

SENATE BILL No. 180

February 23, 2017, Introduced by Senators SCHUITMAKER, HILDENBRAND 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 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 for the criminal
19 history check ~~and criminal records check~~ described in subsection
20 (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 for performing a criminal
17 history check ~~or a criminal records check~~ required under this
18 section.

19 ~~—— (7) When a person, partnership, firm, corporation,~~
20 ~~association, or nongovernmental organization applies for or renews~~
21 ~~a license under section 5 for a child care center or day care~~
22 ~~center that is established and operated by an intermediate school~~
23 ~~board, the board of a local school district, or by the board or~~
24 ~~governing body of a state approved nonpublic school, the criminal~~
25 ~~history check and criminal records check required under subsection~~
26 ~~(1) shall be performed in compliance with the provisions of~~
27 ~~sections 1230 to 1230h of the revised school code, 1976 PA 451, MCL~~

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

7 (6) ~~(8)~~ If a person, licensee designee, chief administrator,
 8 or program director of a child care organization applying to renew
 9 a license to operate a child care organization has previously
 10 undergone a criminal history check ~~and criminal records check~~
 11 required under subsection (1) and has remained continuously
 12 licensed after the criminal history check ~~and criminal records~~
 13 ~~check have~~ **HAS** been performed **AND SECTION 5K CONTINUES TO APPLY**,
 14 that person, licensee designee, chief administrator, or program
 15 director of a child care organization is not required to submit to
 16 another criminal history check ~~or criminal records check~~ upon
 17 renewal of the license obtained under section 5.

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

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

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

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

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

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

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

27 (3) ~~(4)~~—A child care organization may pass along the actual

1 cost of a search of the department of state police's ICHAT or
 2 equivalent check on that person from the state or province of
 3 residence to the employee or applicant on whom the search is being
 4 performed.

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

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

16 ~~—— (a) Any felony.~~

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

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

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

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

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

26 ~~—— (v) A violation of section 115, 141a, 145a, 335a, or 359 of~~
 27 ~~the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,~~

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

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

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

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

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

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

20 (5) ~~(2)~~—A person who violates subsection (1), (2), (3), OR (4)
 21 is guilty of a crime as follows:

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

27 (b) If the person violates subsection (1), (2), (3), OR (4)

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

5 (6) ~~(3)~~—The department shall delete from the licensee's
6 records all information relating to an arraignment required to be
7 reported under ~~subsection (1)~~ **THIS SECTION** if the department
8 receives documentation that the licensee **PERSON ARRAIGNED FOR THE**
9 **CRIME** is subsequently not convicted of any crime after the
10 completion of judicial proceedings resulting from that arraignment.

11 (7) ~~(4)~~—A child care center, ~~or day care center~~ **GROUP CHILD**
12 **CARE HOME, OR FAMILY CHILD CARE HOME** shall delete from the
13 ~~employee's~~ **CHILD CARE STAFF MEMBER'S** records all information
14 relating to an arraignment required to be reported under ~~subsection~~
15 ~~(1)~~ **THIS SECTION** if it receives documentation that the ~~employee~~
16 **CHILD CARE STAFF MEMBER** is subsequently not convicted of any crime
17 after the completion of judicial proceedings resulting from that
18 arraignment.

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

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

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

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

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

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

25 ~~—— (2) Not later than January 1, 2007, the department shall~~
26 ~~perform a criminal history check on all persons over 18 years of~~
27 ~~age residing in the home in which a family child care home or group~~

1 ~~child care home is currently operated.~~

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

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

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

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

19 (2) Each person applying for a license to operate a foster
 20 family home or foster family group home shall give written consent
 21 at the time of application for the department of state police to
 22 conduct a criminal history check ~~and a criminal records check~~
 23 required under this section. The department shall require the
 24 person to submit his or her fingerprints to the department of state
 25 police for the criminal history check ~~and criminal records check~~
 26 described in subsection (1).

27 (3) The department shall request a criminal history check ~~and~~

1 ~~criminal records check~~ required under this section on a form and in
2 the manner prescribed by the department of state police.

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

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

17 (5) ~~(6)~~ The department of state police may charge the
18 department a fee for a criminal history check ~~or a criminal records~~
19 ~~check~~ required under this section that does not exceed the actual
20 and reasonable cost of conducting the check.

21 (6) ~~(7)~~ Beginning January 1, 2008, ~~if~~ **IF** a person applying to
22 renew a license to operate a foster family home or foster family
23 group home under this act has previously undergone a criminal
24 history check ~~and criminal records check~~ required under subsection
25 (1) and has continuously maintained a license to operate a foster
26 family home or foster family group home under this act after the
27 criminal history check ~~and criminal records check~~ have **HAS** been

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

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

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

23 (a) Any felony.

24 (b) Any of the following misdemeanors:

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

27 (ii) Child abuse in the third or fourth degree or an attempt

1 to commit child abuse in the third or fourth degree.

2 (iii) A misdemeanor involving cruelty, torture, or indecent
3 exposure involving a child.

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

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

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

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

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

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

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

24 (b) If the person violates subsection (1) and the crime
25 involved in the violation is a misdemeanor that is not a listed
26 offense, the person is guilty of a misdemeanor punishable by
27 imprisonment for not more than 1 year or a fine of not more than

1 \$1,000.00, or both.

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

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

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

19 Sec. 5j. (1) When a person applies for or to renew a license
20 to operate a foster family home or foster family group home under
21 this act, the department shall perform a criminal history
22 **BACKGROUND** check with the department of state police on all persons
23 ~~ever 18 years of age residing in the home in which the foster~~
24 ~~family home or foster family group home is operated.~~ **ON AN ADULT**
25 **MEMBER OF THE HOUSEHOLD USING THE DEPARTMENT OF STATE POLICE'S**
26 **INTERNET CRIMINAL HISTORY ACCESS TOOL (ICHAT).** This section does
27 not apply to a person residing in the home for a period of not more

1 than 14 days.

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

7 (2) ~~(3)~~ If a ~~criminal history check~~ **SEARCH OF THE DEPARTMENT**
 8 **OF STATE POLICE'S ICHAT** reveals that a ~~person over 18 years of age~~
 9 ~~residing in the foster family home or foster family group home~~ **AN**
 10 **ADULT MEMBER OF THE HOUSEHOLD** has been convicted of a listed
 11 offense, the department shall not issue a license to the applicant,
 12 shall not renew a license to the licensee applying for renewal, or
 13 shall revoke a current licensee's license.

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

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

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

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

1 REPORTING A POTENTIAL VIOLATION OR ASSISTING OR COOPERATING WITH
2 THE DEPARTMENT IN AN INVESTIGATION CONDUCTED BY THE DEPARTMENT.

3 (2) THE IDENTITY OF A PERSON MAKING A REPORT AND COOPERATING
4 WITH OR ASSISTING THE DEPARTMENT RELATIVE TO THAT REPORT UNDER THIS
5 ACT IS CONFIDENTIAL, SUBJECT ONLY TO DISCLOSURE WITH THE CONSENT OF
6 THAT PERSON OR BY JUDICIAL PROCESS.

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

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

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

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

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

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

27 **SEC. 5N. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (13),**

1 WHEN A PERSON, PARTNERSHIP, FIRM, CORPORATION, ASSOCIATION,
2 GOVERNMENTAL ORGANIZATION, OR NONGOVERNMENTAL ORGANIZATION APPLIES
3 FOR OR APPLIES TO RENEW A LICENSE TO OPERATE A CHILD CARE CENTER,
4 GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME UNDER SECTION 5M
5 AND BEFORE A GROUP CHILD CARE HOME OR FAMILY CHILD CARE HOME ALLOWS
6 AN INDIVIDUAL TO BE A MEMBER OF THE HOUSEHOLD, OR A CHILD CARE
7 CENTER, GROUP CHILD CARE HOME, OR FAMILY CHILD CARE HOME ALLOWS AN
8 INDIVIDUAL TO BECOME A CHILD CARE STAFF MEMBER, THE DEPARTMENT
9 SHALL DO ALL OF THE FOLLOWING:

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

13 (B) CONDUCT A SEARCH OF THE INDIVIDUAL THROUGH THE NATIONAL
14 SEX OFFENDER REGISTRY.

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

18 (D) REQUEST THAT THE DEPARTMENT OF STATE POLICE PERFORM A
19 CRIMINAL HISTORY CHECK ON THE INDIVIDUAL, LICENSEE DESIGNEE,
20 PROGRAM DIRECTOR, CHILD CARE STAFF MEMBER, OR ADULT MEMBER OF THE
21 HOUSEHOLD.

22 (2) IF THE INDIVIDUAL, LICENSEE DESIGNEE, PROGRAM DIRECTOR,
23 CHILD CARE STAFF MEMBER, OR ADULT MEMBER OF THE HOUSEHOLD HAS
24 RESIDED OUT OF THE UNITED STATES WITHIN THE PRECEDING 5 YEARS,
25 EQUIVALENT CLEARANCES OF THOSE DESCRIBED IN SUBSECTION (1) (B) AND
26 (D) AND SECTION 5Q FROM EACH COUNTRY MUST BE PROVIDED, IF
27 AVAILABLE. IF THE COUNTRY DOES NOT HAVE THE EQUIVALENT CLEARANCE,

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

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

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

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

27 (6) THE DEPARTMENT OF STATE POLICE MAY CHARGE THE DEPARTMENT A

1 FEE FOR A CRIMINAL HISTORY CHECK REQUIRED UNDER THIS SECTION THAT
2 DOES NOT EXCEED THE ACTUAL AND REASONABLE COST OF CONDUCTING THE
3 CHECK. THE DEPARTMENT MAY PASS ALONG TO THE INDIVIDUAL
4 FINGERPRINTED THE ACTUAL COST OR FEE CHARGED BY THE DEPARTMENT OF
5 STATE POLICE FOR PERFORMING A CRIMINAL HISTORY CHECK REQUIRED UNDER
6 THIS SECTION.

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

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

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

22 (10) IF THE INDIVIDUAL IS INELIGIBLE DUE TO THE RECORDS OR
23 DATABASE CHECKS REQUIRED UNDER THIS SECTION AND SECTION 5Q, THE
24 DEPARTMENT SHALL PROVIDE INFORMATION RELATED TO EACH DISQUALIFYING
25 ITEM IN A REPORT TO THE INDIVIDUAL WHO HAS BEEN DETERMINED
26 INELIGIBLE.

27 (11) AN INDIVIDUAL WHO HAS BEEN DETERMINED TO BE INELIGIBLE AS

1 PROVIDED UNDER SECTIONS 5Q AND 5R MAY APPEAL TO THE DEPARTMENT IF
2 HE OR SHE BELIEVES THAT THE BASIS FOR THE INELIGIBLE DETERMINATION
3 IS INACCURATE. THE APPEAL SHALL BE CONDUCTED AS A CONTESTED CASE
4 HEARING ACCORDING TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
5 1969 PA 306, MCL 24.201 TO 24.328. THE INDIVIDUAL SHALL FILE THE
6 APPEAL WITH THE DEPARTMENT DIRECTOR, OR THE DIRECTOR'S DESIGNEE,
7 WITHIN 15 BUSINESS DAYS AFTER RECEIVING THE WRITTEN REPORT OF THE
8 DETERMINATION THAT THE INDIVIDUAL IS INELIGIBLE, UNLESS THAT
9 DETERMINATION IS BASED ON A CONVICTION THAT MAY BE EXPUNGED OR SET
10 ASIDE. IF AN INDIVIDUAL HAS BEEN DETERMINED TO BE INELIGIBLE BASED
11 ON A CONVICTION THAT MAY BE EXPUNGED OR SET ASIDE, THE INDIVIDUAL
12 SHALL FILE THE APPEAL ON A FORM PROVIDED BY THE DEPARTMENT WITHIN
13 15 BUSINESS DAYS AFTER THE DATE OF A COURT ORDER GRANTING OR
14 DENYING HIS OR HER APPLICATION TO EXPUNGE OR SET ASIDE THAT
15 CONVICTION. IF THE COURT ORDER IS GRANTED AND THE CONVICTION IS
16 EXPUNGED OR SET ASIDE, THE INDIVIDUAL SHALL NOT BE DETERMINED TO BE
17 INELIGIBLE BASED SOLELY ON THAT CONVICTION. THE DIRECTOR SHALL
18 REVIEW THE APPEAL AND ISSUE A WRITTEN DECISION WITHIN 30 BUSINESS
19 DAYS AFTER RECEIVING THE APPEAL. THE DECISION OF THE DIRECTOR IS
20 FINAL.

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

24 (13) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, NOT
25 LATER THAN SEPTEMBER 30, 2017, EVERY CHILD CARE CENTER LICENSEE,
26 LICENSEE DESIGNEE, OR PROGRAM DIRECTOR; GROUP CHILD CARE HOME
27 LICENSEE; FAMILY CHILD CARE HOME LICENSEE; CHILD CARE STAFF MEMBER;

1 AND ADULT MEMBER OF THE HOUSEHOLD SHALL PROVIDE HIS OR HER
2 FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN ORDER TO CARRY
3 OUT THE RECORDS AND DATABASE CHECKS REQUIRED UNDER THIS SECTION AND
4 SECTION 5Q. IF THE DEPARTMENT OF EDUCATION OBTAINS AN EXTENSION ON
5 THE 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 LICENSEE DESIGNEE, PROGRAM DIRECTOR, CHILD CARE STAFF MEMBER, OR
25 ADULT MEMBER OF THE HOUSEHOLD MAY NOT HAVE CONTACT WITH A CHILD WHO
26 IS IN THE CARE OF A CHILD CARE CENTER, GROUP CHILD CARE HOME, OR
27 FAMILY CHILD CARE HOME, UNTIL THE DEPARTMENT OBTAINS DOCUMENTATION

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

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

1 HEALTH AND HUMAN SERVICES CENTRAL REGISTRY CLEARANCE FOR THE STATES
2 OF PREVIOUS RESIDENCE INDICATES THAT THE INDIVIDUAL IS NAMED AS A
3 PERPETRATOR OF CHILD ABUSE OR CHILD NEGLECT, THE INDIVIDUAL IS
4 INELIGIBLE TO RECEIVE A LICENSE, BE AN ADULT MEMBER OF THE
5 HOUSEHOLD, OR BE A CHILD CARE STAFF MEMBER.

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

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

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

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

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

1 OF THE HOUSEHOLD, OR BE A CHILD CARE STAFF MEMBER.

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

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

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

11 (i) MURDER OR HOMICIDE.

12 (ii) CHILD ABUSE OR CHILD NEGLECT.

13 (iii) A CRIME AGAINST CHILDREN, INCLUDING, BUT NOT LIMITED TO,
14 CHILD PORNOGRAPHY.

15 (iv) SPOUSAL ABUSE OR DOMESTIC VIOLENCE.

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

17 (vi) KIDNAPPING.

18 (vii) ARSON.

19 (viii) PHYSICAL ASSAULT OR BATTERY.

20 (ix) HUMAN TRAFFICKING OR INVOLUNTARY SERVITUDE.

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

24 (i) CHILD ABUSE.

25 (ii) CHILD ENDANGERMENT.

26 (iii) SEXUAL ASSAULT.

27 (D) HAS BEEN CONVICTED OF A MISDEMEANOR INVOLVING CHILD

1 PORNOGRAPHY.

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

14 (A) A FELONY INVOLVING HARM OR THREATENED HARM TO AN
15 INDIVIDUAL.

16 (B) A FELONY INVOLVING THE USE OF A FIREARM OR DANGEROUS
17 WEAPON.

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

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

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

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

27 (G) A FELONY INVOLVING CRUELTY TO ANIMALS, INCLUDING, BUT NOT

1 LIMITED TO, FIGHTING, KILLING, TORTURING, AND ABANDONING.

2 (H) A FELONY INVOLVING AGGRAVATED STALKING, AGGRAVATED
3 INDECENT EXPOSURE, INDECENT EXPOSURE BY A SEXUALLY DELINQUENT
4 PERSON, PANDERING, TRANSPORTING AN INDIVIDUAL FOR PROSTITUTION, AND
5 KEEPING, MAINTAINING, OR OPERATING A HOUSE OF ILL FAME.

6 (I) A FELONY AS A HABITUAL OFFENDER.

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

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

1 CHILD CARE HOME ALLOWS AN INDIVIDUAL TO BE A CHILD CARE STAFF
2 MEMBER:

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

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

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

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

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

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

26 (C) THE INDIVIDUAL HAS REMAINED CONTINUOUSLY LICENSED UNDER
27 THIS ACT OR CONTINUOUSLY EMPLOYED WITH AN ACTIVE CHILD CARE CENTER

1 LICENSE, GROUP CHILD CARE HOME LICENSE, OR FAMILY CHILD CARE HOME
2 REGISTRATION SINCE THE DATE OF APPROVAL.

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

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

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

21 (a) Senate Bill No. 181.

22

23 (b) Senate Bill No. 182.

24