

SENATE BILL No. 1507

November 28, 2006, Introduced by Senators JACOBS and JOHNSON and referred to the Committee on Families and Human 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 sections 1, 2a, 2b, 3c, 3d, 5, 5f, 5g, 9a, and 11b (MCL 722.111, 722.112a, 722.112b, 722.113c, 722.113d, 722.115, 722.115f, 722.115g, 722.119a, and 722.121b), section 1 as amended by 2005 PA 202, section 2a as amended by 1998 PA 440, section 2b as added by 2004 PA 531, section 3c as added by 1993 PA 219, section 3d as added by 1993 PA 218, section 5 as amended by 2006 PA 51, sections 5f and 5g as added by 2005 PA 128, section 9a as amended by 2004 PA 315, and section 11b as added by 2002 PA 645.

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,
8 children's camps, child care centers, day care centers, nursery
9 schools, parent cooperative preschools, foster homes, group homes,
10 or ~~day~~ **CHILD** care homes. Child care organization does not include
11 a governmental or nongovernmental organization that does either of
12 the following:

13 (i) Provides care exclusively to minors who have been
14 emancipated by court order under section 4(3) of 1968 PA 293, MCL
15 722.4.

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

19 (b) "Child caring institution" means a child care facility
20 that is organized for the purpose of receiving minor children for
21 care, maintenance, and supervision, usually on a 24-hour basis, in
22 buildings maintained by the child caring institution for that
23 purpose, and operates throughout the year. An educational program
24 may be provided, but the educational program shall not be the
25 primary purpose of the facility. Child caring institution includes
26 a maternity home for the care of unmarried mothers who are minors

1 and an agency group home, that is described as a small child caring
2 institution owned, leased, or rented by a licensed agency providing
3 care for more than 4 but less than 13 minor children. Child caring
4 institution also includes institutions for mentally retarded or
5 emotionally disturbed minor children. Child caring institution does
6 not include a hospital, nursing home, or home for the aged licensed
7 under article 17 of the public health code, 1978 PA 368, MCL
8 333.20101 to 333.22260, a boarding school licensed under section
9 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a
10 hospital or facility operated by the state or licensed under the
11 mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an
12 adult foster care family home or an adult foster care small group
13 home licensed under the adult foster care facility licensing act,
14 1979 PA 218, MCL 400.701 to 400.737, in which a child has been
15 placed under section 5(6).

16 (c) "Child placing agency" means a governmental organization
17 or an agency organized under the nonprofit corporation act, 1982 PA
18 162, MCL 450.2101 to 450.3192, for the purpose of receiving
19 children for placement in private family homes for foster care or
20 for adoption. The function of a child placing agency may include
21 investigating applicants for adoption and investigating and
22 certifying foster family homes and foster family group homes as
23 provided in this act. The function of a child placing agency may
24 also include supervising children who are 16 or 17 years of age and
25 who are living in unlicensed residences as provided in section
26 5(4).

27 (d) "Children's camp" means a residential, day, troop, or

1 travel camp that provides care and supervision and is conducted in
2 a natural environment for more than 4 children, apart from the
3 children's parents, relatives, or legal guardians, for 5 or more
4 days in a 14-day period. CHILDREN'S CAMP INCLUDES A CAMPSITE THAT
5 IS AN OUTDOOR SETTING THAT HAS NATURAL OR MANMADE FEATURES
6 AVAILABLE FOR OUTDOOR LIVING OR ACTIVITIES THAT IS LOCATED WHERE A
7 CHILDREN'S CAMP IS OPERATED.

8 (E) "CHILDREN'S THERAPEUTIC GROUP HOME" MEANS A CHILD CARE
9 FACILITY RECEIVING NOT MORE THAN 6 MINOR CHILDREN WHO ARE DIAGNOSED
10 WITH A DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 100A OF THE
11 MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100A, OR A SERIOUS
12 EMOTIONAL DISTURBANCE AS DEFINED IN SECTION 100D OF THE MENTAL
13 HEALTH CODE, 1974 PA 258, MCL 330.1100D. A CHILDREN'S THERAPEUTIC
14 GROUP HOME MEETS ALL OF THE FOLLOWING REQUIREMENTS:

15 (i) PROVIDES CARE, MAINTENANCE, AND SUPERVISION, USUALLY ON A
16 24-HOUR BASIS.

17 (ii) COMPLIES WITH THE RULES FOR RESIDENTIAL TREATMENT
18 INSTITUTIONS, EXCEPT THAT BEHAVIOR MANAGEMENT ROOMS, PERSONAL
19 RESTRAINT, MECHANICAL RESTRAINT, OR SECLUSION WHICH IS ALLOWED IN
20 CERTAIN CIRCUMSTANCES UNDER LICENSING RULES ARE PROHIBITED IN A
21 CHILDREN'S THERAPEUTIC GROUP HOME.

22 (iii) IS NOT A PRIVATE HOME.

23 (iv) IS NOT LOCATED ON A CAMPUS WITH OTHER LICENSED FACILITIES.

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

1 immediately available to the child. Child care center or day care
2 center 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 (G) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES OR A
4 SUCCESSOR AGENCY OR DEPARTMENT RESPONSIBLE FOR LICENSURE AND
5 REGISTRATION UNDER THIS ACT.

6 (H) ~~-(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~~ **CHILD** care home,
12 or a family ~~day~~ **CHILD** 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~~ **CHILD** care home" means a private home in
3 which 1 but fewer than 7 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 **CHILD** care home includes a home in which care is given to an
8 unrelated minor child for more than 4 weeks during a calendar year.

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

17 (I) "**LEGAL CUSTODIAN**" MEANS AN INDIVIDUAL WHO IS AT LEAST 18
18 YEARS OF AGE IN WHOSE CARE A MINOR CHILD REMAINS OR IS PLACED AFTER
19 A COURT MAKES A DETERMINATION UNDER SECTION 13A(5) OF CHAPTER XIIIA
20 OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.13A.

21 (J) ~~(g)~~ "Licensee" means a person, partnership, firm,
22 corporation, association, nongovernmental organization, or local or
23 state government child care organization that has been issued a
24 license under this act to operate a child care organization.

25 (K) ~~(h)~~ "Provisional license" means a license issued to a
26 child care organization that is temporarily unable to conform to
27 all of the rules promulgated under this act.

1 (I) ~~-(i)-~~ "Regular license" means a license issued to a child
2 care organization indicating that the organization is in compliance
3 with all rules promulgated under this act.

4 (M) ~~-(j)-~~ "Guardian" means the guardian of the person.

5 (N) ~~-(k)-~~ "Minor child" means any of the following:

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

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

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

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

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

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

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

4 (O) ~~(l)~~ "Registrant" means a person who has been issued a
5 certificate of registration under this act to operate a family ~~day~~
6 **CHILD** care home.

7 (P) ~~(m)~~ "Registration" means the process by which the
8 department ~~of human services~~ regulates family ~~day~~ **CHILD** care
9 homes, and includes the requirement that a family ~~day~~ **CHILD** care
10 home certify to the department ~~of human services~~ that the family
11 ~~day~~ **CHILD** care home has complied with and will continue to comply
12 with the rules promulgated under this act.

13 (Q) ~~(n)~~ "Certificate of registration" means a written
14 document issued under this act to a family ~~day~~ **CHILD** care home
15 through registration.

16 (R) ~~(o)~~ "Related" means a parent, grandparent, brother,
17 sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin,
18 great aunt, great uncle, or stepgrandparent related by marriage,
19 blood, or adoption.

20 (S) ~~(p)~~ "Religious organization" means **A** church,
21 ecclesiastical corporation, or group, not organized for pecuniary
22 profit, that gathers for mutual support and edification in piety or
23 worship of a supreme deity.

24 (T) ~~(q)~~ "School-age child" means a child who is eligible to
25 be enrolled in a grade of kindergarten or above, but is less than
26 13 years of age.

27 (2) A facility or program for school-age children that is

1 currently operated and has been in operation and licensed or
2 approved as provided in this act for a minimum of 2 years may apply
3 to the department ~~of human services~~ to be exempt from inspections
4 and on-site visits required under section 5. The department ~~of~~
5 ~~human services~~ shall respond to a facility or program requesting
6 exemption from inspections and on-site visits required under
7 section 5 as provided under this subsection within 45 days from the
8 date the completed application is received. The department ~~of~~
9 ~~human services~~ may grant exemption from inspections and on-site
10 visits required under section 5 to a facility or program that meets
11 all of the following criteria:

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

15 (b) During the 2 years before the application date, the
16 facility or program has not had a substantial violation of this
17 act, rules promulgated under this act, or the terms of a licensure
18 or an approval under this act.

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

23 (3) A facility or program granted exemption from inspections
24 and on-site visits required under section 5 as provided ~~for~~ under
25 subsection (2) is required to maintain status as a licensed or
26 approved program under this act and must continue to meet the
27 requirements of this act, the rules promulgated under this act, or

1 the terms of a license or approval under this act. A facility or
2 program granted exemption from inspections and on-site visits
3 required under section 5 as provided ~~for~~ under subsection (2) is
4 subject to an investigation by the department ~~of human services~~
5 ~~when~~ **IF** a violation of this act or a violation of a rule
6 promulgated under this act is alleged.

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

16 (5) An exemption provided under subsection (2) may be
17 rescinded by the department ~~of human services~~ if the facility or
18 program willfully and substantially violates this act, the rules
19 promulgated under this act, or the terms of a license or approval
20 granted under this act.

21 Sec. 2a. (1) A child caring institution, child care center, or
22 group ~~day~~ **CHILD** care home shall have on duty at all times while
23 the institution, center, or home is providing care to 1 or more
24 children at least 1 person who has been certified within the
25 preceding 36 months in first aid and within the preceding 12 months
26 in age-appropriate cardiopulmonary resuscitation by the American
27 red cross, the American heart association, or an equivalent

1 organization or institution approved by the department.

2 (2) Section 15 does not apply to this section.

3 Sec. 2b. (1) As used in this section and sections 2c, 2d, and
4 2e, unless the context requires otherwise:

5 (a) "Adaptive device" means a mechanical device incorporated
6 in the individual plan of services that is intended to provide
7 anatomical support or to assist the minor child with adaptive
8 skills.

9 (b) "Chemical restraint" means a drug that meets all of the
10 following criteria:

11 (i) Is administered to manage a minor child's behavior in a way
12 that reduces the safety risk to the minor child or others.

13 (ii) Has the temporary effect of restricting the minor child's
14 freedom of movement.

15 (iii) Is not a standard treatment for the minor child's medical
16 or psychiatric condition.

17 (c) "Emergency safety intervention" means use of personal
18 restraint or seclusion as an immediate response to an emergency
19 safety situation.

20 (d) "Emergency safety situation" means the onset of an
21 unanticipated, severely aggressive, or destructive behavior that
22 places the minor child or others at serious threat of violence or
23 injury if no intervention occurs and that calls for an emergency
24 safety intervention.

25 (e) "Individual plan of services" means that term as defined
26 in section 100b of the mental health code, 1974 PA 258, MCL
27 330.1100b.

1 (f) "Licensed practitioner" means an individual who has been
2 trained in the use of personal restraint and seclusion, who is
3 knowledgeable of the risks inherent in the implementation of
4 personal restraint and seclusion, and who is 1 of the following:

5 (i) A physician licensed under article 15 of the public health
6 code, 1978 PA 368, MCL 333.16101 to 333.18838.

7 (ii) An individual who has been issued a specialty
8 certification as a nurse practitioner under article 15 of the
9 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

10 (iii) A physician's assistant licensed under article 15 of the
11 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

12 (iv) A registered nurse licensed under article 15 of the public
13 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

14 (v) A psychologist and a limited licensed psychologist
15 licensed under article 15 of the public health code, 1978 PA 368,
16 MCL 333.16101 to 333.18838.

17 (vi) A counselor and a limited licensed counselor licensed
18 under article 15 of the public health code, 1978 PA 368, MCL
19 333.16101 to 333.18838.

20 (vii) ~~Until July 1, 2005, a certified social worker registered~~
21 ~~under article 15 of the public health code, 1978 PA 368, MCL~~
22 ~~333.16101 to 333.18838. Beginning July 1, 2005, a~~ **A** licensed
23 master's social worker licensed under article 15 of the public
24 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

25 (g) "Mechanical restraint" means a device attached or adjacent
26 to the minor child's body that he or she cannot easily remove and
27 that restricts freedom of movement or normal access to his or her

1 body. Mechanical restraint does not include the use of a protective
2 or adaptive device or a device primarily intended to provide
3 anatomical support. Mechanical restraint does not include use of a
4 mechanical device to ensure security precautions appropriate to the
5 condition and circumstances of a minor child placed in the child
6 caring institution as a result of an order of the family division
7 of circuit court under section 2(a) of chapter XIIIA of the probate
8 code of 1939, 1939 PA 288, MCL 712A.2.

9 (h) "Personal restraint" means the application of physical
10 force without the use of a device, for the purpose of restraining
11 the free movement of a minor child's body. Personal restraint does
12 not include:

13 (i) The use of a protective or adaptive device.

14 (ii) Briefly holding a minor child without undue force in order
15 to calm or comfort him or her.

16 (iii) Holding a minor child's hand, wrist, shoulder, or arm to
17 safely escort him or her from 1 area to another.

18 (iv) The use of a protective or adaptive device or a device
19 primarily intended to provide anatomical support.

20 (i) "Protective device" means an individually fabricated
21 mechanical device or physical barrier, the use of which is
22 incorporated in the individualized written plan of service. The use
23 of a protective device is intended to prevent the minor child from
24 causing serious self-injury associated with documented, frequent,
25 and unavoidable hazardous events.

26 (j) "Seclusion" means the involuntary placement of a minor
27 child in a room alone, where the minor child is prevented from

1 exiting by any means, including the physical presence of a staff
2 person if the sole purpose of that staff person's presence is to
3 prevent the minor child from exiting the room. Seclusion does not
4 include the use of a sleeping room during regular sleeping hours to
5 ensure security precautions appropriate to the condition and
6 circumstances of a minor child placed in the child caring
7 institution as a result of an order of the family division of
8 circuit court under section 2(a) and (b) of chapter XIIIA of the
9 probate code of 1939, 1939 PA 288, MCL 712A.2, if the minor child's
10 individual case treatment plan indicates that the security
11 precautions would be in the minor child's best interest.

12 (k) "Serious injury" means any significant impairment of the
13 physical condition of the minor child as determined by qualified
14 medical personnel that results from an emergency safety
15 intervention. This includes, but is not limited to, burns,
16 lacerations, bone fractures, substantial hematoma, and injuries to
17 internal organs, whether self-inflicted or inflicted by someone
18 else.

19 (2) The provisions of this section and sections 2c, 2d, and 2e
20 only apply to a child caring institution that contracts with or
21 receives payment from a community mental health services program or
22 prepaid inpatient health plan for the care, treatment, maintenance,
23 and supervision of a minor child in that child caring institution.

24 Sec. 3c. (1) An individual shall not smoke on the premises of
25 a family ~~day~~ **CHILD** care home during the hours of operation of the
26 family ~~day~~ **CHILD** care home. The operator of a family ~~day~~ **CHILD**
27 care home may permit smoking on the premises during a period other

1 than the hours of operation of that family ~~day~~ **CHILD** care home if
2 the operator has provided to a parent or legal guardian of each
3 child participating in a family ~~day~~ **CHILD** care home activity
4 notice that smoking on the premises occurs or may occur when the
5 family ~~day~~ **CHILD** care home is not in operation.

6 (2) As used in this section **AND SECTION 3D**:

7 (a) "Child" means an individual less than 18 years of age who
8 is not related to an adult member of the family ~~day~~ **CHILD** care
9 home or group ~~day~~ **CHILD** care home operator.

10 (b) "Smoke" and "smoking" mean those terms as defined in
11 section 12601 of the public health code, ~~Act No. 368 of the Public~~
12 ~~Acts of 1978, being section 333.12601 of the Michigan Compiled Laws~~
13 **1978 PA 368, MCL 333.12601.**

14 Sec. 3d. (1) An individual shall not smoke on the premises of
15 a group ~~day~~ **CHILD** care home during the hours of operation of the
16 group ~~day~~ **CHILD** care home. The operator of a group ~~day~~ **CHILD**
17 care home shall conspicuously post on the premises a notice ~~which~~
18 **THAT** specifies that smoking on the premises is prohibited during
19 the hours of operation of the group ~~day~~ **CHILD** care home.

20 (2) A group ~~day~~ **CHILD** care home operator may permit smoking
21 on the premises during a period other than the hours of operation
22 of that group ~~day~~ **CHILD** care home if the operator has provided to
23 a parent or legal guardian of each child participating in a group
24 ~~day~~ **CHILD** care home activity notice that smoking on the premises
25 occurs or may occur when the group ~~day~~ **CHILD** care home is not in
26 operation.

27 ~~———— (3) As used in this section:~~

1 ~~—— (a) "Child" means an individual less than 18 years of age who~~
2 ~~is not related to an adult member of the group day care home~~
3 ~~operator's family.~~

4 ~~—— (b) "Smoke" and "smoking" mean those terms as defined in~~
5 ~~section 12601 of the public health code, Act No. 368 of the Public~~
6 ~~Acts of 1978, being section 333.12601 of the Michigan Compiled~~
7 ~~Laws.~~

8 Sec. 5. (1) A person, partnership, firm, corporation,
9 association, or nongovernmental organization shall not establish or
10 maintain a child care organization unless licensed or registered by
11 the department. Application for a license or certificate of
12 registration shall be made on forms provided, and in the manner
13 prescribed, by the department. Before issuing or renewing a
14 license, the department shall investigate the applicant's
15 activities and proposed standards of care and shall make an on-site
16 visit of the proposed or established organization. If the
17 department is satisfied as to the need for a child care
18 organization, its financial stability, the applicant's good moral
19 character, and that the services and facilities are conducive to
20 the welfare of the children, the department shall issue or renew
21 the license. If a county juvenile agency as defined in section 2 of
22 the county juvenile agency act, 1998 PA 518, MCL 45.622, certifies
23 to the department that it intends to contract with an applicant for
24 a new license, the department shall issue or deny the license
25 within 60 days after it receives a complete application as provided
26 in section 5b.

27 (2) The department shall issue a certificate of registration

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

17 (3) The department may authorize a licensed child placing
18 agency or an approved governmental unit to investigate a foster
19 family home or a foster family group home according to subsection
20 (1) and to certify that the foster family home or foster family
21 group home meets the licensing requirements prescribed by this act.
22 Before certifying to the department that a foster family home or
23 foster family group home meets the licensing requirements
24 prescribed by this act, the licensed child placing agency or
25 approved governmental unit shall receive and review a medical
26 statement for each member of the household indicating that he or
27 she does not have a known condition that would affect the care of a

1 foster child. The medical statement required under this section
2 shall be signed and dated by a physician licensed under article 15
3 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
4 a physician's assistant licensed under article 15 of the public
5 health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a
6 certified nurse practitioner licensed as a registered professional
7 nurse under part 172 of the public health code, 1978 PA 368, MCL
8 333.17201 to 333.17242, who has been issued a specialty
9 certification as a nurse practitioner by the board of nursing under
10 section 17210 of the public health code, 1978 PA 368, MCL
11 333.17210, within the 12 months immediately preceding the date of
12 the initial evaluation. This subsection does not require new or
13 additional third party reimbursement or worker's compensation
14 benefits for services rendered. A foster family home or a foster
15 family group home shall be certified for licensing by the
16 department by only 1 child placing agency or approved governmental
17 unit. Other child placing agencies may place children in a foster
18 family home or foster family group home only upon the approval of
19 the certifying agency or governmental unit.

20 (4) The department may authorize a licensed child placing
21 agency or an approved governmental unit to place a child who is 16
22 or 17 years of age in his or her own unlicensed residence, or in
23 the unlicensed residence of an adult who has no supervisory
24 responsibility for the child, if a child placing agency or
25 governmental unit retains supervisory responsibility for the child.

26 (5) A licensed child placing agency, child caring institution,
27 and an approved governmental unit shall provide the state court

1 administrative office and a local foster care review board
2 established under 1984 PA 422, MCL 722.131 to 722.139a, those
3 records requested pertaining to children in foster care placement
4 for more than 6 months.

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

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

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

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

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

22 (7) 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 an adult in a foster
25 family home if a licensed child placing agency or approved
26 governmental unit certifies to the department all of the following:

27 (a) The adult is a person with a developmental disability as

1 defined by section 100a of the mental health code, 1974 PA 258, MCL
2 330.1100a, or a person who is otherwise neurologically disabled and
3 is also physically limited to a degree that requires complete
4 physical assistance with mobility and activities of daily living.

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

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

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

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

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

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

27 (b) The placement has the concurrence of the parent or

1 guardian of the child.

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

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

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

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

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

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

20 (9) Beginning October 1, 2007, except as provided in
21 subsection (1) and section 5b, the department shall issue an
22 initial or renewal license or registration under this act for child
23 care centers, group ~~day~~ **CHILD** care homes, and family ~~day~~ **CHILD**
24 care homes not later than 6 months after the applicant files a
25 completed application. Receipt of the application is considered the
26 date the application is received by any agency or department of
27 this state. If the application is considered incomplete by the

1 department, the department shall notify the applicant in writing or
2 make notice electronically available within 30 days after receipt
3 of the incomplete application, describing the deficiency and
4 requesting additional information. This subsection does not affect
5 the time period within which an on-site visit to a family ~~day~~
6 **CHILD** care home shall be made. If the department identifies a
7 deficiency or requires the fulfillment of a corrective action plan,
8 the 6-month period is tolled until either of the following occurs:

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

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

14 (10) The determination of the completeness of an application
15 is not an approval of the application for the license and does not
16 confer eligibility on an applicant determined otherwise ineligible
17 for issuance of a license.

18 (11) Except as provided in subsection (1) and section 5b, if
19 the department fails to issue or deny a license or registration to
20 a child care center, group ~~day~~ **CHILD** care home, or family ~~day~~
21 **CHILD** care home within the time required by this section, the
22 department shall return the license or registration fee and shall
23 reduce the license or registration fee for the applicant's next
24 renewal application, if any, by 15%. Failure to issue or deny a
25 license to a child care center, group ~~day~~ **CHILD** care home, or
26 family ~~day~~ **CHILD** care home within the time period required under
27 this section does not allow the department to otherwise delay the

1 processing of the application. A completed application shall be
2 placed in sequence with other completed applications received at
3 that same time. The department shall not discriminate against an
4 applicant in the processing of an application based on the fact
5 that the application fee was refunded or discounted under this
6 subsection.

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

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

23 (a) The number of initial and renewal applications the
24 department received and completed within the 6-month time period
25 described in subsection (9).

26 (b) The number of applications requiring a request for
27 additional information.

1 (c) The number of applications rejected.

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

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

6 (14) The department shall not issue to or renew the license of
7 a child care center or day care center under this act without
8 requesting a criminal history check and criminal records check as
9 required by section 5c. If a criminal history check or criminal
10 records check performed under section 5c reveals that an applicant
11 for a license under this act has been convicted of a listed
12 offense, the department shall not issue a license to that
13 applicant. If a criminal history check or criminal records check
14 performed under section 5c reveals that an applicant for renewal of
15 a license under this act has been convicted of a listed offense,
16 the department shall not renew that license. If a criminal history
17 check or criminal records check performed under section 5c reveals
18 that a current licensee has been convicted of a listed offense, the
19 department shall revoke the license of that licensee.

20 (15) The department shall not issue or renew a certificate of
21 registration to a family ~~day~~ **CHILD** care home or a license to a
22 group ~~day~~ **CHILD** care home under this act without requesting a
23 criminal history check and criminal records check as required by
24 ~~section 5f and a department of state police ICHAT check required by~~
25 ~~section~~ **SECTIONS 5F AND** 5g. If a criminal history check or
26 criminal records check performed under ~~section 5f or an ICHAT~~
27 ~~check performed under~~ **5F OR** 5g reveals that an applicant

1 for a certificate of registration or license under this act or a
2 person over 18 years of age residing in that applicant's home has
3 been convicted of a listed offense, the department shall not issue
4 a certificate of registration or license to that applicant. If a
5 criminal history check or criminal records check performed under
6 ~~section 5f or an ICHAT check performed under~~ section **5F OR** 5g
7 reveals that an applicant for renewal of a certificate of
8 registration or license under this act or a person over 18 years of
9 age residing in that applicant's home has been convicted of a
10 listed offense, the department shall not renew a certificate of
11 registration or license to that applicant. If a criminal history
12 check or criminal records check performed under ~~section 5f or an~~
13 ~~ICAT check performed under~~ section **5F OR** 5g reveals that a
14 current registrant or licensee under this act or a person over 18
15 years of age residing in that registrant's or licensee's home has
16 been convicted of a listed offense, the department shall revoke
17 that registrant's certificate of registration or licensee's
18 license.

19 (16) As used in this section:

20 (a) "Completed application" means an application complete on
21 its face and submitted with any applicable licensing or
22 registration fees as well as any other information, records,
23 approval, security, or similar item required by law or rule from a
24 local unit of government, a federal agency, or a private entity but
25 not from another department or agency of this state. A completed
26 application does not include a health inspection performed by a
27 local health department.

1 (b) "Good moral character" means that term as defined in and
2 determined under 1974 PA 381, MCL 338.41 to 338.47.

3 (c) "Member of the household" means any individual, other than
4 a foster child, who resides in a foster family home or foster
5 family group home on an ongoing or recurrent basis.

6 Sec. 5f. (1) When a person applies for or to renew a
7 certificate of registration to operate a family ~~day~~ **CHILD** care
8 home or a license to operate a group ~~day~~ **CHILD** care home under
9 section 5, the department shall request the department of state
10 police to perform both of the following on that person:

11 (a) Conduct a criminal history check on the person.

12 (b) Conduct a criminal records check through the federal
13 bureau of investigation on the person.

14 (2) Each person applying for a certificate of registration to
15 operate a family ~~day~~ **CHILD** care home or a license to operate a
16 group ~~day~~ **CHILD** care home shall give written consent at the time
17 of application for the department of state police to conduct a
18 criminal history check and a criminal records check required under
19 this section. The department shall require the person to submit his
20 or her fingerprints to the department of state police for the
21 criminal history check and criminal records check described in
22 subsection (1).

23 (3) The department shall request a criminal history check and
24 criminal records check required under this section on a form and in
25 the manner prescribed by the department of state police.

26 (4) Within a reasonable time after receiving a complete
27 request by the department for a criminal history check on a person

1 under this section, the department of state police shall conduct
2 the criminal history check and provide a report of the results to
3 the department. The report shall contain any criminal history
4 record information on the person maintained by the department of
5 state police.

6 (5) Within a reasonable time after receiving a proper request
7 by the department for a criminal records check on a person under
8 this section, the department of state police shall initiate the
9 criminal records check. After receiving the results of the criminal
10 records check from the federal bureau of investigation, the
11 department of state police shall provide a report of the results to
12 the department.

13 (6) The department of state police may charge the department a
14 fee for a criminal history check or a criminal records check
15 required under this section that does not exceed the actual and
16 reasonable cost of conducting the check. The department may pass
17 along to the registrant, licensee, or applicant the actual cost or
18 fee charged by the department of state police for performing a
19 criminal history check or a criminal records check required under
20 this section.

21 (7) A person to whom a certificate of registration or license
22 has been issued under this act shall report to the department
23 within 3 business days after he or she has been arraigned for 1 or
24 more of the following crimes and within 3 business days after he or
25 she knows or should reasonably know that an employee or a person
26 over 18 years of age residing in the home has been arraigned for 1
27 or more of the following crimes:

1 (a) Any felony.

2 (b) Any of the following misdemeanors:

3 (i) Criminal sexual conduct in the fourth degree or an attempt
4 to commit criminal sexual conduct in the fourth degree.

5 (ii) Child abuse in the third or fourth degree or an attempt to
6 commit child abuse in the third or fourth degree.

7 (iii) A misdemeanor involving cruelty, torture, or indecent
8 exposure involving a child.

9 (iv) A misdemeanor violation of section 7410 of the public
10 health code, 1978 PA 368, MCL 333.7410.

11 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
12 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
13 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
14 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
15 MCL 750.81, 750.81a, and 750.145d.

16 (vi) A misdemeanor violation of section 701 of the Michigan
17 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

18 (vii) Any misdemeanor that is a listed offense.

19 (c) A violation of a substantially similar law of another
20 state, of a political subdivision of this state or another state,
21 or of the United States.

22 (8) A person who violates subsection (7) is guilty of a crime
23 as follows:

24 (a) If the person violates subsection (7) and the crime
25 involved in the violation is a misdemeanor that is a listed offense
26 or is a felony, the person is guilty of a felony punishable by
27 imprisonment for not more than 2 years or a fine of not more than

1 \$2,000.00, or both.

2 (b) If the person violates subsection (7) and the crime
3 involved in the violation is a misdemeanor that is not a listed
4 offense, the person is guilty of a misdemeanor punishable by
5 imprisonment for not more than 1 year or a fine of not more than
6 \$1,000.00, or both.

7 (9) The department shall delete from the registrant's or
8 licensee's records all information relating to an arraignment
9 required to be reported under this section if the department
10 receives documentation that the person arraigned for the crime is
11 subsequently not convicted of any crime after the completion of
12 judicial proceedings resulting from that arraignment.

13 (10) Not later than 30 days after the effective date of the
14 amendatory act that added this section, the department shall inform
15 all persons currently issued a certificate of registration or
16 license and all applicants for a certificate of registration or
17 license of the requirement to report certain arraignments as
18 required in this section and the penalty for not reporting those
19 arraignments.

20 (11) At the time the department issues a certificate of
21 registration to operate a family ~~day~~ **CHILD** care home or a license
22 to operate a group ~~day~~ **CHILD** care home under this act, the
23 department shall notify the registrant or licensee of the
24 requirement to report certain arraignments as required in this
25 section and the penalty for not reporting those arraignments.

26 (12) Not later than ~~1 year after the effective date of the~~
27 ~~amendatory act that added this section~~ **JANUARY 1, 2007**, the

1 department shall conduct a criminal history check and criminal
2 records check on all persons currently issued a certificate of
3 registration under this act to operate a family ~~day~~ **CHILD** care
4 home or a license under this act to operate a group ~~day~~ **CHILD**
5 care home.

6 Sec. 5g. (1) When a person applies for a certificate of
7 registration to operate a family ~~day~~ **CHILD** care home or a license
8 to operate a group ~~day~~ **CHILD** care home under section 5, the
9 department shall perform a criminal history check ~~using~~ **WITH** the
10 department of state ~~police's internet criminal history access tool~~
11 ~~(ICHAT)~~ **POLICE** on all persons over 18 years of age residing in the
12 home in which the family ~~day~~ **CHILD** care home or group ~~day~~ **CHILD**
13 care home is operated. This section does not apply to a person
14 residing in the home for a period of not more than 14 days.

15 (2) Not later than ~~1 year after the effective date of the~~
16 ~~amendatory act that added this section~~ **JANUARY 1, 2007**, the
17 department shall perform ~~an ICHAT~~ **A CRIMINAL HISTORY** check on all
18 persons over 18 years of age residing in the home in which a family
19 ~~day~~ **CHILD** care home or group ~~day~~ **CHILD** care home is currently
20 operated.

21 (3) If a ~~search of ICHAT~~ **CRIMINAL HISTORY CHECK** reveals that
22 a person over 18 years of age residing in the home has been
23 convicted of a listed offense, the department shall not issue a
24 certificate of registration or license to the applicant, shall not
25 renew a certificate of registration to the registrant or license to
26 the licensee applying for renewal, or shall revoke a current
27 registrant's certificate of registration or current licensee's

1 license.

2 Sec. 9a. (1) A certificate of registration shall be in force
3 for 3 years unless revoked under section 11. ~~—A— UNTIL SEPTEMBER~~
4 ~~30, 2007, A RENEWAL CERTIFICATE OF REGISTRATION SHALL BE ISSUED IN~~
5 ~~THE SAME MANNER AS PROVIDED IN SECTION 5(2) FOR INITIALLY ISSUING~~
6 ~~THE CERTIFICATE, EXCEPT THAT AN ON-SITE VISIT OF THE FAMILY CHILD~~
7 ~~CARE HOME AND THE ORIENTATION SESSION ARE NOT REQUIRED. BEGINNING~~
8 ~~OCTOBER 1, 2007, A~~ renewal certificate of registration shall be
9 issued in the same manner as provided in section 5(2), (9), and
10 (11) for the initial issuance of the certificate, except that an
11 on-site visit of the family day care home and the orientation
12 session are not required. The certificate shall state that the
13 registrant may operate a family ~~—day—~~ **CHILD** care home and the
14 number and the ages of the children that may be received and
15 maintained.

16 (2) This section does not limit the right or the duty of the
17 department to assess periodically, randomly, or at the time of
18 renewal, the continued compliance with this act and rules
19 promulgated under this act. The department shall make on-site
20 visits as provided in this act to a 10% sample of the family ~~—day~~
21 **CHILD** care homes in each county each year, or when a complaint
22 about a family ~~—day—~~ **CHILD** care home or registrant is received by
23 the department.

24 Sec. 11b. (1) The department ~~—of consumer and industry~~
25 ~~services—~~ shall establish and maintain a database of child care
26 centers, family ~~—day—~~ **CHILD** care homes, and group ~~—day—~~ **CHILD** care
27 homes as a central clearinghouse for persons seeking information on

1 child care options. The database shall include, at a minimum, all
2 of the following information:

3 (a) The name, address, and telephone number of the child care
4 center, family ~~day~~ **CHILD** care home, or group ~~day~~ **CHILD** care
5 home.

6 (b) The days and general hours of operation of the child care
7 center, family ~~day~~ **CHILD** care home, or group ~~day~~ **CHILD** care
8 home.

9 (c) The license or registration number, effective date, and
10 expiration date of the child care center, family ~~day~~ **CHILD** care
11 home, or group ~~day~~ **CHILD** care home.

12 (d) The number and nature of any adverse action taken against
13 the child care center, family ~~day~~ **CHILD** care home, or group ~~day~~
14 **CHILD** care home by the department. ~~of consumer and industry~~
15 ~~services.~~

16 (2) The department ~~of consumer and industry services~~ shall
17 make the database available to the public on the internet, without
18 charge, through that department's website.

19 (3) The department ~~of consumer and industry services~~ shall
20 inform the public, through press releases or other media avenues,
21 of the information available in the database established under
22 subsection (1) and how to access that database.