

SENATE BILL No. 1131

October 20, 2016, Introduced by Senators HILDENBRAND, SCHUITMAKER and HOPGOOD and referred to the Committee on Families, Seniors 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, 1a, 2, 2a, 2c, 2d, 2e, 3, 3a, 3b, 3c, 3e, 3f, 3g, 5, 5b, 6, 8a, 8b, 9, 10, 11, 11a, 12, 13, 14, 14a, 14b, 14c, 14d, 14e, 14f, 15, and 16 (MCL 722.111, 722.111a, 722.112, 722.112a, 722.112c, 722.112d, 722.112e, 722.113, 722.113a, 722.113b, 722.113c, 722.113e, 722.113f, 722.113g, 722.115, 722.115b, 722.116, 722.118a, 722.118b, 722.119, 722.120, 722.121, 722.121a, 722.122, 722.123, 722.124, 722.124a, 722.124b, 722.124c, 722.124d, 722.124e, 722.124f, 722.125, and 722.126), section 1 as amended by 2014 PA 65, section 1a as added by 1984 PA 139, sections 2, 3, and 10 as amended by 2006 PA 206, sections 2a, 3c, and 3e as

amended by 2007 PA 217, sections 2c, 2d, and 2e as added by 2004 PA 531, section 3a as amended and section 8b as added by 1997 PA 165, section 3b as added by 1993 PA 211, section 3f as added by 2008 PA 15, section 3g as added and section 11 as amended by 2010 PA 85, section 5 as amended by 2011 PA 228, section 5b as added by 1998 PA 519, section 8a as added by 1980 PA 32, section 9 as amended by 2010 PA 379, section 12 as amended by 1980 PA 232, section 14a as amended by 1984 PA 396, sections 14b and 14c as added by 1994 PA 209, section 14d as amended by 1995 PA 107, sections 14e and 14f as added by 2015 PA 53, and section 15 as amended by 1993 PA 218, and by adding sections 3h and 11c; and to repeal acts and parts of acts.

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 18
3 YEARS OF AGE OR OLDER TO WHOM 1 OR MORE OF THE FOLLOWING APPLIES:

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
11 WHO ARE CARED FOR OR SUPERVISED BY A CHILD CARE CENTER, GROUP CHILD
12 CARE HOME, OR FAMILY CHILD CARE HOME.

13 (B) ~~(a)~~—"Child care organization" means a governmental or
14 nongovernmental organization having as its principal function

1 receiving minor children for care, maintenance, training, and
2 supervision, notwithstanding that educational instruction may be
3 given. Child care organization includes organizations commonly
4 described as child caring institutions, child placing agencies,
5 children's camps, children's campsites, children's therapeutic
6 group homes, child care centers, day care centers, nursery schools,
7 parent cooperative preschools, foster homes, ~~group homes~~, or child
8 care homes. Child care organization does not include a governmental
9 or nongovernmental organization that does either of the following:

10 (i) Provides care exclusively to minors who have been
11 emancipated by court order under section 4(3) of 1968 PA 293, MCL
12 722.4.

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

16 (C) ~~(b)~~ "Child caring institution" means a child care facility
17 that is organized for the purpose of receiving minor children for
18 care, maintenance, and supervision, usually on a 24-hour basis, in
19 buildings maintained by the child caring institution for that
20 purpose, and operates throughout the year. An educational program
21 may be provided, but the educational program shall not be the
22 primary purpose of the facility. Child caring institution includes
23 a maternity home for the care of unmarried mothers who are minors
24 and an agency group home, that is described as a small child caring
25 institution, owned, leased, or rented by a licensed agency
26 providing care for more than 4 but less than 13 minor children.
27 Child caring institution also includes institutions for

1 developmentally disabled or emotionally disturbed minor children.
2 Child caring institution does not include a hospital, nursing home,
3 or home for the aged licensed under article 17 of the public health
4 code, 1978 PA 368, MCL 333.20101 to 333.22260, a boarding school
5 licensed under section 1335 of the revised school code, 1976 PA
6 451, MCL 380.1335, a hospital or facility operated by the state or
7 licensed under the mental health code, 1974 PA 258, MCL 330.1001 to
8 330.2106, or an adult foster care family home or an adult foster
9 care small group home licensed under the adult foster care facility
10 licensing act, 1979 PA 218, MCL 400.701 to 400.737, in which a
11 child has been placed under section 5(6).

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

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

1 (F) ~~(e)~~—"Children's campsite" means the outdoor setting where
2 a children's residential or day camp is located.

3 (G) ~~(f)~~—"Children's therapeutic group home" means a child
4 caring institution receiving not more than 6 minor children who are
5 diagnosed with a developmental disability as defined in section
6 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a
7 serious emotional disturbance as defined in section 100d of the
8 mental health code, 1974 PA 258, MCL 330.1100d, and that meets all
9 of the following requirements:

10 (i) Provides care, maintenance, and supervision, usually on a
11 24-hour basis.

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

17 (iii) Is not a private home.

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

20 (H) ~~(g)~~—"Child care center" ~~or "day care center"~~ means a
21 facility, other than a private residence, receiving 1 or more
22 ~~preschool or school-age children~~ **UNDER 13 YEARS OF AGE** for care for
23 periods of less than 24 hours a day, where the parents or guardians
24 are not immediately available to the child. Child care center ~~or~~
25 ~~day care center~~ includes a facility that provides care for not less
26 than 2 consecutive weeks, regardless of the number of hours of care
27 per day. The facility is generally described as a child care

1 center, day care center, day nursery, nursery school, parent
2 cooperative preschool, play group, before- or after-school program,
3 or drop-in center. Child care center ~~or day care center~~ does not
4 include any of the following:

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

10 (ii) A facility operated by a religious organization where
11 children are in the religious organization's care for not more than
12 3 hours while persons responsible for the children are attending
13 religious services.

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

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

27 (v) **A PROGRAM THAT PRIMARILY PROVIDES THERAPEUTIC SERVICES TO**

1 A CHILD.

2 (I) "CONVICTION" MEANS A FINAL CONVICTION, THE PAYMENT OF A
3 FINE, A PLEA OF GUILTY OR NOLO CONTENDERE IF ACCEPTED BY THE COURT,
4 A FINDING OF GUILT FOR A CRIMINAL LAW VIOLATION OR A JUVENILE
5 ADJUDICATION OR DISPOSITION BY THE JUVENILE DIVISION OF PROBATE
6 COURT OR FAMILY DIVISION OF CIRCUIT COURT FOR A VIOLATION THAT IF
7 COMMITTED BY AN ADULT WOULD BE A CRIME, OR A CONVICTION IN A TRIBAL
8 COURT OR A MILITARY COURT.

9 (J) "CRIMINAL HISTORY CHECK" MEANS A FINGERPRINT-BASED
10 CRIMINAL HISTORY RECORD INFORMATION BACKGROUND CHECK THROUGH THE
11 DEPARTMENT OF STATE POLICE AND THE FEDERAL BUREAU OF INVESTIGATION.

12 (K) "CRIMINAL HISTORY RECORD INFORMATION" MEANS THAT TERM AS
13 DEFINED IN SECTION 1A OF 1925 PA 289, MCL 28.241A.

14 (L) ~~(h)~~ "Department" means the department of HEALTH AND human
15 services AND THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS or
16 a successor agency or department responsible for licensure and
17 ~~registration~~ under this act. THE DEPARTMENT OF LICENSING AND
18 REGULATORY AFFAIRS IS RESPONSIBLE FOR LICENSING AND REGULATORY
19 MATTERS FOR CHILD CARE CENTERS, GROUP CHILD CARE HOMES, FAMILY
20 CHILD CARE HOMES, CHILDREN'S CAMPS, AND CHILDREN'S CAMPSITES. THE
21 DEPARTMENT OF HEALTH AND HUMAN SERVICES IS RESPONSIBLE FOR
22 LICENSING AND REGULATORY MATTERS FOR CHILD CARING INSTITUTIONS,
23 CHILD PLACING AGENCIES, CHILDREN'S THERAPEUTIC GROUP HOMES, FOSTER
24 FAMILY HOMES, AND FOSTER FAMILY GROUP HOMES.

25 (M) "ELIGIBLE" MEANS THAT THE INDIVIDUAL OBTAINED THE CHECKS
26 AND CLEARANCES DESCRIBED IN SECTIONS 5N AND 5Q AND IS CONSIDERED
27 APPROPRIATE TO OBTAIN A LICENSE, TO BE A MEMBER OF THE HOUSEHOLD OF

1 A GROUP CHILD CARE HOME OR FAMILY CHILD CARE HOME, OR TO BE A CHILD
2 CARE STAFF MEMBER.

3 (N) "INELIGIBLE" MEANS THAT THE INDIVIDUAL OBTAINED THE CHECKS
4 AND CLEARANCES AS DESCRIBED IN SECTIONS 5N AND 5Q AND IS NOT
5 CONSIDERED APPROPRIATE TO OBTAIN A LICENSE, TO BE A MEMBER OF THE
6 HOUSEHOLD OF A GROUP CHILD CARE HOME OR FAMILY CHILD CARE HOME, OR
7 TO BE A CHILD CARE STAFF MEMBER DUE TO VIOLATION OF SECTION 5N, 5Q,
8 OR 5R.

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

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

24 (ii) "Foster family group home" means a private home in which
25 more than 4 but fewer than 7 minor children, who are not related to
26 an adult member of the household by blood or marriage, or who are
27 not placed in the household under the Michigan adoption code,

1 chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to
2 710.70, are provided care for 24 hours a day, for 4 or more days a
3 week, for 2 or more consecutive weeks, unattended by a parent,
4 legal guardian, or legal custodian.

5 (iii) "Family child care home" means a private home in which ~~±~~
6 3 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 ~~family~~**HOUSEHOLD** by blood,
10 marriage, or adoption. Family child care home includes a home in
11 which care is given to an unrelated minor child for more than 4
12 weeks during a calendar year. A family child care home does not
13 include an individual providing babysitting services for another
14 individual. As used in this subparagraph, "providing babysitting
15 services" means caring for a child on behalf of the child's parent
16 or guardian when the annual compensation for providing those
17 services does not equal or exceed \$600.00 or an amount that would
18 according to the internal revenue code of 1986 obligate the child's
19 parent or guardian to provide a form 1099-MISC to the individual
20 for compensation paid during the calendar year for those services.

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

1 (P) ~~(j)~~—"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 XIIA
4 of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

5 (Q) ~~(k)~~—"Licensee" means a person, partnership, firm,
6 corporation, association, nongovernmental organization, or local or
7 state government ~~child care~~ organization that has been issued a
8 license under this act to operate a child care organization.

9 (R) "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2
10 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.

11 (S) "MEMBER OF THE HOUSEHOLD" MEANS ANY INDIVIDUAL WHO RESIDES
12 IN A FAMILY CHILD CARE HOME, GROUP CHILD CARE HOME, FOSTER FAMILY
13 HOME, OR FOSTER FAMILY GROUP HOME ON AN ONGOING BASIS, OR WHO HAS A
14 RECURRENT PRESENCE IN THE HOME, INCLUDING, BUT NOT LIMITED TO,
15 OVERNIGHT STAYS. A MEMBER OF THE HOUSEHOLD DOES NOT INCLUDE A CHILD
16 TO WHOM CHILD CARE IS BEING PROVIDED OR A FOSTER CHILD.

17 (T) "ORIGINAL LICENSE" MEANS A LICENSE ISSUED TO A CHILD CARE
18 ORGANIZATION DURING THE FIRST 6 MONTHS OF OPERATION INDICATING THAT
19 THE ORGANIZATION IS IN COMPLIANCE WITH ALL RULES PROMULGATED BY THE
20 DEPARTMENT UNDER THIS ACT.

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

24 (V) ~~(m)~~—"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

1 **PLAN.**

2 (W) ~~(n)~~—"Guardian" means the guardian of the person.

3 (X) ~~(e)~~—"Minor child" means any of the following:

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

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

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

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

26 (B) Three, if the total number of residents is not less than
27 11 and not more than 14.

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

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

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

7 ~~—— (p) "Registrant" means a person who has been issued a
8 certificate of registration under this act to operate a family
9 child care home.~~

10 ~~—— (q) "Registration" means the process by which the department
11 regulates family child care homes, and includes the requirement
12 that a family child care home certify to the department that the
13 family child care home has complied with and will continue to
14 comply with the rules promulgated under this act.~~

15 ~~—— (r) "Certificate of registration" means a written document
16 issued under this act to a family child care home through
17 registration.~~

18 (Y) ~~(s)~~ "Related" means in the relationship of parent,
19 grandparent, brother, sister, stepparent, stepsister, stepbrother,
20 uncle, aunt, cousin, great aunt, great uncle, or stepgrandparent by
21 marriage, blood, or adoption. **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.**

1 (Z) ~~(t)~~ "Religious organization" means a church,
2 ecclesiastical corporation, or group, not organized for pecuniary
3 profit, that gathers for mutual support and edification in piety or
4 worship of a supreme deity.

5 (AA) ~~(u)~~ "School-age child" means a child who is eligible to
6 ~~be enrolled in~~ **ATTEND** a grade of kindergarten or ~~above,~~ **HIGHER**, but
7 is less than 13 years of age. **A CHILD IS CONSIDERED TO BE A SCHOOL-**
8 **AGE CHILD ON THE FIRST DAY OF THE SCHOOL YEAR IN WHICH HE OR SHE IS**
9 **ELIGIBLE TO ATTEND SCHOOL.**

10 (BB) "SEVERE PHYSICAL INJURY" MEANS THAT TERM AS DEFINED IN
11 SECTION 8 OF THE CHILD PROTECTION LAW, 1975 PA 238, MCL 722.628.

12 (CC) ~~(v)~~ "Licensee designee" means the individual designated
13 in writing by the board of directors of the corporation or by the
14 owner or person with legal authority to act on behalf of the
15 company or organization on licensing matters. **THE INDIVIDUAL MUST**
16 **AGREE IN WRITING TO BE DESIGNATED AS THE LICENSEE DESIGNEE.** All
17 license applications must be signed by the licensee in the case of
18 the individual or by a member of the corporation, company, or
19 organization.

20 ~~—— (2) A facility or program for school-age children that is~~
21 ~~currently operated and has been in operation and licensed or~~
22 ~~approved as provided in this act for a minimum of 2 years may apply~~
23 ~~to the department to be exempt from inspections and on-site visits~~
24 ~~required under section 5. The department shall respond to a~~
25 ~~facility or program requesting exemption from inspections and on-~~
26 ~~site visits required under section 5 as provided under this~~
27 ~~subsection within 45 days from the date the completed application~~

1 ~~is received. The department may grant exemption from inspections~~
2 ~~and on site visits required under section 5 to a facility or~~
3 ~~program that meets all of the following criteria:~~

4 ~~—— (a) The facility or program has been in operation and licensed~~
5 ~~or approved under this act for a minimum of 2 years immediately~~
6 ~~preceding the application date.~~

7 ~~—— (b) During the 2 years immediately preceding the application~~
8 ~~date, the facility or program has not had a substantial violation~~
9 ~~of this act, rules promulgated under this act, or the terms of a~~
10 ~~licensure or an approval under this act.~~

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

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

26 ~~—— (4) A facility or program granted exemption from inspections~~
27 ~~and on site visits required under section 5 as provided under~~

1 ~~subsection (2) is not subject to interim or annual licensing~~
2 ~~reviews. Such a facility or program is required to submit~~
3 ~~documentation annually demonstrating compliance with the~~
4 ~~requirements of this act, the rules promulgated under this act, or~~
5 ~~the terms of a license or approval under this act.~~

6 ~~—— (5) An exemption provided under subsection (2) may be~~
7 ~~rescinded by the department if the facility or program willfully~~
8 ~~and substantially violates this act, the rules promulgated under~~
9 ~~this act, or the terms of a license or approval granted under this~~
10 ~~act.~~

11 Sec. 1a. (1) A private residence licensed as a foster family
12 home or foster family group home may be concurrently licensed as an
13 adult foster care family home. Additional children not related to a
14 resident of the foster family home or foster family group home
15 shall not be received in the foster family home or foster family
16 group home after the filing of an application for an adult foster
17 care family home license.

18 (2) A child caring institution with a licensed capacity of 6
19 or fewer residents may be concurrently licensed as an adult foster
20 care small group home. Additional children not related to a
21 resident of the child caring institution shall not be received in
22 the child caring institution after the filing of an application for
23 an adult foster care small group home license. The combined
24 licensed capacity shall not exceed a combination of 6 children and
25 adults.

26 **(3) A GROUP CHILD CARE HOME OR A FAMILY CHILD CARE HOME SHALL**
27 **NOT BE CONCURRENTLY LICENSED AS AN ADULT FOSTER CARE FAMILY HOME OR**

1 **AN ADULT FOSTER CARE SMALL GROUP HOME.**

2 (4) ~~(3)~~ As used in this section:

3 (a) "Adult foster care family home" means that term as defined
4 in section 3 of the adult foster care facility licensing act, ~~Act~~
5 ~~No. 218 of the Public Acts of 1979, being section 400.703 of the~~
6 ~~Michigan Compiled Laws.1978 PA 218, MCL 400.703.~~

7 (b) "Adult foster care small group home" means that term as
8 defined in section 3 of the adult foster care facility licensing
9 act, ~~Act No. 218 of the Public Acts of 1979, being section 400.703~~
10 ~~of the Michigan Compiled Laws.1978 PA 218, MCL 400.703.~~

11 Sec. 2. (1) The ~~department~~ **DEPARTMENTS** of **HEALTH AND** human
12 services, ~~, referred to in this act as the "department", is~~ **AND**
13 **LICENSING AND REGULATORY AFFAIRS ARE** responsible for the
14 development of rules for the care and protection of children in
15 organizations covered by this act and for the promulgation of these
16 rules ~~pursuant~~ **ACCORDING** to the administrative procedures act of
17 1969, 1969 PA 306, MCL 24.201 to 24.328.

18 (2) The department shall establish an ad hoc committee for
19 each type of child care organization as defined in this act when it
20 is formulating or amending rules under this act. The committee
21 shall consist of not less than 12 members, and shall include
22 representatives of the following groups and agencies:

23 (a) Department of ~~community~~ health **AND HUMAN SERVICES.**

24 (b) Department of ~~labor and economic growth,~~ **LICENSING AND**
25 **REGULATORY AFFAIRS,** bureau of fire services, and state fire safety
26 board.

27 (c) Department of education.

1 (d) Representatives of organizations affected by this act.

2 (e) Parents of children affected by this act.

3 (3) A majority of the members appointed to the committee
4 established by subsection (2) shall be representatives of
5 organizations affected by this act and parents of children affected
6 by this act. The committee shall serve during the period of the
7 formulation of rules, shall have responsibility for making
8 recommendations on the content of rules, and shall recommend to the
9 department revisions in proposed rules at any time before their
10 promulgation.

11 (4) The rules promulgated under this act shall be restricted
12 to the following:

13 (a) The operation and conduct of child care organizations and
14 the responsibility the organizations assume for child care.

15 (b) The character, suitability, training, and qualifications
16 of applicants and other persons directly responsible for the care
17 and welfare of children served.

18 (c) The general financial ability and competence of applicants
19 to provide necessary care for children and to maintain prescribed
20 standards.

21 (d) The number of individuals or staff required to ~~insure~~
22 **ENSURE** adequate supervision and care of the children received.

23 (e) The appropriateness, safety, cleanliness, and general
24 adequacy of the premises, including maintenance of adequate fire
25 prevention and health standards to provide for the physical
26 comfort, care, and well being of the children received. ~~However,~~
27 ~~the~~**THE** rules with respect to fire prevention and fire safety ~~shall~~

1 DO not apply to a child care center established and operated by an
2 intermediate school board, the board of a local school district, or
3 by the board or governing body of a state approved nonpublic
4 school, if the child care center is located in a school building
5 that is approved by the bureau of fire services created in section
6 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or other
7 similar authority as provided in section 3 of 1937 PA 306, MCL
8 388.853, for school purposes and is in compliance with the school
9 fire safety rules, R 29.1901 to R 29.1934 of the Michigan
10 ~~administrative code, ADMINISTRATIVE CODE~~, as determined by the
11 bureau of fire services or a fire inspector certified ~~pursuant to~~
12 **UNDER** section 2b of the fire prevention code, 1941 PA 207, MCL
13 29.2b.

14 (f) Provisions for food, clothing, educational opportunities,
15 programs, equipment, and individual supplies to assure the healthy
16 physical, emotional, and mental development of children served.

17 (g) Provisions to safeguard the legal rights of children
18 served.

19 (h) Maintenance of records pertaining to admission, progress,
20 health, and discharge of children.

21 (i) Filing of reports with the department.

22 (j) Discipline of children.

23 (k) Transportation safety.

24 (5) Rules once promulgated are subject to major review by an
25 ad hoc committee not less than once every 5 years and shall be
26 reviewed biennially by the department. The ad hoc committee shall
27 be established by the department, shall consist of not less than 12

1 members, and shall include representatives of the groups and
 2 agencies indicated in subsection (2). The ad hoc committee shall
 3 hold at least 2 public hearings regarding the review of rules and
 4 shall report its recommendations regarding rules to the appropriate
 5 committees of the legislature.

6 Sec. 2a. (1) A child caring institution, **FOSTER FAMILY HOME,**
 7 **FOSTER FAMILY GROUP HOME,** child care center, ~~or group child care~~
 8 ~~home,~~ **AND FAMILY CHILD CARE HOME** shall have ~~on duty at all times~~
 9 ~~while the institution, center, or home is providing care to 1 or~~
 10 ~~more children at least 1 person who has been certified within the~~
 11 ~~preceding 36 months~~ **INDIVIDUALS PRESENT, AS PRESCRIBED IN THE**
 12 **APPROPRIATE ADMINISTRATIVE RULES, WHO HAVE CURRENT CERTIFICATION** in
 13 first aid and ~~within the preceding 12 months in age appropriate~~
 14 cardiopulmonary resuscitation ~~by~~ **OBTAINED THROUGH** the American ~~red~~
 15 ~~cross,~~ **RED CROSS,** the American heart ~~association,~~ **HEART**
 16 **ASSOCIATION,** or an equivalent organization or institution approved
 17 by the department.

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

19 Sec. 2c. (1) If a child caring institution contracts with and
 20 receives payment from a community mental health services program or
 21 prepaid inpatient health plan for the care, treatment, maintenance,
 22 and supervision of a minor child in a child caring institution, the
 23 child caring institution may place a minor child in personal
 24 restraint or seclusion only as provided in this section and
 25 sections 2d and 2e but shall not use mechanical restraint or
 26 chemical restraint.

27 (2) ~~Not later than 180 days after the effective date of the~~

1 ~~amendatory act that added this section, a~~ **A** child caring
2 institution shall require its staff to have ongoing education,
3 training, and demonstrated knowledge of all of the following:

4 (a) Techniques to identify minor children's behaviors, events,
5 and environmental factors that may trigger emergency safety
6 situations.

7 (b) The use of nonphysical intervention skills, such as de-
8 escalation, mediation conflict resolution, active listening, and
9 verbal and observational methods to prevent emergency safety
10 situations.

11 (c) The safe use of personal restraint or seclusion, including
12 the ability to recognize and respond to signs of physical distress
13 in minor children who are in personal restraint or seclusion or who
14 are being placed in personal restraint or seclusion.

15 (3) A child caring institution's staff shall be trained in the
16 use of personal restraint and seclusion, shall be knowledgeable of
17 the risks inherent in the implementation of personal restraint and
18 seclusion, and shall demonstrate competency regarding personal
19 restraint or seclusion before participating in the implementation
20 of personal restraint or seclusion. A child caring institution's
21 staff shall demonstrate their competencies in these areas on a
22 semiannual basis. The ~~state agency licensing child caring~~
23 ~~institutions~~ **DEPARTMENT** shall review and determine the
24 acceptability of the child caring institutions' staff education,
25 training, knowledge, and competency requirements required by this
26 subsection and the training and knowledge required of a licensed
27 practitioner in the use of personal restraint and seclusion.

1 Sec. 2d. (1) Personal restraint or seclusion shall not be
2 imposed as a means of coercion, discipline, convenience, or
3 retaliation by a child caring institution's staff.

4 (2) An order for personal restraint or seclusion shall not be
5 written as a standing order or on an as-needed basis.

6 (3) Personal restraint or seclusion must not result in ~~harm or~~
7 **SERIOUS** injury to the minor child and shall be used only to ensure
8 the minor child's safety or the safety of others during an
9 emergency safety situation. Personal restraint or seclusion shall
10 only be used until the emergency safety situation has ceased and
11 the minor child's safety and the safety of others can be ensured
12 even if the order for personal restraint or seclusion has not
13 expired. Personal restraint and seclusion of a minor child shall
14 not be used simultaneously.

15 (4) Personal restraint or seclusion shall be performed in a
16 manner that is safe, appropriate, and proportionate to the severity
17 of the minor child's behavior, chronological and developmental age,
18 size, gender, physical condition, medical condition, psychiatric
19 condition, and personal history, including any history of physical
20 or sexual abuse.

21 (5) Except as provided in subsection (6), at the time a minor
22 child is admitted to a child caring institution, the child caring
23 institution shall do all of the following:

24 (a) Inform the minor child and his or her parent or legal
25 guardian of the provider's policy regarding the use of personal
26 restraint or seclusion during an emergency safety situation that
27 may occur while the minor child is under the care of the child

1 caring institution.

2 (b) Communicate the provider's personal restraint and
3 seclusion policy in a language that the minor child or his or her
4 parent or legal guardian will understand, including American sign
5 language, if appropriate. The provider shall procure an interpreter
6 or translator, if necessary to fulfill the requirement of this
7 subdivision.

8 (c) Obtain a written acknowledgment from the minor child's
9 parent or legal guardian that he or she has been informed of the
10 provider's policy on the use of personal restraint and seclusion
11 during an emergency safety situation. The child caring
12 institution's staff shall file the acknowledgment in the minor
13 child's records.

14 (d) Provide a copy of the policy to the minor child's parent
15 or legal guardian.

16 (6) The child caring institution is not required to inform,
17 communicate, and obtain the written acknowledgment from a minor
18 child's parent or legal guardian as specified in subsection (5) if
19 the minor child is within the care and supervision of the child
20 caring institution as a result of an order of commitment of the
21 family division of circuit court to a state institution, state
22 agency, or otherwise, and has been adjudicated to be a dependent,
23 neglected, or delinquent under chapter XIIA of the probate code of
24 1939, 1939 PA 288, MCL 712A.1 to 712A.32, if the minor child's
25 individual case treatment plan indicates that notice would not be
26 in the minor child's best interest.

27 (7) An order for personal restraint or seclusion shall only be

1 written by a licensed practitioner.

2 (8) A licensed practitioner shall order the least restrictive
3 emergency safety intervention measure that is most likely to be
4 effective in resolving the emergency safety situation based on
5 consultation with staff. Consideration of less restrictive
6 emergency safety intervention measures shall be documented in the
7 minor child's record.

8 (9) If the order for personal restraint or seclusion is
9 verbal, it must be received by a child caring institution staff
10 member who is 1 of the following:

11 (a) A licensed practitioner.

12 (b) A social services supervisor. ~~as described in R 400.4118~~
13 ~~of the Michigan administrative code.~~

14 (c) A supervisor of direct care workers. ~~as described in R~~
15 ~~400.4120 of the Michigan administrative code.~~

16 (d) A practical nurse licensed under article 15 of the public
17 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

18 (10) A verbal order must be received while personal restraint
19 or seclusion is being initiated by child caring institution staff
20 or immediately after the emergency safety situation begins. The
21 licensed practitioner shall be available to staff for consultation,
22 at least by telephone, throughout the period of personal restraint
23 or seclusion. The licensed practitioner shall verify the verbal
24 order in signed written form in the minor child's record.

25 (11) An order for personal restraint or seclusion shall meet
26 both of the following criteria:

27 (a) Be limited to no longer than the duration of the emergency

1 safety situation.

2 (b) Not exceed 4 hours for a minor child 18 years of age or
3 older; 2 hours for a minor child 9 to 17 years of age; or 1 hour
4 for a minor child under 9 years of age.

5 (12) If more than 2 orders for personal restraint or seclusion
6 are ordered for a minor child within a 24-hour period, the director
7 of the child caring institution or his or her designated management
8 staff shall be notified to determine whether additional measures
9 should be taken to facilitate discontinuation of personal restraint
10 or seclusion.

11 (13) If personal restraint continues for less than 15 minutes
12 or seclusion continues for less than 30 minutes from the onset of
13 the emergency safety intervention, the child caring institution
14 staff qualified to receive a verbal order for personal restraint or
15 seclusion, in consultation with the licensed practitioner, shall
16 evaluate the minor child's psychological well-being immediately
17 after the minor child is removed from seclusion or personal
18 restraint. Staff shall also evaluate the minor child's physical
19 well-being or determine if an evaluation is needed by a licensed
20 practitioner authorized to conduct a face-to-face assessment under
21 subsection (14).

22 (14) A face-to-face assessment shall be conducted if the
23 personal restraint continues for 15 minutes or more from the onset
24 of the emergency safety intervention or if seclusion continues for
25 30 minutes or more from the onset of the emergency safety
26 intervention. This face-to-face assessment shall be conducted by a
27 licensed practitioner who is 1 of the following:

1 (a) A physician licensed under article 15 of the public health
2 code, 1978 PA 368, MCL 333.16101 to 333.18838.

3 (b) An individual who has been issued a speciality
4 certification as a nurse practitioner under article 15 of the
5 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

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

8 (d) A registered nurse licensed under article 15 of the public
9 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

10 (15) The face-to-face assessment shall be conducted within 1
11 hour of the onset of the emergency safety intervention and
12 immediately after the minor child is removed from personal
13 restraint or seclusion. The face-to-face assessment of the physical
14 and psychological well-being of the minor child shall include, but
15 is not limited to, all of the following:

16 (a) The minor child's physical and psychological status.

17 (b) The minor child's behavior.

18 (c) The appropriateness of the intervention measures.

19 (d) Any complications resulting from the intervention.

20 (16) **AS USED IN THIS SECTION:**

21 **(A) "SOCIAL SERVICES SUPERVISOR" MEANS AN INDIVIDUAL WHO**
22 **SUPERVISES A SOCIAL SERVICES WORKER. A SOCIAL SERVICES SUPERVISOR**
23 **MUST POSSESS EITHER A MASTER'S DEGREE IN A HUMAN BEHAVIORAL SCIENCE**
24 **FROM AN ACCREDITED COLLEGE OR UNIVERSITY AND 2 YEARS OF EXPERIENCE**
25 **AS A SOCIAL SERVICES WORKER OR A BACHELOR'S DEGREE IN A HUMAN**
26 **BEHAVIORAL SCIENCE OR ANOTHER MAJOR WITH 25% OF THE CREDITS IN A**
27 **HUMAN BEHAVIORAL SCIENCE FROM AN ACCREDITED COLLEGE OR UNIVERSITY**

1 AND 4 YEARS OF EXPERIENCE AS A SOCIAL SERVICES WORKER.

2 (B) "SOCIAL SERVICES WORKER" MEANS AN INDIVIDUAL WHO WORKS
3 DIRECTLY WITH RESIDENTS, RESIDENTS' FAMILIES, AND OTHER RELEVANT
4 INDIVIDUALS AND WHO IS PRIMARILY RESPONSIBLE FOR THE DEVELOPMENT,
5 IMPLEMENTATION, AND REVIEW OF SERVICE PLANS FOR THE RESIDENT.

6 (C) "SUPERVISOR OF DIRECT CARE WORKERS" MEANS AN INDIVIDUAL
7 WHO SUPERVISES WORKERS WHO PROVIDE DIRECT CARE AND SUPERVISION OF
8 CHILDREN IN AN INSTITUTION. A SUPERVISOR OF DIRECT CARE WORKERS
9 MUST HAVE 1 OF THE FOLLOWING:

10 (i) A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR
11 UNIVERSITY AND 2 YEARS OF WORK EXPERIENCE IN A CHILD CARING
12 INSTITUTION.

13 (ii) TWO YEARS OF COLLEGE FROM AN ACCREDITED COLLEGE OR
14 UNIVERSITY AND 3 YEARS OF WORK EXPERIENCE IN A CHILD CARING
15 INSTITUTION.

16 (iii) A HIGH SCHOOL DIPLOMA AND 4 YEARS OF WORK EXPERIENCE IN
17 A CHILD CARING INSTITUTION.

18 Sec. 2e. (1) A minor child shall be released from personal
19 restraint or seclusion whenever the circumstance that justified the
20 use of personal restraint or seclusion no longer exists.

21 (2) Each instance of personal restraint or seclusion requires
22 full justification for its use, and the results of the evaluation
23 immediately following the use of personal restraint or seclusion
24 shall be placed in the minor child's record.

25 (3) Each order for personal restraint or seclusion shall
26 include all of the following:

27 (a) The name of the licensed practitioner ordering personal

1 restraint or seclusion.

2 (b) The date and time the order was obtained.

3 (c) The personal restraint or seclusion ordered, including the
4 length of time for which the licensed practitioner ordered its use.

5 (4) The child caring institution staff shall document the use
6 of the personal restraint or seclusion in the minor child's record.
7 That documentation shall be completed by the end of the shift in
8 which the personal restraint or seclusion occurred. If the personal
9 restraint or seclusion does not end during the shift in which it
10 began, documentation shall be completed during the shift in which
11 the personal restraint or seclusion ends. Documentation shall
12 include all of the following:

13 (a) Each order for personal restraint or seclusion.

14 (b) The time the personal restraint or seclusion actually
15 began and ended.

16 (c) The time and results of the 1-hour assessment.

17 (d) The emergency safety situation that required the resident
18 to be personally restrained or secluded.

19 (e) The name of the staff involved in the personal restraint
20 or seclusion.

21 (5) The child caring institution staff trained in the use of
22 personal restraint shall continually assess and monitor the
23 physical and psychological well-being of the minor child and the
24 safe use of personal restraint throughout the duration of its
25 implementation.

26 (6) The child caring institution staff trained in the use of
27 seclusion shall be physically present in or immediately outside the

1 seclusion room, continually assessing, monitoring, and evaluating
2 the physical and psychological well-being of the minor. Video
3 monitoring shall not be exclusively used to meet this requirement.

4 (7) The child caring institution staff shall ensure that
5 documentation of staff monitoring and observation is entered into
6 the minor child's record.

7 (8) If the emergency safety intervention continues beyond the
8 time limit of the order for use of personal restraint or seclusion,
9 child caring institution staff authorized to receive verbal orders
10 for personal restraint or seclusion shall immediately contact the
11 licensed practitioner to receive further instructions.

12 (9) The child caring institution staff shall notify the minor
13 child's parent or legal guardian and the appropriate state or local
14 government agency that has responsibility for the minor child if
15 the minor child is under the supervision of the child caring
16 institution as a result of an order of commitment by the family
17 division of circuit court to a state institution or otherwise as
18 soon as possible after the initiation of personal restraint or
19 seclusion. This notification shall be documented in the minor
20 child's record, including the date and time of the notification,
21 the name of the staff person providing the notification, and the
22 name of the person to whom notification of the incident was
23 reported. The child caring institution is not required to notify
24 the parent or legal guardian as provided in this subsection if the
25 minor child is within the care and supervision of the child caring
26 institution as a result of an order of commitment of the family
27 division of circuit court to a state institution, state agency, or

1 otherwise, and has been adjudged to be dependent, neglected, or
2 delinquent under chapter XIIIA of the probate code of 1939, 1939 PA
3 288, MCL 712A.1 to 712A.32, if the minor child's individual case
4 treatment plan indicates that the notice would not be in the minor
5 child's best interest.

6 (10) Within 24 hours after the use of personal restraint or
7 seclusion, child caring institution staff involved in the emergency
8 safety intervention and the minor child shall have a face-to-face
9 debriefing session. The debriefing shall include all staff involved
10 in the seclusion or personal restraint except if the presence of a
11 particular staff person may jeopardize the well-being of the minor
12 child. Other staff members and the minor child's parent or legal
13 guardian may participate in the debriefing if it is considered
14 appropriate by the child caring institution.

15 (11) The child caring institution shall conduct a debriefing
16 in a language that is understood by the minor child. The debriefing
17 shall provide both the minor child and the staff opportunity to
18 discuss the circumstances resulting in the use of personal
19 restraint or seclusion and strategies to be used by staff, the
20 minor child, or others that could prevent the future use of
21 personal restraint or seclusion.

22 (12) Within 24 hours after the use of personal restraint or
23 seclusion, all child caring institution staff involved in the
24 emergency safety intervention, and appropriate supervisory and
25 administrative staff, shall conduct a debriefing session that
26 includes, at a minimum, all of the following:

27 (a) Discussion of the emergency safety situation that required

1 personal restraint or seclusion, including a discussion of
2 precipitating factors that led up to the situation.

3 (b) Alternative techniques that might have prevented the use
4 of personal restraint or seclusion.

5 (c) The procedures, if any, that child caring institution
6 staff are to implement to prevent a recurrence of the use of
7 personal restraint or seclusion.

8 (d) The outcome of the emergency safety intervention,
9 including any injury that may have resulted from the use of
10 personal restraint or seclusion.

11 (13) The child caring institution staff shall document in the
12 minor child's record that both debriefing sessions **AS DESCRIBED IN**
13 **SUBSECTIONS (10) AND (12)** took place and shall include the names of
14 staff who were present for the debriefings, names of staff that
15 were excused from the debriefings, and changes to the minor child's
16 treatment plan that result from the debriefings.

17 (14) Each child caring institution subject to this section and
18 sections 2c and 2d shall report each serious occurrence to the
19 ~~state agency licensing the child caring institution.~~ **DEPARTMENT.**
20 The ~~state agency licensing the child caring institution~~ **DEPARTMENT**
21 shall make the reports available to the designated state protection
22 and advocacy system upon request of the designated state protection
23 and advocacy system. Serious occurrences to be reported include a
24 minor child's death, a serious injury to a minor child, and a minor
25 child's suicide attempt. Staff shall report any serious occurrence
26 involving a minor child by no later than close of business of the
27 next business day after a serious occurrence. The report shall

1 include the name of the minor child involved in the serious
2 occurrence; ~~7~~—a description of the occurrence; ~~7~~—and the name,
3 street address, and telephone number of the child caring
4 institution. The child caring institution shall notify the minor
5 child's parent or legal guardian and the appropriate state or local
6 government agency that has responsibility for the minor child if
7 the minor child is under the supervision of the child caring
8 institution as a result of an order of commitment by the family
9 division of circuit court to a state institution or otherwise as
10 soon as possible and not later than 24 hours after the serious
11 occurrence. Staff shall document in the minor child's record that
12 the serious occurrence was reported to both the ~~state agency~~
13 ~~licensing the child caring institution~~ **DEPARTMENT** and the state-
14 designated protection and advocacy system, including the name of
15 the person to whom notification of the incident was reported. A
16 copy of the report shall be maintained in the minor child's record,
17 as well as in the incident and accident report logs kept by the
18 child caring institution.

19 (15) Each child caring institution subject to this section and
20 sections 2c and 2d shall maintain a record of the incidences in
21 which personal restraint or seclusion was used for all minor
22 children. The record shall include all of the following
23 information:

24 (a) Whether personal restraint or seclusion was used.

25 (b) The setting, unit, or location in which personal restraint
26 or seclusion was used.

27 (c) Staff who initiated the process.

1 (d) The duration of each use of personal restraint or
2 seclusion.

3 (e) The date, time, and day of the week restraint or seclusion
4 was initiated.

5 (f) Whether injuries were sustained by the minor child or
6 staff.

7 (g) The age and gender of the minor child.

8 (16) Each child caring institution subject to this section and
9 sections 2c and 2d shall submit a report annually to the ~~state~~
10 ~~agency that licenses the child caring institution~~ **DEPARTMENT**
11 containing the aggregate data from the record of incidences for
12 each 12-month period as directed by the ~~state licensing agency~~.
13 **DEPARTMENT**. The ~~state licensing agency~~ **DEPARTMENT** shall prepare
14 reporting forms to be used by the child caring institution, shall
15 aggregate the data collected from each child caring institution,
16 and shall annually report the data to each child caring institution
17 and the state-designated protection and advocacy system.

18 Sec. 3. (1) The rules promulgated by the department under this
19 act shall be used by the department, ~~of community health,~~ the
20 bureau of fire services, and local authorities in the inspection of
21 and reporting on child care organizations covered by this act. The
22 inspection of the health and fire safety of child care
23 organizations shall be completed by department staff, ~~or by the~~
24 ~~department of community health,~~ the bureau of fire services, or
25 local authorities upon request of the department, or ~~pursuant~~
26 **ACCORDING** to subsection (2).

27 (2) If an inspection is not conducted ~~pursuant~~ **ACCORDING** to

1 subsection (1), a person owning or operating or who proposes to own
2 or operate a child care organization may enter a contract with a
3 local authority or other person qualified **BY THE DEPARTMENT** to
4 conduct an inspection ~~pursuant~~ **ACCORDING** to subsection (1) and pay
5 for that inspection after an inspection is completed ~~pursuant~~
6 **ACCORDING** to this subsection. ~~A person may receive a provisional~~
7 ~~license if the proposed child care organization passes the~~
8 ~~inspection, and the other requirements of this act are met.~~

9 (3) The rules promulgated by the department for foster family
10 homes and foster family group homes shall be used by a ~~licensed~~
11 child placing agency or ~~an approved~~ governmental unit when
12 investigating and certifying a foster family home or a foster
13 family group home.

14 (4) Inspection reports completed by state agencies, local
15 authorities, and child placing agencies shall be furnished to the
16 department and shall become a part of its evaluation for licensing
17 of organizations covered by this act. After careful consideration
18 of the reports and consultation where necessary, the department
19 shall assume responsibility for the final determination of the
20 issuance, denial, revocation, or provisional nature of licenses
21 ~~issued to nongovernmental organizations.~~ **UNDER THIS ACT.** A report
22 of findings shall be furnished to the **APPLICANT OR** licensee. ~~A~~
23 ~~license shall be issued to a specific person or organization at a~~
24 ~~specific location, shall be nontransferable, and shall remain the~~
25 ~~property of the department.~~

26 Sec. 3a. (1) A parent or legal guardian of a child at a child
27 care center, ~~or day care center~~ **GROUP CHILD CARE HOME, OR FAMILY**

1 CHILD CARE HOME may visit the child at the CHILD CARE center, GROUP
2 CHILD CARE HOME, OR FAMILY CHILD CARE HOME at any time.

3 (2) A parent or legal guardian who wishes to enroll a child at
4 a child care center, ~~or day care center~~ GROUP CHILD CARE HOME, OR
5 FAMILY CHILD CARE HOME may visit the CHILD CARE center, GROUP CHILD
6 CARE HOME, OR FAMILY CHILD CARE HOME before the child's enrollment
7 ~~at the times~~ DURING THE HOURS OF OPERATION OF the CHILD CARE
8 center, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME.
9 establishes.

10 (3) This section ~~shall~~ DOES not be construed to permit
11 parenting time with a child in violation of a court order.

12 Sec. 3b. (1) An individual shall not smoke in a child caring
13 institution or child care center or on real property that is under
14 the control of a child caring institution or child care center and
15 upon which the child caring institution or child care center is
16 located, including other related buildings. THE OPERATOR OF A CHILD
17 CARE CENTER SHALL CONSPICUOUSLY POST ON THE PREMISES A NOTICE THAT
18 SPECIFIES THAT SMOKING ON THE PREMISES IS PROHIBITED.

19 (2) As used in this section AND SECTION 3C, "smoke" ~~means that~~
20 ~~term~~ OR "SMOKING" MEANS THOSE TERMS as defined in section 12601 of
21 the Public Health Code, Act No. 368 of the Public Acts of 1978,
22 being section 333.12601 of the Michigan Compiled Laws. PUBLIC HEALTH
23 CODE, 1978 PA 368, MCL 333.12601.

24 Sec. 3c. ~~(1)~~ An individual shall not smoke on the premises of
25 a GROUP CHILD CARE HOME OR family child care home during the hours
26 of operation of the GROUP CHILD CARE HOME OR family child care
27 home. The operator of a GROUP CHILD CARE HOME OR family child care

1 home may permit smoking on the premises during a period other than
 2 the hours of operation of that **GROUP CHILD CARE HOME OR** family
 3 child care home if the operator has provided to a parent or legal
 4 guardian of each child participating in a **GROUP CHILD CARE HOME OR**
 5 family child care home activity notice that smoking on the premises
 6 occurs or may occur when the **GROUP CHILD CARE HOME OR** family child
 7 care home is not in operation. **THE OPERATOR OF A GROUP CHILD CARE**
 8 **HOME OR FAMILY CHILD CARE HOME SHALL CONSPICUOUSLY POST ON THE**
 9 **PREMISES A NOTICE THAT SPECIFIES THAT SMOKING ON THE PREMISES IS**
 10 **PROHIBITED DURING THE HOURS OF OPERATION OF THE GROUP CHILD CARE**
 11 **HOME OR FAMILY CHILD CARE HOME.**

12 ~~—— (2) As used in this section and section 3d.~~

13 ~~—— (a) "Child" means an individual less than 18 years of age who~~
 14 ~~is not related to an adult member of the family child care home or~~
 15 ~~group child care home operator.~~

16 ~~—— (b) "Smoke" and "smoking" mean those terms as defined in~~
 17 ~~section 12601 of the public health code, 1978 PA 368, MCL~~
 18 ~~333.12601.~~

19 Sec. 3e. The operator of a child care center or child caring
 20 institution shall conspicuously post on the premises a notice
 21 stating ~~whether or not~~ that **THE** child care center or child caring
 22 institution requires a criminal history **BACKGROUND** check on its
 23 employees or volunteers. The department shall promulgate rules to
 24 implement this section under the administrative procedures act of
 25 1969, 1969 PA 306, MCL 24.201 to 24.328.

26 Sec. 3f. (1) Except as provided in subsection ~~(6)~~, **(5)**, within
 27 24 hours after a child care organization receives notice that a

1 **HIGH-RISK** special investigation ~~that the department classifies as~~
2 ~~high risk~~ is being conducted **BY THE DEPARTMENT**, the child care
3 organization shall make a ~~good faith~~ **GOOD-FAITH** effort to make oral
4 notification to each parent or legal guardian of 1 or more of the
5 following:

6 (a) Children who were under the child care organization's care
7 at the site and the time the incident being investigated occurred.

8 (b) If the individual being investigated is still present at
9 the child care organization at the time of the investigation,
10 children who have or will come into contact with the individual
11 being investigated as long as that individual is present at the
12 child care organization.

13 (2) The child care organization shall send written
14 notification within 1 business day after the initial ~~good faith~~
15 **GOOD-FAITH** attempt under subsection (1) at oral notification. For
16 the purpose of this subsection, written notification shall be given
17 by 1 of the following:

18 (a) Mail service.

19 (b) Facsimile transmission.

20 (c) Electronic mail.

21 (3) If the department determines that a child care
22 organization is not complying with either notification requirement
23 in subsection (1) or (2), the department may suspend the child care
24 organization's license issued under this act pending review.

25 (4) If, upon completion of the **HIGH-RISK** special
26 investigation, ~~described in subsection (1)~~, the department makes a
27 determination that there are no substantiated rule violations, the

1 department shall provide the child care organization with written
2 notification of that determination that the child care organization
3 may share with the parents or legal guardians of the children in
4 the child care organization's care who received the notification
5 required under subsections (1) and (2).

6 ~~— (5) The department shall make the information provided in~~
7 ~~subsection (4) available to the public on the department website.~~

8 (5) ~~(6)~~ This section does not apply to a child caring
9 institution, child placing agency, foster family home, or foster
10 family group home.

11 (6) ~~(7)~~ For the purpose of this section, "**HIGH-RISK** special
12 investigation" ~~that the department classifies as high risk~~ means
13 an investigation in which ~~THAT~~ the department becomes aware that
14 **CONDUCTS REGARDING** 1 or more of the conditions listed in section
15 8(3)(a) to (c) of the child protection law, 1975 PA 238, MCL
16 722.628. ~~exist.~~

17 Sec. 3g. (1) The operator of a child care center, group child
18 care home, or family child care home shall maintain a licensing
19 notebook on its premises. The licensing notebook shall be made
20 available for review to parents or guardians of children under the
21 care of, and parents or guardians considering placing their
22 children in the care of, the child care center, group child care
23 home, or family child care home **DURING THE HOURS OF OPERATION OF**
24 **THE CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE**
25 **HOME.**

26 (2) The licensing notebook described in subsection (1) shall
27 include the reports from all licensing ~~or registration~~ inspections,

1 renewal inspections, special investigations, and corrective action
2 plans. The licensing notebook shall also include a summary sheet
3 outlining the reports ~~described in this subsection.~~ **CONTAINED IN**
4 **THE LICENSING NOTEBOOK.** The information in the licensing notebook
5 shall be updated as provided by the department. ~~and must be made~~
6 ~~available to parents, guardians, and prospective parents or~~
7 ~~guardians at all times during the child care center's, group child~~
8 ~~care home's, or family child care home's normal hours of operation.~~

9 (3) The department shall include on its "Child in Care
10 **STATEMENT/Receipt**" form or any successor form used instead of that
11 form a check box allowing the parent or guardian to acknowledge
12 that he or she is aware of the information available in the
13 licensing notebook **AND THAT THE LICENSING NOTEBOOK IS** available for
14 his or her review on the premises of the child care center, group
15 child care home, or family child care home and that ~~the~~ information
16 is available on the department's website. The "Child in Care
17 **STATEMENT/Receipt**" form or successor form shall contain in bold
18 print the department's website address where the information may be
19 located.

20 **SEC. 3H. AN ANNUAL INSPECTION OF A CHILD CARE ORGANIZATION**
21 **LICENSED UNDER THIS ACT SHALL BE UNANNOUNCED, UNLESS THE**
22 **DEPARTMENT, IN ITS DISCRETION, CONSIDERS IT NECESSARY TO SCHEDULE**
23 **AN APPOINTMENT FOR AN INSPECTION.**

24 **Sec. 5. (1) THIS SECTION AND SECTIONS 5C, 5D, 5G, AND 9 DO NOT**
25 **APPLY TO A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY**
26 **CHILD CARE HOME.**

27 (2) ~~(1)~~—A person, partnership, firm, corporation, association,

1 ~~or~~ nongovernmental organization, **OR GOVERNMENTAL ORGANIZATION** shall
2 not establish or maintain a child care organization unless licensed
3 ~~or registered~~ by the department. Application for a license ~~or~~
4 ~~certificate of registration~~ shall be made on forms provided, and in
5 the manner prescribed, by the department. Before issuing or
6 renewing a license, the department shall investigate the
7 applicant's activities and proposed standards of care and shall
8 make an on-site visit of the proposed or established organization.
9 Except as otherwise provided in this subsection, if the department
10 is satisfied as to the need for a child care organization, its
11 financial stability, the applicant's good moral character, and that
12 the services and facilities are conducive to the welfare of the
13 children, the department shall issue or renew the license. If a
14 county juvenile agency as defined in section 2 of the county
15 juvenile agency act, 1998 PA 518, MCL 45.622, certifies to the
16 department that it intends to contract with an applicant for a new
17 license, the department shall issue or deny the license within 60
18 days after it receives a complete application as provided in
19 section 5b. ~~The department shall not issue a license to or renew a~~
20 ~~license of an applicant if any of the following persons have been~~
21 ~~convicted of child abuse under section 136b of the Michigan penal~~
22 ~~code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of~~
23 ~~the Michigan penal code, 1931 PA 328, MCL 750.145.~~

24 ~~— (a) The individual applicant.~~

25 ~~— (b) The owner, partner, or director of the applying~~
26 ~~organization, if other than an individual.~~

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

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

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

19 (4) The department may authorize a ~~licensed~~ child placing
20 agency or an ~~approved~~ governmental unit to place a child who is at
21 least 16 but less than 21 years of age in his or her own unlicensed
22 residence, or in the unlicensed residence of an adult who has no
23 supervisory responsibility for the child, if a child placing agency
24 or governmental unit retains supervisory responsibility for the
25 child. If the child is at least 18 but less than 21 years of age,
26 he or she must meet the requirements of the young adult voluntary
27 foster care act, **2011 PA 225, MCL 400.641 TO 400.671.**

1 (5) A ~~licensed~~ child placing agency, child caring institution,
2 and an ~~approved~~ governmental unit shall provide the state court
3 administrative office and a local foster care review board
4 established under 1984 PA 422, MCL 722.131 to 722.139a, those
5 records requested pertaining to children in foster care placement
6 for more than 6 months.

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

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

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

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

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

24 (7) On an exception basis, the director of the department, or
25 his or her designee, may authorize a ~~licensed~~ child placing agency
26 or an ~~approved~~ governmental unit to place an adult in a foster
27 family home if a ~~licensed~~ child placing agency or ~~approved~~

1 governmental unit certifies to the department all of the following:

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

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

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

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

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

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

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

2 (b) The placement has the concurrence of the parent or
3 guardian of the child.

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

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

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

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

15 (g) The child is neurologically disabled and is also
16 physically limited to a degree that requires complete physical
17 assistance with mobility and activities of daily living.

18 (h) 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) to (g) continue to be met.

22 ~~— (9) Except as provided in subsection (1) and section 5b, the~~
23 ~~department shall issue an initial or renewal license or~~
24 ~~registration under this act for child care centers, group child~~
25 ~~care homes, and family child care homes not later than 6 months~~
26 ~~after the applicant files a completed application. Receipt of the~~
27 ~~application is considered the date the application is received by~~

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

11 ~~—— (a) Upon notification by the department of a deficiency, until~~
12 ~~the date the requested information is received by the department.~~

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

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

20 ~~—— (11) Except as provided in subsection (1) and section 5b, if~~
21 ~~the department fails to issue or deny a license or registration to~~
22 ~~a child care center, group child care home, or family child care~~
23 ~~home within the time required by this section, the department shall~~
24 ~~return the license or registration fee and shall reduce the license~~
25 ~~or registration fee for the applicant's next renewal application,~~
26 ~~if any, by 15%. Failure to issue or deny a license to a child care~~
27 ~~center, group child care home, or family child care home within the~~

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

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

~~15 (13) The department director shall submit a report by December
16 1 of each year to the standing committees and appropriations
17 subcommittees of the senate and house of representatives concerned
18 with human services and children's issues. The department director
19 shall include in the report all of the following information
20 regarding applications for licenses and registrations only for
21 child care centers, group child care homes, and family child care
22 homes filed under this act during the 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 (9) ~~(14)~~ Except as provided in section ~~5e(8)~~, **5C(7)**, the
7 department shall not issue to or renew the license of a child care
8 organization under this act without requesting a criminal history
9 check ~~and criminal records check~~ as required by section 5c. If a
10 criminal history check ~~or criminal records check~~ performed under
11 section 5c or information obtained as a result of notification from
12 the department of state police under section 5k reveals that an
13 applicant for a license under this act has been convicted of a
14 listed offense, the department shall not issue a license to that
15 applicant. If a criminal history check ~~or criminal records check~~
16 performed under section 5c or information obtained as a result of
17 notification from the department of state police under section 5k
18 reveals that an applicant for renewal of a license under this act
19 has been convicted of a listed offense, the department shall not
20 renew that license. If a criminal history check ~~or criminal records~~
21 ~~check~~ performed under section 5c or information obtained as a
22 result of notification from the department of state police under
23 section 5k reveals that a current licensee has been convicted of a
24 listed offense, the department shall revoke the license of that
25 licensee.

26 ~~—— (15) Except as provided in section 5f(13), the department~~
27 ~~shall not issue or renew a certificate of registration to a family~~

1 ~~child care home or a license to a group child care home under this~~
2 ~~act without requesting a criminal history check and criminal~~
3 ~~records check as required by sections 5f and 5g. If a criminal~~
4 ~~history check or criminal records check performed under section 5f~~
5 ~~or 5g or information obtained as a result of notification from the~~
6 ~~department of state police under section 5k reveals that an~~
7 ~~applicant for a certificate of registration or license under this~~
8 ~~act or a person over 18 years of age residing in that applicant's~~
9 ~~home has been convicted of a listed offense, the department shall~~
10 ~~not issue a certificate of registration or license to that~~
11 ~~applicant. If a criminal history check or criminal records check~~
12 ~~performed under section 5f or 5g or information obtained as a~~
13 ~~result of notification from the department of state police under~~
14 ~~section 5k reveals that an applicant for renewal of a certificate~~
15 ~~of registration or license under this act or a person over 18 years~~
16 ~~of age residing in that applicant's home has been convicted of a~~
17 ~~listed offense, the department shall not renew a certificate of~~
18 ~~registration or license to that applicant. If a criminal history~~
19 ~~check or criminal records check performed under section 5f or 5g or~~
20 ~~information obtained as a result of notification from the~~
21 ~~department of state police under section 5k reveals that a current~~
22 ~~registrant or licensee under this act or a person over 18 years of~~
23 ~~age residing in that registrant's or licensee's home has been~~
24 ~~convicted of a listed offense, the department shall revoke that~~
25 ~~registrant's certificate of registration or licensee's license.~~

26 (10) ~~(16)~~ Except as provided in section 5h(7), ~~5H(6)~~, the
27 department **OF HEALTH AND HUMAN SERVICES** shall not issue or renew a

1 license to operate a foster family home or foster family group home
2 under this act without requesting a criminal history check ~~and~~
3 ~~criminal records check~~ as required by sections 5h and 5j. If a
4 criminal history check ~~or criminal records check~~ performed under
5 section 5h or 5j or information obtained as a result of
6 notification from the department of state police under section 5k
7 reveals that an applicant for a license to operate a foster family
8 home or foster family group home under this act or ~~a person over 18~~
9 ~~years of age residing in that applicant's home~~ **AN ADULT MEMBER OF**
10 **THE HOUSEHOLD** has been convicted of a listed offense, the
11 department shall not issue a license to that applicant. If a
12 criminal history check ~~or criminal records check~~ performed under
13 section 5h or 5j or information obtained as a result of
14 notification from the department of state police under section 5k
15 reveals that an applicant for renewal of a license to operate a
16 foster family home or foster family group home under this act or a
17 ~~person over 18 years of age residing in that applicant's home~~ **AN**
18 **ADULT MEMBER OF THE HOUSEHOLD** has been convicted of a listed
19 offense, the department shall not renew a license to that
20 applicant. If a criminal history check ~~or criminal records check~~
21 performed under section 5h or 5j or information obtained as a
22 result of notification from the department of state police under
23 section 5k reveals that a current licensee under this act of a
24 foster family home or foster family group home or ~~a person over 18~~
25 ~~years of age residing in that licensee's~~ **AN ADULT MEMBER OF THE**
26 foster family home or foster family group home has been convicted
27 of a listed offense, the department shall revoke that licensee's

1 license.

2 ~~—— (17) As used in this section:~~

3 ~~—— (a) "Completed application" means an application complete on~~
4 ~~its face and submitted with any applicable licensing or~~
5 ~~registration fees as well as any other information, records,~~
6 ~~approval, security, or similar item required by law or rule from a~~
7 ~~local unit of government, a federal agency, or a private entity but~~
8 ~~not from another department or agency of this state. A completed~~
9 ~~application does not include a health inspection performed by a~~
10 ~~local health department.~~

11 (11) ~~(b)~~ **AS USED IN THIS SECTION, "GOOD** moral character"
12 means that term as defined in and determined under 1974 PA 381, MCL
13 338.41 to 338.47, **AND THE RULES PROMULGATED UNDER THIS ACT.**

14 ~~—— (c) "Member of the household" means any individual, other than~~
15 ~~a foster child, who resides in a foster family home or foster~~
16 ~~family group home on an ongoing or recurrent basis.~~

17 Sec. 5b. (1) If a county juvenile agency as defined in section
18 2 of the county juvenile agency act, **1998 PA 518, MCL 45.622,**
19 certifies that it intends to contract with a license applicant as
20 provided in section ~~5(1),~~ **5(2),** the department shall review the
21 application and advise the applicant and the county juvenile agency
22 within 10 days after receiving the application what further
23 information or material is necessary to complete the application.

24 (2) If the department fails to issue or deny the license
25 within 60 days after receiving the information it determined was
26 necessary to complete the application, the county juvenile agency
27 or the applicant may bring an action for mandamus to require the

1 department to issue or deny the license.

2 (3) The county juvenile agency is a party for purposes of any
3 hearing, review, or other proceeding on a license application
4 described in this section or section ~~5(1)~~ **5(2)** for which the county
5 juvenile agency certifies to the department that it intends to
6 contract with the applicant. The county juvenile agency or
7 applicant may challenge the department's determination concerning
8 what further information or material is necessary to complete the
9 application.

10 ~~Sec. 6. Local and state government child care organizations~~
11 ~~similar to those nongovernmental organizations required to be~~
12 ~~licensed pursuant to this act shall be evaluated and approved at~~
13 ~~least once every 2 years, using this act and rules promulgated~~
14 ~~thereunder for similar nongovernmental organizations licensed under~~
15 ~~this act. A report of the evaluation **OR INSPECTION** shall be~~
16 furnished to the funding body for each **GOVERNMENTAL** child care
17 organization. Unless **GOVERNMENTAL** child care organizations ~~are~~
18 ~~approved, or provisionally approved, as meeting **CONTINUE TO MEET**~~
19 the appropriate **STATUTORY REQUIREMENTS AND** administrative rules,
20 state funds shall not be appropriated **OR PROVIDED** for their
21 continued operation.

22 Sec. 8a. (1) The department shall periodically assess a child
23 care organization's continued compliance with this act and the
24 rules promulgated under this act. The department shall make an on-
25 site evaluation of a child care organization at least once a year.

26 (2) The department may authorize a ~~licensed~~ child placing
27 agency or an ~~approved~~ governmental unit to periodically assess a

1 licensed foster family home or a licensed foster family group home
2 ~~pursuant to~~ **UNDER** subsection (1) and to certify that the foster
3 family home or the foster family group home continues to comply
4 with this act and the rules promulgated under this act. A periodic
5 assessment of a licensed foster family home or a licensed foster
6 family group home ~~pursuant to~~ **UNDER** this subsection may include an
7 on-site evaluation of the child care organization.

8 Sec. 8b. (1) Upon the recommendation of a local foster care
9 review board under section 7a of 1984 PA 422, MCL 722.137, or of a
10 child placing agency, the department may grant a variance to 1 or
11 more licensing rules or statutes regulating foster family homes or
12 foster family group homes to allow the child and 1 or more siblings
13 to remain or be placed together. If the department determines that
14 ~~such a~~ **THE** placement would be in the child's best interests and
15 that the variance from the particular licensing rules or statutes
16 would not jeopardize the health or safety of a child residing in
17 the foster family home or foster family group home, the department
18 may grant the variance.

19 (2) The department's grant of a variance does not change a
20 private home's licensure status.

21 Sec. 9. (1) A licensee, ~~or registrant,~~ ~~adult household member~~
22 **OF THE HOUSEHOLD**, licensee designee, chief administrator, or
23 program director of a child care organization shall not be present
24 in a child care organization if he or she has been convicted of
25 either of the following:

26 (a) Child abuse under section 136b of the Michigan penal code,
27 1931 PA 328, MCL 750.136b, or neglect under section 145 of the

1 Michigan penal code, 1931 PA 328, MCL 750.145.

2 (b) A felony involving harm or threatened harm to an
3 individual within the 10 years immediately preceding the date of
4 hire or appointment **OR OF BECOMING A MEMBER OF THE HOUSEHOLD.**

5 (2) A staff member or unsupervised volunteer shall not have
6 contact with children who are in the care of a child care
7 organization if he or she has been convicted of either of the
8 following:

9 (a) Child abuse under section 136b of the Michigan penal code,
10 1931 PA 328, MCL 750.136b, or neglect under section 145 of the
11 Michigan penal code, 1931 PA 328, MCL 750.145.

12 (b) A felony involving harm or threatened harm to an
13 individual within the 10 years immediately preceding the date of
14 hire or appointment.

15 (3) Except as provided in subsection (5), a licensee,
16 ~~registrant, adult household-member~~ **OF THE HOUSEHOLD**, licensee
17 designee, chief administrator, staff member, or unsupervised
18 volunteer may not have contact with a child who is in the care of a
19 child care organization, until the licensee, ~~registrant, adult~~
20 ~~household-member~~ **OF THE HOUSEHOLD**, licensee designee, chief
21 administrator, staff member, or volunteer provides the child care
22 organization with documentation from the department that he or she
23 has not been named in a central registry case as the perpetrator of
24 child abuse or child neglect. Upon request by the department, the
25 licensee, ~~registrant, adult household-member~~ **OF THE HOUSEHOLD**,
26 licensee designee, chief administrator, staff member, or
27 unsupervised volunteer shall provide the department with an updated

1 authorization for central registry clearance. If an updated central
2 registry clearance documents that a licensee, ~~registrant,~~ adult
3 ~~household member~~ **OF THE HOUSEHOLD**, licensee designee, chief
4 administrator, staff member, or unsupervised volunteer is named as
5 a perpetrator in a central registry case, he or she may not be
6 present in the child care organization. ~~A child care organization~~
7 ~~shall comply with this subsection not later than the date on which~~
8 ~~that child care organization's license or certificate of~~
9 ~~registration is issued or first renewed after the effective date of~~
10 ~~the 2010 amendatory act that amended this section.~~ As used in this
11 subsection **AND SUBSECTION (5)**, "child abuse" and "child neglect"
12 mean those terms as defined in section 2 of the child protection
13 law, 1975 PA 238, MCL 722.622.

14 (4) Each child care organization shall establish and maintain
15 a policy regarding supervision of volunteers including volunteers
16 who are parents of a child receiving care at the child care
17 organization.

18 (5) Staff members or unsupervised volunteers in children's
19 camps or children's campsites who are 21 years of age or older may
20 not have contact with a child who is in the care of a children's
21 camp until the staff member or volunteer provides the children's
22 camp with documentation from the department **OF HEALTH AND HUMAN**
23 **SERVICES** that he or she has not been named in a central registry
24 case as the perpetrator of child abuse or child neglect.

25 Sec. 10. (1) The department may investigate, **INSPECT**, and
26 examine conditions of a child care organization, ~~in which a~~
27 ~~licensee receives, maintains, or places out children,~~ and may

1 investigate and examine the books and records of the licensee. The
2 licensee shall admit members of the department and furnish all
3 reasonable facilities for thorough examination of its books,
4 records, and reports. The department, ~~of community health,~~ the
5 bureau of fire services, or local authorities, in carrying out the
6 provisions of this act, may visit a child care organization to
7 advise in matters affecting the health or fire protection of
8 children.

9 (2) A licensee shall keep the records the department
10 prescribes regarding each child in its control and care and shall
11 report to the department, when requested, the facts the department
12 requires with reference to the children upon forms furnished by the
13 department. Except as otherwise provided in this subsection,
14 records regarding children and facts compiled about children and
15 their parents and relatives are confidential and disclosure of this
16 information shall be properly safeguarded by the child care
17 organization, the department, and any other entity in possession of
18 the information. Records that are confidential under this section
19 are available to both of the following:

20 (a) A standing or select committee or appropriations
21 subcommittee of either house of the legislature having jurisdiction
22 over protective services matters for children, ~~pursuant to~~ **UNDER**
23 section 7 of the child protection law, 1975 PA 238, MCL 722.627.

24 (b) The children's ombudsman established in section 3 of the
25 children's ombudsman act, 1994 PA 204, MCL 722.923.

26 **(3) A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY**
27 **CHILD CARE HOME LICENSEE SHALL PROVIDE THE DEPARTMENT WITH CHILD**

1 INFORMATION CARDS FOR ALL CHILDREN PRESENTLY ENROLLED FOR CARE, AS
2 REQUESTED BY THE DEPARTMENT, WHENEVER THE DEPARTMENT INITIATES OR
3 CONDUCTS AN INVESTIGATION, INSPECTION, OR ASSESSMENT. IF THE
4 INVESTIGATION, INSPECTION, OR ASSESSMENT RESULTS IN THE DEPARTMENT
5 PURSUING DISCIPLINARY ACTION AS PROVIDED BY SECTION 11, THE CHILD
6 CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME
7 LICENSEE MUST PROVIDE THE DEPARTMENT WITH CHILD INFORMATION CARDS
8 FOR NEWLY ENROLLED CHILDREN FOR THE PENDENCY OF THE PROPOSED
9 DISCIPLINARY ACTION.

10 Sec. 11. (1) An original license shall not be granted under
11 this act if the issuance of the license would substantially
12 contribute to an excessive concentration of community residential
13 facilities within a city, village, township, or county of this
14 state.

15 (2) The department may deny, revoke, or refuse to renew a
16 license ~~or certificate of registration~~ of a child care organization
17 when the licensee ~~, registrant,~~ or applicant falsifies information
18 on the application or willfully and substantially violates this
19 act, the rules promulgated under this act, or the terms of the
20 license. ~~or certificate of registration. The department may modify~~
21 ~~to a provisional status a license of a child care organization when~~
22 ~~the licensee willfully and substantially violates this act, the~~
23 ~~rules promulgated under this act, or the terms of the license. A~~
24 license ~~or a certificate of registration~~ shall not be revoked, a
25 renewal of a license ~~or certificate of registration~~ shall not be
26 refused, OR an application for a license ~~or a certificate of~~
27 ~~registration~~ shall not be denied, ~~or a regular license shall not be~~

1 ~~modified to a provisional status unless the licensee, registrant,~~
2 or applicant is given notice in writing of the grounds of the
3 proposed revocation, denial, ~~modification,~~ or refusal. If
4 revocation, denial, ~~modification,~~ or refusal is appealed within 30
5 days after receipt of the notice by writing addressed to the
6 department director, the **DEPARTMENT** director or a ~~designated~~
7 ~~representative of the director~~ **HIS OR HER DESIGNEE** shall conduct a
8 hearing at which the licensee, ~~registrant,~~ or applicant may
9 present testimony and confront witnesses. **IF THE PROPOSED**
10 **REVOCATION, REFUSAL, OR DENIAL IS NOT APPEALED, THE LICENSE SHALL**
11 **BE REVOKED, THE LICENSE SHALL BE REFUSED RENEWAL, OR THE**
12 **APPLICATION SHALL BE DENIED. THE PROPOSED REVOCATION, REFUSAL, OR**
13 **DENIAL MUST BE APPEALED WITHIN 30 DAYS AFTER RECEIPT BY WRITING THE**
14 **DEPARTMENT DIRECTOR OR HIS OR HER DESIGNEE. UPON RECEIPT OF THE**
15 **WRITTEN APPEAL, THE DEPARTMENT DIRECTOR OR HIS OR HER DESIGNEE MUST**
16 **INITIATE THE PROVISIONS OF CHAPTERS 4 AND 5 OF THE ADMINISTRATIVE**
17 **PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.292.** Notice
18 of the hearing shall be given to the licensee, ~~registrant,~~ or
19 applicant by personal service or delivery to the proper address by
20 certified mail not less than 2 weeks before the date of the
21 hearing. The decision of the director shall be made ~~not more than~~
22 ~~30 days~~ **AS SOON AS PRACTICABLE** after the hearing, and forwarded to
23 the ~~protesting party~~ **LICENSEE OR APPLICANT** by certified mail not
24 more than 10 days after that. ~~If the proposed revocation, denial,~~
25 ~~modification, or refusal is not protested, the license or~~
26 ~~certificate of registration may be revoked or the application or~~
27 ~~the renewal of the license or certificate of registration~~

1 ~~refused.~~ **THE FORMAL NOTICE AND HEARING REQUIREMENTS IN THIS**
2 **SUBSECTION DO NOT APPLY IF THE LICENSEE OR APPLICANT AND THE**
3 **DEPARTMENT COMPLY WITH THE PROVISIONS OF SUBSECTION (7).**

4 (3) The department shall deny a license to a child caring
5 institution or foster family group home that does not comply with
6 section 206 of the Michigan zoning enabling act, 2006 PA 110, MCL
7 125.3206.

8 (4) The legislative body of a city, village, or township in
9 which a child caring institution or foster family group home is
10 located may file a complaint with the department to have the
11 organization's license suspended, denied, or revoked according to
12 the procedures outlined in this act and the rules promulgated under
13 this act. The department director shall resolve the issues of the
14 complaint within 45 days after the receipt of the complaint. Notice
15 of the resolution of the issues shall be mailed by certified mail
16 to the complainant and the licensee. Failure of the department
17 director to resolve the issues of the complaint within 45 days
18 after receipt of the complaint shall serve as a decision by the
19 director to suspend, deny, or revoke the organization's license. If
20 the decision to suspend, deny, or revoke the license or the
21 resolution of the issues is protested by written objection of the
22 complainant or licensee to the department director within 30 days
23 after the suspension, denial, or revocation of the license or the
24 receipt of the notice of resolution, the department director or a
25 designated representative of the director shall conduct a hearing
26 ~~pursuant~~ **ACCORDING** to the administrative procedures act of 1969,
27 1969 PA 306, MCL 24.201 to 24.328, at which the complainant and

1 licensee may present testimony and cross-examine witnesses. The
2 ~~department~~ director's decision shall be mailed by certified mail to
3 the complainant and the licensee. If the resolution of the issues
4 by the department director is not protested within 30 days after
5 receipt of the notice of the resolution, the resolution by the
6 department director is final.

7 (5) The department shall not issue **A LICENSE TO** or renew a
8 license ~~or certificate of registration~~ of a child care center,
9 group child care home, or family child care home if the **APPLICANT**
10 **OR** licensee ~~, registrant, or applicant~~ has had a previous license
11 or certificate of registration revoked **OR REFUSED RENEWAL OR AN**
12 **APPLICATION DENIED** due to a violation of this act, the rules
13 promulgated under this act, or the terms of the license or
14 certificate of registration that resulted in the ~~serious~~ **SEVERE**
15 **PHYSICAL** injury or death of a child while under its care.

16 (6) **THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO AN INDIVIDUAL**
17 **WHO WORKED IN A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY**
18 **CHILD CARE HOME AT THE TIME OF A VIOLATION OF THIS ACT, THE RULES**
19 **PROMULGATED UNDER THIS ACT, OR THE TERMS OF A LICENSE THAT RESULTED**
20 **IN THE SEVERE PHYSICAL INJURY OR DEATH OF A CHILD IF THE INDIVIDUAL**
21 **HAD DIRECT CARE AND SUPERVISION OF THAT CHILD AT THE TIME OF THE**
22 **VIOLATION.**

23 (7) **THE DEPARTMENT MAY IMMEDIATELY REVOKE OR REFUSE TO RENEW A**
24 **LICENSEE OR DENY AN APPLICATION FOR A LICENSE WITHOUT PROVIDING**
25 **WRITTEN NOTICE OF THE GROUNDS OF THE PROPOSED ACTION OR GIVING THE**
26 **LICENSEE OR APPLICANT 30 DAYS TO APPEAL IF THE LICENSEE OR**
27 **APPLICANT, IN WRITING, DOES ALL OF THE FOLLOWING:**

1 (A) WAIVES THE REQUIREMENT THAT THE DEPARTMENT PROVIDE WRITTEN
2 NOTICE OF THE GROUNDS FOR THE PROPOSED ACTION.

3 (B) WAIVES THE 30-DAY TIME FRAME IN WHICH TO SUBMIT A WRITTEN
4 APPEAL TO THE PROPOSED ACTION.

5 (C) WAIVES THE RIGHT TO IMPLEMENT THE PROVISIONS OF CHAPTERS 4
6 AND 5 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
7 MCL 24.271 TO 24.292.

8 (8) THE DIRECTOR OR HIS OR HER DESIGNEE MAY ISSUE A SUBPOENA
9 TO DO EITHER OF THE FOLLOWING:

10 (A) COMPEL THE ATTENDANCE OF A WITNESS TO TESTIFY AT A
11 CONTESTED CASE HEARING.

12 (B) PRODUCE BOOKS, PAPERS, DOCUMENTS, OR OTHER ITEMS RELEVANT
13 TO THE INVESTIGATION OR HEARING.

14 (9) IF A SUBPOENA IS DISOBEYED, THE DIRECTOR OR HIS OR HER
15 DESIGNEE MAY PETITION THE CIRCUIT COURT TO REQUIRE THE ATTENDANCE
16 OF A WITNESS OR THE PRODUCTION OF BOOKS, PAPERS, DOCUMENTS, OR
17 OTHER ITEMS. THE CIRCUIT COURT MAY ISSUE AN ORDER REQUIRING A
18 PERSON TO APPEAR AND GIVE TESTIMONY OR PRODUCE BOOKS, PAPERS,
19 DOCUMENTS, OR OTHER ITEMS. FAILURE TO OBEY THE ORDER OF THE CIRCUIT
20 COURT MAY BE PUNISHED BY THE COURT AS A CONTEMPT OF COURT.

21 (10) AS USED IN THIS SECTION:

22 (A) "SUBSTANTIALLY VIOLATES" MEANS REPEATED VIOLATIONS OR
23 NONCOMPLIANCE OF THIS ACT, A RULE PROMULGATED UNDER THIS ACT, OR
24 THE TERMS OF A LICENSE THAT JEOPARDIZES THE HEALTH, SAFETY, CARE,
25 TREATMENT, MAINTENANCE, OR SUPERVISION OF INDIVIDUALS RECEIVING
26 SERVICES OR, IN THE CASE OF AN APPLICANT, INDIVIDUALS WHO MAY
27 RECEIVE SERVICES.

1 (B) "WILLFULLY VIOLATES" MEANS, AFTER RECEIVING A COPY OF THE
2 ACT, THE RULES PROMULGATED UNDER THE ACT AND, FOR A LICENSE, A COPY
3 OF THE TERMS OF A LICENSE, OR A PREVIOUS CITATION FOR A VIOLATION
4 OF THIS ACT OR A RULE PROMULGATED UNDER THIS ACT, A LICENSEE OR AN
5 APPLICANT KNEW OR HAD REASON TO KNOW THAT HIS OR HER CONDUCT WAS A
6 VIOLATION OF THE ACT, RULES PROMULGATED UNDER THE ACT, OR THE TERMS
7 OF A LICENSE.

8 Sec. 11a. The director of the department shall notify the
9 clerk of the city, village, or township and the legislature of the
10 location of new and existing licensed child caring institution or
11 foster family group home within the boundaries of the cities,
12 villages, and townships in this state. The notification ~~for~~
13 ~~existing licensed organizations~~ shall be given ~~within 90 days after~~
14 ~~the effective date of this amendatory act and~~ within 30 days after
15 the licensing of a new organization.

16 SEC. 11C. (1) IN THE CASE OF A DISASTER, A CHILD CARE CENTER,
17 GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME MAY TEMPORARILY
18 OPERATE AT AN UNLICENSED LOCATION UNDER THIS SECTION. THE
19 REQUIREMENTS TO TEMPORARILY OPERATE AT AN UNLICENSED LOCATION UNDER
20 THIS SECTION ARE AS FOLLOWS:

21 (A) THE CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
22 CHILD CARE HOME CANNOT OPERATE IN A NEW LOCATION UNTIL AFTER THE
23 DEPARTMENT HAS CONDUCTED AN INSPECTION AND APPROVED THE NEW
24 LOCATION.

25 (B) FOR A CHILD CARE CENTER, A FIRE SAFETY INSPECTION, AN
26 ENVIRONMENTAL HEALTH INSPECTION, AND, IF NECESSARY, A LEAD HAZARD
27 RISK ASSESSMENT, AND, FOR A GROUP CHILD CARE HOME OR FAMILY CHILD

1 CARE HOME, AN ENVIRONMENTAL HEALTH INSPECTION, IF NECESSARY, ARE
2 CONDUCTED WITHIN 45 DAYS OF THE PROPOSAL OF THE NEW LOCATION. IF
3 ANY OF THE INSPECTIONS FIND THE NEW LOCATION TO BE UNSAFE, THE
4 CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME
5 MUST DISCONTINUE OPERATION IN THAT NEW LOCATION.

6 (2) IF THE CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
7 CHILD CARE HOME WILL REMAIN AT THE NEW LOCATION, THE LICENSEE MUST
8 APPLY FOR AND OBTAIN A NEW LICENSE WITHIN 1 YEAR OF MOVING TO THE
9 NEW LOCATION.

10 (3) THE DEPARTMENT SHALL DETERMINE WHAT CONSTITUTES A DISASTER
11 UNDER THIS SECTION.

12 Sec. 12. A person aggrieved by the decision of the director
13 following a hearing under section 7A OR 11 may ~~, within 30 days~~
14 ~~after receipt of the decision, take an appeal to the circuit court~~
15 ~~for the county in which the person resides by filing with the clerk~~
16 ~~of the court an affidavit setting forth the substance of the~~
17 ~~proceedings before the department and the errors of law upon which~~
18 ~~the person relies, and serving the director of the department with~~
19 ~~a copy of the affidavit. The circuit court shall have jurisdiction~~
20 ~~to hear and determine the questions of law involved in the appeal.~~
21 ~~If the department prevails, the circuit court shall affirm the~~
22 ~~decision of the department; if the licensee, registrant, or~~
23 ~~applicant prevails, the circuit court shall set aside the~~
24 ~~revocation, or order the issuance or renewal of the license or~~
25 ~~certificate of registration.~~ APPEAL AS PROVIDED IN CHAPTER 6 OF THE
26 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.301 TO
27 24.306.

1 Sec. 13. (1) ~~When there is a violation of this act or a rule~~
2 ~~promulgated thereunder, and the unlawful activity or condition of~~
3 ~~the child care organization is likely to result in serious harm to~~
4 ~~the children under care, the department may seek injunctive action~~
5 ~~against the child care organization in the circuit court through~~
6 ~~proceedings instituted by the attorney general on behalf of the~~
7 ~~department.~~ IF A PERSON CONTINUES TO VIOLATE A PROVISION OF THIS ACT
8 OR A RULE PROMULGATED UNDER THIS ACT AFTER BEING INFORMED BY THE
9 DEPARTMENT, THE DEPARTMENT MAY OBTAIN AN INJUNCTION TO RESTRAIN OR
10 PREVENT A PERSON FROM COMMITTING FURTHER VIOLATIONS.

11 (2) IF THE DEPARTMENT HAS CONDUCTED AN INVESTIGATION THAT
12 DISCLOSES AN IMMINENT THREAT TO THE PUBLIC HEALTH, SAFETY, OR
13 WELFARE, OR THE WELL-BEING OF A CHILD IS ENDANGERED, THE DEPARTMENT
14 MAY OBTAIN AN INJUNCTION TO RESTRAIN OR PREVENT A PERSON FROM
15 ACTING IN A MANNER THAT THREATENS THE PUBLIC HEALTH, SAFETY, OR
16 WELFARE, OR TO COMPEL A PERSON TO AFFIRMATIVELY TAKE REASONABLE
17 CORRECTIVE ACTION. BEFORE OBTAINING AN INJUNCTION AS PROVIDED BY
18 THIS SUBSECTION, THE DEPARTMENT MUST OBTAIN AN AFFIDAVIT BY A
19 PERSON FAMILIAR WITH THE FACTS SET FORTH IN THE AFFIDAVIT, OR, IF
20 APPROPRIATE, BASED UPON AN AFFIDAVIT, THAT AN IMMINENT THREAT TO
21 THE PUBLIC HEALTH, SAFETY, OR WELFARE EXISTS OR THE WELL-BEING OF A
22 CHILD IS ENDANGERED. THE APPROPRIATE DEPARTMENT IS NOT REQUIRED TO
23 PROVIDE PRIOR WARNING TO THE PERSON BEFORE OBTAINING AN INJUNCTION
24 UNDER THIS SECTION. THE APPROPRIATE DEPARTMENT IS NOT REQUIRED TO
25 DEMONSTRATE AN IMMINENT THREAT TO THE PUBLIC HEALTH, SAFETY, OR
26 WELFARE OR CHILD ENDANGERMENT IF THE PERSON IS OPERATING A CHILD
27 CARE ORGANIZATION WITHOUT A LICENSE IN VIOLATION OF THE DIRECTOR'S

1 FINAL ORDER ISSUED UNDER SECTION 11.

2 (3) IF THE DEPARTMENT IS SUCCESSFUL IN OBTAINING AN INJUNCTION
3 AS PROVIDED IN THIS SECTION, THE DEPARTMENT IS ENTITLED TO ACTUAL
4 COSTS AND ATTORNEY FEES FOR MAINTAINING THE ACTION.

5 Sec. 14. Only a parent, guardian of the person of a child, a
6 person related to a child by blood, marriage, or adoption, a
7 ~~licensed~~ child placing agency, or a governmental unit may place a
8 child in the control and care of a person. This section ~~shall~~ **DOES**
9 not ~~be construed to prevent~~ foster parents from placing foster
10 children in temporary care ~~pursuant~~ **ACCORDING** to rules promulgated
11 by the department.

12 Sec. 14a. (1) A probate court, a child placing agency, or the
13 department may consent to routine, nonsurgical medical care, or
14 emergency medical and surgical treatment of a minor child placed in
15 out-of-home care ~~pursuant to Act No. 280 of the Public Acts of~~
16 ~~1939, as amended, being sections 400.1 to 400.121 of the Michigan~~
17 ~~Compiled Laws, Act No. 288 of the Public Acts of 1939, as amended,~~
18 ~~being sections 710.21 to 712A.28 of the Michigan Compiled Laws,~~
19 **UNDER THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.1 TO 400.119B,**
20 **THE PROBATE CODE OF 1939, 1939 PA 288, MCL 710.21 TO 712B.41,** or
21 this act. If the minor child is placed in a child care
22 organization, ~~then~~ the probate court, the child placing agency, or
23 the department making the placement shall execute a written
24 instrument investing that organization with authority to consent to
25 emergency medical and surgical treatment of the child. The
26 department may also execute a written instrument investing a child
27 care organization with authority to consent to routine, nonsurgical

1 medical care of the child. If the minor child is placed in a child
2 care institution, the probate court, the child placing agency, or
3 the department making the placement shall in addition execute a
4 written instrument investing that institution with authority to
5 consent to the routine, nonsurgical medical care of the child.

6 (2) A parent or guardian of a minor child who voluntarily
7 places the child in a child care organization shall execute a
8 written instrument investing that organization with authority to
9 consent to emergency medical and surgical treatment of the child.
10 The parent or guardian shall consent to routine, nonsurgical
11 medical care.

12 (3) Only the minor child's parent or legal guardian shall
13 consent to nonemergency, elective surgery for a child in foster
14 care. If parental rights have been permanently terminated by court
15 action, consent for nonemergency, elective surgery shall be given
16 by the probate court or the agency having jurisdiction over the
17 child.

18 (4) As used in this section, "routine, nonsurgical medical
19 care" does not include contraceptive treatment, services,
20 medication or devices.

21 Sec. 14b. As used in this section and sections 14c and 14d:

22 (a) "Adoption attorney" means that term as defined in section
23 22 of the **MICHIGAN** adoption code, ~~being section 710.22 of the~~
24 ~~Michigan Compiled Laws.~~ **MCL 710.22.**

25 ~~— (b) "Adoption code" means chapter X of Act No. 288 of the~~
26 ~~Public Acts of 1939, being sections 710.21 to 710.70 of the~~
27 ~~Michigan Compiled Laws.~~

1 (B) ~~(e)~~ "Adoption facilitator" means a child placing agency or
2 an adoption attorney who assists biological parents or guardians or
3 prospective adoptive parents with adoptions ~~pursuant~~ **ACCORDING** to
4 the **MICHIGAN** adoption code.

5 (C) **"MICHIGAN ADOPTION CODE" MEANS CHAPTER X OF THE PROBATE**
6 **CODE OF 1939, 1939 PA 288, MCL 710.21 TO 710.70.**

7 (d) "Primary adoption facilitator" means the adoption
8 facilitator in an adoption who files the court documents on behalf
9 of the prospective adoptive parent.

10 (e) "Public information form" means a form described in
11 section 14d that is completed by a primary adoption facilitator and
12 maintained in a central clearinghouse by the department ~~of social~~
13 ~~services~~ for distribution ~~pursuant~~ **ACCORDING** to section 14d to
14 individuals seeking information about adoption.

15 Sec. 14c. (1) Not later than 10 days after the entry of an
16 order of adoption ~~pursuant to~~ **UNDER** section 56 of the **MICHIGAN**
17 adoption code, ~~being section 710.56 of the Michigan Compiled Laws,~~
18 **MCL 710.56**, the primary adoption facilitator for that adoption
19 shall file with the probate court a completed public information
20 form setting forth information including costs connected with the
21 adoption as prescribed by section 14d. The public information form
22 shall be authenticated by verification under oath by the primary
23 adoption facilitator, or, in the alternative, contain the following
24 statement immediately above the date and signature of the
25 facilitator: "I declare that this public information form has been
26 examined by me and that its contents are true to the best of my
27 information, knowledge, and belief."

1 (2) This section does not apply to a stepparent adoption; ~~7~~
2 the adoption of a child related to the petitioner within the fifth
3 degree by blood, marriage, or adoption; ~~7~~—or an adoption in which
4 the consent of a court or the department is required.

5 (3) Except as provided in subsection (2), this section applies
6 to adoptions in which the order of adoption under section 56 of the
7 **MICHIGAN** adoption code, **MCL 710.56**, is entered after ~~the effective~~
8 ~~date of this section,~~ **JULY 1, 1995**, including adoptions pending on
9 ~~the effective date of this section.~~ **JULY 1, 1995**.

10 Sec. 14d. (1) The department shall develop a public
11 information form for the reporting of the following nonconfidential
12 information:

13 (a) The name and address of the primary adoption facilitator.

14 (b) The type of adoption, as follows:

15 (i) Direct placement or agency placement.

16 (ii) Intrastate, interstate, or intercountry.

17 (c) The name of the agency and individual who performed the
18 preplacement assessment or the investigation required under section
19 46 of the **MICHIGAN** adoption code, ~~being section 710.46 of the~~
20 ~~Michigan Compiled Laws,~~ **MCL 710.46**, and the cost of the assessment
21 or investigation.

22 (d) The name of each individual who performed counseling
23 services for a biological parent, a guardian, or the adoptee; the
24 individual's agency affiliation, if any; the number of hours of
25 counseling performed; and the cost of that counseling.

26 (e) The name of each individual who performed counseling
27 services for an adoptive parent; ~~7~~—the individual's agency

1 affiliation, if any; ~~7~~the number of hours of counseling performed;
2 ~~7~~and the cost of that counseling.

3 (f) The total amount paid by an adoptive parent for hospital,
4 nursing, or pharmaceutical expenses incurred by a biological parent
5 or the adoptee in connection with the birth or any illness of the
6 adoptee.

7 (g) The total amount paid by an adoptive parent for a
8 biological mother's living expenses.

9 (h) The total amount paid by an adoptive parent for expenses
10 incurred in ascertaining the information required under section 27
11 of the **MICHIGAN** adoption code, ~~being section 710.27 of the Michigan~~
12 ~~Compiled Laws.~~ **MCL 710.27.**

13 (i) The name of any attorney representing an adoptive parent,
14 the number of hours of service performed in connection with the
15 adoption, and the total cost of the attorney's services performed
16 for the adoptive parent.

17 (j) The name of any attorney representing a biological parent,
18 the number of hours of service performed in connection with the
19 adoption, and the total cost of the attorney's services performed
20 for the biological parent.

21 (k) The name of any agency assisting a biological parent or
22 adoptive parent, and the cost of all services provided by the
23 agency other than services specifically described in subdivisions
24 (c), (d), and (e).

25 (l) The total amount paid by an adoptive parent for a
26 biological parent's travel expenses.

27 (m) Any fees or expenses sought but disallowed by the court.

1 (n) The total amount of all expenses connected with the
2 adoption that were paid for by the adoptive parent.

3 (o) An explanation of any special circumstances that made
4 costs of the adoption higher than would normally be expected.

5 (2) The public information form prescribed by subsection (1)
6 shall contain a detachable section for the reporting of all of the
7 following confidential information:

8 (a) The age, sex, and race of each biological parent.

9 (b) The age, sex, and race of the adoptee.

10 (c) The name, age, sex, and race of each adoptive parent.

11 (d) The county in which the final order of adoption was
12 entered.

13 (e) The county, state, and country of origin of the adoptee.

14 (f) The legal residence of biological parents.

15 (g) The legal residence of adoptive parents.

16 (h) The dates of the following actions related to the
17 adoption:

18 (i) The first contact of the birth parent with the primary
19 adoption facilitator.

20 (ii) The first contact of the adoptive parent with the primary
21 adoption facilitator.

22 (iii) The temporary placement, if applicable.

23 (iv) The formal placement.

24 (v) The order of the court finalizing the adoption.

25 (3) The department ~~of social services~~ shall distribute blank
26 public information forms to adoption facilitators, courts, and
27 other interested individuals and organizations.

1 (4) Beginning on July 1, 1995, the department ~~of social~~
2 ~~services~~ shall accept from the probate court of each county and
3 maintain in a central clearinghouse completed public information
4 forms for each adoption completed in this state. Upon the request
5 of an individual seeking information about adoption facilitators
6 serving a particular county or counties, the department shall send
7 the individual a list of all adoption facilitators serving that
8 county or those counties, the number of adoptions each person
9 facilitated in the county or counties during the preceding 12
10 months, and the fees the department charges for transmitting copies
11 of public information forms. Upon the individual's request for
12 public information forms for a particular adoption facilitator or
13 facilitators and payment of the required fees, the department shall
14 send the individual copies of the nonconfidential portions of the
15 public information forms completed by that adoption facilitator or
16 those adoption facilitators during the preceding 12 months. If the
17 number of adoptions facilitated by a particular adoption
18 facilitator in a particular county or counties is insufficient to
19 protect the confidentiality of the participants in an adoption, the
20 department shall send the nonconfidential portions of additional
21 public information forms for adoptions facilitated by that adoption
22 facilitator in earlier years or in other counties. The additional
23 forms required to protect confidentiality shall be sent without
24 charge to the individual requesting the information.

25 (5) If the department receives public information forms
26 completed by a probate register containing only the primary
27 adoption facilitator's name and confidential information, the

1 department shall send the nonconfidential portion of those public
2 information forms completed by the probate register in response to
3 an individual's request for public information forms for that
4 adoption facilitator.

5 (6) The department may charge a fee for transmitting public
6 information forms to individuals requesting them. The fee shall be
7 sufficient to reimburse the department for the costs of copying,
8 postage or facsimile, and labor.

9 Sec. 14e. (1) The legislature finds and declares all of the
10 following:

11 (a) When it is necessary for a child in this state to be
12 placed with an adoptive or foster family, placing the child in a
13 safe, loving, and supportive home is a paramount goal of this
14 state.

15 (b) As of ~~the effective date of the amendatory act that added~~
16 ~~this section,~~ **SEPTEMBER 9, 2015**, there are 105 licensed adoption
17 and foster care agencies in this state that are authorized to
18 participate in and assist families with adoption and foster parent
19 placements of children.

20 (c) Having as many possible qualified adoption and foster
21 parent agencies in this state is a substantial benefit to the
22 children of this state who are in need of these placement services
23 and to all of the citizens of this state because the more qualified
24 agencies taking part in this process, the greater the likelihood
25 that permanent child placement can be achieved.

26 (d) As of ~~the effective date of the amendatory act that added~~
27 ~~this section,~~ **SEPTEMBER 9, 2015**, the adoption and foster care

1 licensees of this state represent a broad spectrum of organizations
2 and groups, some of which are faith based and some of which are not
3 faith based.

4 (e) Private child placing agencies, including faith-based
5 child placing agencies, have the right to free exercise of religion
6 under both the state and federal constitutions. Under well-settled
7 principles of constitutional law, this right includes the freedom
8 to abstain from conduct that conflicts with an agency's sincerely
9 held religious beliefs.

10 (f) Faith-based and non-faith-based child placing agencies
11 have a long and distinguished history of providing adoption and
12 foster care services in this state.

13 (g) Children and families benefit greatly from the adoption
14 and foster care services provided by faith-based and non-faith-
15 based child placing agencies. Ensuring that faith-based child
16 placing agencies can continue to provide adoption and foster care
17 services will benefit the children and families who receive
18 publicly funded services.

19 (h) Under well-established ~~department~~ contracting practices **OF**
20 **THE DEPARTMENT**, a private child placing agency does not receive
21 public funding with respect to a particular child or particular
22 individuals referred by the department unless that agency
23 affirmatively accepts the referral.

24 (i) Under well-settled principles of constitutional law
25 distinguishing "private action" from "state action", a private
26 child placing agency does not engage in state action when the
27 agency performs private-adoption or direct-placement services.

1 Similarly, a private child placing agency does not engage in state
2 action relative to a referral for services under a contract with
3 the department before the agency accepts the referral.

4 (2) To the fullest extent permitted by state and federal law,
5 a child placing agency shall not be required to provide any
6 services if those services conflict with, or provide any services
7 under circumstances that conflict with, the child placing agency's
8 sincerely held religious beliefs contained in a written policy,
9 statement of faith, or other document adhered to by the child
10 placing agency.

11 (3) To the fullest extent permitted by state and federal law,
12 the state or a local unit of government shall not take an adverse
13 action against a child placing agency on the basis that the child
14 placing agency has declined or will decline to provide any services
15 that conflict with, or provide any services under circumstances
16 that conflict with, the child placing agency's sincerely held
17 religious beliefs contained in a written policy, statement of
18 faith, or other document adhered to by the child placing agency.

19 (4) If a child placing agency declines to provide any services
20 under subsection (2), the child placing agency shall provide in
21 writing information advising the applicant of the department's
22 website, the Michigan adoption resource exchange or similar
23 subsequently utilized websites, and a list of adoption or foster
24 care service providers with contact information and shall do at
25 least 1 of the following:

26 (a) Promptly refer the applicant to another child placing
27 agency that is willing and able to provide the declined services.

1 (b) Promptly refer the applicant to the webpage on the
2 department's website that identifies other licensed child placement
3 agencies.

4 (5) A child placing agency may assert a defense in an
5 administrative or judicial proceeding based on this section.

6 (6) If a child placing agency declines to provide any services
7 under subsection (2), the child placing agency's decision does not
8 limit the ability of another child placing agency to provide those
9 services.

10 (7) For the purpose of this section:

11 (a) "Adverse action" includes, but is not limited to, denying
12 a child placing agency's application for funding, refusing to renew
13 the child placing agency's funding, canceling the child placing
14 agency's funding, declining to enter into a contract with the child
15 placing agency, refusing to renew a contract with the child placing
16 agency, canceling a contract with the child placing agency,
17 declining to issue a license to the child placing agency, refusing
18 to renew the child placing agency's license, canceling the child
19 placing agency's license, taking an enforcement action against a
20 child placing agency, discriminating against the child placing
21 agency in regard to participation in a government program, and
22 taking any action that materially alters the terms or conditions of
23 the child placing agency's funding, contract, or license.

24 (b) "Services" includes any service that a child placing
25 agency provides, except foster care case management and adoption
26 services provided under a contract with the department.

27 Sec. 14f. (1) If the department makes a referral to a child

1 placing agency for foster care case management or adoption services
2 under a contract with the child placing agency, the child placing
3 agency may decide not to accept the referral if the services would
4 conflict with the child placing agency's sincerely held religious
5 beliefs contained in a written policy, statement of faith, or other
6 document adhered to by the child placing agency. Before accepting a
7 referral for services under a contract with the department, the
8 child placing agency has the sole discretion to decide whether to
9 engage in activities and perform services related to that referral.
10 The department shall not control the child placing agency's
11 decision whether to engage in those activities or perform those
12 services. For purposes of this subsection, a child placing agency
13 accepts a referral by doing either of the following:

14 (a) Submitting to the department a written agreement to
15 perform the services related to the particular child or particular
16 individuals that the department referred to the child placing
17 agency.

18 (b) Engaging in any other activity that results in the
19 department being obligated to pay the child placing agency for the
20 services related to the particular child or particular individuals
21 that the department referred to the child placing agency.

22 (2) The state or a local unit of government shall not take an
23 adverse action against a child placing agency on the basis that the
24 child placing agency has decided to accept or not accept a referral
25 under subsection (1).

26 (3) If a child placing agency decides not to accept a referral
27 under subsection (1), that occurrence shall not be a factor in

1 determining whether a placement in connection with the referral is
2 in the best interest of the child.

3 (4) A child placing agency may assert a defense in an
4 administrative or judicial proceeding based on this section.

5 (5) For the purpose of this section, "adverse action"
6 includes, but is not limited to, denying a child placing agency's
7 application for funding, refusing to renew the child placing
8 agency's funding, canceling the child placing agency's funding,
9 declining to enter into a contract with the child placing agency,
10 refusing to renew a contract with the child placing agency,
11 canceling a contract with the child placing agency, declining to
12 issue a license to the child placing agency, refusing to renew the
13 child placing agency's license, canceling the child placing
14 agency's license, taking an enforcement action against a child
15 placing agency, discriminating against the child placing agency in
16 regard to participation in a government program, and taking any
17 action that materially alters the terms or conditions of the child
18 placing agency's funding, contract, or license.

19 Sec. 15. (1) A person, child care organization, agency, or
20 representative or officer of a firm, **A** corporation, **AN** association,
21 or **AN** organization who violates this act is guilty of a
22 misdemeanor, punishable by the following:

23 (a) A fine of not less than \$100.00 or more than \$1,000.00 for
24 a violation of section 3b, 3c, or 3d.

25 (b) For a violation not described in subdivision (a), a fine
26 of not less than \$100.00 or more than \$1,000.00, or imprisonment
27 for not more than 90 days, or both.

1 (2) If a person, child care organization, agency, or
2 representative or officer of a firm, **A** corporation, **AN** association,
3 or **AN** organization is convicted under this act, the conviction is
4 sufficient ground for the revocation of its license, ~~or certificate~~
5 ~~of registration,~~ and the person, child care organization, agency,
6 or representative or officer of a firm, **A** corporation, **AN**
7 association, or **AN** organization convicted shall not be granted a
8 license, ~~or certificate of registration,~~ or be permitted to be
9 connected, directly or indirectly, with a licensee ~~or a registrant~~
10 for a period of not less than ~~2-5~~ years after the conviction.

11 (3) A person, child care organization, agency, or
12 representative or officer of a firm, **A** corporation, **AN** association,
13 or **AN** organization who has a license or certificate of registration
14 revoked, application denied, ~~or renewal refused,~~ **OR, BEFORE THE**
15 **EFFECTIVE DATE OF THE 2016 AMENDATORY ACT THAT AMENDED THIS**
16 **SUBSECTION, CERTIFICATE OF REGISTRATION REVOKED OR REFUSED RENEWAL**
17 **OR APPLICATION DENIED** may be refused a license, ~~or certificate of~~
18 ~~registration,~~ or be prohibited from being connected, directly or
19 indirectly, with a licensee ~~or a registrant~~ for a period of not
20 less than ~~2-5~~ years after the revocation, denial, or refusal to
21 renew. **THE DEPARTMENT, IN ITS DISCRETION, IS NOT REQUIRED TO ACCEPT**
22 **AN APPLICATION FROM A PERSON, CHILD CARE ORGANIZATION, AGENCY, OR**
23 **REPRESENTATIVE OR OFFICER OF A FIRM, A CORPORATION, AN ASSOCIATION,**
24 **OR AN ORGANIZATION DESCRIBED IN THIS SUBSECTION. THE DEPARTMENT MAY**
25 **REJECT THE APPLICATION ON ITS FACE WITHOUT TAKING FURTHER ACTION**
26 **AFTER NOTIFYING THE APPLICANT OF THE REJECTION AND THE REASON FOR**
27 **THE REJECTION.**

1 (4) AS USED IN THIS SECTION, "CERTIFICATE OF REGISTRATION"
2 MEANS THE WRITTEN DOCUMENT ISSUED PREVIOUSLY UNDER THIS ACT TO A
3 FAMILY CHILD CARE HOME THROUGH REGISTRATION.

4 Sec. 16. The department shall provide continuous education ~~of~~
5 TO the public in regard to the requirements of this act through the
6 ongoing use of mass media and other methods as are ~~deemed~~
7 **CONSIDERED** appropriate.

8 Enacting section 1. Sections 3d, 5f, and 9a of 1973 PA 116,
9 MCL 722.113d, 722.115f, and 722.119a, are repealed.

10 Enacting section 2. This amendatory act takes effect 90 days
11 after the date it is enacted into law.

12 Enacting section 3. This amendatory act does not take effect
13 unless all of the following bills of the 98th Legislature are
14 enacted into law:

15 (a) Senate Bill No. 1129.

16

17 (b) Senate Bill No. 1130.

18