

HOUSE BILL No. 6641

November 14, 2006, Introduced by Reps. Gosselin, Garfield, Taub, Ward, Stahl, Marleau, Steil, Acciavatti and Drolet and referred to the Committee on Family and Children Services.

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 1 (MCL 722.111), as amended by 2005 PA 202.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) As used in this act:

2 (a) "Child care organization" means a governmental or
3 nongovernmental 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,

1 children's camps, child care centers, day care centers, nursery
2 schools, parent cooperative preschools, foster homes, group homes,
3 or day care homes. Child care organization does not include a
4 governmental or nongovernmental organization that does either of
5 the following:

6 (i) Provides care exclusively to minors who have been
7 emancipated by court order under section 4(3) of 1968 PA 293, MCL
8 722.4.

9 (ii) Provides care exclusively to persons who are 18 years of
10 age or older and to minors who have been emancipated by court order
11 under section 4(3) of 1968 PA 293, MCL 722.4, at the same location.

12 (b) "Child caring institution" means a child care facility
13 that is organized for the purpose of receiving minor children for
14 care, maintenance, and supervision, usually on a 24-hour basis, in
15 buildings maintained by the child caring institution for that
16 purpose, and operates throughout the year. An educational program
17 may be provided, but the educational program shall not be the
18 primary purpose of the facility. Child caring institution includes
19 a maternity home for the care of unmarried mothers who are minors
20 and an agency group home, that is described as a small child caring
21 institution owned, leased, or rented by a licensed agency providing
22 care for more than 4 but less than 13 minor children. Child caring
23 institution also includes institutions for mentally retarded or
24 emotionally disturbed minor children. Child caring institution does
25 not include a hospital, nursing home, or home for the aged licensed
26 under article 17 of the public health code, 1978 PA 368, MCL
27 333.20101 to 333.22260, a boarding school licensed under section

1 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a
2 hospital or facility operated by the state or licensed under the
3 mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an
4 adult foster care family home or an adult foster care small group
5 home licensed under the adult foster care facility licensing act,
6 1979 PA 218, MCL 400.701 to 400.737, in which a child has been
7 placed under section 5(6).

8 (c) "Child placing agency" means a governmental organization
9 or an agency organized under the nonprofit corporation act, 1982 PA
10 162, MCL 450.2101 to 450.3192, for the purpose of receiving
11 children for placement in private family homes for foster care or
12 for adoption. The function of a child placing agency may include
13 investigating applicants for adoption and investigating and
14 certifying foster family homes and foster family group homes as
15 provided in this act. The function of a child placing agency may
16 also include supervising children who are 16 or 17 years of age and
17 who are living in unlicensed residences as provided in section
18 5(4).

19 (d) "Children's camp" means a residential, day, troop, or
20 travel camp that provides care and supervision and is conducted in
21 a natural environment for more than 4 children, apart from the
22 children's parents, relatives, or legal guardians, for 5 or more
23 days in a 14-day period.

24 (e) "Child care center" or "day care center" means a facility,
25 other than a private residence, receiving 1 or more preschool or
26 school-age children for care for periods of less than 24 hours a
27 day, ~~and~~ where the parents or guardians are not immediately

1 available to the child. Child care center or day care center
2 includes a facility that provides care for not less than 2
3 consecutive weeks, regardless of the number of hours of care per
4 day. The facility is generally described as a child care center,
5 day care center, day nursery, nursery school, parent cooperative
6 preschool, play group, before- or after-school program, or drop-in
7 center. Child care center or day care center does not include any
8 of the following:

9 (i) A Sunday school, a vacation bible school, or a religious
10 instructional class that is conducted by a religious organization
11 where children are attending for not more than 3 hours per day for
12 an indefinite period or for not more than 8 hours per day for a
13 period not to exceed 4 weeks during a 12-month period.

14 (ii) A facility operated by a religious organization where
15 children are cared for not more than 3 hours while persons
16 responsible for the children are attending religious services.

17 (iii) A program that is primarily supervised, school-age-child-
18 focused training in a specific subject, including, but not limited
19 to, dancing, drama, music, or religion. This exclusion applies only
20 to the time a child is involved in supervised, school-age-child-
21 focused training.

22 (iv) A program that is primarily an incident of group athletic
23 or social activities for school-age children sponsored by or under
24 the supervision of an organized club or hobby group, including, but
25 not limited to, youth clubs, scouting, and school-age recreational
26 or supplementary education programs. This exclusion applies only to
27 the time the school-age child is engaged in the group athletic or

1 social activities and if the school-age child can come and go at
2 will.

3 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES OR A
4 SUCCESSOR AGENCY OR DEPARTMENT RESPONSIBLE FOR LICENSURE AND
5 REGISTRATION UNDER THIS ACT.

6 (G) ~~—(f)—~~ "Private home" means a private residence in which
7 the licensee or registrant permanently resides as a member of the
8 household, which residency is not contingent upon caring for
9 children or employment by a licensed or approved child placing
10 agency. Private home includes a full-time foster family home, a
11 full-time foster family group home, a group day care home, or a
12 family day care home, as follows:

13 (i) "Foster family home" is a private home in which 1 but not
14 more than 4 minor children, who are not related to an adult member
15 of the household by blood or marriage, or who are not placed in the
16 household under the Michigan adoption code, chapter X of the
17 probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are given
18 care and supervision for 24 hours a day, for 4 or more days a week,
19 for 2 or more consecutive weeks, unattended by a parent or legal
20 guardian.

21 (ii) "Foster family group home" means a private home in which
22 more than 4 but fewer than 7 minor children, who are not related to
23 an adult member of the household by blood or marriage, or who are
24 not placed in the household under the Michigan adoption code,
25 chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to
26 710.70, are provided care for 24 hours a day, for 4 or more days a
27 week, for 2 or more consecutive weeks, unattended by a parent or

1 legal guardian.

2 (iii) "Family day care home" means a private home in which 1 but
3 fewer than ~~7~~ 12 minor children are received for care and
4 supervision for periods of less than 24 hours a day, unattended by
5 a parent or legal guardian, except children related to an adult
6 member of the family by blood, marriage, or adoption. Family day
7 care home includes a home in which care is given to an unrelated
8 minor child for more than 4 weeks during a calendar year.

9 (iv) "Group day care home" means a private home in which more
10 than 6 but not more than 12 minor children are given care and
11 supervision for periods of less than 24 hours a day unattended by a
12 parent or legal guardian, except children related to an adult
13 member of the family by blood, marriage, or adoption. Group day
14 care home includes a home in which care is given to an unrelated
15 minor child for more than 4 weeks during a calendar year.

16 (H) ~~(g)~~ "Licensee" means a person, partnership, firm,
17 corporation, association, nongovernmental organization, or local or
18 state government child care organization that has been issued a
19 license under this act to operate a child care organization.

20 (I) ~~(h)~~ "Provisional license" means a license issued to a
21 child care organization that is temporarily unable to conform to
22 all of the rules promulgated under this act.

23 (J) ~~(i)~~ "Regular license" means a license issued to a child
24 care organization indicating that the organization is in compliance
25 with all rules promulgated under this act.

26 (K) ~~(j)~~ "Guardian" means the guardian of the person.

27 (L) ~~(k)~~ "Minor child" means any of the following:

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

2 (ii) A person who is a resident in a child caring institution,
3 children's camp, foster family home, or foster family group home;
4 who becomes 18 years of age while residing in the child caring
5 institution, children's camp, foster family home, or foster family
6 group home; and who continues residing in the child caring
7 institution, children's camp, foster family home, or foster family
8 group home to receive care, maintenance, training, and supervision.
9 ~~However, a~~ A minor child under this subparagraph does not include
10 a person 18 years of age or older who is placed in a child caring
11 institution, foster family home, or foster family group home
12 ~~pursuant~~ **ACCORDING** to an adjudication under section 2(a) of
13 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
14 or section 1 of chapter IX of the code of criminal procedure, 1927
15 PA 175, MCL 769.1. This subparagraph applies only if the number of
16 those residents who become 18 years of age does not exceed the
17 following:

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

19 (B) Three, if the total number of residents is not less than
20 11 and not more than 14.

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

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

24 (iii) A person 18 years of age or older who is placed in a
25 foster family home under section 5(7).

26 **(M)** ~~—(l)~~ "Registrant" means a person who has been issued a
27 certificate of registration under this act to operate a family day

1 care home.

2 (N) ~~-(m)-~~ "Registration" means the process by which the
3 department ~~of human services~~ regulates family day care homes, and
4 includes the requirement that a family day care home certify to the
5 department ~~of human services~~ that the family day care home has
6 complied with and will continue to comply with the rules
7 promulgated under this act.

8 (O) ~~-(n)-~~ "Certificate of registration" means a written
9 document issued under this act to a family day care home through
10 registration.

11 (P) ~~-(o)-~~ "Related" means a parent, grandparent, brother,
12 sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin,
13 great aunt, great uncle, or stepgrandparent related by marriage,
14 blood, or adoption.

15 (Q) ~~-(p)-~~ "Religious organization" means **A** church,
16 ecclesiastical corporation, or group, not organized for pecuniary
17 profit, that gathers for mutual support and edification in piety or
18 worship of a supreme deity.

19 (R) ~~-(q)-~~ "School-age child" means a child who is eligible to
20 be enrolled in a grade of kindergarten or above, but is less than
21 13 years of age.

22 (2) A facility or program for school-age children that is
23 currently operated and has been in operation and licensed or
24 approved as provided in this act for a minimum of 2 years may apply
25 to the department ~~of human services~~ to be exempt from inspections
26 and on-site visits required under section 5. The department ~~of~~
27 ~~human services~~ shall respond to a facility or program requesting

1 exemption from inspections and on-site visits required under
2 section 5 as provided under this subsection within 45 days from the
3 date the completed application is received. The department ~~of~~
4 ~~human services~~ may grant exemption from inspections and on-site
5 visits required under section 5 to a facility or program that meets
6 all of the following criteria:

7 (a) The facility or program has been in operation and licensed
8 or approved under this act for a minimum of 2 years before the
9 application date.

10 (b) During the 2 years before the application date, the
11 facility or program has not had a substantial violation of this
12 act, rules promulgated under this act, or the terms of a licensure
13 or an approval under this act.

14 (c) The school board, board of directors, or governing body
15 adopts a resolution supporting the application for exemption from
16 inspections and on-site visits required under section 5 as provided
17 for in this subsection.

18 (3) A facility or program granted exemption from inspections
19 and on-site visits required under section 5 as provided for under
20 subsection (2) is required to maintain status as a licensed or
21 approved program under this act and must continue to meet the
22 requirements of this act, the rules promulgated under this act, or
23 the terms of a license or approval under this act. A facility or
24 program granted exemption from inspections and on-site visits
25 required under section 5 as provided for under subsection (2) is
26 subject to an investigation by the department ~~of human services~~
27 when a violation of this act or a violation of a rule promulgated

1 under this act is alleged.

2 (4) A facility or program granted exemption from inspections
3 and on-site visits required under section 5 as provided for under
4 subsection (2) is not subject to interim or annual licensing
5 reviews. A facility or program granted exemption from inspections
6 and on-site visits required under section 5 as provided for under
7 subsection (2) is required to submit documentation annually
8 demonstrating compliance with the requirements of this act, the
9 rules promulgated under this act, or the terms of a license or
10 approval under this act.

11 (5) An exemption provided under subsection (2) may be
12 rescinded by the department ~~of human services~~ if the facility or
13 program willfully and substantially violates this act, the rules
14 promulgated under this act, or the terms of a license or approval
15 granted under this act.