

Act No. 304
Public Acts of 2023
Approved by the Governor
December 12, 2023
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senators Polehanki, Chang, Irwin, Bayer, Shink, Wojno, Geiss and Santana

ENROLLED SENATE BILL No. 435

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 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:

Sec. 5a. A child placing agency shall provide the child advocate created in section 3 of the office of the child advocate act, 1994 PA 204, MCL 722.923, with those records requested by the child advocate pertaining to a matter under investigation by the child advocate.

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

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

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

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

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

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

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

(b) The child advocate established in section 3 of the office of the child advocate act, 1994 PA 204, MCL 722.923.

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

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

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

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

(6) The department may suspend, deny, revoke, or refuse to renew a license of the child care organization if the licensee does not cooperate with an investigation, inspection, or examination under this section.

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



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor