

SENATE BILL NO. 435

June 28, 2023, Introduced by Senators POLEHANKI, CHANG, IRWIN, BAYER, SHINK, WOJNO, GEISS and SANTANA and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

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 sections 5a and 10 (MCL 722.115a and 722.120), section 5a as added by 1994 PA 205 and section 10 as amended by 2022 PA 69.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5a. A child placing agency shall provide the ~~children's~~
2 ~~ombudsman~~**child advocate** created in section 3 of the ~~children's~~

1 ~~ombudsman~~**office of the child advocate** act, 1994 PA 204, MCL
2 722.923, with those records requested by the ~~ombudsman~~**child**
3 **advocate** pertaining to a matter under investigation by the
4 ~~ombudsman~~**child advocate**.

5 Sec. 10. (1) The department may investigate, inspect, and
6 examine conditions of a child care organization and may investigate
7 and examine the licensee's books and records. The licensee must
8 cooperate with the department's investigation, inspection, and
9 examination by doing all of the following:

10 (a) Admitting members of the department into the child care
11 organization and furnishing all reasonable facilities for thorough
12 examination of its books, records, and reports.

13 (b) Allowing the department to perform routine investigative
14 functions during the course of an investigation, inspection, or
15 examination. Routine investigative functions include, but are not
16 limited to, interviewing potential witnesses, such as staff and
17 household members, and taking photographs to assess and document
18 the conditions of the child care organization and its compliance
19 with this act and the rules promulgated under this act.

20 (c) Providing accurate and truthful information to the
21 department, and encouraging witnesses, such as staff and household
22 members, to provide accurate and truthful information to the
23 department.

24 (2) The licensee shall allow the department, the bureau of
25 fire services, or local authorities access to the child care
26 organization to carry out the provisions of this act and rules
27 promulgated under this act related to the health or fire protection
28 of children.

29 (3) A licensee shall keep the records the department

1 prescribes regarding each child in its control and care and shall
 2 report to the department, if requested, the facts the department
 3 requires with reference to the children upon forms furnished by the
 4 department. Except as otherwise provided in this subsection and
 5 subsection (4), records regarding children and facts compiled about
 6 children and their parents and relatives are confidential and
 7 disclosure of this information must be properly safeguarded by the
 8 child care organization, the department, and any other entity in
 9 possession of the information. Records that are confidential under
 10 this section are available to 1 or more of the following:

11 (a) A standing or select committee or appropriations
 12 subcommittee of either house of the legislature having jurisdiction
 13 over protective services matters for children, according to section
 14 7 of the child protection law, 1975 PA 238, MCL 722.627.

15 (b) The ~~children's ombudsman~~ **child advocate** established in
 16 section 3 of the ~~children's ombudsman~~ **office of the child advocate**
 17 act, 1994 PA 204, MCL 722.923.

18 (c) An employee of an agency, bureau, division, or other
 19 entity within the department, or an employee of a child caring
 20 institution, or a child placing agency contracted with the
 21 department, but only to the extent necessary for the administration
 22 of child welfare services in each case. The director of the agency
 23 responsible for child welfare services, or ~~his or her~~ **the**
 24 **director's** designee, is responsible for authorizing an employee to
 25 have access to the records according to this subdivision and for
 26 ensuring that access is given only to the extent necessary.

27 (d) A national accreditation program, only while on-site, for
 28 the purpose of review and accreditation of a child welfare program,
 29 agency, or organization.

1 (4) Notwithstanding subsection (3) and sections 5 and 7(2) of
2 the child protection law, 1975 PA 238, MCL 722.625 and 722.627,
3 information or records in the possession of the department or the
4 department of licensing and regulatory affairs may be shared to the
5 extent necessary for the proper functioning of the department or
6 the department of licensing and regulatory affairs in administering
7 child welfare or child care licensing under this act or in an
8 investigation conducted under section 43b of the social welfare
9 act, 1939 PA 280, MCL 400.43b. Information or records shared under
10 this subsection shall not be released by the department or the
11 department of licensing and regulatory affairs unless otherwise
12 permitted under this act or other state or federal law. Neither the
13 department nor the department of licensing and regulatory affairs
14 shall release or open for inspection any document, report, or
15 record authored by or obtained from another agency or organization
16 unless 1 of the conditions of section 7(5) of the child protection
17 law, 1975 PA 238, MCL 722.627, applies.

18 (5) A child care center, group child care home, or family
19 child care home licensee shall provide the department with child
20 information cards for all children presently enrolled for care, as
21 requested by the department, whenever the department initiates or
22 conducts an investigation, inspection, or assessment. If the
23 investigation, inspection, or assessment results in the department
24 pursuing disciplinary action as provided by section 11, the child
25 care center, group child care home, or family child care home
26 licensee must provide the department with child information cards
27 for newly enrolled children for the pendency of the proposed
28 disciplinary action.

29 (6) The department may suspend, deny, revoke, or refuse to

1 renew a license of the child care organization if the licensee does
2 not cooperate with an investigation, inspection, or examination
3 under this section.

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No. 432 of the 102nd Legislature is enacted into
6 law.