

# HOUSE BILL NO. 4085

February 14, 2023, Introduced by Reps. Stone, Brenda Carter, O'Neal, Roth, Price, Byrnes, Tsernoglou, McFall, Hood, Haadsma, Rheingans, Young, Scott, Wilson, Morse, Edwards, Breen, MacDonell, Brixie and Glanville 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 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  
5 child care home, or family child care home for compensation,  
6 including a contract employee or a self-employed individual.

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

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

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

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

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

29           (ii) Provides care exclusively to persons who are 18 years of

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

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

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

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

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

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

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

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

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

27           (h) "Children's therapeutic group home" means a child caring  
28 institution receiving not more than 6 minor children who are  
29 diagnosed with a developmental disability as defined in section

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

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

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

12 (iii) Is not a private home.

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

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

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

29 (ii) A facility operated by a religious organization where

1 children are in the religious organization's care for not more than  
2 3 hours while persons responsible for the children are attending  
3 religious services.

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

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

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

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

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

29 (l) "Criminal history record information" means that term as

1 defined in section 1a of 1925 PA 289, MCL 28.241a.

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

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

18 (o) "Homeless youth" means an individual for whom it is not  
19 possible to live in a safe environment with a relative, who has no  
20 other safe alternative living arrangement, and who is either of the  
21 following:

22 (i) Seeking shelter in a basic center as described in 34 USC  
23 11212(a).

24 (ii) Seeking enrollment in a transitional living program as  
25 described in 34 USC 11222(a), is not less than 16 years of age, and  
26 is either of the following:

27 (A) Less than 22 years of age.

28 (B) Not less than 22 years of age as of the expiration of the  
29 maximum period of stay permitted under 34 USC 11222(a)(2) if the

1 **individual commences the stay before reaching 22 years of age.**

2 (p) ~~(e)~~—"Ineligible" means that the individual obtained the  
3 checks and clearances as described in sections 5n and 5q and is not  
4 considered appropriate to obtain a license, to be a member of the  
5 household of a group child care home or family child care home, or  
6 to be a child care staff member due to violation of section 5n, 5q,  
7 or 5r.

8 (q) ~~(p)~~—"Increased capacity" means 1 additional child added to  
9 the total number of minor children received for care and  
10 supervision in a family child care home or 2 additional children  
11 added to the total number of minor children received for care and  
12 supervision in a group child care home.

13 (r) ~~(q)~~—"Private home" means a private residence in which the  
14 licensee permanently resides, which residency is not contingent  
15 upon caring for children or employment by a child placing agency.  
16 Private home includes a full-time foster family home, a full-time  
17 foster family group home, a group child care home, or a family  
18 child care home, as follows:

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

26 (ii) "Foster family group home" means the private home of an  
27 individual who has been licensed by the department to provide 24-  
28 hour care for more than 4 but fewer than 7 minor children who are  
29 placed away from their parent, legal guardian, or legal custodian



1 in foster care. The licensed individual providing care is required  
2 to comply with the reasonable and prudent parenting standard as  
3 defined in section 1 of chapter XIIA of the probate code of 1939,  
4 1939 PA 288, MCL 712A.1.

5 (iii) "Family child care home" means a private home in which 1  
6 but fewer than 7 minor children are received for care and  
7 supervision for compensation for periods of less than 24 hours a  
8 day, unattended by a parent or legal guardian, except children  
9 related to an adult member of the household. Family child care home  
10 includes a home in which care is given to an unrelated minor child  
11 for more than 4 weeks during a calendar year. A family child care  
12 home does not include an individual providing babysitting services  
13 for another individual. As used in this subparagraph, "providing  
14 babysitting services" means caring for a child on behalf of the  
15 child's parent or guardian if the annual compensation for providing  
16 those services does not equal or exceed \$600.00 or an amount that  
17 would according to the internal revenue code of 1986 obligate the  
18 child's parent or guardian to provide a form 1099-MISC to the  
19 individual for compensation paid during the calendar year for those  
20 services. Family child care home includes a private home with  
21 increased capacity.

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

1           **(s)** ~~(r)~~—"Legal custodian" means an individual who is at least  
2 18 years of age in whose care a minor child remains or is placed  
3 after a court makes a finding under section 13a(5) of chapter XIIIA  
4 of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

5           **(t)** ~~(s)~~—"Legal entity" means a sole proprietorship,  
6 partnership, corporation, limited liability company, or any other  
7 entity.

8           **(u)** ~~(t)~~—"Licensee" means a person, legal entity organized  
9 under a law of this state, state or local government, or trust that  
10 has been issued a license under this act to operate a child care  
11 organization.

12           **(v)** ~~(u)~~—"Listed offense" means that term as defined in section  
13 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

14           **(w)** ~~(v)~~—"Member of the household" means any individual who  
15 resides in a family child care home, group child care home, foster  
16 family home, or foster family group home on an ongoing basis, or  
17 who has a recurrent presence in the home, including, but not  
18 limited to, overnight stays. For foster family homes and foster  
19 family group homes, a member of the household does not include a  
20 foster child. For group child care homes and family child care  
21 homes, a member of the household does not include a child to whom  
22 child care is being provided.

23           **(x)** ~~(w)~~—"Original license" means a license issued to a child  
24 care organization during the first 6 months of operation indicating  
25 that the organization is in compliance with all rules promulgated  
26 by the department under this act.

27           **(y)** ~~(x)~~—"Provisional license" means a license issued to a  
28 child care organization that is temporarily unable to conform to  
29 the rules promulgated under this act.

1           **(z)** ~~(y)~~—"Qualified residential treatment program" or "QRTP"  
2 means a program within a child caring institution to which all of  
3 the following apply:

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

7           *(ii)* The program has registered or licensed nursing and other  
8 licensed clinical staff on-site or available 24 hours a day, 7 days  
9 a week, who provide care in the scope of their practice as provided  
10 in parts 170, 172, 181, 182, 182A, and 185 of the public health  
11 code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to  
12 333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237,  
13 333.18251 to 333.18267, and 333.18501 to 333.18518.

14           *(iii)* The program integrates families into treatment, including  
15 maintaining sibling connections.

16           *(iv)* The program provides aftercare services for at least 6  
17 months post discharge.

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

20           *(vi)* The program does not include a detention facility,  
21 forestry camp, training school, or other facility operated  
22 primarily for detaining minor children who are determined to be  
23 delinquent.

24           **(aa)** ~~(z)~~—"Regular license" means a license issued to a child  
25 care organization indicating that the organization is in  
26 substantial compliance with all rules promulgated under this act  
27 and, if there is a deficiency, has entered into a corrective action  
28 plan.

29           **(bb)** ~~(aa)~~—"Guardian" means the **individual's** guardian. ~~of the~~

1 ~~person.~~

2 (cc) ~~(bb)~~ "Minor child" means any of the following:

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

4 (ii) ~~A person~~ **An individual** who is a resident in a child caring  
5 institution, foster family home, or foster family group home, who  
6 is at least 18 but less than 21 years of age, and who meets the  
7 requirements of the young adult voluntary foster care act, 2011 PA  
8 225, MCL 400.641 to 400.671.

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

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

25 (B) Three, if the total number of residents is not less than  
26 11 and not more than 14.

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

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

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

4           **(dd)** ~~(ee)~~ "Related" means 1 of the following:

5           (i) Except as provided in subparagraph (ii), a relative as  
 6 defined in section 13a of chapter XIIIA of the probate code of 1939,  
 7 1939 PA 288, MCL 712A.13a.

8           (ii) For licensing by the department related to a child care  
 9 center, children's camp, children's campsite, family child care  
 10 home, foster family home, foster family group home, or group child  
 11 care home, in the relationship by blood, marriage, or adoption, as  
 12 parent, grandparent, great-grandparent, great-great-grandparent,  
 13 aunt or uncle, great-aunt or great-uncle, great-great-aunt or  
 14 great-great-uncle, sibling, stepsibling, nephew or niece, first  
 15 cousin or first cousin once removed, and the spouse of any of the  
 16 individuals described in this definition, even after the marriage  
 17 has ended by death or divorce.

18           **(ee)** ~~(dd)~~ "Religious organization" means a church,  
 19 ecclesiastical corporation, or group, not organized for pecuniary  
 20 profit, that gathers for mutual support and edification in piety or  
 21 worship of a supreme deity.

22           **(ff)** "Runaway youth" means an individual who is seeking  
 23 shelter in a basic center as described in 34 USC 11212(a), is less  
 24 than 18 years of age, and who absents himself or herself from home  
 25 or a place of legal residence without the permission of a parent or  
 26 legal guardian.

27           **(gg)** ~~(ee)~~ "School-age child" means a child who is eligible to  
 28 attend a grade of kindergarten or higher, but is less than 13 years  
 29 of age. A child is considered to be a school-age child on the first

1 day of the school year in which he or she is eligible to attend  
2 school.

3 **(hh)** ~~(ff)~~—"Severe physical injury" means serious physical harm  
4 as that term is defined in section 136b of the Michigan penal code,  
5 1931 PA 328, MCL 750.136b.

6 **(ii)** ~~(gg)~~—"Licensee designee" means the individual designated  
7 in writing by the board of directors of the corporation or by the  
8 owner or person with legal authority to act on behalf of the  
9 company or organization on licensing matters. The individual must  
10 agree in writing to be designated as the licensee designee. All  
11 license applications must be signed by the licensee in the case of  
12 the individual or by a member of the corporation, company, or  
13 organization.

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

17 (a) Holds a current license.

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

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

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

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

26 (a) Corrective action.

27 (b) Licensing action.

28 (c) Determination by the department that increased capacity is  
29 not conducive to the welfare of children as that term is defined in

1 section 5m.

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

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

10 **Sec. 1b. (1) A child caring institution may provide services**  
11 **to homeless and runaway youth for up to 72 hours with or without**  
12 **parental consent.**

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