

**SUBSTITUTE FOR
HOUSE BILL NO. 4085**

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 2022 PA 208, and
by adding section 1b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. (1) As used in this act:
- 2 (a) "Child care staff member" means an individual who is 16
- 3 years of age or older to whom 1 or more of the following apply:
- 4 (i) The individual is employed by a child care center, group

1 child care home, or family child care home for compensation,
2 including a contract employee or a self-employed individual.

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

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

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

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

22 (i) Provides care exclusively to minors who have been
23 emancipated by court order under section 4(3) of 1968 PA 293, MCL
24 722.4.

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

28 (c) "Child caring institution" means a child care facility
29 that is organized for the purpose of receiving minor children for

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

23 (d) "Child caring institution staff member" means an
24 individual who is 18 years of age or older to whom 1 or more of the
25 following apply:

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

29 (ii) The individual is a contract employee or self-employed

1 individual with a child caring institution.

2 (iii) The individual is an intern or other individual who
3 provides specific services under the rules promulgated under this
4 act.

5 (e) "Child placing agency" means a governmental organization
6 or an agency organized under the nonprofit corporation act, 1982 PA
7 162, MCL 450.2101 to 450.3192, for the purpose of receiving
8 children for placement in private family homes for foster care or
9 for adoption. The function of a child placing agency may include
10 investigating applicants for adoption and investigating and
11 certifying foster family homes and foster family group homes as
12 provided in this act. The function of a child placing agency may
13 also include supervising children who are at least 16 but less than
14 21 years of age and who are living in unlicensed residences as
15 provided in section 5(4).

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

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

23 (h) "Children's therapeutic group home" means a child caring
24 institution receiving not more than 6 minor children who are
25 diagnosed with a developmental disability as defined in section
26 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a
27 serious emotional disturbance as defined in section 100d of the
28 mental health code, 1974 PA 258, MCL 330.1100d, and that meets all
29 of the following requirements:

1 (i) Provides care, maintenance, and supervision, usually on a
2 24-hour basis.

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

8 (iii) Is not a private home.

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

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

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

25 (ii) A facility operated by a religious organization where
26 children are in the religious organization's care for not more than
27 3 hours while persons responsible for the children are attending
28 religious services.

29 (iii) A program that is primarily supervised, school-age-child-

1 focused training in a specific subject, including, but not limited
2 to, dancing, drama, music, or religion. This exclusion applies only
3 to the time a child is involved in supervised, school-age-child-
4 focused training.

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

13 (v) A program that primarily provides therapeutic services to
14 a child.

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

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

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

27 (m) "Department" means the department of health and human
28 services and the department of licensing and regulatory affairs or
29 a successor agency or department responsible for licensure under

1 this act. The department of licensing and regulatory affairs is
2 responsible for licensing and regulatory matters for child care
3 centers, group child care homes, family child care homes,
4 children's camps, and children's campsites. The department of
5 health and human services is responsible for licensing and
6 regulatory matters for child caring institutions, child placing
7 agencies, children's therapeutic group homes, foster family homes,
8 and foster family group homes.

9 (n) "Eligible" means that the individual obtained the checks
10 and clearances described in sections 5n and 5q and is considered
11 appropriate to obtain a license, to be a member of the household of
12 a group child care home or family child care home, or to be a child
13 care staff member.

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

20 (p) "Increased capacity" means 1 additional child added to the
21 total number of minor children received for care and supervision in
22 a family child care home or 2 additional children added to the
23 total number of minor children received for care and supervision in
24 a group child care home.

25 (q) "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 XIIA 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 XIIA 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. Family child care home
22 includes a home in which care is given to an unrelated minor child
23 for more than 4 weeks during a calendar year. A family child care
24 home does not include an individual providing babysitting services
25 for another individual. As used in this subparagraph, "providing
26 babysitting services" means caring for a child on behalf of the
27 child's parent or guardian if the annual compensation for providing
28 those services does not equal or exceed \$600.00 or an amount that
29 would according to the internal revenue code of 1986 obligate the

1 child's parent or guardian to provide a form 1099-MISC to the
2 individual for compensation paid during the calendar year for those
3 services. Family child care home includes a private home with
4 increased capacity.

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

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

17 (s) "Legal entity" means a sole proprietorship, partnership,
18 corporation, limited liability company, or any other entity.

19 (t) "Licensee" means a person, legal entity organized under a
20 law of this state, state or local government, or trust that has
21 been issued a license under this act to operate a child care
22 organization.

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

25 (v) "Member of the household" means any individual who resides
26 in a family child care home, group child care home, foster family
27 home, or foster family group home on an ongoing basis, or who has a
28 recurrent presence in the home, including, but not limited to,
29 overnight stays. For foster family homes and foster family group

1 homes, a member of the household does not include a foster child.
2 For group child care homes and family child care homes, a member of
3 the household does not include a child to whom child care is being
4 provided.

5 (w) "Original license" means a license issued to a child care
6 organization during the first 6 months of operation indicating that
7 the organization is in compliance with all rules promulgated by the
8 department under this act.

9 (x) "Provisional license" means a license issued to a child
10 care organization that is temporarily unable to conform to the
11 rules promulgated under this act.

12 (y) "Qualified residential treatment program" or "QRTP" means
13 a program within a child caring institution to which all of the
14 following apply:

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

18 (ii) The program has registered or licensed nursing and other
19 licensed clinical staff on-site or available 24 hours a day, 7 days
20 a week, who provide care in the scope of their practice as provided
21 in parts 170, 172, 181, 182, 182A, and 185 of the public health
22 code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to
23 333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237,
24 333.18251 to 333.18267, and 333.18501 to 333.18518.

25 (iii) The program integrates families into treatment, including
26 maintaining sibling connections.

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

29 (v) The program is accredited by an independent not-for-profit

1 organization as described in 42 USC 672(k)(4)(G).

2 (vi) The program does not include a detention facility,
3 forestry camp, training school, or other facility operated
4 primarily for detaining minor children who are determined to be
5 delinquent.

6 (z) "Regular license" means a license issued to a child care
7 organization indicating that the organization is in substantial
8 compliance with all rules promulgated under this act and, if there
9 is a deficiency, has entered into a corrective action plan.

10 (aa) "Guardian" means the **individual's** guardian. ~~of the~~
11 ~~person.~~

12 (bb) "Minor child" means any of the following:

13 (i) ~~A person~~ **An individual** less than 18 years of age.

14 (ii) ~~A person~~ **An individual** who is a resident in a child caring
15 institution, foster family home, or foster family group home, who
16 is at least 18 but less than 21 years of age, and who meets the
17 requirements of the young adult voluntary foster care act, 2011 PA
18 225, MCL 400.641 to 400.671.

19 (iii) ~~A person~~ **An individual** who is a resident in a child caring
20 institution, children's camp, foster family home, or foster family
21 group home; who becomes 18 years of age while residing in a child
22 caring institution, children's camp, foster family home, or foster
23 family group home; and who continues residing in a child caring
24 institution, children's camp, foster family home, or foster family
25 group home to receive care, maintenance, training, and supervision.
26 A minor child under this subparagraph does not include ~~a person~~ **an**
27 **individual** 18 years of age or older who is placed in a child caring
28 institution, foster family home, or foster family group home under
29 an adjudication under section 2(a) of chapter XIIA of the probate

1 code of 1939, 1939 PA 288, MCL 712A.2, or under section 1 of
2 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
3 769.1. This subparagraph applies only if the number of those
4 residents who become 18 years of age does not exceed the following:

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

6 (B) Three, if the total number of residents is not less than
7 11 and not more than 14.

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

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

11 (iv) ~~A person~~ **An individual** 18 years of age or older who is
12 placed in an unlicensed residence under section 5(4) or a foster
13 family home under section 5(7).

14 (cc) "Related" means 1 of the following:

15 (i) Except as provided in subparagraph (ii), a relative as
16 defined in section 13a of chapter XIIIA of the probate code of 1939,
17 1939 PA 288, MCL 712A.13a.

18 (ii) For licensing by the department related to a child care
19 center, children's camp, children's campsite, family child care
20 home, foster family home, foster family group home, or group child
21 care home, in the relationship by blood, marriage, or adoption, as
22 parent, grandparent, great-grandparent, great-great-grandparent,
23 aunt or uncle, great-aunt or great-uncle, great-great-aunt or
24 great-great-uncle, sibling, stepsibling, nephew or niece, first
25 cousin or first cousin once removed, and the spouse of any of the
26 individuals described in this definition, even after the marriage
27 has ended by death or divorce.

28 (dd) "Religious organization" means a church, ecclesiastical
29 corporation, or group, not organized for pecuniary profit, that

1 gathers for mutual support and edification in piety or worship of a
2 supreme deity.

3 **(ee) "Runaway youth" means an individual who is seeking**
4 **shelter in a runaway and homeless youth center as described in 34**
5 **USC 11212(a), is less than 18 years of age, and who absents**
6 **themselves from home or a place of legal residence without the**
7 **permission of a parent or legal guardian.**

8 **(ff) ~~(ee)~~"School-age child"** means a child who is eligible to
9 attend a grade of kindergarten or higher, but is less than 13 years
10 of age. A child is considered to be a school-age child on the first
11 day of the school year in which ~~he or she~~**the child** is eligible to
12 attend school.

13 **(gg) ~~(ff)~~"Severe physical injury"** means serious physical harm
14 as that term is defined in section 136b of the Michigan penal code,
15 1931 PA 328, MCL 750.136b.

16 **(hh) ~~(gg)~~"Licensee designee"** means the individual designated
17 in writing by the board of directors of the corporation or by the
18 owner or person with legal authority to act on behalf of the
19 company or organization on licensing matters. The individual must
20 agree in writing to be designated as the licensee designee. All
21 license applications must be signed by the licensee in the case of
22 the individual or by a member of the corporation, company, or
23 organization.

24 (2) A family child care home or group child care home is
25 automatically eligible for increased capacity after satisfying all
26 of the following criteria:

27 (a) Holds a current license.

28 (b) Has been licensed to operate for at least 29 consecutive
29 months.

1 (c) Has received 1 or more unrelated minor children for care
2 and supervision during the licensed period under subdivision (b).

3 (d) Has received a renewed regular license after at least 29
4 months of licensed operation under subdivision (b).

5 (3) The department may rescind increased capacity due to 1 or
6 more of the following:

7 (a) Corrective action.

8 (b) Licensing action.

9 (c) Determination by the department that increased capacity is
10 not conducive to the welfare of children as that term is defined in
11 section 5m.

12 (4) If the department rescinds increased capacity as outlined
13 in subsection (3), the family child care home or group child care
14 home may be considered for increased capacity not less than 22
15 months after rescinding increased capacity in a form and manner
16 determined by the department.

17 (5) A family child care home or group child care home may
18 appeal rescission of increased capacity under a hearing held in the
19 manner provided under section 11(2).

20 **Sec. 1b. (1) A child caring institution must obtain parental**
21 **or guardian consent within 72 hours to continue to provide services**
22 **to a homeless or runaway youth.**

23 **(2) This section does not apply to youth who are under a court**
24 **order exercising jurisdiction under chapter XIIA of the probate**
25 **code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, youth who have**
26 **been tried in the same manner as an adult and committed to an**
27 **institution or agency described in the youth rehabilitation**
28 **services act, 1974 PA 150, MCL 803.301 to 803.309, or under section**
29 **1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL**

1 769.1, or to youth who are currently under the custody of this
2 state or tribal government.