

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 180

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 5c, 5d, 5e, 5g, 5h, 5i, 5j, 5k, and 5l (MCL 722.115c, 722.115d, 722.115e, 722.115g, 722.115h, 722.115i, 722.115j, 722.115k, and 722.115l), sections 5c and 5d as amended by 2010 PA 379, section 5e as added by 2005 PA 133, section 5g as amended by 2007 PA 217, sections 5h, 5i, 5j, and 5k as added by 2007 PA 218, and section 5l as added by 2008 PA 15, and by adding sections 5n, 5o, 5p, 5q, 5r, and 5s.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5c. (1) Except as provided in subsection ~~(8)~~, **(6)**, when a

1 person or partnership, or licensee designee if the applicant is a
 2 limited liability corporation, firm, corporation, association, ~~or~~
 3 nongovernmental organization, **OR GOVERNMENTAL ORGANIZATION** applies
 4 for ~~or applies to renew~~ a license for a child care organization
 5 under section 5, the department shall request the department of
 6 state police to perform ~~both of the following~~ **A CRIMINAL HISTORY**
 7 **CHECK** on the person, licensee designee, chief administrator, and
 8 program director of a child care organization. ÷

9 ~~— (a) Conduct a criminal history check on the person.~~

10 ~~— (b) Conduct a criminal records check through the federal~~
 11 ~~bureau of investigation on the person.~~

12 (2) ~~Except as provided in subsection (7), each~~ **EACH** person
 13 applying for a license to operate a child care organization shall
 14 give written consent at the time of the license application for the
 15 department of state police to conduct the criminal history check
 16 ~~and criminal records check~~ required under this section. The
 17 department shall require the person to submit his or her
 18 fingerprints to the department of state police **AND THE FEDERAL**
 19 **BUREAU OF INVESTIGATION** for the criminal history check ~~and criminal~~
 20 ~~records check~~ described in subsection (1).

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

24 (4) Within a reasonable time after receiving a complete
 25 request by the department for a criminal history check on a person
 26 under this section, the department of state police shall conduct
 27 the criminal history check and provide a report of the results to

1 the department. The report shall contain any criminal history
2 record information on the person maintained by the department of
3 state police **AND THE FEDERAL BUREAU OF INVESTIGATION.**

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

11 (5) ~~(6)~~—The department of state police may charge the
12 department a fee for a criminal history check ~~or a criminal records~~
13 ~~check~~ required under this section that does not exceed the actual
14 and reasonable cost of conducting the check. The department may
15 pass along to the licensee or applicant the actual cost or fee
16 charged by the department of state police, **THE FEDERAL BUREAU OF**
17 **INVESTIGATION, OR A VENDOR APPROVED BY THE DEPARTMENT OF STATE**
18 **POLICE** for performing a criminal history check ~~or a criminal~~
19 ~~records check~~ required under this section.

20 ~~—— (7) When a person, partnership, firm, corporation,~~
21 ~~association, or nongovernmental organization applies for or renews~~
22 ~~a license under section 5 for a child care center or day care~~
23 ~~center that is established and operated by an intermediate school~~
24 ~~board, the board of a local school district, or by the board or~~
25 ~~governing body of a state-approved nonpublic school, the criminal~~
26 ~~history check and criminal records check required under subsection~~
27 ~~(1) shall be performed in compliance with the provisions of~~

1 ~~sections 1230 to 1230h of the revised school code, 1976 PA 451, MCL~~
2 ~~380.1230 to 380.1230h. Before issuing or renewing a license to a~~
3 ~~child care center or day care center described in this subsection,~~
4 ~~the department shall verify that the intermediate school board, the~~
5 ~~board of a local school district, or the board or governing body of~~
6 ~~a state-approved nonpublic school has obtained the required~~
7 ~~criminal history checks and criminal records checks.~~

8 (6) ~~(8)~~—If a person, licensee designee, chief administrator,
9 or program director of a child care organization applying to renew
10 a license to operate a child care organization has previously
11 undergone a criminal history check ~~and criminal records check~~
12 required under subsection (1) and has remained continuously
13 licensed after the criminal history check ~~and criminal records~~
14 ~~check have~~ **HAS** been performed **AND SECTION 5K CONTINUES TO APPLY**,
15 that person, licensee designee, chief administrator, or program
16 director of a child care organization is not required to submit to
17 another criminal history check ~~or criminal records check~~ upon
18 renewal of the license obtained under section 5.

19 ~~— (9) As used in this section and sections 5, 5d, 5e, 5f, and~~
20 ~~5g:~~

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

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

25 Sec. 5d. (1) Before a child care organization makes an offer
26 of employment to a person or allows a person to regularly and
27 continuously work under contract at the child care organization,

1 the child care organization shall perform a criminal history
2 **BACKGROUND** check on that person using the department of state
3 police's internet criminal history access tool (ICHAT) or
4 equivalent check on that person from the state or province of
5 residence.

6 (2) If a search of the department of state police's ICHAT or
7 equivalent check on the person from the state or province of
8 residence reveals that the person described in subsection (1) has
9 been convicted of a listed offense, the child care organization
10 shall not make an offer of employment to that person or allow that
11 person to regularly and continuously work under contract at the
12 child care organization. If a search of the department of state
13 police's ICHAT reveals that a current employee has been convicted
14 of a listed offense, the child care organization shall not continue
15 to employ that person. If a search of the department of state
16 police's ICHAT or equivalent check on that person from the state or
17 province of residence reveals that a person who regularly and
18 continuously works under contract at the child care organization
19 has been convicted of a listed offense, the child care organization
20 shall not allow that person to regularly or continuously work under
21 contract at the child care organization.

22 ~~—— (3) Not later than 1 year after the effective date of the 2010~~
23 ~~amendatory act that amended this section, the child care~~
24 ~~organization shall conduct a criminal history check on all current~~
25 ~~employees using the department of state police's ICHAT or~~
26 ~~equivalent check on the person from the state or province of~~
27 ~~residence.~~

1 **(3)** ~~(4)~~—A child care organization may pass along the actual
 2 cost of a search of the department of state police's ICHAT or
 3 equivalent check on that person from the state or province of
 4 residence to the employee or applicant on whom the search is being
 5 performed.

6 Sec. 5e. (1) A child care center ~~or day care center licensee,~~
 7 **LICENSEE DESIGNEE, OR PROGRAM DIRECTOR, GROUP CHILD CARE HOME**
 8 **LICENSEE, AND FAMILY CHILD CARE HOME LICENSEE** shall report to the
 9 department and ~~an employee of a child care center or day care~~
 10 ~~center~~ **WITHIN 3 BUSINESS DAYS AFTER HE OR SHE HAS BEEN ARRAIGNED**
 11 **FOR OR CONVICTED OF 1 OR MORE OF THE CRIMES LISTED IN SECTION 5R.**

12 **(2) EXCEPT AS PROVIDED IN SUBSECTION (1), A CHILD CARE STAFF**
 13 **MEMBER** shall report to ~~that THE~~ child care center, ~~or day care~~
 14 ~~center~~ **GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME** within 3
 15 business days after he or she has been arraigned for **OR CONVICTED**
 16 **OF** 1 or more of the ~~following crimes~~ **÷LISTED IN SECTION 5R.**

17 ~~— (a) Any felony.~~

18 ~~— (b) Any of the following misdemeanors:~~

19 ~~— (i) Criminal sexual conduct in the fourth degree or an attempt~~
 20 ~~to commit criminal sexual conduct in the fourth degree.~~

21 ~~— (ii) Child abuse in the third or fourth degree or an attempt~~
 22 ~~to commit child abuse in the third or fourth degree.~~

23 ~~— (iii) A misdemeanor involving cruelty, torture, or indecent~~
 24 ~~exposure involving a child.~~

25 ~~— (iv) A misdemeanor violation of section 7410 of the public~~
 26 ~~health code, 1978 PA 368, MCL 333.7410.~~

27 ~~— (v) A violation of section 115, 141a, 145a, 335a, or 359 of~~

1 ~~the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,~~
 2 ~~750.145a, 750.335a, and 750.359, or a misdemeanor violation of~~
 3 ~~section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,~~
 4 ~~MCL 750.81, 750.81a, and 750.145d.~~

5 ~~—— (vi) A misdemeanor violation of section 701 of the Michigan~~
 6 ~~liquor control code of 1998, 1998 PA 58, MCL 436.1701.~~

7 ~~—— (vii) Any misdemeanor that is a listed offense.~~

8 ~~—— (c) A violation of a substantially similar law of another~~
 9 ~~state, of a political subdivision of this state or another state,~~
 10 ~~or of the United States.~~

11 **(3) A CHILD CARE CENTER LICENSEE, LICENSEE DESIGNEE, OR**
 12 **PROGRAM DIRECTOR, GROUP CHILD CARE HOME LICENSEE, AND FAMILY CHILD**
 13 **CARE HOME LICENSEE SHALL REPORT TO THE DEPARTMENT WITHIN 3 BUSINESS**
 14 **DAYS AFTER RECEIVING A REPORT FROM A CHILD CARE STAFF MEMBER UNDER**
 15 **SUBSECTION (2).**

16 **(4) A GROUP CHILD CARE HOME LICENSEE OR FAMILY CHILD CARE HOME**
 17 **LICENSEE SHALL REPORT TO THE DEPARTMENT WITHIN 3 BUSINESS DAYS**
 18 **AFTER HE OR SHE KNOWS OR SHOULD REASONABLY KNOW THAT A MEMBER OF**
 19 **THE HOUSEHOLD HAS BEEN ARRAIGNED FOR OR CONVICTED OF 1 OR MORE OF**
 20 **THE CRIMES LISTED IN SECTION 5R.**

21 **(5) ~~(2)~~—A person who violates subsection (1), (2), (3), OR (4)**
 22 **is guilty of a crime as follows:**

23 **(a) If the person violates subsection (1), (2), (3), OR (4)**
 24 **and the crime involved in the violation is a misdemeanor that is a**
 25 **listed offense or is a felony, the person is guilty of a felony**
 26 **punishable by imprisonment for not more than 2 years or a fine of**
 27 **not more than \$2,000.00, or both.**

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

6 (6) ~~(3)~~—The department shall delete from the licensee's
7 records all information relating to an arraignment required to be
8 reported under ~~subsection (1)~~ **THIS SECTION** if the department
9 receives documentation that the licensee **PERSON ARRAIGNED FOR THE**
10 **CRIME** is subsequently not convicted of any crime after the
11 completion of judicial proceedings resulting from that arraignment.

12 (7) ~~(4)~~—A child care center, ~~or day care center~~ **GROUP CHILD**
13 **CARE HOME, OR FAMILY CHILD CARE HOME** shall delete from the
14 ~~employee's~~ **CHILD CARE STAFF MEMBER'S** records all information
15 relating to an arraignment required to be reported under ~~subsection~~
16 ~~(1)~~ **THIS SECTION** if it receives documentation that the ~~employee~~
17 **CHILD CARE STAFF MEMBER** is subsequently not convicted of any crime
18 after the completion of judicial proceedings resulting from that
19 arraignment.

20 ~~—— (5) Not later than 30 days after the effective date of the~~
21 ~~amendatory act that added this section, the department shall inform~~
22 ~~all licensees and applicants for licenses of the requirement under~~
23 ~~this section to report when he or she is arraigned for certain~~
24 ~~crimes and the penalty for not reporting.~~

25 ~~—— (6) Not later than 30 days after the effective date of the~~
26 ~~amendatory act that added this section, a child care center or day~~
27 ~~care center shall inform all current employees and all persons who~~

~~1 work regularly and continuously under contract at the child care
2 center or day care center of the requirement under this section to
3 report when he or she is arraigned for certain crimes and the
4 penalty for not reporting.~~

~~5 (7) At the time a child care center or day care center makes
6 an offer of employment to a person or allows a person to regularly
7 and continuously work under contract at the child care center or
8 day care center, the child care center or day care center shall
9 notify that person of the requirement under this section to report
10 when he or she is arraigned for certain crimes and the penalty for
11 not reporting.~~

**12 (8) AT THE TIME A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR
13 FAMILY CHILD CARE HOME ALLOWS A PERSON TO BECOME A CHILD CARE STAFF
14 MEMBER, THE CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
15 CHILD CARE HOME SHALL NOTIFY THAT PERSON OF THE REQUIREMENT UNDER
16 THIS SECTION TO REPORT WHEN HE OR SHE IS ARRAIGNED FOR OR CONVICTED
17 OF CERTAIN CRIMES AND THE PENALTY FOR NOT REPORTING.**

~~18 Sec. 5g. (1) When a person applies for a certificate of
19 registration to operate a family child care home or a license to
20 operate a group child care home under section 5, the department
21 shall perform a criminal history check with the department of state
22 police on all persons over 18 years of age residing in the home in
23 which the family child care home or group child care home is
24 operated. This section does not apply to a person residing in the
25 home for a period of not more than 14 days.~~

~~26 (2) Not later than January 1, 2007, the department shall
27 perform a criminal history check on all persons over 18 years of~~

1 ~~age residing in the home in which a family child care home or group~~
 2 ~~child care home is currently operated.~~

3 ~~—— (3) If a criminal history check reveals~~ **THE DEPARTMENT BECOMES**
 4 **AWARE** that a ~~person over 18 years of age residing in the~~ **MEMBER OF**
 5 **THE HOUSEHOLD OF A GROUP CHILD CARE HOME OR FAMILY CHILD CARE** home
 6 has been convicted of a listed offense, the department shall not
 7 issue a ~~certificate of registration or license~~ to the applicant,
 8 shall not renew a ~~certificate of registration to the registrant or~~
 9 license to the licensee applying for renewal, or shall revoke a
 10 current ~~registrant's certificate of registration or current~~
 11 licensee's license.

12 Sec. 5h. (1) Except as provided in subsection ~~(7)~~, **(6)**, when a
 13 person applies for or to renew a license to operate a foster family
 14 home or foster family group home under this act, the department
 15 shall request the department of state police to perform ~~both of the~~
 16 ~~following~~ **A CRIMINAL HISTORY CHECK** on that person. ÷

17 ~~—— (a) Conduct a criminal history check on the person.~~

18 ~~—— (b) Conduct a criminal records check through the federal~~
 19 ~~bureau of investigation on the person.~~

20 (2) Each person applying for a license to operate a foster
 21 family home or foster family group home shall give written consent
 22 at the time of application for the department of state police to
 23 conduct a criminal history check ~~and a criminal records check~~
 24 required under this section. The department shall require the
 25 person to submit his or her fingerprints to the department of state
 26 police **AND THE FEDERAL BUREAU OF INVESTIGATION** for the criminal
 27 history check ~~and criminal records check~~ described in subsection

1 (1).

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

5 (4) Within a reasonable time after receiving a complete
6 request by the department for a criminal history check on a person
7 under this section, the department of state police shall conduct
8 the criminal history check and provide a report of the results to
9 the department. The report shall contain any criminal history
10 record information on the person maintained by the department of
11 state police **AND THE FEDERAL BUREAU OF INVESTIGATION.**

12 ~~— (5) Within a reasonable time after receiving a proper request~~
13 ~~by the department for a criminal records check on a person under~~
14 ~~this section, the department of state police shall initiate the~~
15 ~~criminal records check. After receiving the results of the criminal~~
16 ~~records check from the federal bureau of investigation, the~~
17 ~~department of state police shall provide a report of the results to~~
18 ~~the department.~~

19 (5) ~~(6)~~ The department of state police may charge the
20 department a fee for a criminal history check ~~or a criminal records~~
21 ~~check~~ required under this section that does not exceed the actual
22 and reasonable cost of conducting the check.

23 (6) ~~(7) Beginning January 1, 2008, if~~ **IF** a person applying to
24 renew a license to operate a foster family home or foster family
25 group home under this act has previously undergone a criminal
26 history check ~~and criminal records check~~ required under subsection
27 (1) and has continuously maintained a license to operate a foster

1 family home or foster family group home under this act after the
 2 criminal history check ~~and criminal records check have~~ **HAS** been
 3 performed, that person is not required to submit to another
 4 criminal history check ~~or criminal records check~~ upon renewal of
 5 the license obtained to operate a foster family home or foster
 6 family group home under this act.

7 ~~—— (8) The department shall provide written notice to all persons~~
 8 ~~currently issued a license to operate a foster family home or~~
 9 ~~foster family group home and all applicants applying for a license~~
 10 ~~to operate a foster family home or foster family group home, that~~
 11 ~~upon renewal all licensees will be required to submit fingerprints~~
 12 ~~and undergo a criminal history check and a criminal records check~~
 13 ~~before their licenses will be renewed. The notice provided under~~
 14 ~~this subsection shall include information to the licensee that he~~
 15 ~~or she may submit his or her fingerprints in advance of the time~~
 16 ~~his or her license is up for renewal.~~

17 Sec. 5i. (1) A person to whom a license to operate a foster
 18 family home or foster family group home has been issued under this
 19 act shall report to the department within 3 business days after he
 20 or she has been arraigned for **OR CONVICTED OF** 1 or more of the
 21 following crimes and within 3 business days after he or she knows
 22 or should reasonably know that a ~~person over 18 years of age~~
 23 ~~residing in the home~~ **AN ADULT MEMBER OF THE HOUSEHOLD** has been
 24 arraigned for **OR CONVICTED OF** 1 or more of the following crimes:

25 (a) Any felony.

26 (b) Any of the following misdemeanors:

27 (i) Criminal sexual conduct in the fourth degree or an attempt

1 to commit criminal sexual conduct in the fourth degree.

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

4 (iii) A misdemeanor involving cruelty, torture, or indecent
5 exposure involving a child.

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

8 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
9 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
10 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
11 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
12 MCL 750.81, 750.81a, and 750.145d.

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

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

16 (c) A violation of a substantially similar law of another
17 state, of a political subdivision of this state or another state,
18 or of the United States.

19 (2) A person who violates subsection (1) is guilty of a crime
20 as follows:

21 (a) If the person violates subsection (1) and the crime
22 involved in the violation is a misdemeanor that is a listed offense
23 or is a felony, the person is guilty of a felony punishable by
24 imprisonment for not more than 2 years or a fine of not more than
25 \$2,000.00, or both.

26 (b) If the person violates subsection (1) and the crime
27 involved in the violation is a misdemeanor that is not a listed

1 offense, the person is guilty of a misdemeanor punishable by
2 imprisonment for not more than 1 year or a fine of not more than
3 \$1,000.00, or both.

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

10 ~~———— (4) Not later than January 1, 2008, the department shall~~
11 ~~inform all persons currently issued a license to operate a foster~~
12 ~~family home or foster family group home and all applicants for a~~
13 ~~license to operate a foster family home or foster family group home~~
14 ~~of the requirement to report certain arraignments as required in~~
15 ~~this section and the penalty for not reporting those arraignments.~~

16 ~~———— (5) At the time the department issues a license to operate a~~
17 ~~foster family home or foster family group home under this act, the~~
18 ~~department shall notify the licensee of the requirement to report~~
19 ~~certain arraignments as required in this section and the penalty~~
20 ~~for not reporting those arraignments.~~

21 Sec. 5j. (1) When a person applies for or to renew a license
22 to operate a foster family home or foster family group home under
23 this act, the department shall perform a criminal history
24 **BACKGROUND** check with the department of state police on all persons
25 over 18 years of age residing in the home in which the foster
26 family home or foster family group home is operated. **ON AN ADULT**
27 **MEMBER OF THE HOUSEHOLD USING THE DEPARTMENT OF STATE POLICE'S**

1 **INTERNET CRIMINAL HISTORY ACCESS TOOL (ICHAT)**. This section does
 2 not apply to a person residing in the home for a period of not more
 3 than 14 days.

4 ~~—— (2) Not later than January 1, 2009, the department shall~~
 5 ~~perform a criminal history check with the department of state~~
 6 ~~police on all persons over 18 years of age residing in the home in~~
 7 ~~which a foster family home or foster family group home is currently~~
 8 ~~operated.~~

9 (2) ~~(3)~~ If a ~~criminal history check~~ **SEARCH OF THE DEPARTMENT**
 10 **OF STATE POLICE'S ICHAT** reveals that a person over 18 years of age
 11 ~~residing in the foster family home or foster family group home~~ **AN**
 12 **ADULT MEMBER OF THE HOUSEHOLD** has been convicted of a listed
 13 offense, the department shall not issue a license to the applicant,
 14 shall not renew a license to the licensee applying for renewal, or
 15 shall revoke a current licensee's license.

16 Sec. 5k. (1) The department of state police shall store and
 17 ~~maintain~~ **RETAIN** all fingerprints submitted under this act in an
 18 automated fingerprint identification system database that provides
 19 for an automatic notification at the time a subsequent criminal
 20 arrest fingerprint card submitted into the system matches a set of
 21 fingerprints previously submitted in accordance with this act. Upon
 22 ~~such~~ **THAT** notification, the department of state police shall
 23 immediately notify the department and the department shall
 24 immediately contact the respective child care center, ~~day care~~
 25 ~~center, family child care home, group child care home, licensed~~
 26 ~~child placing agency or approved governmental unit, foster family~~
 27 ~~home, or foster family group home~~ **ORGANIZATION** with which that

1 individual is associated. EXCEPT FOR CHILD PLACING AGENCIES, THE
2 CRIMINAL HISTORY RECORD INFORMATION SHALL ONLY BE RELEASED TO THE
3 INDIVIDUAL TO WHOM THE CRIMINAL HISTORY RECORD INFORMATION
4 PERTAINS. Information in the database ~~maintained~~ RETAINED under
5 this ~~subsection~~ SECTION is confidential, is not subject to
6 disclosure under the freedom of information act, 1976 PA 442, MCL
7 15.231 to 15.246, and shall not be disclosed to any person except
8 for purposes of this act or for law enforcement purposes.

9 (2) WHEN THE DEPARTMENT OF STATE POLICE IS ABLE TO PARTICIPATE
10 WITH THE FEDERAL BUREAU OF INVESTIGATION'S AUTOMATIC NOTIFICATION
11 SYSTEM SIMILAR TO THE SYSTEM ADMINISTERED BY THE DEPARTMENT OF
12 STATE POLICE UNDER SUBSECTION (1), ALL FINGERPRINTS SUBMITTED TO
13 THE FEDERAL BUREAU OF INVESTIGATION MAY BE STORED AND RETAINED.
14 WHEN A SUBSEQUENT CRIMINAL ARREST FINGERPRINT CARD SUBMITTED INTO
15 THE SYSTEM MATCHES A SET OF FINGERPRINTS FOR AN INDIVIDUAL RETAINED
16 IN ACCORDANCE WITH THIS ACT, THE DEPARTMENT OF STATE POLICE SHALL
17 IMMEDIATELY NOTIFY THE DEPARTMENT. THE DEPARTMENT SHALL IMMEDIATELY
18 CONTACT THE CHILD CARE ORGANIZATION WITH WHICH THE INDIVIDUAL IS
19 ASSOCIATED IF A CONVICTION RESULTS FROM THE ARREST. EXCEPT FOR
20 CHILD PLACING AGENCIES, THE CRIMINAL HISTORY RECORD INFORMATION
21 SHALL ONLY BE RELEASED TO THE INDIVIDUAL TO WHOM THE CRIMINAL
22 HISTORY RECORD INFORMATION PERTAINS.

23 Sec. 5l. (1) A PERSON ACTING IN GOOD FAITH WHO MAKES A REPORT,
24 COOPERATES IN AN INVESTIGATION, OR ASSISTS IN ANY OTHER REQUIREMENT
25 OF THIS ACT IS IMMUNE FROM CIVIL OR CRIMINAL LIABILITY THAT MIGHT
26 OTHERWISE BE INCURRED BY THAT ACTION. A PERSON MAKING A REPORT OR
27 ASSISTING IN ANY OTHER REQUIREMENT OF THIS ACT IS PRESUMED TO HAVE

1 ACTED IN GOOD FAITH. THIS IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY
2 EXTENDS ONLY TO AN ACT PERFORMED ACCORDING TO THIS ACT FOR
3 REPORTING A POTENTIAL VIOLATION OR ASSISTING OR COOPERATING WITH
4 THE DEPARTMENT IN AN INVESTIGATION CONDUCTED BY THE DEPARTMENT.

5 (2) EXCEPT AS PROVIDED IN SECTION 10(3), THE IDENTITY OF A
6 PERSON MAKING A REPORT AND COOPERATING WITH OR ASSISTING THE
7 DEPARTMENT RELATIVE TO THAT REPORT UNDER THIS ACT IS CONFIDENTIAL,
8 SUBJECT ONLY TO DISCLOSURE WITH THE CONSENT OF THAT PERSON OR BY
9 JUDICIAL PROCESS.

10 (3) IF THE DEPARTMENT RECEIVES A COMPLAINT BY AN INDIVIDUAL
11 REMAINING ANONYMOUS, THE DEPARTMENT MAY TAKE NO ACTION ON THE
12 COMPLAINT IF THE COMPLAINT DOES NOT INCLUDE SUFFICIENT INFORMATION
13 TO REASONABLY INVESTIGATE.

14 (4) A person who intentionally makes a false report to the
15 department regarding a child care organization that causes the
16 department to initiate a special investigation **THAT THE DEPARTMENT**
17 **CLASSIFIES AS HIGH-RISK** for which the child care organization is
18 required to send notice under section 3f is guilty of a crime as
19 follows:

20 (a) If the incident reported would not constitute a crime or
21 would constitute a misdemeanor if the report were true, the person
22 is guilty of a misdemeanor punishable by imprisonment for not more
23 than 93 days or a fine of not more than \$100.00, or both.

24 (b) If the incident reported would constitute a felony if the
25 report were true, the person is guilty of a felony punishable by
26 the lesser of the following:

27 (i) The penalty for the incident falsely reported.

1 (ii) Imprisonment for not more than 4 years or a fine of not
2 more than \$5,000.00, or both.

3 SEC. 5N. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (13),
4 WHEN A PERSON, PARTNERSHIP, FIRM, CORPORATION, ASSOCIATION,
5 GOVERNMENTAL ORGANIZATION, OR NONGOVERNMENTAL ORGANIZATION APPLIES
6 FOR OR APPLIES TO RENEW A LICENSE TO OPERATE A CHILD CARE CENTER,
7 GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME UNDER SECTION 5M
8 AND BEFORE A GROUP CHILD CARE HOME OR FAMILY CHILD CARE HOME ALLOWS
9 AN INDIVIDUAL TO BE A MEMBER OF THE HOUSEHOLD, OR A CHILD CARE
10 CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME ALLOWS AN
11 INDIVIDUAL TO BECOME A CHILD CARE STAFF MEMBER, THE DEPARTMENT
12 SHALL DO ALL OF THE FOLLOWING:

13 (A) REVIEW ITS DATABASE OF INDIVIDUALS WITH PREVIOUS
14 DISCIPLINARY ACTION WITHIN A CHILD CARE CENTER, GROUP CHILD CARE
15 HOME, OR FAMILY CHILD CARE HOME OR AN ADULT FOSTER CARE FACILITY.

16 (B) CONDUCT A SEARCH OF THE INDIVIDUAL THROUGH THE NATIONAL
17 SEX OFFENDER REGISTRY.

18 (C) REQUEST A SEARCH OF THE INDIVIDUAL THROUGH ALL STATE
19 CRIMINAL REGISTRIES OR REPOSITORIES FOR ANY STATES OF RESIDENCE IN
20 THE PAST 5 YEARS.

21 (D) REQUEST THAT THE DEPARTMENT OF STATE POLICE PERFORM A
22 CRIMINAL HISTORY CHECK ON THE INDIVIDUAL, CHILD CARE STAFF MEMBER,
23 OR ADULT MEMBER OF THE HOUSEHOLD.

24 (2) IF THE INDIVIDUAL, CHILD CARE STAFF MEMBER, OR ADULT
25 MEMBER OF THE HOUSEHOLD HAS RESIDED OUT OF THE UNITED STATES WITHIN
26 THE PRECEDING 5 YEARS, EQUIVALENT CLEARANCES OF THOSE DESCRIBED IN
27 SUBSECTION (1) (B) AND (D) AND SECTION 5Q FROM EACH COUNTRY MUST BE

1 PROVIDED, IF AVAILABLE. IF THE COUNTRY DOES NOT HAVE THE EQUIVALENT
2 CLEARANCE, THE INDIVIDUAL MUST SIGN A SELF-CERTIFYING STATEMENT
3 THAT HE OR SHE IS NOT INELIGIBLE TO RECEIVE A LICENSE, TO BE AN
4 ADULT MEMBER OF THE HOUSEHOLD, OR TO BE A CHILD CARE STAFF MEMBER
5 AS PRESCRIBED BY SECTIONS 5Q AND 5R. AN INDIVIDUAL WHO PROVIDES OR
6 IS DETERMINED TO HAVE PROVIDED FALSE INFORMATION OR KNOWINGLY OMITTS
7 INFORMATION IN THE SELF-CERTIFICATION STATEMENT IS INELIGIBLE FOR
8 THAT APPLICATION.

9 (3) EACH INDIVIDUAL LISTED IN SUBSECTION (1) SHALL GIVE
10 WRITTEN CONSENT AT THE TIME OF THE LICENSE APPLICATION AND BEFORE A
11 GROUP CHILD CARE HOME OR FAMILY CHILD CARE HOME ALLOWS AN
12 INDIVIDUAL TO BE A MEMBER OF THE HOUSEHOLD, OR BEFORE BECOMING A
13 CHILD CARE STAFF MEMBER TO ALLOW THE DEPARTMENT OF STATE POLICE TO
14 CONDUCT THE CRIMINAL HISTORY CHECK REQUIRED UNDER SUBSECTION (1).
15 THE DEPARTMENT SHALL REQUIRE THE INDIVIDUAL TO SUBMIT HIS OR HER
16 FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE AND THE FEDERAL
17 BUREAU OF INVESTIGATION FOR THE CRIMINAL HISTORY CHECK AS REQUIRED
18 IN SUBSECTION (1).

19 (4) THE DEPARTMENT SHALL REQUEST A CRIMINAL HISTORY CHECK
20 REQUIRED UNDER THIS SECTION ON A FORM AND IN THE MANNER PRESCRIBED
21 BY THE DEPARTMENT OF STATE POLICE.

22 (5) WITHIN A REASONABLE TIME AFTER RECEIVING A COMPLETE
23 REQUEST FOR A CRIMINAL HISTORY CHECK ON A PERSON UNDER THIS
24 SECTION, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT THE CRIMINAL
25 HISTORY CHECK AND PROVIDE A REPORT OF THE RESULTS TO THE
26 DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY RECORD
27 INFORMATION ON THE PERSON MAINTAINED BY THE DEPARTMENT OF STATE

1 POLICE AND THE FEDERAL BUREAU OF INVESTIGATION.

2 (6) THE DEPARTMENT OF STATE POLICE MAY CHARGE THE DEPARTMENT A
3 FEE FOR A CRIMINAL HISTORY CHECK REQUIRED UNDER THIS SECTION THAT
4 DOES NOT EXCEED THE ACTUAL AND REASONABLE COST OF CONDUCTING THE
5 CHECK. THE DEPARTMENT MAY PASS ALONG TO THE INDIVIDUAL
6 FINGERPRINTED THE ACTUAL COST OR FEE CHARGED BY THE DEPARTMENT OF
7 STATE POLICE, THE FEDERAL BUREAU OF INVESTIGATION, OR A VENDOR
8 APPROVED BY THE DEPARTMENT OF STATE POLICE FOR PERFORMING A
9 CRIMINAL HISTORY CHECK REQUIRED UNDER THIS SECTION.

10 (7) THE DEPARTMENT SHALL PROVIDE WHETHER THE INDIVIDUAL IS
11 ELIGIBLE OR INELIGIBLE AS PROVIDED BY SECTIONS 5Q AND 5R WITHIN 45
12 DAYS AFTER THE DATE ON WHICH THE REQUEST WAS SUBMITTED.

13 (8) THE INDIVIDUAL MAY SERVE AS A CHILD CARE STAFF MEMBER
14 PENDING THE RESULTS OF THE RECORD AND DATABASE CHECKS REQUIRED BY
15 THIS SECTION AND SECTION 5Q IF THE INDIVIDUAL IS SUPERVISED AT ALL
16 TIMES.

17 (9) WITHIN 45 DAYS AFTER THE DATE ON WHICH THE REQUEST WAS
18 SUBMITTED, THE DEPARTMENT SHALL PROVIDE A STATEMENT TO THE CHILD
19 CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME THAT
20 INDICATES WHETHER THE INDIVIDUAL IS ELIGIBLE OR INELIGIBLE TO BE, A
21 LICENSEE, AN ADULT MEMBER OF THE HOUSEHOLD, OR A CHILD CARE STAFF
22 MEMBER AS PROVIDED UNDER SECTIONS 5Q AND 5R WITHOUT REVEALING ANY
23 DISQUALIFYING CRIME OR OTHER RELATED INFORMATION REGARDING THE
24 INDIVIDUAL.

25 (10) IF THE INDIVIDUAL IS INELIGIBLE DUE TO THE RECORDS OR
26 DATABASE CHECKS REQUIRED UNDER THIS SECTION AND SECTION 5Q, THE
27 DEPARTMENT SHALL PROVIDE INFORMATION RELATED TO EACH DISQUALIFYING

1 ITEM IN A REPORT TO THE INDIVIDUAL WHO HAS BEEN DETERMINED
2 INELIGIBLE.

3 (11) AN INDIVIDUAL WHO HAS BEEN DETERMINED TO BE INELIGIBLE AS
4 PROVIDED UNDER SECTIONS 5Q AND 5R MAY REQUEST A REDETERMINATION BY
5 THE DEPARTMENT IF HE OR SHE BELIEVES THAT THE BASIS FOR THE
6 INELIGIBLE DETERMINATION IS INACCURATE. THE INDIVIDUAL SHALL FILE
7 THE REQUEST FOR REDETERMINATION WITH THE DEPARTMENT WITHIN 30
8 CALENDAR DAYS AFTER RECEIVING THE WRITTEN NOTICE THAT HE OR SHE WAS
9 DETERMINED TO BE INELIGIBLE. IF AN INDIVIDUAL HAS BEEN DETERMINED
10 TO BE INELIGIBLE BASED UPON A CONVICTION THAT HAS BEEN EXPUNGED OR
11 SET ASIDE OR A CENTRAL REGISTRY CASE THAT HAS BEEN EXPUNGED, THE
12 INDIVIDUAL SHALL PROVIDE THE SUPPORTING COURT, LAW ENFORCEMENT, OR
13 DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR EQUIVALENT DEPARTMENT
14 FROM ANOTHER STATE, DOCUMENTS ALONG WITH THE REQUEST FOR
15 REDETERMINATION. THE INDIVIDUAL SHALL NOT BE DETERMINED TO BE
16 INELIGIBLE BASED UPON A CONVICTION THAT HAS BEEN SET ASIDE OR
17 EXPUNGED OR A CENTRAL REGISTRY CASE THAT HAS BEEN EXPUNGED. THE
18 DEPARTMENT SHALL REVIEW THE REQUEST AND ISSUE A WRITTEN DECISION
19 WITHIN 30 BUSINESS DAYS AFTER RECEIVING THE REQUEST FOR
20 REDETERMINATION. THE DECISION OF THE DEPARTMENT IS FINAL.

21 (12) EACH INELIGIBLE INDIVIDUAL SHALL BE GIVEN INSTRUCTIONS
22 ABOUT HOW TO COMPLETE THE REQUEST FOR REDETERMINATION PROCESS AS
23 PROVIDED IN SUBSECTION (11).

24 (13) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, NOT
25 LATER THAN SEPTEMBER 30, 2017, EVERY CHILD CARE CENTER LICENSEE,
26 GROUP CHILD CARE HOME LICENSEE, FAMILY CHILD CARE HOME LICENSEE,
27 CHILD CARE STAFF MEMBER, AND ADULT MEMBER OF THE HOUSEHOLD SHALL

1 SUBMIT HIS OR HER FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE
2 AND THE FEDERAL BUREAU OF INVESTIGATION IN ORDER TO CARRY OUT THE
3 RECORDS AND DATABASE CHECKS REQUIRED UNDER THIS SECTION AND SECTION
4 5Q. IF THE DEPARTMENT OF EDUCATION OBTAINS AN EXTENSION ON THE
5 IMPLEMENTATION OF THIS PROGRAM FROM THE FEDERAL GOVERNMENT, THE
6 PROVISIONS OF THIS SECTION MAY BE IMPLEMENTED NO LATER THAN
7 SEPTEMBER 30, 2018.

8 (14) IF A LICENSEE, LICENSEE DESIGNEE, OR PROGRAM DIRECTOR OF
9 A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE
10 HOME APPLYING FOR A NEW LICENSE OR TO RENEW A LICENSE TO OPERATE A
11 CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME
12 HAS PREVIOUSLY UNDERGONE A CRIMINAL HISTORY CHECK REQUIRED UNDER
13 SUBSECTIONS (1) AND (13) AND HAS REMAINED CONTINUOUSLY LICENSED
14 AFTER THE CRIMINAL HISTORY CHECK HAS BEEN PERFORMED, THAT LICENSEE,
15 LICENSEE DESIGNEE, OR PROGRAM DIRECTOR OF A CHILD CARE CENTER,
16 GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME IS NOT REQUIRED TO
17 SUBMIT TO ANOTHER CRIMINAL HISTORY CHECK UPON RENEWAL OF, OR
18 APPLICATION FOR, THE LICENSE OBTAINED UNDER THIS ACT.

19 (15) UPON CONSENT OF AN APPLICANT AS REQUIRED IN SUBSECTION
20 (3) AND UPON REQUEST FROM A CHILD CARE CENTER, GROUP CHILD CARE
21 HOME, OR FAMILY CHILD CARE HOME, THE DEPARTMENT SHALL REVIEW THE
22 INFORMATION RECEIVED FROM THE CRIMINAL HISTORY CHECK, IF ANY, AND
23 NOTIFY THE REQUESTING CHILD CARE CENTER, GROUP CHILD CARE HOME, OR
24 FAMILY CHILD CARE HOME OF THE INFORMATION IN THE MANNER PRESCRIBED
25 IN SUBSECTION (7). UNTIL THE FEDERAL BUREAU OF INVESTIGATION
26 IMPLEMENTS AN AUTOMATIC NOTIFICATION SYSTEM AS OUTLINED IN SECTION
27 5K, A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD

1 CARE HOME MAY RELY ON THE CRIMINAL HISTORY RECORD INFORMATION
2 PROVIDED BY THE DEPARTMENT UNDER THIS SUBSECTION AND A NEW REQUEST
3 AS PROVIDED UNDER THIS SECTION IS NOT NECESSARY IF ALL OF THE
4 FOLLOWING REQUIREMENTS ARE MET:

5 (A) THE CRIMINAL HISTORY CHECK WAS CONDUCTED DURING THE
6 IMMEDIATELY PRECEDING 5-YEAR PERIOD.

7 (B) THE APPLICANT HAS BEEN CONTINUOUSLY EMPLOYED BY A CHILD
8 CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME SINCE
9 THE CRIMINAL HISTORY CHECK WAS CONDUCTED IN COMPLIANCE WITH THIS
10 SECTION.

11 (C) THE APPLICANT CAN PROVIDE EVIDENCE ACCEPTABLE TO THE
12 DEPARTMENT THAT HE OR SHE HAS BEEN A RESIDENT OF THIS STATE FOR THE
13 IMMEDIATELY PRECEDING 5-YEAR PERIOD.

14 (16) THE CHECKS AND CLEARANCES REQUIRED IN SUBSECTION (1) (A)
15 TO (C) AND SECTION 5Q SHALL BE UPDATED AT LEAST EVERY 5 YEARS IF
16 THE INDIVIDUAL HAS BEEN CONTINUOUSLY LICENSED, HAS CONTINUOUSLY
17 BEEN SERVING AS A CHILD CARE STAFF MEMBER, OR HAS CONTINUOUSLY BEEN
18 AN ADULT MEMBER OF THE HOUSEHOLD.

19 SEC. 5o. (1) EXCEPT AS PROVIDED IN SECTION 5N(14), THE
20 DEPARTMENT SHALL NOT ISSUE A LICENSE TO OPERATE A CHILD CARE
21 CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME UNDER THIS
22 ACT WITHOUT REQUESTING A CRIMINAL HISTORY CHECK AS REQUIRED BY
23 SECTION 5N.

24 (2) IF A CRIMINAL HISTORY CHECK PERFORMED UNDER SECTION 5N OR
25 INFORMATION OBTAINED AS A RESULT OF NOTIFICATION FROM THE
26 DEPARTMENT OF STATE POLICE UNDER SECTION 5K REVEALS THAT AN
27 APPLICANT FOR A LICENSE TO OPERATE A CHILD CARE CENTER UNDER THIS

1 ACT HAS BEEN CONVICTED OF A CRIME AS DESCRIBED IN SECTION 5R, THE
2 DEPARTMENT SHALL NOT ISSUE A LICENSE TO THAT APPLICANT.

3 (3) IF A CRIMINAL HISTORY CHECK PERFORMED UNDER SECTION 5N OR
4 INFORMATION OBTAINED AS A RESULT OF NOTIFICATION FROM THE
5 DEPARTMENT OF STATE POLICE UNDER SECTION 5K REVEALS THAT AN
6 APPLICANT FOR RENEWAL OF A LICENSE TO OPERATE A CHILD CARE CENTER
7 UNDER THIS ACT HAS BEEN CONVICTED OF A CRIME AS DESCRIBED IN
8 SECTION 5R, THE DEPARTMENT SHALL NOT RENEW THAT LICENSE.

9 (4) IF A CRIMINAL HISTORY CHECK PERFORMED UNDER SECTION 5N OR
10 INFORMATION OBTAINED AS A RESULT OF NOTIFICATION FROM THE
11 DEPARTMENT OF STATE POLICE UNDER SECTION 5K REVEALS THAT A CURRENT
12 CHILD CARE CENTER LICENSEE HAS BEEN CONVICTED OF A CRIME AS
13 DESCRIBED IN SECTION 5R, THE DEPARTMENT SHALL REVOKE THE LICENSE OF
14 THAT LICENSEE.

15 (5) IF A CRIMINAL HISTORY CHECK PERFORMED UNDER SECTION 5N OR
16 INFORMATION OBTAINED AS A RESULT OF NOTIFICATION FROM THE
17 DEPARTMENT OF STATE POLICE UNDER SECTION 5K REVEALS THAT AN
18 APPLICANT FOR A LICENSE TO OPERATE A GROUP CHILD CARE HOME OR
19 FAMILY CHILD CARE HOME UNDER THIS ACT OR AN ADULT MEMBER OF THE
20 HOUSEHOLD HAS BEEN CONVICTED OF A CRIME AS DESCRIBED IN SECTION 5R,
21 THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO THAT APPLICANT.

22 (6) IF A CRIMINAL HISTORY CHECK PERFORMED UNDER SECTION 5N OR
23 INFORMATION OBTAINED AS A RESULT OF NOTIFICATION FROM THE
24 DEPARTMENT OF STATE POLICE UNDER SECTION 5K REVEALS THAT AN
25 APPLICANT FOR RENEWAL OF A LICENSE TO OPERATE A GROUP CHILD CARE
26 HOME OR FAMILY CHILD CARE HOME UNDER THIS ACT OR AN ADULT MEMBER OF
27 THE HOUSEHOLD HAS BEEN CONVICTED OF A CRIME AS DESCRIBED IN SECTION

1 5R, THE DEPARTMENT SHALL NOT RENEW A LICENSE TO THAT APPLICANT.

2 (7) IF A CRIMINAL HISTORY CHECK PERFORMED UNDER SECTION 5N OR
3 INFORMATION OBTAINED AS A RESULT OF NOTIFICATION FROM THE
4 DEPARTMENT OF STATE POLICE UNDER SECTION 5K REVEALS THAT A CURRENT
5 GROUP CHILD CARE HOME OR FAMILY CHILD CARE HOME LICENSEE UNDER THIS
6 ACT OR AN ADULT MEMBER OF THE HOUSEHOLD HAS BEEN CONVICTED OF A
7 CRIME AS DESCRIBED IN SECTION 5R, THE DEPARTMENT SHALL REVOKE THAT
8 LICENSEE'S LICENSE.

9 SEC. 5P. (1) EXCEPT AS PROVIDED IN SECTION 5N(14) AND (15), A
10 CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME
11 SHALL NOT ALLOW AN INDIVIDUAL TO BE A CHILD CARE STAFF MEMBER
12 WITHOUT REQUESTING A CRIMINAL HISTORY CHECK AS REQUIRED BY SECTION
13 5N.

14 (2) IF A CRIMINAL HISTORY CHECK PERFORMED UNDER SECTION 5N OR
15 INFORMATION OBTAINED AS A RESULT OF NOTIFICATION FROM THE
16 DEPARTMENT OF STATE POLICE UNDER SECTION 5K REVEALS THAT A
17 POTENTIAL OR CURRENT CHILD CARE STAFF MEMBER HAS BEEN CONVICTED OF
18 A CRIME AS DESCRIBED IN SECTION 5R, THE DEPARTMENT SHALL NOTIFY THE
19 CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE
20 HOME. THE CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD
21 CARE HOME SHALL NOT ALLOW THE INDIVIDUAL TO BE A CHILD CARE STAFF
22 MEMBER.

23 SEC. 5Q. (1) EXCEPT AS PROVIDED IN SECTION 5N(8), A LICENSEE,
24 CHILD CARE STAFF MEMBER, OR ADULT MEMBER OF THE HOUSEHOLD MAY NOT
25 HAVE CONTACT WITH A CHILD WHO IS IN THE CARE OF A CHILD CARE
26 CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME, UNTIL THE
27 DEPARTMENT OBTAINS DOCUMENTATION FROM THE DEPARTMENT OF HEALTH AND

1 HUMAN SERVICES THAT HE OR SHE HAS NOT BEEN NAMED IN A CENTRAL
2 REGISTRY CASE AS THE PERPETRATOR OF CHILD ABUSE OR CHILD NEGLECT.
3 UPON REQUEST BY THE DEPARTMENT, THE LICENSEE, CHILD CARE STAFF
4 MEMBER, OR ADULT MEMBER OF THE HOUSEHOLD SHALL PROVIDE THE
5 DEPARTMENT WITH AN UPDATED AUTHORIZATION FOR A CENTRAL REGISTRY
6 CLEARANCE. IF A CENTRAL REGISTRY CLEARANCE DOCUMENTS THAT A
7 LICENSEE, CHILD CARE STAFF MEMBER, OR ADULT MEMBER OF THE HOUSEHOLD
8 IS NAMED IN A CENTRAL REGISTRY CASE AS A PERPETRATOR OF CHILD ABUSE
9 OR CHILD NEGLECT, HE OR SHE IS INELIGIBLE TO RECEIVE A LICENSE TO
10 OPERATE A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD
11 CARE HOME, BE AN ADULT MEMBER OF THE HOUSEHOLD, OR BE A CHILD CARE
12 STAFF MEMBER.

13 (2) IF THE LICENSEE, CHILD CARE STAFF MEMBER, OR ADULT MEMBER
14 OF THE HOUSEHOLD HAS RESIDED OUTSIDE OF THIS STATE AS AN ADULT
15 WITHIN THE 5 YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION
16 FOR A LICENSE, OR THE DATE THAT HE OR SHE WAS HIRED AS A CHILD CARE
17 STAFF MEMBER OR RESIDED IN A GROUP CHILD CARE HOME OR FAMILY CHILD
18 CARE HOME, EXCEPT AS PROVIDED IN SECTION 5N(8), THE INDIVIDUAL MAY
19 NOT HAVE CONTACT WITH A CHILD WHO IS IN THE CARE OF A CHILD CARE
20 CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME UNTIL THE
21 DEPARTMENT OBTAINS DOCUMENTATION EQUIVALENT TO THE DEPARTMENT OF
22 HEALTH AND HUMAN SERVICES CENTRAL REGISTRY CLEARANCE FOR THE STATES
23 OF PREVIOUS RESIDENCE THAT HE OR SHE HAS NOT BEEN NAMED IN A
24 CENTRAL REGISTRY CASE AS THE PERPETRATOR OF CHILD ABUSE OR CHILD
25 NEGLECT. IF THE DOCUMENTATION EQUIVALENT TO THE DEPARTMENT OF
26 HEALTH AND HUMAN SERVICES CENTRAL REGISTRY CLEARANCE FOR THE STATES
27 OF PREVIOUS RESIDENCE INDICATES THAT THE INDIVIDUAL IS NAMED AS A

1 PERPETRATOR OF CHILD ABUSE OR CHILD NEGLECT, THE INDIVIDUAL IS
2 INELIGIBLE TO RECEIVE A LICENSE, BE AN ADULT MEMBER OF THE
3 HOUSEHOLD, OR BE A CHILD CARE STAFF MEMBER.

4 (3) EACH CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
5 CHILD CARE HOME THAT HAS VOLUNTEERS ON SITE SHALL ESTABLISH AND
6 MAINTAIN A POLICY REGARDING SUPERVISION OF VOLUNTEERS INCLUDING
7 VOLUNTEERS WHO ARE PARENTS OF A CHILD RECEIVING CARE AT THE CHILD
8 CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME.

9 (4) AS USED IN THIS SECTION, "CHILD ABUSE" AND "CHILD NEGLECT"
10 MEAN THOSE TERMS AS DEFINED IN SECTION 2 OF THE CHILD PROTECTION
11 LAW, 1975 PA 238, MCL 722.622.

12 SEC. 5R. (1) AN INDIVIDUAL REQUIRED TO UNDERGO A CRIMINAL
13 HISTORY CHECK AS DESCRIBED IN SECTION 5N IS INELIGIBLE FOR THAT
14 APPLICATION ONLY, TO RECEIVE A LICENSE, BE AN ADULT MEMBER OF THE
15 HOUSEHOLD OR BE A CHILD CARE STAFF MEMBER IF THE INDIVIDUAL DOES
16 EITHER OF THE FOLLOWING:

17 (A) REFUSES TO CONSENT TO THE CRIMINAL HISTORY CHECK OR
18 CENTRAL REGISTRY CHECK AS REQUIRED UNDER SECTION 5Q.

19 (B) KNOWINGLY MAKES A MATERIALLY FALSE STATEMENT OR KNOWINGLY
20 OMITTS INFORMATION IN CONNECTION WITH A CRIMINAL HISTORY CHECK OR
21 CENTRAL REGISTRY CHECK AS REQUIRED UNDER SECTION 5Q.

22 (2) AN INDIVIDUAL REQUIRED TO UNDERGO A DATABASE CHECK AS
23 REQUIRED UNDER SECTION 5N(1) (A) WHO HAS A CONFIRMED HISTORY OF
24 DISCIPLINARY ACTION OR VIOLATIONS AS OUTLINED IN SECTION 11(5) AND
25 (6) MAY BE CONSIDERED INELIGIBLE TO RECEIVE A LICENSE, BE AN ADULT
26 MEMBER OF THE HOUSEHOLD, OR BE A CHILD CARE STAFF MEMBER.

27 (3) AN INDIVIDUAL REQUIRED TO UNDERGO A CRIMINAL HISTORY CHECK

1 AS DESCRIBED IN SECTION 5N IS INELIGIBLE TO RECEIVE A LICENSE, BE
2 AN ADULT MEMBER OF THE HOUSEHOLD, OR BE A CHILD CARE STAFF MEMBER
3 IF THE INDIVIDUAL SATISFIES 1 OR MORE OF THE FOLLOWING:

4 (A) IS REGISTERED, OR IS REQUIRED TO BE REGISTERED, ON A STATE
5 SEX OFFENDER REGISTRY OR REPOSITORY OR THE NATIONAL SEX OFFENDER
6 REGISTRY.

7 (B) HAS BEEN CONVICTED OF A FELONY CONSISTING OF 1 OR MORE OF
8 THE FOLLOWING OR ANY OTHER STATE OR FEDERAL EQUIVALENT:

9 (i) MURDER OR HOMICIDE.

10 (ii) CHILD ABUSE OR CHILD NEGLECT.

11 (iii) A CRIME AGAINST A MINOR CHILD, INCLUDING, BUT NOT
12 LIMITED TO, CHILD PORNOGRAPHY.

13 (iv) SPOUSAL ABUSE OR DOMESTIC VIOLENCE.

14 (v) A CRIME INVOLVING RAPE OR SEXUAL ASSAULT.

15 (vi) KIDNAPPING.

16 (vii) ARSON.

17 (viii) PHYSICAL ASSAULT OR BATTERY.

18 (ix) HUMAN TRAFFICKING OR INVOLUNTARY SERVITUDE.

19 (C) HAS BEEN CONVICTED OF A VIOLENT MISDEMEANOR AGAINST A
20 CHILD, INCLUDING, BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING
21 CRIMES:

22 (i) CHILD ABUSE.

23 (ii) CHILD ENDANGERMENT.

24 (iii) SEXUAL ASSAULT.

25 (D) HAS BEEN CONVICTED OF A MISDEMEANOR INVOLVING CHILD
26 PORNOGRAPHY.

27 (4) AN INDIVIDUAL REQUIRED TO UNDERGO A CRIMINAL HISTORY CHECK

1 AS DESCRIBED IN SECTION 5N IS INELIGIBLE TO RECEIVE A LICENSE, BE
2 AN ADULT MEMBER OF THE HOUSEHOLD, OR BE A CHILD CARE STAFF MEMBER
3 IF THE INDIVIDUAL HAS BEEN CONVICTED OF 1 OR MORE OF THE FOLLOWING
4 FELONIES, AN ATTEMPT OR CONSPIRACY TO COMMIT 1 OR MORE OF THE
5 FOLLOWING FELONIES, OR ANY OTHER STATE OR FEDERAL EQUIVALENT,
6 UNLESS 10 YEARS HAVE LAPSED SINCE THE CONVICTION, BEFORE THE DATE
7 OF APPLICATION OR BEFORE THE DATE A GROUP CHILD CARE HOME OR FAMILY
8 CHILD CARE HOME ALLOWS AN INDIVIDUAL TO BE AN ADULT MEMBER OF THE
9 HOUSEHOLD, OR A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
10 CHILD CARE HOME ALLOWS AN INDIVIDUAL TO BE A CHILD CARE STAFF
11 MEMBER:

12 (A) A FELONY INVOLVING HARM OR THREATENED HARM TO AN
13 INDIVIDUAL.

14 (B) A FELONY INVOLVING THE USE OF A FIREARM OR DANGEROUS
15 WEAPON.

16 (C) A FELONY INVOLVING CRUELTY OR TORTURE OF ANY PERSON.

17 (D) A FELONY INVOLVING A SUBSTANTIAL MISREPRESENTATION OF ANY
18 MATERIAL FACT, BRIBERY, FRAUD, LARCENY, EMBEZZLEMENT, THEFT, HOME
19 INVASION, BREAKING AND ENTERING, RECEIVING AND CONCEALING STOLEN
20 PROPERTY OR A CRIME OF SIMILAR STATUTE.

21 (E) A FELONY INVOLVING OPERATING A MOTOR VEHICLE WHILE
22 INTOXICATED OR IMPAIRED CAUSING SERIOUS INJURY OR DEATH.

23 (F) A FELONY INVOLVING THE USE OF A COMPUTER OR THE INTERNET
24 TO COMMIT A CRIME.

25 (G) A FELONY INVOLVING CRUELTY TO ANIMALS, INCLUDING, BUT NOT
26 LIMITED TO, FIGHTING, KILLING, TORTURING, AND ABANDONING.

27 (H) A FELONY INVOLVING AGGRAVATED STALKING, AGGRAVATED

1 INDECENT EXPOSURE, INDECENT EXPOSURE BY A SEXUALLY DELINQUENT
2 PERSON, PANDERING, TRANSPORTING AN INDIVIDUAL FOR PROSTITUTION, AND
3 KEEPING, MAINTAINING, OR OPERATING A HOUSE OF ILL FAME.

4 (1) A FELONY AS A HABITUAL OFFENDER.

5 (5) AN INDIVIDUAL REQUIRED TO UNDERGO A CRIMINAL HISTORY CHECK
6 AS DESCRIBED IN SECTION 5N IS INELIGIBLE TO RECEIVE A LICENSE, BE
7 AN ADULT MEMBER OF THE HOUSEHOLD, OR BE A CHILD CARE STAFF MEMBER
8 IF THE INDIVIDUAL HAS BEEN CONVICTED OF A FELONY DRUG OFFENSE, AN
9 ATTEMPT OR CONSPIRACY TO COMMIT A FELONY DRUG OFFENSE, OR ANY OTHER
10 STATE OR FEDERAL EQUIVALENT, UNLESS 7 YEARS HAVE LAPSED SINCE THE
11 CONVICTION BEFORE THE DATE OF APPLICATION OR BEFORE THE DATE A
12 GROUP CHILD CARE HOME OR FAMILY CHILD CARE HOME ALLOWS AN
13 INDIVIDUAL TO BE AN ADULT MEMBER OF THE HOUSEHOLD OR A CHILD CARE
14 CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME ALLOWS AN
15 INDIVIDUAL TO BE A CHILD CARE STAFF MEMBER.

16 (6) AN INDIVIDUAL REQUIRED TO UNDERGO A CRIMINAL HISTORY CHECK
17 AS DESCRIBED IN SECTION 5N IS INELIGIBLE TO RECEIVE A LICENSE, BE
18 AN ADULT MEMBER OF THE HOUSEHOLD, OR BE A CHILD CARE STAFF MEMBER
19 IF THE INDIVIDUAL HAS BEEN CONVICTED OF 1 OR MORE OF THE FOLLOWING
20 MISDEMEANORS, AN ATTEMPT OR CONSPIRACY TO COMMIT ANY OF THOSE
21 MISDEMEANORS, OR ANY OTHER STATE OR FEDERAL EQUIVALENT, UNLESS 5
22 YEARS HAVE LAPSED SINCE THE CONVICTION BEFORE THE DATE OF
23 APPLICATION OR BEFORE THE DATE A GROUP CHILD CARE HOME OR FAMILY
24 CHILD CARE HOME ALLOWS AN INDIVIDUAL TO BE AN ADULT MEMBER OF THE
25 HOUSEHOLD OR A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR FAMILY
26 CHILD CARE HOME ALLOWS AN INDIVIDUAL TO BE A CHILD CARE STAFF
27 MEMBER:

1 (A) A MISDEMEANOR INVOLVING OPERATING UNDER THE PRESENCE OF A
2 CONTROLLED SUBSTANCE, USE OR POSSESSION OF A CONTROLLED SUBSTANCE,
3 AND SELLING OR FURNISHING A CONTROLLED SUBSTANCE TO A MINOR.

4 (B) A MISDEMEANOR INVOLVING USING COMPUTERS TO COMMIT A CRIME,
5 A SUBSTANTIAL MISREPRESENTATION OF A MATERIAL FACT, EMBEZZLEMENT,
6 BREAKING AND ENTERING, AND ANY OTHER FRAUDULENT CRIME EXCEPT RETAIL
7 FRAUD IN THE THIRD DEGREE, PETTY THEFT, OR SHOPLIFTING.

8 (C) A MISDEMEANOR INVOLVING STALKING, ASSAULT, SPOUSAL ABUSE,
9 DOMESTIC VIOLENCE, WEAPONS OFFENSE, HARBORING RUNAWAYS, AIDING AND
10 ABETTING, AND ARSON.

11 SEC. 5S. (1) IF AN INDIVIDUAL WAS PREVIOUSLY REVIEWED AND
12 APPROVED BY THE DEPARTMENT AS A LICENSEE OF A CHILD CARE CENTER OR
13 GROUP CHILD CARE HOME, AS A REGISTRANT OF A FAMILY CHILD CARE HOME,
14 AS A LICENSEE DESIGNEE OR PROGRAM DIRECTOR FOR A CHILD CARE CENTER,
15 OR AS AN ADULT MEMBER OF THE HOUSEHOLD BEFORE THE EFFECTIVE DATE OF
16 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT MAY FIND
17 THE INDIVIDUAL TO BE ELIGIBLE TO RECEIVE A LICENSE UNDER THIS
18 SECTION, ELIGIBLE TO BE A MEMBER OF THE HOUSEHOLD, OR ELIGIBLE TO
19 BE A CHILD CARE STAFF MEMBER IF ALL OF THE FOLLOWING APPLY:

20 (A) THE OFFENSE WAS PREVIOUSLY KNOWN AND APPROVED BY THE
21 DEPARTMENT BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
22 ADDED THIS SECTION.

23 (B) THE OFFENSE IS NOT LISTED IN SECTION 5R(3).

24 (C) THE INDIVIDUAL HAS REMAINED CONTINUOUSLY LICENSED UNDER
25 THIS ACT OR CONTINUOUSLY EMPLOYED WITH AN ACTIVE CHILD CARE CENTER
26 LICENSE, GROUP CHILD CARE HOME LICENSE, OR FAMILY CHILD CARE HOME
27 REGISTRATION SINCE THE DATE OF APPROVAL.

1 (2) AN INDIVIDUAL DETERMINED TO BE INELIGIBLE UNDER SECTION
2 5R, EXCLUDING SECTION 5R(3), WHO WAS A LICENSEE, CHILD CARE STAFF
3 MEMBER, OR ADULT MEMBER OF THE HOUSEHOLD AT THE TIME THE RECORDS
4 AND DATABASE CHECKS REQUIRED UNDER SECTION 5N WERE COMPLETED, MAY
5 REQUEST A REDETERMINATION OF HIS OR HER ELIGIBILITY. A
6 REDETERMINATION MUST BE REQUESTED IN WRITING BY THE INDIVIDUAL
7 DETERMINED TO BE INELIGIBLE WITHIN 30 DAYS AFTER RECEIPT OF THAT
8 DETERMINATION. THE REQUEST FOR A REDETERMINATION MUST INCLUDE ALL
9 EVIDENCE OF REHABILITATION THAT THE INDIVIDUAL WISHES THE
10 DEPARTMENT TO CONSIDER. THE DEPARTMENT HAS 60 DAYS, AFTER ALL
11 REQUESTED INFORMATION HAS BEEN RECEIVED BY THE DEPARTMENT, TO
12 RESPOND IN WRITING WITH THE RECOMMENDATION FOR THE REDETERMINATION.
13 THE DECISION OF THE DIRECTOR IS FINAL.

14 Enacting section 1. This amendatory act takes effect 90 days
15 after the date it is enacted into law.

16 Enacting section 2. This amendatory act does not take effect
17 unless all of the following bills of the 99th Legislature are
18 enacted into law:

19 (a) Senate Bill No. 181.

20 (b) Senate Bill No. 182.