act.

The Director or the Director's designee could issue a subpoena to do either of the following:

- Compel the attendance of a witness to testify at a contested case hearing.
- Produce books, papers, documents, or other items relevant to the investigation.

If a subpoena were disobeyed, the Director or the designee could petition the circuit court to require the attendance of a witness or the production of books, papers, documents, or other items. The circuit court could issue an order requiring a person to appear and give testimony or produce books, papers, documents, or other items. Failure to obey the order of the circuit court could be punished by the court as contempt of court.

A person, agency, or representative or officer of a firm, corporation, or association that had its license revoked, allocation denied, or renewal refused could be refused a license or be prohibited from being connected, directly or indirectly, with a licensee for at least five years after the revocation, denial, or refusal to renew. The Act would allow LARA, in its discretion, to reject an application from a person, agency, or representative or officer of a firm, a corporation, an association, or an organization. Additionally, LARA could reject the application on its face without taking further action after notifying the applicant of the rejection and the reason for the rejection.

A person who was aggrieved by the decision of the Director following a hearing could appeal as provided by Chapter 6 (Judicial Procedures) of the Administrative Procedures Act.

Investigation and Injunctive Relief

The Act would allow LARA to bring an action for injunctive relief in the circuit court for the county in which the person resided, in which the unlicensed operation was located, or the circuit court for Ingham County, to enjoin a violation of threatened violation of the Act or LARA's rules. An affidavit of an individual who was personally familiar with the basis of noncompliance would have to be filed with the action for injunctive relief.

If an investigation disclosed an imminent threat to the public health, safety, or welfare, or the well-being of a camper was endangered, LARA could obtain an injunction to restrain or prevent a person from acting in a manner that threatened the public health, safety, or welfare, or to compel a person to affirmatively take reasonable corrective action. Before obtaining an injunction, LARA would have to obtain an affidavit by a person familiar with the facts set forth in the affidavit, or, if appropriate, based upon an affidavit, that an imminent threat to the public health, safety, or welfare existed or the well-being of a camper was endangered. Under the Act, LARA would not have to provide warning to the person before obtaining an injunction. Additionally, LARA would not have to demonstrate an imminent threat to the public health, safety, or welfare or camper endangerment if the person were operating a camp without a license.

If LARA were successful in obtaining an injunction, LARA would be entitled to actual costs and attorney fees for maintaining the action.

Emergency Medical Services

A parent or guardian of a camper who voluntarily placed the camper in camp would have to provide a statement signed by the parent or guardian that authorized the camp to consent to emergency medical and surgical treatment of the camper and consent to routine, nonsurgical medical care. If there were a religious objection to consenting to the receipt of emergency medical or surgical treatment, the parent or guardian would have to submit a written statement to the effect that the camper was in good health and that the parent or guardian assumed the health responsibility for the camper. "Routine, nonsurgical medical care" would not include contraceptive treatment, services, medication, or devices.

A rule adopted under the Act could not authorize or require a medical examination, immunization, or treatment for a camper whose parent or guardian objected on religious grounds to the medical examination, immunization, or treatment.

Personal Medical Equipment

Notwithstanding any camp policy and subject to conditions described below, a camper could possess and use one or more of the following at the camp, on camp sponsored transportation,

or at any activity, event, or camp program sponsored by the camp in which the camper was participating:

- A metered dose inhaler or dry powder inhaler to alleviate asthmatic symptoms or for use before exercise to prevent the onset of asthmatic symptoms.
- An epinephrine auto-injector or epinephrine inhaler to treat anaphylaxis.

A camper could use the devices described above if all the following conditions were met:

- The camper had written approval to possess and use the device from the camper's physician or other health care provider authorized by law to prescribe such a device and from the camper's parent or guardian.
- The director or other administrator of that camp had received a copy of each necessary written approval.
- There was on file at the camp a written emergency care plan that contained specific instructions for the camper's needs that was prepared by a licensed physician in collaboration with the camper and the camper's parents or guardian, and that was updated as necessary for changing circumstances.

A camp or owner, director, or staff member of a camp would not be liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from either of the following:

- A staff member of the camp having *prohibited* a camper from using an inhaler or epinephrine auto-injector because the use conditions described above had not been satisfied.
- A staff member of the camp having *permitted* a camper to use or possess an inhaler or epinephrine auto-injector because the use conditions described above had been satisfied.

These provisions would not eliminate, limit, or reduce any other immunity or defense that a camp or an owner, director, or staff member or a camp could have under other State law.

A camp could request a camper's parent or guardian to provide an extra inhaler or epinephrine auto-injector to designated camp personnel for use in case of emergency. A parent or guardian would not be required to provide an extra inhaler or epinephrine auto-injector to camp personnel.

A director or other administrator of a camp who was aware that a camper possessed an inhaler or epinephrine auto-injector would have to notify each staff member who supervised the camper of that fact and of the use requirements.

Penalties

Except for an intentional violation that caused the death of a child, a person that violated the Act's provisions would be guilty of a misdemeanor punishable by a fine of at least \$500 but no more than \$5,000. If a person were convicted of a misdemeanor described above, the conviction would be sufficient ground for the revocation of that person's license and the person would not be permitted to be connected directly or indirectly with a camp license for a period of at least five years following the conviction.

If a licensee, licensee designee, administrator, or program director of a camp intentionally violated a rule promulgated under the Act and that violation caused the death of a child, LARA would have to permanently revoke the license.

Additionally, LARA could refuse to issue a license to or refuse to accept an application from an individual or legal entity seeking to become licensed, a licensee designee, an administrator, or a program director of the camp that had a license revoked, application denied, or renewal refused within the five years immediately preceding the application. The Act would allow LARA to reject the application described above on its face without taking further action after notifying the applicant of the rejection and the reason for the rejection.

Senate Bill 693

The bill would amend the Code of Criminal Procedure to make falsifying a report initiating a high-risk special investigation a class F felony against a person with a variable maximum time of imprisonment.

Senate Bill 694

Under the childcare licensing Act, LARA must regulate the licensing of childcare organizations, including children's camps and campsites, among other things. The bill specifies that the licensure of a camp would instead fall under the "Camp Licensure Act" proposed by Senate Bill 692. The bill would delete references to children's camps and children's campsites.

Under the childcare licensing Act, "child care organization" means a governmental or nongovernmental organization having as its principal function receiving minor children for care, maintenance, training, and supervision, notwithstanding that educational instruction may be given. The term includes organizations commonly described as child caring institutions, child placing agencies, children's camps, children's campsites, children's therapeutic group homes, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes, or child 22 care homes. The term does not include a governmental or nongovernmental organization that does either any of the following:

- Provides care exclusively to minors who have been emancipated by court order.
- Provides care exclusively to individuals who are 18 years of age or older and to minors who have been emancipated by court order.

The bill would delete references to children's camps and children's campsites and specify that the term would not include a governmental or nongovernmental organization that established or maintained a camp licensed under the "Camp Licensing Act" proposed by Senate Bill 692.

Additionally, the childcare licensing Act prohibits staff members or unsupervised volunteers who are 21 years of age or older from having contact with a minor unless the individual had documentation from the DHHS that he or she had not been named in a central registry case as the perpetrator of child abuse or child neglect. The bill would delete this provision.

Senate Bill 695

Camps

The bill would amend the Adult Foster Care Facility Licensing Act to delete references to adult foster care camps, children's camps, and camps.

Generally, the Act defines "adult foster care facility" as a governmental or nongovernmental establishment that provides foster care to adults. Subject to certain exceptions, the term includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled and who require supervision on an ongoing

basis but do not require continuous nursing care. The Act specifies the types of facilities the term does not include. Under the bill, the term would not include a camp licensed under the "Camp Licensing Act" proposed by Senate Bill 692.

The bill also would define several terms. "Noncompliance" would mean a violation of the Act, rules promulgated under the Act, or the terms of a license." "Substantial noncompliance" would mean repeated acts of noncompliance, or noncompliance that jeopardizes the health, safety, care, treatment, maintenance, or supervision of an individual receiving services or, in the case of an applicant, an individual who may receive services. "Willful noncompliance" would mean conduct that an applicant or licensee knew or had reason to know is conduct that is in noncompliance.

Under the Act, application fees for an individual, partnership, firm, corporation, association, governmental organization, or nongovernmental organization licensed or seeking licensure for a temporary or renewal license are as follows:

License Type	Cost
Family home	\$100
Small group home (3-6)	\$150
Small group home (7-12)	\$200
Large group home	\$500
Congregate facility (renewal only)	\$500
Camp	\$200

The bill would delete the camp license application fee.

Adult Foster Care Facility Licensing Fund

The bill would create the Adult Foster Care Licensing Fee Fund within LARA. The money received from fees would have to be deposited into the Fund. The State Treasurer would have to direct the investment of money in the Fund and credit interest and earnings from the investments to the Fund.

Money in the Fund at the close of the fiscal year would not lapse to the General Fund. The bill would specify that LARA would be the administrator of the Adult Foster Care Licensing Fee Fund and would have to spend money from the Fund for the Fund's audits. Additionally, LARA would have to spend money from the Fund on appropriation to implement the licensing requirements of adult foster care family homes, adult foster care small group homes, adult foster care large group homes, and adult foster care congregate facilities under the Act.

Licenses

Under the Act, unless a city, village, or township approves a temporary license, a temporary license must not be granted if the issuance of the license would substantially contribute to an excessive concentration of community residential facilities within the city, village, or township.

A regular license for an adult foster care camp is effective for the specific dates of operation not to exceed a 12-month period unless revoked as authorized or modified to a provisional status based on evidence of noncompliance with the Act or the rules promulgated under the Act. The license must be renewed annually on application and approval.

The bill would delete the provisions described above.

BACKGROUND

Public Act 116 of 1973 requires LARA to regulate the licensing of childcare organizations, including children's camps and campsites.

In December 2022, the Office of the Auditor General released its performance audit on the Bureau of Community and Health Systems (BCHS) within LARA. The audit reported certain key findings as follows:

- The BCHS should improve its children's camp inspection process to help mitigate potential risks to the health and safety of campers.
- The BCHS should improve its process and documentation related to reviewing background checks performed by camps.
- In conjunction with the Legislature, LARA should clarify its authority to establish, assess, and collect children's camp license fees sufficient to cover the related licensing and inspection costs.
- The BCHS should improve its complaint handling process to mitigate potential risks to the health and safety of campers and limit its exposure to potential litigation.
- The Department of Licensing and Regulatory Affairs should improve its statutory reporting of camp regulated activities to ensure complete and accurate information is provided to LARA management and the Legislature for decision making purposes.

FISCAL IMPACT

LARA

Under the proposed Act, LARA would be required to promulgate rules pertaining to the care and supervision of campers. There are existing rules pertaining to camps. It is likely that existing appropriations would be sufficient to accomplish this task; however, additional costs may be incurred if the developed rules were to require LARA to undertake significant new responsibilities.

The bill would require LARA to provide consultation to camps and provide assistance, training, and education upon request "within fiscal limitations." It is unclear to what extent this training would require additional resources. It is possible that one or more additional Full-time equivalents would be required to manage LARA's consulting obligations under the bill.

The bill also would create the Child Care Licensing Fund. Each individual or entity seeking a temporary or renewal license under the bill would be required to pay a fee of \$120 per year. Currently, the fee for an adult foster care camp is \$200 per year while the fee for a child care camp is \$100 or \$200, dependent on its capacity. These fees would be deposited in the new Child Care Licensing Fund. Funds remaining at the close of the fiscal year would not lapse to the General Fund.

The bill would not require LARA to undertake significant new duties associated with the licensing of camps; however, the Department likely will incur administrative and staffing costs associated with the transition and changes to revenue allocation.

MSP

The provisions under the bill that would require a camp licensee applicant, a new licensee, licensee designee, administrator, or program director to undergo a fingerprint-based criminal history background check and other staff members who would have unsupervised contact with campers to undergo a background check via ICHAT would result in costs of \$43.25 for

each fingerprint-based background check and \$10 for each ICHAT background check, both of which are administered by the MSP. The bill would allow the MSP to charge a licensee or applicant the \$43.25 cost for each fingerprint-based background check. Not included in this cost is the allowance for a local law enforcement agency to charge a fee for the physical taking and submission of prints, which can vary by agency. A camp would be required to pay for the \$10 ICHAT background checks but would be permitted to pass along the cost to a staff member or applicant.

Corrections

The bills' criminal penalties could have a negative fiscal impact on the State and local government. Violations of the proposed Act would be punishable as misdemeanors and felonies of different severity. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Misdemeanor convictions could increase county jail and local probation supervision costs, which vary by jurisdiction and are thus indeterminate. Based on 2022 data, the average cost to State government for felony probation supervision is approximately \$4,800 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates for housing a prisoner in a State correctional facility range from \$98 to \$192 per day, depending on the security level of the facility. Additionally, any associated fine revenue would increase funding to public libraries.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.