

**SUBSTITUTE FOR  
HOUSE BILL NO. 4086**

A bill to amend 1973 PA 116, entitled  
"An act to provide for the protection of children through the  
licensing and regulation of child care organizations; to provide  
for the establishment of standards of care for child care  
organizations; to prescribe powers and duties of certain  
departments of this state and adoption facilitators; to provide  
penalties; and to repeal acts and parts of acts,"  
by amending section 1 (MCL 722.111), as amended by 2022 PA 208.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 1. (1) As used in this act:
- 2           (a) "Child care staff member" means an individual who is 16
- 3 years of age or older to whom 1 or more of the following apply:
- 4           (i) The individual is employed by a child care center, group
- 5 child care home, or family child care home for compensation,



1 including a contract employee or a self-employed individual.

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

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

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

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

21 (i) Provides care exclusively to minors who have been  
22 emancipated by court order under section 4(3) of 1968 PA 293, MCL  
23 722.4.

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

27 (c) "Child caring institution" means a child care facility  
28 that is organized for the purpose of receiving minor children for  
29 care, maintenance, and supervision, usually on a 24-hour basis, in



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

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

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

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

29 (iii) The individual is an intern or other individual who



1 provides specific services under the rules promulgated under this  
2 act.

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

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

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

21 (h) "Children's therapeutic group home" means a child caring  
22 institution receiving not more than 6 minor children who are  
23 diagnosed with a developmental disability as defined in section  
24 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a  
25 serious emotional disturbance as defined in section 100d of the  
26 mental health code, 1974 PA 258, MCL 330.1100d, and that meets all  
27 of the following requirements:

28 (i) Provides care, maintenance, and supervision, usually on a  
29 24-hour basis.



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

6           (iii) Is not a private home.

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

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

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

23           (ii) A facility operated by a religious organization where  
24 children are in the religious organization's care for not more than  
25 3 hours while persons responsible for the children are attending  
26 religious services.

27           (iii) A program that is primarily supervised, school-age-child-  
28 focused training in a specific subject, including, but not limited  
29 to, dancing, drama, music, or religion. This exclusion applies only



1 to the time a child is involved in supervised, school-age-child-  
2 focused training.

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

11 (v) A program that primarily provides therapeutic services to  
12 a child.

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

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

23 (l) "Criminal history record information" means that term as  
24 defined in section 1a of 1925 PA 289, MCL 28.241a.

25 (m) "Department" means the department of health and human  
26 services and the department of licensing and regulatory affairs or  
27 a successor agency or department responsible for licensure under  
28 this act. The department of licensing and regulatory affairs is  
29 responsible for licensing and regulatory matters for child care



1 centers, group child care homes, family child care homes,  
2 children's camps, and children's campsites. The department of  
3 health and human services is responsible for licensing and  
4 regulatory matters for child caring institutions, child placing  
5 agencies, children's therapeutic group homes, foster family homes,  
6 and foster family group homes.

7 (n) "Eligible" means that the individual obtained the checks  
8 and clearances described in sections 5n and 5q and is considered  
9 appropriate to obtain a license, to be a member of the household of  
10 a group child care home or family child care home, or to be a child  
11 care staff member.

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

16 (i) Seeking shelter in a runaway and homeless youth center as  
17 described in 34 USC 11212(a) for youth under 18 years of age.

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

21 (A) Less than 22 years of age.

22 (B) Not less than 22 years of age as of the expiration of the  
23 maximum period of stay permitted under 34 USC 11222(a) (2) if the  
24 individual commences the stay before reaching 22 years of age.

25 (p) ~~(o)~~—"Ineligible" means that the individual obtained the  
26 checks and clearances as described in sections 5n and 5q and is not  
27 considered appropriate to obtain a license, to be a member of the  
28 household of a group child care home or family child care home, or  
29 to be a child care staff member due to violation of section 5n, 5q,



1 or 5r.

2 (q) ~~(p)~~ "Increased capacity" means 1 additional child added to  
3 the total number of minor children received for care and  
4 supervision in a family child care home or 2 additional children  
5 added to the total number of minor children received for care and  
6 supervision in a group child care home.

7 (r) ~~(q)~~ "Private home" means a private residence in which the  
8 licensee permanently resides, which residency is not contingent  
9 upon caring for children or employment by a child placing agency.  
10 Private home includes a full-time foster family home, a full-time  
11 foster family group home, a group child care home, or a family  
12 child care home, as follows:

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

20 (ii) "Foster family group home" means the private home of an  
21 individual who has been licensed by the department to provide 24-  
22 hour care for more than 4 but fewer than 7 minor children who are  
23 placed away from their parent, legal guardian, or legal custodian  
24 in foster care. The licensed individual providing care is required  
25 to comply with the reasonable and prudent parenting standard as  
26 defined in section 1 of chapter XIIA of the probate code of 1939,  
27 1939 PA 288, MCL 712A.1.

28 (iii) "Family child care home" means a private home in which 1  
29 but fewer than 7 minor children are received for care and





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

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

24 (s) ~~(r)~~ "Legal custodian" means an individual who is at least  
25 18 years of age in whose care a minor child remains or is placed  
26 after a court makes a finding under section 13a(5) of chapter XIIA  
27 of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

28 (t) ~~(s)~~ "Legal entity" means a sole proprietorship,  
29 partnership, corporation, limited liability company, or any other



1 entity.

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

6       **(v)** ~~(u)~~—"Listed offense" means that term as defined in section  
7 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

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

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

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

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

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



1 (ii) The program has registered or licensed nursing and other  
 2 licensed clinical staff on-site or available 24 hours a day, 7 days  
 3 a week, who provide care in the scope of their practice as provided  
 4 in parts 170, 172, 181, 182, 182A, and 185 of the public health  
 5 code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to  
 6 333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237,  
 7 333.18251 to 333.18267, and 333.18501 to 333.18518.

8 (iii) The program integrates families into treatment, including  
 9 maintaining sibling connections.

10 (iv) The program provides aftercare services for at least 6  
 11 months post discharge.

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

14 (vi) The program does not include a detention facility,  
 15 forestry camp, training school, or other facility operated  
 16 primarily for detaining minor children who are determined to be  
 17 delinquent.

18 (aa) ~~(z)~~ "Regular license" means a license issued to a child  
 19 care organization indicating that the organization is in  
 20 substantial compliance with all rules promulgated under this act  
 21 and, if there is a deficiency, has entered into a corrective action  
 22 plan.

23 (bb) ~~(aa)~~ "Guardian" means the **individual's** guardian. ~~of the~~  
 24 ~~person.~~

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

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

27 (ii) ~~A person~~ **An individual** who is a resident in a child caring  
 28 institution, foster family home, or foster family group home, who  
 29 is at least 18 but less than 21 years of age, and who ~~meets is~~



1 **either of the following:**

2 (A) **An individual who meets the** requirements of the young  
3 adult voluntary foster care act, 2011 PA 225, MCL 400.641 to  
4 400.671.

5 (B) **An individual who is a homeless youth.**

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

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

22 (B) Three, if the total number of residents is not less than  
23 11 and not more than 14.

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

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

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



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

2           (i) Except as provided in subparagraph (ii), a relative as  
3 defined in section 13a of chapter XIIA of the probate code of 1939,  
4 1939 PA 288, MCL 712A.13a.

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

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

19           **(ff)** ~~(ee)~~ "School-age child" means a child who is eligible to  
20 attend a grade of kindergarten or higher, but is less than 13 years  
21 of age. A child is considered to be a school-age child on the first  
22 day of the school year in which ~~he or she~~ **the child** is eligible to  
23 attend school.

24           **(gg)** ~~(ff)~~ "Severe physical injury" means serious physical harm  
25 as that term is defined in section 136b of the Michigan penal code,  
26 1931 PA 328, MCL 750.136b.

27           **(hh)** ~~(gg)~~ "Licensee designee" means the individual designated  
28 in writing by the board of directors of the corporation or by the  
29 owner or person with legal authority to act on behalf of the



1 company or organization on licensing matters. The individual must  
2 agree in writing to be designated as the licensee designee. All  
3 license applications must be signed by the licensee in the case of  
4 the individual or by a member of the corporation, company, or  
5 organization.

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

9 (a) Holds a current license.

10 (b) Has been licensed to operate for at least 29 consecutive  
11 months.

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

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

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

18 (a) Corrective action.

19 (b) Licensing action.

20 (c) Determination by the department that increased capacity is  
21 not conducive to the welfare of children as that term is defined in  
22 section 5m.

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

28 (5) A family child care home or group child care home may  
29 appeal rescission of increased capacity under a hearing held in the



1 manner provided under section 11(2).

