

HOUSE BILL No. 5398

November 2, 2005, Introduced by Reps. Green and Gaffney and referred to the Committee on Health Policy.

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

1 prescribed, by the department. Before issuing or renewing a
2 license, the department shall investigate the applicant's
3 activities and proposed standards of care, ~~and~~ shall make an on-
4 site visit of the proposed or established organization, **AND SHALL**
5 **RECEIVE AND REVIEW A MEDICAL STATEMENT FOR EACH MEMBER OF THE**
6 **HOUSEHOLD INDICATING THAT HE OR SHE DOES NOT HAVE A KNOWN CONDITION**
7 **THAT WOULD AFFECT THE CARE OF OTHERS IN THE CHILD CARING**
8 **ORGANIZATION. THE MEDICAL STATEMENT REQUIRED UNDER THIS SECTION**
9 **SHALL BE SIGNED AND DATED BY A PHYSICIAN OR A CERTIFIED NURSE**
10 **PRACTITIONER WITHIN THE 12 MONTHS IMMEDIATELY PRECEDING THE DATE OF**
11 **THE APPLICATION AND SHALL BE SUBMITTED WITH THE APPLICATION.** If the
12 department is satisfied as to the need for a child care
13 organization, its financial stability, the applicant's good moral
14 character, and that the services and facilities are conducive to
15 the welfare of the children, the department shall issue or renew
16 the license. ~~As used in this subsection, "good moral character"~~
17 ~~means that term as defined in and determined under 1974 PA 381, MCL~~
18 ~~338.41 to 338.47.~~ If a county juvenile agency as defined in
19 section 2 of the county juvenile agency act, 1998 PA 518, MCL
20 45.622, certifies to the department that it intends to contract
21 with an applicant for a new license, the department shall issue or
22 deny the license within 60 days after it receives a complete
23 application as provided in section 5b.

24 (2) The department shall issue a certificate of registration
25 to a person who has successfully completed an orientation session
26 offered by the department and who certifies to the department that
27 the family day care home has complied with and will continue to

1 comply with the rules promulgated under this act and will provide
2 services and facilities, as determined by the department, conducive
3 to the welfare of children. The department shall make available to
4 applicants for registration an orientation session to applicants
5 for registration regarding this act, the rules promulgated under
6 this act, and the needs of children in family day care before
7 issuing a certificate of registration. The department shall issue a
8 certificate of registration to a specific person at a specific
9 location. A certificate of registration is nontransferable and
10 remains the property of the department. Within 90 days after
11 initial registration, the department shall make an on-site visit of
12 the family day care home.

13 (3) The department may authorize a licensed child placing
14 agency or an approved governmental unit to investigate a foster
15 family home or a foster family group home according to subsection
16 (1) and to certify that the foster family home or foster family
17 group home meets the licensing requirements prescribed by this act.
18 A foster family home or a foster family group home shall be
19 certified for licensing by the department by only 1 child placing
20 agency or approved governmental unit. Other child placing agencies
21 may place children in a foster family home or foster family group
22 home only upon the approval of the certifying agency or
23 governmental unit.

24 (4) The department may authorize a licensed child placing
25 agency or an approved governmental unit to place a child who is 16
26 or 17 years of age in his or her own unlicensed residence, or in
27 the unlicensed residence of an adult who has no supervisory

1 responsibility for the child, if a child placing agency or
2 governmental unit retains supervisory responsibility for the child.

3 (5) A licensed child placing agency, child caring institution,
4 and an approved governmental unit shall provide the state court
5 administrative office and a local foster care review board
6 established under 1984 PA 422, MCL 722.131 to 722.139a, those
7 records requested pertaining to children in foster care placement
8 for more than 6 months.

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

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

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

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

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

26 (7) On an exception basis, the director of the department, or
27 his or her designee, may authorize a licensed child placing agency

1 or an approved governmental unit to place an adult in a foster
2 family home if a licensed child placing agency or approved
3 governmental unit certifies to the department all of the following:

4 (a) The adult is a person with a developmental disability as
5 defined by section 100a of the mental health code, 1974 PA 258, MCL
6 330.1100a, or a person who is otherwise neurologically disabled and
7 is also physically limited to a degree that requires complete
8 physical assistance with mobility and activities of daily living.

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

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

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

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

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

1 approved governmental unit certifies to the department all of the
2 following:

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

4 (b) The placement has the concurrence of the parent or
5 guardian of the child.

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

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

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

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

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

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

24 (9) Beginning October 1, 2007, except as provided in
25 subsection (1) and section 5b, the department shall issue an
26 initial or renewal license or registration under this act for child
27 care centers, group day care homes, and family day care homes not

1 later than 6 months after the applicant files a completed
2 application. Receipt of the application is considered the date the
3 application is received by any agency or department of this state.
4 If the application is considered incomplete by the department, the
5 department shall notify the applicant in writing or make notice
6 electronically available within 30 days after receipt of the
7 incomplete application, describing the deficiency and requesting
8 additional information. This subsection does not affect the time
9 period within which an on-site visit to a family day care home
10 shall be made. If the department identifies a deficiency or
11 requires the fulfillment of a corrective action plan, the 6-month
12 period is tolled until either of the following occurs:

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

15 (b) Upon notification by the department that a corrective
16 action plan is required, until the date the department determines
17 the requirements of the corrective action plan have been met.

18 (10) The determination of the completeness of an application
19 is not an approval of the application for the license and does not
20 confer eligibility on an applicant determined otherwise ineligible
21 for issuance of a license.

22 (11) Except as provided in subsection (1) and section 5b, if
23 the department fails to issue or deny a license or registration to
24 a child care center, group day care home, or family day care home
25 within the time required by this section, the department shall
26 return the license or registration fee and shall reduce the license
27 or registration fee for the applicant's next renewal application,

1 if any, by 15%. Failure to issue or deny a license to a child care
2 center, group day care home, or family day care home within the
3 time period required under this section does not allow the
4 department to otherwise delay the processing of the application. A
5 completed application shall be placed in sequence with other
6 completed applications received at that same time. The department
7 shall not discriminate against an applicant in the processing of an
8 application based on the fact that the application fee was refunded
9 or discounted under this subsection.

10 (12) If, on a continual basis, inspections performed by a
11 local health department delay the department in issuing or denying
12 licenses or registrations for child care centers, group day care
13 homes, and family day care homes under this act within the 6-month
14 period, the department may use department staff to complete the
15 inspections instead of the local health department causing the
16 delays.

17 (13) Beginning October 1, 2008, the director of the department
18 shall submit a report by December 1 of each year to the standing
19 committees and appropriations subcommittees of the senate and house
20 of representatives concerned with human services and children's
21 issues. The director shall include all of the following information
22 regarding applications for licenses and registrations only for
23 child care centers, group day care homes, and family day care homes
24 filed under this act in the report concerning the preceding fiscal
25 year:

26 (a) The number of initial and renewal applications the
27 department received and completed within the 6-month time period

1 described in subsection (9).

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

4 (c) The number of applications rejected.

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

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

9 ~~(14) As used in this section, "completed application" means an~~
10 ~~application complete on its face and submitted with any applicable~~
11 ~~licensing or registration fees as well as any other information,~~
12 ~~records, approval, security, or similar item required by law or~~
13 ~~rule from a local unit of government, a federal agency, or a~~
14 ~~private entity but not from another department or agency of this~~
15 ~~state. A completed application does not include a health inspection~~
16 ~~performed by a local health department.~~

17 (14) ~~(15)~~ The department shall not issue to or renew the
18 license of a child care center or day care center under this act
19 without requesting a criminal history check and criminal records
20 check as required by section 5c. If a criminal history check or
21 criminal records check performed under section 5c reveals that an
22 applicant for a license under this act has been convicted of a
23 listed offense, the department shall not issue a license to that
24 applicant. If a criminal history check or criminal records check
25 performed under section 5c reveals that an applicant for renewal of
26 a license under this act has been convicted of a listed offense,
27 the department shall not renew that license. If a criminal history

1 check or criminal records check performed under section 5c reveals
2 that a current licensee has been convicted of a listed offense, the
3 department shall revoke the license of that licensee.

4 **(15)** ~~-(16)-~~ The department shall not issue or renew a
5 certificate of registration to a family day care home or a license
6 to a group day care home under this act without requesting a
7 criminal history check and criminal records check as required by
8 section 5f and a department of state police ICHAT check required by
9 section 5g. If a criminal history check or criminal records check
10 performed under section 5f or an ICHAT check performed under
11 section 5g reveals that an applicant for a certificate of
12 registration or license under this act or a person over 18 years of
13 age residing in that applicant's home has been convicted of a
14 listed offense, the department shall not issue a certificate of
15 registration or license to that applicant. If a criminal history
16 check or criminal records check performed under section 5f or an
17 ICHAT check performed under section 5g reveals that an applicant
18 for renewal of a certificate of registration or license under this
19 act or a person over 18 years of age residing in that applicant's
20 home has been convicted of a listed offense, the department shall
21 not renew a certificate of registration or license to that
22 applicant. If a criminal history check or criminal records check
23 performed under section 5f or an ICHAT check performed under
24 section 5g reveals that a current registrant or licensee under this
25 act or a person over 18 years of age residing in that registrant's
26 or licensee's home has been convicted of a listed offense, the
27 department shall revoke that registrant's certificate of

1 registration or licensee's license.

2 (16) AS USED IN THIS SECTION:

3 (A) "COMPLETED APPLICATION" MEANS AN APPLICATION COMPLETE ON
4 ITS FACE AND SUBMITTED WITH ANY APPLICABLE LICENSING OR
5 REGISTRATION FEES AS WELL AS ANY OTHER INFORMATION, RECORDS,
6 APPROVAL, SECURITY, OR SIMILAR ITEM REQUIRED BY LAW OR RULE FROM A
7 LOCAL UNIT OF GOVERNMENT, A FEDERAL AGENCY, OR A PRIVATE ENTITY BUT
8 NOT FROM ANOTHER DEPARTMENT OR AGENCY OF THIS STATE. A COMPLETED
9 APPLICATION DOES NOT INCLUDE A HEALTH INSPECTION PERFORMED BY A
10 LOCAL HEALTH DEPARTMENT.

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

13 (C) "MEMBER OF THE HOUSEHOLD" MEANS ANY INDIVIDUAL, OTHER THAN
14 A FOSTER CHILD, WHO RESIDES IN A CHILD CARE ORGANIZATION ON AN
15 ONGOING OR RECURRENT BASIS.