

# SENATE BILL No. 1228

May 13, 2004, Introduced by Senator THOMAS and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

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 5 and 9a (MCL 722.115 and 722.119a), section 5 as amended by 1998 PA 519 and section 9a as added by 1980 PA 232.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 5. (1) A person, partnership, firm, corporation,  
2 association, or nongovernmental organization shall not establish  
3 or maintain a child care organization unless licensed or  
4 registered by the department. Application for a license or  
5 certificate of registration shall be made on forms provided, and  
6 in the manner prescribed, by the department. Before issuing or  
7 renewing a license, the department shall investigate the

1 applicant's activities and proposed standards of care and shall  
2 make an on-site visit of the proposed or established  
3 organization. If the department is satisfied as to the need for  
4 a child care organization, its financial stability, the  
5 applicant's good moral character, and that the services and  
6 facilities are conducive to the welfare of the children, the  
7 department shall issue or renew the license. As used in this  
8 subsection, "good moral character" means that term as defined in  
9 and determined under 1974 PA 381, MCL 338.41 to 338.47. If a  
10 county juvenile agency as defined in section 2 of the county  
11 juvenile agency act, **1998 PA 518, MCL 45.622**, certifies to the  
12 department that it intends to contract with an applicant for a  
13 new license, the department shall issue or deny the license  
14 within 60 days after it receives a complete application as  
15 provided in section 5b.

16 (2) The department shall issue a certificate of registration  
17 to a person who has successfully completed an orientation session  
18 offered by the department and who certifies to the department  
19 that the family day care home has complied with and will continue  
20 to comply with the rules promulgated under this act and will  
21 provide services and facilities, as determined by the department,  
22 conducive to the welfare of children. The department shall make  
23 available to applicants for registration an orientation session  
24 to applicants for registration regarding this act, the rules  
25 promulgated under this act, and the needs of children in family  
26 day care before issuing a certificate of registration. The  
27 department shall issue a certificate of registration to a

1 specific person at a specific location. A certificate of  
2 registration is nontransferable and remains the property of the  
3 department. Within 90 days after initial registration, the  
4 department shall make an on-site visit of the family day care  
5 home.

6 (3) The department may authorize a licensed child placing  
7 agency or an approved governmental unit to investigate a foster  
8 family home or a foster family group home ~~pursuant~~ **according** to  
9 subsection (1) and to certify that the foster family home or  
10 foster family group home meets the licensing requirements  
11 prescribed by this act. A foster family home or a foster family  
12 group home shall be certified for licensing by the department by  
13 only 1 child placing agency or approved governmental unit. Other  
14 child placing agencies may place children in a foster family home  
15 or foster family group home only upon the approval of the  
16 certifying agency or governmental unit.

17 (4) The department may authorize a licensed child placing  
18 agency or an approved governmental unit to place a child who is  
19 16 or 17 years of age in his or her own unlicensed residence, or  
20 in the unlicensed residence of an adult who has no supervisory  
21 responsibility for the child, if a child placing agency or  
22 governmental unit retains supervisory responsibility for the  
23 child.

24 (5) A licensed child placing agency, child caring  
25 institution, and an approved governmental unit shall provide the  
26 state court administrative office and a local foster care review  
27 board established under 1984 PA 422, MCL 722.131 to 722.139a,

1 those records requested pertaining to children in foster care  
2 placement for more than 6 months.

3 (6) The department may authorize a licensed child placing  
4 agency or an approved governmental unit to place a child who is  
5 16 or 17 years old in an adult foster care family home or an  
6 adult foster care small group home licensed under the adult  
7 foster care facility licensing act, 1979 PA 218, MCL 400.701 to  
8 400.737, if a licensed child placing agency or approved  
9 governmental unit retains supervisory responsibility for the  
10 child and certifies to the department all of the following:

11 (a) The placement is in the best interests of the child.

12 (b) The child's needs can be adequately met by the adult  
13 foster care family home or small group home.

14 (c) The child will be compatible with other residents of the  
15 adult foster care family home or small group home.

16 (d) The child placing agency or approved governmental unit  
17 will periodically reevaluate the placement of a child under this  
18 subsection to determine that the criteria for placement in  
19 subdivisions (a) through (c) continue to be met.

20 (7) On an exception basis, the director of the department,  
21 or his or her designee, may authorize a licensed child placing  
22 agency or an approved governmental unit to place an adult in a  
23 foster family home if a licensed child placing agency or approved  
24 governmental unit certifies to the department all of the  
25 following:

26 (a) The adult is a person with a developmental disability as  
27 defined by section 100a of the mental health code, 1974 PA 258,

1 MCL 330.1100a, or a person who is otherwise neurologically  
2 disabled and is also physically limited to ~~such~~ a degree ~~as to~~  
3 ~~require~~ **that requires** complete physical assistance with mobility  
4 and activities of daily living.

5 (b) The placement is in the best interests of the adult and  
6 will not adversely affect the interests of the foster child or  
7 children residing in the foster family home.

8 (c) The identified needs of the adult can be met by the  
9 foster family home.

10 (d) The adult will be compatible with other residents of the  
11 foster family home.

12 (e) The child placing agency or approved governmental unit  
13 will periodically reevaluate the placement of an adult under this  
14 subsection to determine that the criteria for placement in  
15 subdivisions (a) through (d) continue to be met and document that  
16 the adult is receiving care consistent with the administrative  
17 rules for a child placing agency.

18 (8) On an exception basis, the director of the department,  
19 or his or her designee, may authorize a licensed child placing  
20 agency or an approved governmental unit to place a child in an  
21 adult foster care family home or an adult foster care small group  
22 home licensed under the adult foster care licensing act, 1979  
23 PA 218, MCL 400.701 to 400.737, if the licensed child placing  
24 agency or approved governmental unit certifies to the department  
25 all of the following:

26 (a) The placement is in the best interests of the child.

27 (b) The placement has the concurrence of the parent or

1 guardian of the child.

2 (c) The identified needs of the child can be met adequately  
3 by the adult foster care family home or small group home.

4 (d) The child's psychosocial and clinical needs are  
5 compatible with those of other residents of the adult foster care  
6 family home or small group home.

7 (e) The clinical treatment of the child's condition is  
8 similar to that of the other residents of the adult foster care  
9 family home or small group home.

10 (f) The child's cognitive level is consistent with the  
11 cognitive level of the other residents of the adult foster care  
12 family home or small group home.

13 (g) The child is neurologically disabled and is also  
14 physically limited to such a degree as to require complete  
15 physical assistance with mobility and activities of daily  
16 living.

17 (h) The child placing agency or approved governmental unit  
18 will periodically reevaluate the placement of a child under this  
19 subsection to determine that the criteria for placement in  
20 subdivisions (a) to (g) continue to be met.

21 **(9) Beginning the effective date of the amendatory act that**  
22 **added this subsection, except as provided in subsection (1) and**  
23 **section 5b, the department shall issue an initial or renewal**  
24 **license or registration under this act not later than 180 days**  
25 **after the applicant files a completed application. If the**  
26 **application is considered incomplete by the department, the**  
27 **department shall notify the applicant in writing within 10 days**

1 after receipt of the incomplete application, describing the  
2 deficiency and requesting additional information. The 180-day  
3 period is tolled upon notification by the department of a  
4 deficiency until the date the requested information is received  
5 by the department. This subsection does not affect the time  
6 period within which an on-site visit to a family day care home  
7 shall be made.

8 (10) Except as provided in subsection (1) and section 5b, if  
9 the department fails to issue or deny a license or registration  
10 within the time required by this section, the department shall  
11 return the license or registration fee and shall reduce the  
12 license or registration fee for the applicant's next renewal  
13 application, if any, by 15%. The department shall not  
14 discriminate against an applicant in the processing of an  
15 application based on the fact that the application fee was  
16 refunded or discounted under this subsection.

17 (11) Beginning January 31, 2005, the director of the  
18 department shall submit a report by January 31 of each year to  
19 the standing committees and appropriations subcommittees of the  
20 senate and house of representatives concerned with human services  
21 and children's issues. The director shall include all of the  
22 following information regarding applications for licenses and  
23 registrations filed under this act in the report concerning the  
24 calendar year that ended the preceding December 31:

25 (a) The number of initial and renewal applications the  
26 department received and completed within the 180-day time period  
27 described in subsection (9).

1 (b) The number of applications requiring a request for  
2 additional information.

3 (c) The average time for an applicant to respond to a  
4 request for additional information.

5 (d) The number of applications rejected, categorized by  
6 reason for rejection.

7 (e) The amount of money returned to licensees and  
8 registrants under subsection (10).

9 (f) The number of licenses and registrations not issued  
10 within the 180-day period.

11 (g) The average processing time for initial and renewal  
12 licenses and registrations granted after the 180-day period.

13 Sec. 9a. (1) A certificate of registration shall be in  
14 force for 3 years unless revoked ~~pursuant to~~ **under** section 11.  
15 A renewal certificate of registration shall be issued in the same  
16 manner as provided in section 5(2), **(9), and (10)** for the initial  
17 issuance of the certificate, except that an on-site visit of the  
18 family day care home and the orientation session ~~shall not be~~  
19 **are not** required. The certificate shall state that the  
20 registrant may operate a family day care home and the number and  
21 the ages of the children that may be received and maintained.

22 (2) This section ~~shall~~ **does** not limit the right or the  
23 duty of the department to assess periodically, randomly, or at  
24 the time of renewal, the continued compliance with this act and  
25 rules promulgated under this act. The department shall make  
26 on-site visits as provided in this act to a 10% sample of the  
27 family day care homes in each county each year, or when a

1 complaint about a family day care home or registrant is received  
2 by the department.