

HOUSE BILL No. 5769

May 16, 1990, Introduced by Reps. Profit, DeMars, Clack, Stabenow, Murphy, Joe Young, Sr., Harrison, Weeks, Niederstadt, Bennett, Kosteva, Hertel, Hollister, DeLange, Trim, Pitoniak and Saunders and referred to the Committee on Mental Health.

A bill to amend section 11 of Act No. 116 of the Public Acts of 1973, 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 provide penalties; and to repeal certain acts and parts of acts,"

as amended by Act No. 232 of the Public Acts of 1980, being section 722.121 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 11 of Act No. 116 of the Public Acts of
2 1973, as amended by Act No. 232 of the Public Acts of 1980, being
3 section 722.121 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 11. (1) ~~An original license shall not be granted~~
6 ~~under this act if the issuance of the license would substantially~~
7 ~~contribute to an excessive concentration of community residential~~

1 ~~facilities within a city, village, township, or county of this~~
2 ~~state.~~ THE DEPARTMENT SHALL DENY AN ORIGINAL LICENSE TO AN
3 APPLICANT IF THE DEPARTMENT DETERMINES THAT LICENSING THE FACIL-
4 ITY AT THE PARTICULAR LOCATION WOULD DO 1 OR MORE OF THE
5 FOLLOWING:

6 (A) CREATE OR PERPETUATE SEGREGATED HOUSING PATTERNS FOR
7 PERSONS WITH HANDICAPS, AS PROHIBITED BY RULES ISSUED UNDER THE
8 FEDERAL FAIR HOUSING ACT, TITLE VIII OF PUBLIC LAW 90-284, 42
9 U.S.C. 3601 TO 3619.

10 (B) PREVENT RESIDENTS FROM ENJOYING A NORMAL LIVING
11 EXPERIENCE AND PARTICIPATING FULLY IN THE MAINSTREAM OF COMMUNITY
12 LIFE.

13 (2) The department may deny, revoke, or refuse to renew a
14 license or certificate of registration of a child care organi-
15 zation ~~when~~ IF the licensee, registrant, or applicant falsifies
16 information on the application or ~~wilfully~~ WILLFULLY and sub-
17 stantially violates this act, the rules promulgated under this
18 act, or the terms of the license or certificate of registration.
19 The department may modify to a provisional status a license of a
20 child care organization ~~when~~ IF the licensee ~~wilfully~~
21 WILLFULLY and substantially violates this act, the rules promul-
22 gated under this act, or the terms of the license. ~~A license or~~
23 ~~a certificate of registration shall not be revoked, a renewal of~~
24 ~~a license or certificate of registration shall not be refused, an~~
25 ~~application for a license or a certificate of registration shall~~
26 ~~not be denied, or a regular license shall not be modified~~ THE
27 DEPARTMENT SHALL NOT DENY, REVOKE, OR REFUSE TO RENEW A LICENSE

1 OR CERTIFICATE OF REGISTRATION, OR MODIFY A REGULAR LICENSE to a
2 provisional status unless ~~the licensee, registrant, or applicant~~
3 ~~is given~~ IT GIVES notice in writing of the grounds of the pro-
4 posed revocation, denial, modification, or refusal TO THE LICENS-
5 EE, REGISTRANT, OR APPLICANT. ~~If revocation, denial, modifica-~~
6 ~~tion, or refusal is appealed within 30 days after receipt of the~~
7 ~~notice by writing addressed to the director of the department,~~
8 IF THE LICENSEE, REGISTRANT, OR APPLICANT APPEALS THE REVOCATION,
9 DENIAL, MODIFICATION, OR REFUSAL WITHIN 30 DAYS AFTER RECEIVING
10 THE NOTICE, BY SENDING A WRITTEN NOTICE OF APPEAL TO THE DIRECTOR
11 OF THE DEPARTMENT, the director or a designated representative of
12 the director shall conduct a hearing at which the licensee, reg-
13 istrant, or applicant may present testimony and confront
14 witnesses. ~~Notice~~ THE DEPARTMENT SHALL GIVE NOTICE of the
15 hearing ~~shall be given~~ to the licensee, registrant, or appli-
16 cant by personal service or delivery to the proper address by
17 certified mail not less than 2 weeks before the date of the
18 hearing. The decision of the director shall be made not more
19 than 30 days after the hearing, and forwarded to the protesting
20 party by certified mail ~~not more than~~ WITHIN 10 days
21 ~~thereafter~~ AFTER THE DECISION IS MADE. If the LICENSEE, REGIS-
22 TRANT, OR APPLICANT DOES NOT PROTEST THE proposed revocation,
23 denial, modification, or refusal, ~~is not protested,~~ the
24 ~~license or certificate of registration may be revoked or the~~
25 ~~application or the renewal of the license or certificate of reg-~~
26 ~~istration refused~~ DEPARTMENT MAY REVOKE, DENY, OR REFUSE TO
27 RENEW THE LICENSE OR CERTIFICATE OF REGISTRATION.

1 ~~(3) The department shall deny a license to a child caring~~
2 ~~institution or foster family group home which does not comply~~
3 ~~with section 16a of Act No. 183 of the Public Acts of 1943, as~~
4 ~~amended, being section 125.216a of the Michigan Compiled Laws,~~
5 ~~section 16a of Act No. 184 of the Public Acts of 1943, as~~
6 ~~amended, being section 125.286a of the Michigan Compiled Laws,~~
7 ~~and section 3b of Act No. 207 of the Public Acts of 1921, as~~
8 ~~amended, being section 125.583b of the Michigan Compiled Laws.~~

9 (2) ~~(4)~~ The legislative body of a city, village, or town-
10 ship in which a child caring institution or foster family group
11 home is located may file a complaint with the department to have
12 the organization's license suspended, denied, or revoked pursuant
13 to the procedures outlined in this act and the rules promulgated
14 under this act. The director of the department shall resolve the
15 issues of the complaint within 45 days after the receipt of the
16 complaint. ~~Notice~~ THE DEPARTMENT SHALL SEND NOTICE of the res-
17 olution of the issues ~~shall be mailed~~ by certified mail to the
18 complainant and the licensee. Failure of the director of the
19 department to resolve the issues of the complaint within 45 days
20 after receipt of the complaint shall serve as a decision by the
21 director to suspend, deny, or revoke the organization's license.
22 If THE COMPLAINANT OR LICENSEE PROTESTS the decision to suspend,
23 deny, or revoke the license or the resolution of the issues ~~is~~
24 ~~protested~~ by written objection ~~of the complainant or licensee~~
25 MAILED to the director of the department within 30 days after the
26 suspension, denial, or revocation of the license or the receipt
27 of the notice of resolution, the director of the department or a

1 designated representative of the director shall conduct a hearing
2 pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act
3 No. 306 of the Public Acts of 1969, as amended, being sections
4 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws, at which
5 the complainant and licensee may present testimony and
6 cross-examine witnesses. The DEPARTMENT SHALL MAIL A COPY OF THE
7 decision of the director of the department ~~shall be mailed by~~
8 ~~certified mail~~ to the complainant and the licensee BY CERTIFIED
9 MAIL. If the COMPLAINANT OR LICENSEE DOES NOT PROTEST THE reso-
10 lution of the issues by the director of the department ~~is not~~
11 ~~protested~~ within 30 days after receipt of the notice of the res-
12 olution, the resolution by the director of the department is
13 final.

14 Section 2. This amendatory act shall not take effect unless
15 all of the following bills of the 85th Legislature are enacted
16 into law:

17 (a) Senate Bill No. ____ or House Bill No. 5770 (request
18 no. 05528'90).

19 (b) Senate Bill No. ____ or House Bill No. 5768 (request
20 no. 05529'90).

21 (c) Senate Bill No. ____ or House Bill No. 5766 (request
22 no. 05531'90).

23 (d) Senate Bill No. ____ or House Bill No. 5767 (request
24 no. 05532'90).

25 (e) Senate Bill No. ____ or House Bill No. 5771 (request
26 no. 05533'90).