

SENATE BILL No. 668

November 1, 1989, Introduced by Senators DINGELL,
WELBORN, CARL and POLLACK and referred to the
Committee on Criminal Justice and Urban Affairs.

A bill to amend sections 1 and 2 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 organi-
zations; to provide penalties; and to repeal certain acts and
parts of acts,"

section 1 as amended by Act No. 139 of the Public Acts of 1984
and section 2 as amended by Act No. 150 of the Public Acts of
1983, being sections 722.111 and 722.112 of the Michigan Compiled
Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Section 1. Sections 1 and 2 of Act No. 116 of the Public
- 2 Acts of 1973, section 1 as amended by Act No. 139 of the Public
- 3 Acts of 1984 and section 2 as amended by Act No. 150 of the
- 4 Public Acts of 1983, being sections 722.111 and 722.112 of the
- 5 Michigan Compiled Laws, are amended to read as follows:

1 Sec. 1. As used in this act:

2 (a) "Child care organization" means a governmental or non-
3 governmental organization having as its principal function the
4 receiving of minor children for care, maintenance, training, and
5 supervision, notwithstanding that educational instruction may be
6 given. Child care organization includes organizations commonly
7 described as child caring institutions, child placing agencies,
8 children's camps, child care centers, day care centers, nursery
9 schools, parent cooperative preschools, foster homes, group
10 homes, or day care homes.

11 (b) "Child caring institution" means a child care facility
12 which is organized for the purpose of receiving minor children
13 for care, maintenance, and supervision, usually on a 24-hour
14 basis, in buildings maintained by the institution for that pur-
15 pose, and operates throughout the year. An educational program
16 may be provided, but the educational program shall not be the
17 primary purpose of the facility. Child caring institution
18 includes a maternity home for the care of unmarried mothers who
19 are minors and an agency group home, which is described as a
20 small child caring institution owned, leased, or rented by a
21 licensed agency providing care for more than 4 but less than 13
22 minor children. Child caring institution also includes institu-
23 tions for mentally retarded or emotionally disturbed minor
24 children. Child caring institution does not include a hospital,
25 nursing home, or home for the aged licensed under article 17 of
26 the public health code, Act No. 368 of the Public Acts of 1978,
27 as amended, being sections 333.20101 to 333.22181 of the Michigan

1 Compiled Laws, a boarding school licensed under section 1335 of
2 the school code of 1976, Act No. 451 of the Public Acts of 1976,
3 being section 380.1335 of the Michigan Compiled Laws, a hospital
4 or facility operated by the state or licensed under the mental
5 health code, Act No. 258 of the Public Acts of 1974, as amended,
6 being sections 330.1001 to 330.2106 of the Michigan Compiled
7 Laws, or an adult foster care family home or an adult foster care
8 small group home licensed under the adult foster care facility
9 licensing act, Act No. 218 of the Public Acts of 1979, being sec-
10 tions 400.701 to ~~400.735~~ 400.737 of the Michigan Compiled Laws,
11 in which a child has been placed pursuant to section 5(6).

12 (c) "Child placing agency" means an agency organized for the
13 purpose of receiving children for their placement in private
14 family homes for foster care or for adoption. The function of a
15 child placing agency may include the investigation and certifica-
16 tion of foster family homes and foster family group homes as pro-
17 vided in this act. The function of a child placing agency may
18 also include the supervision of children who are 16 or 17 years
19 of age and who are living in unlicensed residences as provided in
20 section 5(4).

21 (d) "Children's camp" means a residential, day, troop, or
22 travel camp conducted in a natural environment for more than 4
23 school age children, apart from their parents, relatives, or
24 legal guardians, for 5 or more days in a 14-day period. A
25 children's camp provides care and supervision for the same group
26 of children for usually not more than 12 weeks.

1 (e) "Child care center" or "day care center" means a
2 facility, other than a private residence, receiving 1 or more
3 preschool or school age children for care for periods of less
4 than 24 hours a day, and where the parents or guardians are not
5 immediately available to the child. Child care center or day
6 care center includes a facility which provides care for not less
7 than 2 consecutive weeks, regardless of the number of hours of
8 care per day. The facility is generally described as a child
9 care center, day care center, day nursery, nursery school, parent
10 cooperative preschool, play group, or drop-in center. Child care
11 center or day care center does not include any of the following:

12 (i) A Sunday school, a vacation bible school, or a religious
13 instructional class that is conducted by a religious organization
14 where children are in attendance for not greater than 3 hours per
15 day for an indefinite period, or not greater than 8 hours per day
16 for a period not to exceed 4 weeks during a 12-month period.

17 (ii) A facility operated by a religious organization where
18 children are cared for not greater than 3 hours while persons
19 responsible for the children are attending religious services.

20 (f) "Private home" means a private residence in which the
21 licensee or registrant permanently resides as a member of the
22 household, which residency shall not be contingent upon caring
23 for children or employment by a licensed or approved child plac-
24 ing agency. Private home includes a full-time foster family
25 home, a full-time foster family group home, a group day care
26 home, or a family day care home, as follows:

1 (i) "Foster family home" is a private home in which 1 but
2 not more than 4 minor children, who are not related to an adult
3 member of the household by blood, marriage, or adoption, are
4 given care and supervision for 24 hours a day, for 4 or more days
5 a week, for 2 or more consecutive weeks, unattended by a parent
6 or legal guardian.

7 (ii) "Foster family group home" means a private home in
8 which more than 4 but less than 7 minor children, who are not
9 related to an adult member of the household by blood, marriage,
10 or adoption, are provided care for 24 hours a day, for 4 or more
11 days a week, for 2 or more consecutive weeks, unattended by a
12 parent or legal guardian.

13 (iii) "Family day care home" means a private home in which 1
14 but less than 7 minor children are received for care and supervi-
15 sion for periods of less than 24 hours a day, unattended by a
16 parent or legal guardian, except children related to an adult
17 member of the family by blood, marriage, or adoption. Family day
18 care home includes a home that gives care to an unrelated minor
19 child for more than 4 weeks during a calendar year.

20 (iv) "Group day care home" means a private home in which
21 more than 6 but not more than 12 minor children are given care
22 and supervision for periods of less than 24 hours a day unat-
23 tended by a parent or legal guardian, except children related to
24 an adult member of the family by blood, marriage, or adoption.
25 Group day care home includes a home that gives care to an unre-
26 lated minor child for more than 4 weeks during a calendar year.

1 (g) "Licensee" means a person, partnership, firm,
2 corporation, association, nongovernmental, or local or state
3 government child care organization which has been issued a
4 license to operate a child care organization.

5 (h) "Provisional license" means a license issued to a child
6 care organization which is temporarily unable to conform to all
7 of the rules promulgated under this act.

8 (i) "Regular license" means a license issued to a child care
9 organization indicating that the organization is in compliance
10 with all rules promulgated under this act.

11 (j) "Guardian" means the guardian of the person.

12 (k) "Minor child" means either of the following:

13 (i) A person less than 18 years of age.

14 (ii) A person who is a resident in a child caring institu-
15 tion, children's camp, foster family home, or foster family group
16 home; who becomes 18 years of age while residing in the child
17 caring institution, camp, or home; and who continues residing in
18 the institution, camp, or home to receive care, maintenance,
19 training, and supervision. This subparagraph shall apply only if
20 the number of those residents who become 18 years of age does not
21 exceed the following:

22 (A) Two, if the total number of residents is 10 or fewer.

23 (B) Three, if the total number of residents is not less than
24 11 and not more than 14.

25 (C) Four, if the total number of residents is not less than
26 15 and not more than 20.

(D) Five, if the total number of residents is 21 or more.

(1) "Registrant" means a person who has been issued a certificate of registration to operate a family day care home.

(m) "Registration" means the process by which the department of ~~social~~ CHILDREN, YOUTH, AND FAMILY services regulates family day care homes, which process requires that a family day care home certify to the department that the family day care home has complied with and will continue to comply with the rules promulgated under this act.

(n) "Certificate of registration" means a written document issued to a family day care home through registration.

(o) "Related" means any of the following relationships, by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin, great aunt, great uncle, or stepgrandparent.

(p) "Religious organization" ~~as used in this act,~~ means church, ecclesiastical corporation, or group, not organized for pecuniary profit, that gathers for mutual support and edification in piety or worship of a supreme deity.

(Q) "DEPARTMENT" MEANS THE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILY SERVICES.

Sec. 2. (1) The department ~~of social services, hereinafter referred to as the "department",~~ is responsible for the development of rules for the care and protection of children in organizations covered by this act and for the promulgation of these rules pursuant to the administrative procedures act of 1969, Act

1 No. 306 of the Public Acts of 1969, as amended, being sections
2 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws.

3 (2) The department shall establish an ad hoc committee for
4 each type of child care organization ~~as defined in this act~~
5 when it is formulating or amending rules under this act. The
6 committee shall consist of not less than 12 members, and shall
7 include representatives of the following groups and agencies:

8 (a) Department of public health.

9 (b) Department of state police, fire marshal division and
10 state fire safety board.

11 (c) Department of education.

12 (d) Department of mental health.

13 (E) DEPARTMENT OF SOCIAL SERVICES.

14 (F) ~~(e)~~ Representatives of organizations affected by this
15 act.

16 (G) ~~(f)~~ Parents of children affected by this act.

17 The representatives of organizations affected by this act
18 and parents of children affected by this act shall constitute a
19 majority of the committee membership. The committee shall serve
20 during the period of the formulation of rules, shall have respon-
21 sibility for making recommendations on the content of rules, and
22 shall recommend to the department revisions in proposed rules at
23 any time before their promulgation.

24 (3) The rules promulgated under this act shall be restricted
25 to:

26 (a) The operation and conduct of child care organizations
27 and the responsibility the organizations assume for child care.

1 (b) The character, suitability, training, and qualifications
2 of applicants and other persons directly responsible for the care
3 and welfare of children served.

4 (c) The general financial ability and competence of appli-
5 cants to provide necessary care for children and to maintain pre-
6 scribed standards.

7 (d) The number of individuals or staff required to insure
8 adequate supervision and care of the children received.

9 (e) The appropriateness, safety, cleanliness, and general
10 adequacy of the premises, including maintenance of adequate fire
11 prevention and health standards to provide for the physical com-
12 fort, care, and well being of the children received. However,
13 the rules with respect to fire prevention and fire safety shall
14 not apply to a child care center established and operated by an
15 intermediate school board, the board of a local school district,
16 or by the board or governing body of a state approved nonpublic
17 school, if the child care center is located in a school building
18 that is approved by the state fire marshal or other similar
19 authority as provided in section 3 of Act No. 306 of the Public
20 Acts of 1937, being section 388.853 of the Michigan Compiled
21 Laws, for school purposes and is in compliance with the school
22 fire safety rules, R 29.1 to R 29.298 of the Michigan administra-
23 tive code, as determined by the state fire marshal or a fire
24 inspector certified pursuant to section 2b of the fire prevention
25 code, Act No. 207 of the Public Acts of 1941, being section 29.2b
26 of the Michigan Compiled Laws.

1 (f) Provisions for food, clothing, educational
2 opportunities, programs, equipment, and individual supplies to
3 assure the healthy physical, emotional, and mental development of
4 children served.

5 (g) Provisions to safeguard the legal rights of children
6 served.

7 (h) Maintenance of records pertaining to admission,
8 progress, health, and discharge of children.

9 (i) Filing of reports with the department.

10 (j) Discipline of children.

11 (k) Transportation safety.

12 (4) Rules once promulgated are subject to major review by an
13 ad hoc committee not less than once every 5 years and shall be
14 reviewed biennially by the department. The ad hoc committee
15 shall be established by the department, shall consist of not less
16 than 12 members, and shall include representatives of the groups
17 and agencies indicated in subsection (2). The ad hoc committee
18 shall hold at least 2 public hearings regarding the review of
19 rules and shall report its recommendations regarding rules to the
20 appropriate committees of the legislature.

21 Section 2. This amendatory act shall not take effect unless
22 Senate Bill No. 109 of the 85th Legislature is enacted into law.

23 Section 3. This amendatory act shall take effect October 1,
24 1990.