

**SUBSTITUTE FOR
HOUSE BILL NO. 5398**

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 section 5 (MCL 722.115), as amended by 2005 PA 133.

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 or
3 maintain a child care organization unless licensed or registered by
4 the department. Application for a license or certificate of
5 registration shall be made on forms provided, and in the manner
6 prescribed, by the department. Before issuing or renewing a

1 license, the department shall investigate the applicant's
2 activities and proposed standards of care, ~~and~~ shall make an on-
3 site visit of the proposed or established organization. If the
4 department is satisfied as to the need for a child care
5 organization, its financial stability, the applicant's good moral
6 character, and that the services and facilities are conducive to
7 the welfare of the children, the department shall issue or renew
8 the license. ~~As used in this subsection, "good moral character"~~
9 ~~means that term as defined in and determined under 1974 PA 381, MCL~~
10 ~~338.41 to 338.47.~~ If a county juvenile agency as defined in
11 section 2 of the county juvenile agency act, 1998 PA 518, MCL
12 45.622, certifies to the department that it intends to contract
13 with an applicant for a new license, the department shall issue or
14 deny the license within 60 days after it receives a complete
15 application as 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 that
19 the family day care home has complied with and will continue to
20 comply with the rules promulgated under this act and will provide
21 services and facilities, as determined by the department, conducive
22 to the welfare of children. The department shall make available to
23 applicants for registration an orientation session to applicants
24 for registration regarding this act, the rules promulgated under
25 this act, and the needs of children in family day care before
26 issuing a certificate of registration. The department shall issue a
27 certificate of registration to a specific person at a specific

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

5 (3) The department may authorize a licensed child placing
6 agency or an approved governmental unit to investigate a foster
7 family home or a foster family group home according to subsection
8 (1) and to certify that the foster family home or foster family
9 group home meets the licensing requirements prescribed by this act.

10 **BEFORE CERTIFYING TO THE DEPARTMENT THAT A FOSTER FAMILY HOME OR**
11 **FOSTER FAMILY GROUP HOME MEETS THE LICENSING REQUIREMENTS**
12 **PRESCRIBED BY THIS ACT, THE LICENSED CHILD PLACING AGENCY OR**
13 **APPROVED GOVERNMENTAL UNIT SHALL RECEIVE AND REVIEW A MEDICAL**
14 **STATEMENT FOR EACH MEMBER OF THE HOUSEHOLD INDICATING THAT HE OR**
15 **SHE DOES NOT HAVE A KNOWN CONDITION THAT WOULD AFFECT THE CARE OF A**
16 **FOSTER CHILD. THE MEDICAL STATEMENT REQUIRED UNDER THIS SECTION**
17 **SHALL BE SIGNED AND DATED BY A PHYSICIAN LICENSED UNDER ARTICLE 15**
18 **OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838,**
19 **A PHYSICIAN'S ASSISTANT LICENSED UNDER ARTICLE 15 OF THE PUBLIC**
20 **HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838, OR A**
21 **CERTIFIED NURSE PRACTITIONER LICENSED AS A REGISTERED PROFESSIONAL**
22 **NURSE UNDER PART 172 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
23 **333.17201 TO 333.17242, WHO HAS BEEN ISSUED A SPECIALTY**
24 **CERTIFICATION AS A NURSE PRACTITIONER BY THE BOARD OF NURSING UNDER**
25 **SECTION 17210 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
26 **333.17210, WITHIN THE 12 MONTHS IMMEDIATELY PRECEDING THE DATE OF**
27 **THE INITIAL EVALUATION. THIS SUBSECTION DOES NOT REQUIRE NEW OR**

1 **ADDITIONAL THIRD PARTY REIMBURSEMENT OR WORKER'S COMPENSATION**

2 **BENEFITS FOR SERVICES RENDERED.** A foster family home or a foster

3 family group home shall be certified for licensing by the

4 department by only 1 child placing agency or approved governmental

5 unit. Other child placing agencies may place children in a foster

6 family home or foster family group home only upon the approval of

7 the certifying agency or governmental unit.

8 (4) The department may authorize a licensed child placing

9 agency or an approved governmental unit to place a child who is 16

10 or 17 years of age in his or her own unlicensed residence, or in

11 the unlicensed residence of an adult who has no supervisory

12 responsibility for the child, if a child placing agency or

13 governmental unit retains supervisory responsibility for the child.

14 (5) A licensed child placing agency, child caring institution,

15 and an approved governmental unit shall provide the state court

16 administrative office and a local foster care review board

17 established under 1984 PA 422, MCL 722.131 to 722.139a, those

18 records requested pertaining to children in foster care placement

19 for more than 6 months.

20 (6) The department may authorize a licensed child placing

21 agency or an approved governmental unit to place a child who is 16

22 or 17 years old in an adult foster care family home or an adult

23 foster care small group home licensed under the adult foster care

24 facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if a

25 licensed child placing agency or approved governmental unit retains

26 supervisory responsibility for the child and certifies to the

27 department all of the following:

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

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

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

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

10 (7) On an exception basis, the director of the department, or
11 his or her designee, may authorize a licensed child placing agency
12 or an approved governmental unit to place an adult in a foster
13 family home if a licensed child placing agency or approved
14 governmental unit certifies to the department all of the following:

15 (a) The adult is a person with a developmental disability as
16 defined by section 100a of the mental health code, 1974 PA 258, MCL
17 330.1100a, or a person who is otherwise neurologically disabled and
18 is also physically limited to a degree that requires complete
19 physical assistance with mobility and activities of daily living.

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

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

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

27 (e) The child placing agency or approved governmental unit

1 will periodically reevaluate the placement of an adult under this
2 subsection to determine that the criteria for placement in
3 subdivisions (a) through (d) continue to be met and document that
4 the adult is receiving care consistent with the administrative
5 rules for a child placing agency.

6 (8) On an exception basis, the director of the department, or
7 his or her designee, may authorize a licensed child placing agency
8 or an approved governmental unit to place a child in an adult
9 foster care family home or an adult foster care small group home
10 licensed under the adult foster care licensing act, 1979 PA 218,
11 MCL 400.701 to 400.737, if the licensed child placing agency or
12 approved governmental unit certifies to the department all of the
13 following:

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

15 (b) The placement has the concurrence of the parent or
16 guardian of the child.

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

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

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

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

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

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

8 (9) Beginning October 1, 2007, except as provided in
9 subsection (1) and section 5b, the department shall issue an
10 initial or renewal license or registration under this act for child
11 care centers, group day care homes, and family day care homes not
12 later than 6 months after the applicant files a completed
13 application. Receipt of the application is considered the date the
14 application is received by any agency or department of this state.
15 If the application is considered incomplete by the department, the
16 department shall notify the applicant in writing or make notice
17 electronically available within 30 days after receipt of the
18 incomplete application, describing the deficiency and requesting
19 additional information. This subsection does not affect the time
20 period within which an on-site visit to a family day care home
21 shall be made. If the department identifies a deficiency or
22 requires the fulfillment of a corrective action plan, the 6-month
23 period is tolled until either of the following occurs:

24 (a) Upon notification by the department of a deficiency, until
25 the date the requested information is received by the department.

26 (b) Upon notification by the department that a corrective
27 action plan is required, until the date the department determines

1 the requirements of the corrective action plan have been met.

2 (10) The determination of the completeness of an application
3 is not an approval of the application for the license and does not
4 confer eligibility on an applicant determined otherwise ineligible
5 for issuance of a license.

6 (11) Except as provided in subsection (1) and section 5b, if
7 the department fails to issue or deny a license or registration to
8 a child care center, group day care home, or family day care home
9 within the time required by this section, the department shall
10 return the license or registration fee and shall reduce the license
11 or registration fee for the applicant's next renewal application,
12 if any, by 15%. Failure to issue or deny a license to a child care
13 center, group day care home, or family day care home within the
14 time period required under this section does not allow the
15 department to otherwise delay the processing of the application. A
16 completed application shall be placed in sequence with other
17 completed applications received at that same time. The department
18 shall not discriminate against an applicant in the processing of an
19 application based on the fact that the application fee was refunded
20 or discounted under this subsection.

21 (12) If, on a continual basis, inspections performed by a
22 local health department delay the department in issuing or denying
23 licenses or registrations for child care centers, group day care
24 homes, and family day care homes under this act within the 6-month
25 period, the department may use department staff to complete the
26 inspections instead of the local health department causing the
27 delays.

1 (13) Beginning October 1, 2008, the director of the department
2 shall submit a report by December 1 of each year to the standing
3 committees and appropriations subcommittees of the senate and house
4 of representatives concerned with human services and children's
5 issues. The director shall include all of the following information
6 regarding applications for licenses and registrations only for
7 child care centers, group day care homes, and family day care homes
8 filed under this act in the report concerning the preceding fiscal
9 year:

10 (a) The number of initial and renewal applications the
11 department received and completed within the 6-month time period
12 described in subsection (9).

13 (b) The number of applications requiring a request for
14 additional information.

15 (c) The number of applications rejected.

16 (d) The number of licenses and registrations not issued within
17 the 6-month period.

18 (e) The average processing time for initial and renewal
19 licenses and registrations granted after the 6-month period.

20 ~~——(14) As used in this section, "completed application" means an~~
21 ~~application complete on its face and submitted with any applicable~~
22 ~~licensing or registration fees as well as any other information,~~
23 ~~records, approval, security, or similar item required by law or~~
24 ~~rule from a local unit of government, a federal agency, or a~~
25 ~~private entity but not from another department or agency of this~~
26 ~~state. A completed application does not include a health inspection~~
27 ~~performed by a local health department.~~

1 **(14)** ~~—(15)—~~ The department shall not issue to or renew the
2 license of a child care center or day care center under this act
3 without requesting a criminal history check and criminal records
4 check as required by section 5c. If a criminal history check or
5 criminal records check performed under section 5c reveals that an
6 applicant for a license under this act has been convicted of a
7 listed offense, the department shall not issue a license to that
8 applicant. If a criminal history check or criminal records check
9 performed under section 5c reveals that an applicant for renewal of
10 a license under this act has been convicted of a listed offense,
11 the department shall not renew that license. If a criminal history
12 check or criminal records check performed under section 5c reveals
13 that a current licensee has been convicted of a listed offense, the
14 department shall revoke the license of that licensee.

15 **(15)** ~~—(16)—~~ The department shall not issue or renew a
16 certificate of registration to a family day care home or a license
17 to a group day care home under this act without requesting a
18 criminal history check and criminal records check as required by
19 section 5f and a department of state police ICHAT check required by
20 section 5g. If a criminal history check or criminal records check
21 performed under section 5f or an ICHAT check performed under
22 section 5g reveals that an applicant for a certificate of
23 registration or license under this act or a person over 18 years of
24 age residing in that applicant's home has been convicted of a
25 listed offense, the department shall not issue a certificate of
26 registration or license to that applicant. If a criminal history
27 check or criminal records check performed under section 5f or an

1 ICHAT check performed under section 5g reveals that an applicant
2 for renewal of a certificate of registration or license under this
3 act or a person over 18 years of age residing in that applicant's
4 home has been convicted of a listed offense, the department shall
5 not renew a certificate of registration or license to that
6 applicant. If a criminal history check or criminal records check
7 performed under section 5f or an ICHAT check performed under
8 section 5g reveals that a current registrant or licensee under this
9 act or a person over 18 years of age residing in that registrant's
10 or licensee's home has been convicted of a listed offense, the
11 department shall revoke that registrant's certificate of
12 registration or licensee's license.

13 (16) AS USED IN THIS SECTION:

14 (A) "COMPLETED APPLICATION" MEANS AN APPLICATION COMPLETE ON
15 ITS FACE AND SUBMITTED WITH ANY APPLICABLE LICENSING OR
16 REGISTRATION FEES AS WELL AS ANY OTHER INFORMATION, RECORDS,
17 APPROVAL, SECURITY, OR SIMILAR ITEM REQUIRED BY LAW OR RULE FROM A
18 LOCAL UNIT OF GOVERNMENT, A FEDERAL AGENCY, OR A PRIVATE ENTITY BUT
19 NOT FROM ANOTHER DEPARTMENT OR AGENCY OF THIS STATE. A COMPLETED
20 APPLICATION DOES NOT INCLUDE A HEALTH INSPECTION PERFORMED BY A
21 LOCAL HEALTH DEPARTMENT.

22 (B) "GOOD MORAL CHARACTER" MEANS THAT TERM AS DEFINED IN AND
23 DETERMINED UNDER 1974 PA 381, MCL 338.41 TO 338.47.

24 (C) "MEMBER OF THE HOUSEHOLD" MEANS ANY INDIVIDUAL, OTHER THAN
25 A FOSTER CHILD, WHO RESIDES IN A FOSTER FAMILY HOME OR FOSTER
26 FAMILY GROUP HOME ON AN ONGOING OR RECURRENT BASIS.