

HOUSE BILL NO. 5756

February 15, 2022, Introduced by Reps. Stone, Brenda Carter, Kuppa, O'Neal, Manoogian, Weiss, Cavanagh, Haadsma, Rogers, Young, Cynthia Johnson, Aiyash, Brixie, Scott and Hood and referred to the Committee on Families, Children, and Seniors.

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 2020 PA 6, and by adding section 1b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Child care staff member" means an individual who is 18
3 years of age or older to whom 1 or more of the following
4 ~~applies:~~**apply:**

5 (i) The individual is employed by a child care center, group
6 child care home, or family child care home for compensation,
7 including a contract employee or a self-employed individual.

8 (ii) An individual whose activities involve the unsupervised
9 care or supervision of children for a child care center, group
10 child care home, or family child care home.

11 (iii) An individual who has unsupervised access to children who
12 are cared for or supervised by a child care center, group child
13 care home, or family child care home.

14 (iv) An individual who acts in the role of a licensee designee
15 or program director.

16 (b) "Child care organization" means a governmental or
17 nongovernmental organization having as its principal function
18 receiving minor children for care, maintenance, training, and
19 supervision, notwithstanding that educational instruction may be
20 given. Child care organization includes organizations commonly
21 described as child caring institutions, child placing agencies,
22 children's camps, children's campsites, children's therapeutic
23 group homes, child care centers, day care centers, nursery schools,
24 parent cooperative preschools, foster homes, group homes, or child
25 care homes. Child care organization does not include a governmental
26 or nongovernmental organization that does either of the following:

27 (i) Provides care exclusively to minors who have been
28 emancipated by court order under section 4(3) of 1968 PA 293, MCL
29 722.4.

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

4 (c) "Child caring institution" means a child care facility
5 that is organized for the purpose of receiving minor children for
6 care, maintenance, and supervision, usually on a 24-hour basis
7 **except as provided in section 1b**, in buildings maintained by the
8 child caring institution for that purpose, and operates throughout
9 the year. An educational program may be provided, but the
10 educational program shall not be the primary purpose of the
11 facility. Child caring institution includes a maternity home for
12 the care of unmarried mothers who are minors and an agency group
13 home, that is described as a small child caring institution, owned,
14 leased, or rented by a licensed agency providing care for more than
15 4 but less than 13 minor children. Child caring institution also
16 includes an institution for developmentally disabled or emotionally
17 disturbed minor children. Child caring institution does not include
18 a hospital, nursing home, or home for the aged licensed under
19 article 17 of the public health code, 1978 PA 368, MCL 333.20101 to
20 333.22260, a boarding school licensed under section 1335 of the
21 revised school code, 1976 PA 451, MCL 380.1335, a hospital or
22 facility operated by the state or licensed under the mental health
23 code, 1974 PA 258, MCL 330.1001 to 330.2106, or an adult foster
24 care family home or an adult foster care small group home licensed
25 under the adult foster care facility licensing act, 1979 PA 218,
26 MCL 400.701 to 400.737, in which a child has been placed under
27 section 5(6).

28 (d) "Child caring institution staff member" means an
29 individual who is 18 years of age or older to whom 1 or more of the

1 following ~~applies~~**apply**:

2 (i) The individual is employed by a child caring institution
3 for compensation, including an adult who does not work directly
4 with children.

5 (ii) The individual is a contract employee or self-employed
6 individual with a child caring institution.

7 (iii) The individual is an intern or other individual who
8 provides specific services under the rules promulgated under this
9 act.

10 (e) "Child placing agency" means a governmental organization
11 or an agency organized under the nonprofit corporation act, 1982 PA
12 162, MCL 450.2101 to 450.3192, for the purpose of receiving
13 children for placement in private family homes for foster care or
14 for adoption. The function of a child placing agency may include
15 investigating applicants for adoption and investigating and
16 certifying foster family homes and foster family group homes as
17 provided in this act. The function of a child placing agency may
18 also include supervising children who are at least 16 but less than
19 21 years of age and who are living in unlicensed residences as
20 provided in section 5(4).

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

26 (g) "Children's campsite" means the outdoor setting where a
27 children's residential or day camp is located.

28 (h) "Children's therapeutic group home" means a child caring
29 institution receiving not more than 6 minor children who are

1 diagnosed with a developmental disability as defined in section
2 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a
3 serious emotional disturbance as defined in section 100d of the
4 mental health code, 1974 PA 258, MCL 330.1100d, and that meets all
5 of the following requirements:

6 (i) Provides care, maintenance, and supervision, usually on a
7 24-hour basis.

8 (ii) Complies with the rules for child caring institutions,
9 except that behavior management rooms, personal restraint,
10 mechanical restraint, or seclusion, which is allowed in certain
11 circumstances under licensing rules, are prohibited in a children's
12 therapeutic group home.

13 (iii) Is not a private home.

14 (iv) Is not located on a campus with other licensed facilities.

15 (i) "Child care center" means a facility, other than a private
16 residence, receiving 1 or more children under 13 years of age for
17 care for periods of less than 24 hours a day, where the parents or
18 guardians are not immediately available to the child. Child care
19 center includes a facility that provides care for not less than 2
20 consecutive weeks, regardless of the number of hours of care per
21 day. The facility is generally described as a child care center,
22 day care center, day nursery, nursery school, parent cooperative
23 preschool, play group, before- or after-school program, or drop-in
24 center. Child care center does not include any of the following:

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

1 (ii) A facility operated by a religious organization where
2 children are in the religious organization's care for not more than
3 3 hours while persons responsible for the children are attending
4 religious services.

5 (iii) A program that is primarily supervised, school-age-child-
6 focused training in a specific subject, including, but not limited
7 to, dancing, drama, music, or religion. This exclusion applies only
8 to the time a child is involved in supervised, school-age-child-
9 focused training.

10 (iv) A program that is primarily an incident of group athletic
11 or social activities for school-age children sponsored by or under
12 the supervision of an organized club or hobby group, including, but
13 not limited to, youth clubs, scouting, and school-age recreational
14 or supplementary education programs. This exclusion applies only to
15 the time the school-age child is engaged in the group athletic or
16 social activities and if the school-age child can come and go at
17 will.

18 (v) A program that primarily provides therapeutic services to
19 a child.

20 (j) "Conviction" means a final conviction, the payment of a
21 fine, a plea of guilty or nolo contendere if accepted by the court,
22 a finding of guilt for a criminal law violation or a juvenile
23 adjudication or disposition by the juvenile division of probate
24 court or family division of circuit court for a violation that if
25 committed by an adult would be a crime, or a conviction in a tribal
26 court or a military court.

27 (k) "Criminal history check" means a fingerprint-based
28 criminal history record information background check through the
29 department of state police and the Federal Bureau of Investigation.

1 (l) "Criminal history record information" means that term as
2 defined in section 1a of 1925 PA 289, MCL 28.241a.

3 (m) "Department" means the department of health and human
4 services and the department of licensing and regulatory affairs or
5 a successor agency or department responsible for licensure under
6 this act. The department of licensing and regulatory affairs is
7 responsible for licensing and regulatory matters for child care
8 centers, group child care homes, family child care homes,
9 children's camps, and children's campsites. The department of
10 health and human services is responsible for licensing and
11 regulatory matters for child caring institutions, child placing
12 agencies, children's therapeutic group homes, foster family homes,
13 and foster family group homes.

14 (n) "Eligible" means that the individual obtained the checks
15 and clearances described in sections 5n and 5q and is considered
16 appropriate to obtain a license, to be a member of the household of
17 a group child care home or family child care home, or to be a child
18 care staff member.

19 (o) "Ineligible" means that the individual obtained the checks
20 and clearances as described in sections 5n and 5q and is not
21 considered appropriate to obtain a license, to be a member of the
22 household of a group child care home or family child care home, or
23 to be a child care staff member due to violation of section 5n, 5q,
24 or 5r.

25 (p) "Private home" means a private residence in which the
26 licensee permanently resides, which residency is not contingent
27 upon caring for children or employment by a child placing agency.
28 Private home includes a full-time foster family home, a full-time
29 foster family group home, a group child care home, or a family

1 child care home, as follows:

2 (i) "Foster family home" means the private home of an
3 individual who is licensed to provide 24-hour care for 1 but not
4 more than 4 minor children who are placed away from their parent,
5 legal guardian, or legal custodian in foster care. The licensed
6 individual providing care is required to comply with the reasonable
7 and prudent parenting standard as defined in section 1 of chapter
8 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.

9 (ii) "Foster family group home" means the private home of an
10 individual who has been licensed by the department to provide 24-
11 hour care for more than 4 but fewer than 7 minor children who are
12 placed away from their parent, legal guardian, or legal custodian
13 in foster care. The licensed individual providing care is required
14 to comply with the reasonable and prudent parenting standard as
15 defined in section 1 of chapter XIIIA of the probate code of 1939,
16 1939 PA 288, MCL 712A.1.

17 (iii) "Family child care home" means a private home in which 1
18 but fewer than 7 minor children are received for care and
19 supervision for compensation for periods of less than 24 hours a
20 day, unattended by a parent or legal guardian, except children
21 related to an adult member of the household by blood, marriage, or
22 adoption. Family child care home includes a home in which care is
23 given to an unrelated minor child for more than 4 weeks during a
24 calendar year. A family child care home does not include an
25 individual providing babysitting services for another individual.
26 As used in this subparagraph, "providing babysitting services"
27 means caring for a child on behalf of the child's parent or
28 guardian if the annual compensation for providing those services
29 does not equal or exceed \$600.00 or an amount that would according

1 to the internal revenue code of 1986 obligate the child's parent or
2 guardian to provide a form 1099-MISC to the individual for
3 compensation paid during the calendar year for those services.

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

11 (q) "Legal custodian" means an individual who is at least 18
12 years of age in whose care a minor child remains or is placed after
13 a court makes a finding under section 13a(5) of chapter XIIA of the
14 probate code of 1939, 1939 PA 288, MCL 712A.13a.

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

19 (s) "Listed offense" means that term as defined in section 2
20 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

21 (t) "Member of the household" means any individual who resides
22 in a family child care home, group child care home, foster family
23 home, or foster family group home on an ongoing basis, or who has a
24 recurrent presence in the home, including, but not limited to,
25 overnight stays. For foster family homes and foster family group
26 homes, a member of the household does not include a foster child.
27 For group child care homes and family child care homes, a member of
28 the household does not include a child to whom child care is being
29 provided.

1 (u) "Original license" means a license issued to a child care
2 organization during the first 6 months of operation indicating that
3 the organization is in compliance with all rules promulgated by the
4 department under this act.

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

8 (w) "Qualified residential treatment program" or "QRTP" means
9 a program within a child caring institution to which all of the
10 following apply:

11 (i) The program has a trauma-informed treatment model,
12 evidenced by the inclusion of trauma awareness, knowledge, and
13 skills into the program's culture, practices, and policies.

14 (ii) The program has registered or licensed nursing and other
15 licensed clinical staff on-site or available 24 hours a day, 7 days
16 a week, who provide care in the scope of their practice as provided
17 in parts 170, 172, 181, 182, 182A, and 185 of the public health
18 code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to
19 333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237,
20 333.18251 to 333.18267, and 333.18501 to 333.18518.

21 (iii) The program integrates families into treatment, including
22 maintaining sibling connections.

23 (iv) The program provides aftercare services for at least 6
24 months post discharge.

25 (v) The program is accredited by an independent not-for-profit
26 organization as described in 42 USC 672(k)(4)(G).

27 (vi) The program does not include a detention facility,
28 forestry camp, training school, or other facility operated
29 primarily for detaining minor children who are determined to be

1 delinquent.

2 (x) "Regular license" means a license issued to a child care
3 organization indicating that the organization is in substantial
4 compliance with all rules promulgated under this act and, if there
5 is a deficiency, has entered into a corrective action plan.

6 (y) "Guardian" means the guardian of the person.

7 (z) "Minor child" means any of the following:

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

9 (ii) A person who is a resident in a child caring institution,
10 foster family home, or foster family group home, who is at least 18
11 but less than 21 years of age, and who meets the requirements of
12 the young adult voluntary foster care act, 2011 PA 225, MCL 400.641
13 to 400.671.

14 (iii) A person who is a resident in a child caring institution,
15 children's camp, foster family home, or foster family group home;
16 who becomes 18 years of age while residing in a child caring
17 institution, children's camp, foster family home, or foster family
18 group home; and who continues residing in a child caring
19 institution, children's camp, foster family home, or foster family
20 group home to receive care, maintenance, training, and supervision.
21 A minor child under this subparagraph does not include a person 18
22 years of age or older who is placed in a child caring institution,
23 foster family home, or foster family group home under an
24 adjudication under section 2(a) of chapter XIIA of the probate code
25 of 1939, 1939 PA 288, MCL 712A.2, or under section 1 of chapter IX
26 of the code of criminal procedure, 1927 PA 175, MCL 769.1. This
27 subparagraph applies only if the number of those residents who
28 become 18 years of age does not exceed the following:

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

1 (B) Three, if the total number of residents is not less than
2 11 and not more than 14.

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

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

6 (iv) A person 18 years of age or older who is placed in an
7 unlicensed residence under section 5(4) or a foster family home
8 under section 5(7).

9 (aa) "Related" means in the relationship by blood, marriage,
10 or adoption, as parent, grandparent, great-grandparent, great-
11 great-grandparent, aunt or uncle, great-aunt or great-uncle, great-
12 great-aunt or great-great-uncle, sibling, stepsibling, nephew or
13 niece, first cousin or first cousin once removed, and the spouse of
14 any of the individuals described in this definition, even after the
15 marriage has ended by death or divorce.

16 (bb) "Religious organization" means a church, ecclesiastical
17 corporation, or group, not organized for pecuniary profit, that
18 gathers for mutual support and edification in piety or worship of a
19 supreme deity.

20 (cc) "School-age child" means a child who is eligible to
21 attend a grade of kindergarten or higher, but is less than 13 years
22 of age. A child is considered to be a school-age child on the first
23 day of the school year in which he or she is eligible to attend
24 school.

25 (dd) "Severe physical injury" means that term as defined in
26 section 8 of the child protection law, 1975 PA 238, MCL 722.628.

27 (ee) "Licensee designee" means the individual designated in
28 writing by the board of directors of the corporation or by the
29 owner or person with legal authority to act on behalf of the

1 company or organization on licensing matters. The individual must
2 agree in writing to be designated as the licensee designee. All
3 license applications must be signed by the licensee ~~in the case of~~
4 ~~the~~ **if the licensee is an** individual or by a member of the
5 corporation, company, or organization.

6 **Sec. 1b. (1) A child caring institution may provide services**
7 **to homeless youth for up to 72 hours with or without parental**
8 **consent.**

9 (2) This section does not apply to youth who are under a court
10 order exercising jurisdiction under chapter XIIA of the probate
11 code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, or to youth who
12 are currently under the custody of this state.