CHILD CARE ORGANIZATIONS

Act 116 of 1973

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.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1994, Act 209, Eff. Jan. 1, 1995 ;-- Am. 1997, Act 165, Eff. Mar. 31, 1998
Compiler's Notes: For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

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The People of the State of Michigan enact:

722.111 Definitions; increased capacity requirements; rescission of increased capacity; appeal.

Sec. 1.

(1) As used in this act:

(a) "Child care staff member" means an individual who is 16 years of age or older to whom 1 or more of the following apply:

(i) The individual is employed by a child care center, group child care home, or family child care home for compensation, including a contract employee or a self-employed individual.

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

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

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

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

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

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

(c) "Child caring institution" means a child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program must not be the primary purpose of the facility. Child caring institution includes a maternity home for the care of unmarried mothers who are minors and an agency group home, that is described as a small child caring institution, owned, leased, or rented by a licensed agency providing care for more than 4 but less than 13 minor children. Child caring institution also includes an institution for developmentally disabled or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home, or home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, a boarding school licensed under section 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a hospital or facility operated by the state or licensed under the mental health code, 1974 PA 258, MCL 330.1001 to

330.2106, or an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, in which a child has been placed under section 5(6).

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

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

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

(iii) The individual is an intern or other individual who provides specific services under the rules promulgated under this act.

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

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

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

(h) "Children's therapeutic group home" means a child caring institution receiving children who are diagnosed with a developmental disability as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a serious emotional disturbance as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d, and that meets all of the following requirements:

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

(ii) Has a capacity of not more than 6 children.

(iii) Complies with the rules for child caring institutions. Emergency safety intervention in the form of physical management is allowed but must comply with the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, and associated administrative rules.

(iv) Is not a private home.

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

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

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

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

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

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

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

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

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

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

(m) "Department" means the department of health and human services and the department of licensing and regulatory affairs or a successor agency or department responsible for licensure under this act. The department of

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

(n) "Drinking fountain" means a plumbing fixture that is connected to the potable water distribution system and drainage system that allows the user to obtain a drink directly from a stream of flowing water without the use of any accessory.

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

(p) "Faucet" means a valve end of a water pipe by which water is drawn from or held within the pipe.

(q) "Filtered bottle-filling station" or "station" means an apparatus that meets all of the following requirements:

(i) Is connected to customer site piping.

(ii) Filters water and is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.

(iii) The flow rate through the station is paired to the specified flow rate of the filter cartridge.

(iv) Has a light or other device to indicate filter cartridge replacement status.

(v) Is designed to fill drinking bottles or other containers for personal water consumption.

(vi) Includes a drinking fountain.

(r) "Filtered faucet" means a faucet that at the point of use includes a filter that is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.

(s) "Filtered pitcher" means a container used for holding and pouring liquids that at the point of use includes a filter that is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.

(t) "Ineligible" means that the individual obtained the checks and clearances as described in sections 5n and 5q and is not considered appropriate to obtain a license, to be a member of the household of a group child care home or family child care home, or to be a child care staff member due to violation of section 5n, 5q, or 5r.

(u) "Increased capacity" means 1 additional child added to the total number of minor children received for care and supervision in a family child care home or 2 additional children added to the total number of minor children received for care and supervision in a group child care home.

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

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

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

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

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

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

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(x) "Legal entity" means a sole proprietorship, partnership, corporation, limited liability company, or any other entity.

(y) "Licensee" means a person, legal entity organized under a law of this state, state or local government, or trust that has been issued a license under this act to operate a child care organization.

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

(aa) "Member of the household" means any individual who resides in a family child care home, group child care home, foster family home, or foster family group home on an ongoing basis, or who has a recurrent presence in the home, including, but not limited to, overnight stays. For foster family homes and foster family group homes, a member of the household does not include a foster child. For group child care homes and family child care homes, a member of the household does not include a child to whom child care is being provided.

(bb) "Original license" means a license issued to a child care organization during the first 6 months of operation indicating that the organization is in compliance with all rules promulgated by the department under this act.

(cc) "Provisional license" means a license issued to a child care organization that is temporarily unable to conform to the rules promulgated under this act.

(dd) "Psychiatric residential treatment facility" or "PRTF" means a facility other than a hospital that provides psychiatric services, as described in 42 CFR 441.150 to 441.184, in an inpatient setting to individuals under the age of 21. Emergency safety intervention in the form of physical management is allowed but must comply with the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, and associated administrative rules.

(ee) "Qualified residential treatment program" or "QRTP" means a program within a child caring institution to which all of the following apply:

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

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

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

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

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

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

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

(gg) "Guardian" means the individual's guardian.

(hh) "Minor child" means any of the following:

(i) An individual less than 18 years of age.

(ii) An individual who is a resident in a child caring institution, foster family home, or foster family group home, who is at least 18 but less than 21 years of age, and who meets the requirements of the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671.

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

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

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

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

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

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

(ii) "Related" means 1 of the following:

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

(ii) For licensing by the department related to a child care center, children's camp, children's campsite, family

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child care home, foster family home, foster family group home, or group child care home, in the relationship by blood, marriage, or adoption, as parent, grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the individuals described in this definition, even after the marriage has ended by death or divorce.

(jj) "Religious organization" means a church, ecclesiastical corporation, or group, not organized for pecuniary profit, that gathers for mutual support and edification in piety or worship of a supreme deity.

(kk) "School-age child" means a child who is eligible to attend a grade of kindergarten or higher, but is less than 13 years of age. A child is considered to be a school-age child on the first day of the school year in which the child is eligible to attend school.

(ll) "Severe physical injury" means serious physical harm as that term is defined in section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(mm) "Licensee designee" means the individual designated in writing by the board of directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing matters. The individual must agree in writing to be designated as the licensee designee. All license applications must be signed by the licensee in the case of the individual or by a member of the corporation, company, or organization.

(nn) "Water delivery service" means a service that delivers drinking water to a child care center and provides drinking water that meets the standards of the safe drinking water act, 42 USC 300f to 300j-25.

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

(a) Holds a current license.

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

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

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

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

(a) Corrective action.

(b) Licensing action.

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

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

(5) A family child care home or group child care home may appeal rescission of increased capacity under a hearing held in the manner provided under section 11(2).

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History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1978, Act 438, Imd. Eff. Oct. 5, 1978 ;-- Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980 ;-- Am. 1980, Act 232, Imd. Eff. July 20, 1980 ;-- Am. 1980, Act 510, Imd. Eff. Jan. 26, 1981 ;-- Am. 1981, Act 126, Imd. Eff. July 23, 1981 ;-- Am. 1984, Act 139, Imd. Eff. June 1, 1984 ;-- Am. 1991, Act 162, Imd. Eff. Dec. 9, 1991 ;-- Am. 1994, Act 205, Eff. Jan. 1, 1995 ;-- Am. 2002, Act 696, Eff. Mar. 31, 2003 ;-- Am. 2005, Act 202, Imd. Eff. Nov. 10, 2005 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2009, Act 155, Imd. Eff. Nov. 24, 2009 ;-- Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010 ;-- Am. 2011, Act 228, Imd. Eff. Nov. 22, 2011 ;-- Am. 2014, Act 65, Imd. Eff. Mar. 28, 2014 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2018, Act 431, Eff. Mar. 20, 2019 ;-- Am. 2020, Act 6, Imd. Eff. Jan. 27, 2020 ;-- Am. 2022, Act 70, Eff. Nov. 1, 2022 ;-- Am. 2022, Act 106, Imd. Eff. June 23, 2022 ;-- Am. 2022, Act 107, Imd. Eff. June 23, 2022 ;-- Am. 2022, Act 208, Imd. Eff. Oct. 7, 2022 ;-- Am. 2023, Act 173, Imd. Eff. Oct. 24, 2023 ;-- Am. 2024, Act 50, Imd. Eff. June 6, 2024

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v Emmanuel Baptist Preschool, 434 Mich 380; 455 NW2d 1 (1990).

Compiler's Notes: For transfer of powers and duties of child welfare licensing from the department of social services to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

722.111a Concurrent licensing as adult foster care family home or adult foster care small group home; additional children; combined licensed capacity; limitation; definitions.

Sec. 1a.

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

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

(3) A group child care home or a family child care home shall not be concurrently licensed as an adult foster care family home or an adult foster care small group home.

(4) As used in this section:

(a) "Adult foster care family home" means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(b) "Adult foster care small group home" means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

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History: Add. 1984, Act 139, Imd. Eff. June 1, 1984 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Child Care Licensing Act

Popular Name: Act 116

722.112 Rules; ad hoc committee; restrictions; review; compliance timeline.

Sec. 2.

(1) The departments of health and human services and licensing and regulatory affairs are responsible for developing rules for the care and protection of children in organizations covered by this act and for promulgating these rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

(a) Department of health and human services.

(b) Department of licensing and regulatory affairs, bureau of fire services, and state fire safety board.

(c) Department of education.

(d) Representatives of organizations affected by this act.

(e) Parents of children affected by this act.

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

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

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

child care.

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

(c) The character and health of household members.

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

(e) The number of individuals or staff required to ensure adequate supervision and care of the children received.

(f) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire prevention and health standards to provide for the physical comfort, care, and well-being of the children received. The rules with respect to fire prevention and fire safety do not apply to a child care center established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a state approved nonpublic school, if the child care center is located in a school building that is approved by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or other similar authority as provided in section 3 of 1937 PA 306, MCL 388.853, for school purposes and is in compliance with the school fire safety rules, R 29.1901 to R 29.1934 of the Michigan Administrative Code, as determined by the bureau of fire services or a fire inspector certified under section 2b of the fire prevention code, 1941 PA 207, MCL 29.2b.

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

(h) Provisions to safeguard the legal rights of children served.

(i) Maintenance of records pertaining to admission, progress, health, and discharge of children.

(j) Filing of reports with the department.

(k) Discipline of children.

(l) Transportation safety.

(5) Rules once promulgated are subject to major review by an ad hoc committee not less than once every 5 years and must be reviewed biennially by the department. The ad hoc committee shall be established by the department, shall consist of not less than 12 members, and shall include representatives of the groups and agencies indicated in subsection (2). The ad hoc committee shall hold at least 2 public hearings regarding the review of rules and shall report its recommendations regarding rules to the appropriate committees of the legislature.

(6) Unless there is an immediate federal obligation or an immediate risk to health and safety as determined by the department, a child care center, group child care home, or family child care home that is controlled by a rule promulgated under this act has not less than 90 days after a rule is promulgated to become compliant with the rule.

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History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1983, Act 150, Imd. Eff. July 18, 1983 ;-- Am. 2006, Act 206, Imd. Eff. June 19, 2006 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 111, Imd. Eff. June 23, 2022

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v Emmanuel Baptist Preschool, 434 Mich 380; 455 NW2d 1 (1990).

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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Admin Rule: R 400.1 et seq.; R 400.1301 et seq.; R 400.4101 et seq.; R 400.5101 et seq.; R 400.5106 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; R 400.12101 et seq.; and R 400.16001 of the Michigan Administrative Code.

722.112a Child caring institution, foster family home, foster family group home, child care center, group child care home, and family child care home; individual certified in first aid and cardiopulmonary resuscitation; applicability of MCL 722.125.

Sec. 2a.

(1) A child caring institution, foster family home, foster family group home, child care center, group child care

home, and family child care home shall have individuals present, as prescribed in the appropriate administrative rules, who have current certification in first aid and cardiopulmonary resuscitation obtained through the American Red Cross, the American Heart Association, or an equivalent organization or institution approved by the department.

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

History: Add. 1994, Act 349, Eff. Dec. 16, 1995 ;-- Am. 1998, Act 440, Imd. Eff. Dec. 30, 1998 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

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722.112b Definitions for MCL 722.112c, 722.112d, and 722.112e.

Sec. 2b.

As used in this section and sections 2c, 2d, and 2e, unless the context requires otherwise:

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

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

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

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

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

(c) "Emergency safety intervention" means use of personal restraint or seclusion as an immediate response to an emergency safety situation. Use of personal restraint as an emergency safety intervention is not child abuse or child neglect unless it meets the definition of child abuse or child neglect as defined under section 2 of the child protection law, 1975 PA 238, MCL 722.622.

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

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

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

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

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

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

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

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

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

(vii) A licensed master's social worker licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

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

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

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

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

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

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

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

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

(j) "Seclusion" means the involuntary placement of a minor child in a room alone, where the minor child is prevented from exiting by any means, including the physical presence of a staff person if the sole purpose of that staff person's presence is to prevent the minor child from exiting the room. Seclusion does not include techniques for therapeutic de-escalation. Seclusion does not include the use of a sleeping room during regular sleeping hours to ensure security precautions appropriate to the condition and circumstances of a minor child placed in the child caring institution as a result of an order of the family division of circuit court under section 2(a) and (b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, if the minor child's individual case treatment plan indicates that the security precautions would be in the minor child's best interest.

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

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History: Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2024, Act 50, Imd. Eff. June 6, 2024

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

722.112c Emergency safety intervention; use in child caring institution contracting with community mental health services program or prepaid inpatient health plan; compliance with rules.

Sec. 2c.

If a child caring institution contracts with and receives payment from a community mental health services program or prepaid inpatient health plan for the care, treatment, maintenance, and supervision of a minor child in a child caring institution, the child caring institution must comply with the rules for child caring institutions. Emergency safety intervention in the form of physical management is allowed but must comply with the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, and associated administrative rules.

History: Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2024, Act 50, Imd. Eff. June 6, 2024

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to

children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.112d Personal restraint or seclusion; use; limitations; requirements; order; evaluation; face-to-face assessment; definitions.

Sec. 2d.

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

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

(3) Personal restraint or seclusion must not result in serious injury to the minor child and shall be used only to ensure the minor child's safety or the safety of others during an emergency safety situation. Personal restraint or seclusion shall only be used until the emergency safety situation has ceased and the minor child's safety and the safety of others can be ensured even if the order for personal restraint or seclusion has not expired. Personal restraint and seclusion of a minor child shall not be used simultaneously.

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

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

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

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

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

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

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

(7) An order for personal restraint or seclusion shall only be written by a licensed practitioner.

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

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

(a) A licensed practitioner.

(b) A social services supervisor.

(c) A supervisor of direct care workers.

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

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

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

(a) Be limited to no longer than the duration of the emergency safety situation.

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

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

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

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

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

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

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

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

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

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

(b) The minor child's behavior.

(c) The appropriateness of the intervention measures.

(d) Any complications resulting from the intervention.

(16) As used in this section:

(a) "Social services supervisor" means an individual who supervises a social services worker. A social services supervisor must possess either a master's degree in a human behavioral science from an accredited college or university and 2 years of experience as a social services worker or a bachelor's degree in a human behavioral science or another major with 25% of the credits in a human behavioral science from an accredited college or university and 4 years of experience as a social services worker.

(b) "Social services worker" means an individual who works directly with residents, residents' families, and other relevant individuals and who is primarily responsible for the development, implementation, and review of service plans for the resident.

(c) "Supervisor of direct care workers" means an individual who supervises workers who provide direct care and supervision of children in an institution. A supervisor of direct care workers must have 1 of the following:

(i) A bachelor's degree from an accredited college or university and 2 years of work experience in a child caring institution.

(ii) Two years of college from an accredited college or university and 3 years of work experience in a child caring institution.

(iii) A high school diploma and 4 years of work experience in a child caring institution.

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History: Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

722.112e Personal restraint or seclusion; release; documentation; record; notification; debriefing; report of serious occurrence; annual report.

Sec. 2e.

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

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

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

(a) The name of the licensed practitioner ordering personal restraint or seclusion.

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

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

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

(a) Each order for personal restraint or seclusion.

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

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

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

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

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

(6) The child caring institution staff trained in the use of seclusion shall be physically present in or immediately outside the seclusion room, continually assessing, monitoring, and evaluating the physical and psychological well-being of the minor. Video monitoring shall not be exclusively used to meet this requirement.

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

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

(9) The child caring institution staff shall notify the minor child's parent or legal guardian and the appropriate state or local government agency that has responsibility for the minor child if the minor child is under the supervision of the child caring institution as a result of an order of commitment by the family division of circuit court to a state institution or otherwise as soon as possible after the initiation of personal restraint or seclusion. This notification shall be documented in the minor child's record, including the date and time of the notification, the name of the staff person providing the notification, and the name of the person to whom notification of the incident was reported. The child caring institution is not required to notify the parent or legal guardian as provided in this subsection if the minor child is within the care and supervision of the child caring institution as a result of an order of commitment of the family division of circuit court to a state institution, state agency, or otherwise, and has been adjudged to be dependent, neglected, or delinquent under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, if the minor child's individual case treatment plan indicates that the notice would not be in the minor child's best interest.

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

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

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

(a) Discussion of the emergency safety situation that required personal restraint or seclusion, including a discussion of precipitating factors that led up to the situation.

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

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

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

(13) The child caring institution staff shall document in the minor child's record that both debriefing sessions as described in subsections (10) and (12) took place and shall include the names of staff who were present for the debriefings, names of staff that were excused from the debriefings, and changes to the minor child's treatment plan that result from the debriefings.

(14) Each child caring institution subject to this section and sections 2c and 2d shall report each serious occurrence to the department. The department shall make the reports available to the designated state protection and advocacy system upon request of the designated state protection and advocacy system. Serious occurrences to be reported include a minor child's death, a serious injury to a minor child, and a minor child's suicide attempt. Staff shall report any serious occurrence involving a minor child by no later than close of business of the next business day after a serious occurrence. The report shall include the name of the minor child involved in the serious occurrence; a description of the occurrence; and the name, street address, and telephone number of the child caring institution. The child caring institution shall notify the minor child's parent or legal guardian and the appropriate state or local government agency that has responsibility for the minor child if the minor child is under the supervision of the child caring institution as a result of an order of commitment by the family division of circuit court to a state institution or otherwise as soon as possible and not later than 24 hours after the serious occurrence. Staff shall document in the minor child's record that the serious occurrence was reported to both the department and the state-designated protection and advocacy system, including the name of the person to whom notification of the incident was reported. A copy of the report shall be maintained in the minor child's record, as well as in the incident and accident report logs kept by the child caring institution.

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

(a) Whether personal restraint or seclusion was used.

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

(c) Staff who initiated the process.

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

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

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

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

(16) Each child caring institution subject to this section and sections 2c and 2d shall submit a report annually to the department containing the aggregate data from the record of incidences for each 12-month period as directed by the department. The department shall prepare reporting forms to be used by the child caring institution, shall aggregate the data collected from each child caring institution, and shall annually report the data to each child caring institution and the state-designated protection and advocacy system.

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History: Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

722.113 Inspection of child care organizations; use of administrative rules; contract; investigation and

certification of foster family home or group home; inspection reports; final determination as to license; report of findings.

Sec. 3.

(1) The rules promulgated by the department under this act shall be used by the department, the bureau of fire services, and local authorities in the inspection of and reporting on child care organizations covered by this act. The inspection of the health and fire safety of child care organizations shall be completed by department staff, the bureau of fire services, or local authorities upon request of the department, or according to subsection (2).

(2) If an inspection is not conducted according to subsection (1), a person owning or operating or who proposes to own or operate a child care organization may enter a contract with a local authority or other person qualified by the department to conduct an inspection according to subsection (1) and pay for that inspection after an inspection is completed according to this subsection.

(3) The rules promulgated by the department for foster family homes and foster family group homes shall be used by a child placing agency or governmental unit when investigating and certifying a foster family home or a foster family group home.

(4) Inspection reports completed by state agencies, local authorities, and child placing agencies shall be furnished to the department and shall become a part of its evaluation for licensing of organizations covered by this act. After careful consideration of the reports and consultation where necessary, the department shall assume responsibility for the final determination of the issuance, denial, revocation, or provisional nature of licenses issued under this act. A report of findings shall be furnished to the applicant or licensee.

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History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980 ;-- Am. 1980, Act 232, Imd. Eff. July 20, 1980 ;-- Am. 2006, Act 206, Imd. Eff. June 19, 2006 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

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722.113a Visiting child at child care center, group child care home, or family child care home; effect of court order.

Sec. 3a.

(1) A parent or legal guardian of a child at a child care center, group child care home, or family child care home may visit the child at the child care center, group child care home, or family child care home at any time.

(2) A parent or legal guardian who wishes to enroll a child at a child care center, group child care home, or family child care home may visit the child care center, group child care home, or family child care home before the child's enrollment during the hours of operation of the child care center, group child care home, or family child care home.

(3) This section does not permit parenting time with a child in violation of a court order.

History: Add. 1986, Act 140, Imd. Eff. July 1, 1986 ;-- Am. 1997, Act 165, Eff. Mar. 31, 1998 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

722.113b Smoking prohibited; "smoke" or "smoking" defined.

Sec. 3b.

(1) An individual shall not smoke in a child caring institution or child care center or on real property that is under the control of a child caring institution or child care center and upon which the child caring institution or child care center is located, including other related buildings. The operator of a child care center shall conspicuously post on the premises a notice that specifies that smoking on the premises is prohibited.

(2) As used in this section and section 3c, "smoke" or "smoking" means those terms as defined in section 12601 of the public health code, 1978 PA 368, MCL 333.12601.

History: Add. 1993, Act 211, Imd. Eff. Oct. 22, 1993 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

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722.113c Smoking on premises of group child care home or family child care home during hours of operation prohibited; smoking during other hours; notice to parent or legal guardian.

Sec. 3c.

An individual shall not smoke on the premises of a group child care home or family child care home during the hours of operation of the group child care home or family child care home. The operator of a group child care home or family child care home may permit smoking on the premises during a period other than the hours of operation of that group child care home or family child care home if the operator has provided to a parent or legal guardian of each child participating in a group child care home or family child care home activity notice that smoking on the premises occurs or may occur when the group child care home or family child care home is not in operation. The operator of a group child care home or family child care home shall conspicuously post on the premises a notice that specifies that smoking on the premises is prohibited during the hours of operation of the group child care home or family child care home.

History: Add. 1993, Act 219, Eff. Apr. 1, 1994 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.113d Repealed. 2017, Act 257, Eff. Mar. 28, 2018.

Compiler's Notes: The repealed section pertained to prohibition against smoking on premises of group child care home during hours of operation.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.113e Criminal history background check required; posting notice; rules.

Sec. 3e.

The operator of a child care center or child caring institution shall conspicuously post on the premises a notice stating that the child care center or child caring institution requires a criminal history background check on its employees or volunteers. The department shall promulgate rules to implement this section under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 2002, Act 717, Eff. Mar. 31, 2003 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.113f Child care organization receiving notice of high-risk special investigation; notification to parent or legal guardian; requirements; noncompliance; determination of no substantial rule violations; exceptions; "high-risk special investigation" defined.

Sec. 3f.

(1) Except as provided in subsection (5), within 24 hours after a child care organization receives notice that a high-risk special investigation is being conducted by the department, the child care organization shall make a good-faith effort to make oral notification to each parent or legal guardian of 1 or more of the following:

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

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

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

(a) Mail service.

(b) Facsimile transmission.

(c) Electronic mail.

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

(4) If, upon completion of the high-risk special investigation, the department makes a determination that there are no substantiated rule violations, the department shall provide the child care organization with written notification of that determination that the child care organization may share with the parents or legal guardians of the children in the child care organization's care who received the notification required under subsections (1) and

(2).

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

(6) For the purpose of this section, "high-risk special investigation" means an investigation that the department conducts regarding 1 or more of the conditions listed in section 8(3)(a) to (c) of the child protection law, 1975 PA 238, MCL 722.628.

History: Add. 2008, Act 15, Eff. June 1, 2008 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.113g Licensing records notebook.

Sec. 3g.

(1) The operator of a child care center, group child care home, or family child care home shall maintain licensing records on its premises in the form of a licensing notebook. If internet access is available at the child care center, group child care home, or family child care home, access may be provided through the department's electronic database of licensing records for the entity. The licensing records shall be made available for review to parents or guardians of children under the care of, and parents or guardians considering placing their children in the care of, the child care center, group child care home, or family child care home during the hours of operation of the child care center, group child care home, or family child care home.

(2) The licensing records described in subsection (1) must include the original licensing study. The licensing records must also include all licensing inspections, renewal inspections, special investigations, and corrective action plan approval letters for the past 3 years. The licensing notebook must also include a summary sheet outlining the reports contained in the licensing notebook. The information in the licensing notebook shall be updated as provided by the department and may be made available via internet access.

(3) The department shall include on its "Child in Care Statement/Receipt" form or any successor form used instead of that form a check box allowing the parent or guardian to acknowledge that he or she is aware of the licensing records information available in the licensing notebook or the department's electronic database and that the licensing notebook or the department's electronic database is available for his or her review on the premises or on the department's website and that information is available on the department's website. The "Child in Care Statement/Receipt" form or successor form must contain in bold print the department's website address where the information may be located.

History: Add. 2010, Act 85, Imd. Eff. May 27, 2010 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 112, Imd. Eff. June 23, 2022
Compiler's Notes: For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.113h Unannounced inspections of child care organizations.

Sec. 3h.

An inspection in accordance with the approved state child care plan of a child care organization licensed under this act must be unannounced, unless the department, in its discretion, considers it necessary to schedule an appointment for an inspection.

History: Add. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 106, Imd. Eff. June 23, 2022
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.113i Drinking water management plan; requirements; mandatory review and update; water sampling and testing; presence of lead; installation of filtered water sources; document retention.

Sec. 3i.

(1) Within 15 months after the effective date of the amendatory act that added this section, each child care center shall develop a drinking water management plan and make the plan available to the department of licensing and regulatory affairs, child care center staff, and parents and guardians of children enrolled in the child care center on request. The plan must specify all of the following:

(a) Locations where water outlets will be maintained to deliver water for human consumption, whether as drinking water or a component of a food or beverage, using the following categories, if applicable:

(i) Locations where filtered bottle-filling stations will be maintained.

(ii) Locations where filtered faucets will be maintained.

(iii) Locations where filtered pitchers will be maintained.

(iv) Locations where unfiltered drinking fountains or unfiltered faucets will be maintained, subject to section 3j(a).

(v) Locations where drinking water from a water delivery service will be maintained.

(b) Locations where water outlets will be maintained for purposes other than as described in subdivision (a).

(c) Locations where water outlets will be shut off or rendered permanently inoperable, if applicable.

(d) Regular replacement of the filter cartridge for each filtered bottle-filling station, filtered faucet, and filtered pitcher in compliance with manufacturer instructions or recommendations of the department of environment, Great Lakes, and energy.

(2) Each child care center shall review and update the drinking water management plan created under subsection (1) at least once every 5 years and make changes as directed by the department of licensing and regulatory affairs or as needed to comply with this section.

(3) Water sampling and testing must be conducted at each child care center at least once every 2 years and as otherwise required under this section. The child care center shall collect the water for water sampling and testing. The water must be drawn from all of the bubble fixtures of the filtered bottle-filling stations and filtered faucets and must be collected in 250-milliliter bottles after at least an 8-hour stagnation period and before any water use occurs at the child care center. Upon request, the department of licensing and regulatory affairs shall provide the child care center with a sufficient number of 250-milliliter bottles. After the child care center collects the water, the child care center shall deliver, through the mail or in person, all of the 250-milliliter bottles for water testing. Water testing described under this section must be conducted at a laboratory certified for lead and copper testing for the approved EPA method.

(4) If the water sampling and testing under subsection (3) indicates the presence of lead at a concentration of 1 part per billion or more but not more than 5 parts per billion, the child care center shall do all of the following:

(a) Immediately check the status of the filter or filters at the filtered bottle-filling station or filtered faucet and replace the filter cartridge if the status light indicates that replacement is or will soon be required.

(b) Ensure the filtered bottle-filling station or filtered faucet is properly installed.

(c) Resample and retest the water.

(d) If the water sampling and testing under subdivision (c) indicates the presence of lead at a concentration of 1 part per billion or more but not more than 5 parts per billion, have the child care center do both of the following:

(i) Send a copy of the test results and a document that lists the make and model of the filtered bottle-filling station or filtered faucet and filter cartridge to the department of licensing and regulatory affairs and the department of environment, Great Lakes, and energy.

(ii) Consult with the department of environment, Great Lakes, and energy and the filtered bottle-filling station or filtered faucet manufacturer.

(5) If the water sampling and testing under subsection (3) or (4)(c) indicates the presence of lead at a concentration of more than 5 parts per billion, the child care center shall do all of the following:

(a) Immediately shut off or render inoperable the water outlet.

(b) Post a conspicuous sign near the water outlet stating that the water outlet is inoperable because of high lead concentration and maintain the sign until the water outlet is returned to service under subdivision (e).

(c) Replace the filter cartridge in the filtered bottle-filling station or filtered faucet.

(d) Resample and retest the water.

(e) If the water sampling and testing under subdivision (d) indicates the presence of lead at a concentration of 1 part per billion or more but not more than 5 parts per billion, return the water outlet to service and comply with the requirements of subsection (4)(b), (c), and (d).

(f) If the water sampling and testing under subdivision (d) indicates the presence of lead at a concentration of more than 5 parts per billion, do all of the following:

(i) Within 30 days after receiving test results under this subsection, send a copy of the test results to the department of licensing and regulatory affairs, the department of environment, Great Lakes, and energy, and each parent or guardian of a child enrolled in the child care center.

(ii) Develop a remediation plan in consultation with the department of licensing and regulatory affairs and the department of environment, Great Lakes, and energy and incorporate the remediation plan into the drinking water management plan under subsection (1).

(6) A child care center that installs a filtered bottle-filling station, filtered faucet, filtered pitcher, or other filtered source shall install, operate, and maintain them in accordance with manufacturer instructions or recommendations of the department of environment, Great Lakes, and energy.

(7) A child care center shall retain the following documents for 3 years or until after any water sampling and testing occurs under this section, whichever is sooner, and make the documents available to the department of licensing and regulatory affairs on request:

(a) Original copies of the results of all water sampling and testing conducted under this section, as applicable.

(b) Records of the dates when and locations where filters or filter cartridges were installed or replaced.

(c) Installation instructions for each filter and filter cartridge installed by the child care center.

(8) As used in this section:

(a) "Bubble fixture" means a fixture on a drinking water fountain through which water is forced up in a small arc from a nozzle that allows an individual to drink from the arc directly.

(b) "EPA" means the United States Environmental Protection Agency.

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History: Add. 2023, Act 173, Imd. Eff. Oct. 24, 2023
Compiler's Notes: For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.113j Duties of child care center under drinking water management plan.

Sec. 3j.

Within 2 years after the effective date of the amendatory act that added this section, each child care center shall do all of the following in a manner consistent with the drinking water management plan created under section 3i:

(a) Post a conspicuous sign near each water outlet and drinking fountain indicating whether or not the outlet is intended to provide water for human consumption. If the water outlet or drinking fountain is intended to provide water for human consumption but is unfiltered, the sign must also state that the water is unfiltered and could contain lead.

(b) Ensure that any water furnished to children for human consumption by the child care center is from a filtered faucet or other filtered source that is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal, or from a water delivery service.

(c) Make available to the public and notify the parent or guardian of each child enrolled in the child care center of the availability of both of the following:

(i) The results of all water sampling and testing conducted under section 3i.

(ii) All filter and filter cartridge replacement dates for each filtered bottle-filling station, filtered faucet, filtered pitcher, or other filtered source.

History: Add. 2023, Act 155, Eff. Oct. 24, 2023
Compiler's Notes: For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.113k Child care center located in school building; drinking water compliance standards.

Sec. 3k.

If a child care center is located in a school building that complies with the clean drinking water access act, the child care center is considered to comply with sections 3i and 3j.

History: Add. 2023, Act 155, Eff. Oct. 24, 2023
Compiler's Notes: For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
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722.113l Department of licensing and regulatory affairs; support for maintaining compliance; training on filter use, installation, and maintenance; guidance documents.

Sec. 3l.

(1) The department of licensing and regulatory affairs, in coordination with the department of environment, Great Lakes, and energy, shall assist each child care center in maintaining compliance with sections 3i and 3j by providing all of the following:

(a) A template for the drinking water management plan required under section 3i.

(b) A template for tracking filter and filter cartridge replacement dates and the results of water sampling and testing conducted under section 3i.

(c) Guidance documents on all of the following:

(i) Factors that a child care center should consider when selecting filtered bottle-filling stations, filtered faucets, and filters.

(ii) How to shut off or render permanently inoperable a water outlet identified under section 3i(1)(c).

(iii) How to flush a building's cold water plumbing before installing new filtered bottle-filling stations and filtered faucets.

(iv) Common filtered bottle-filling station or filtered faucet installation and operation errors and how to avoid them.

(2) The department of licensing and regulatory affairs shall provide training for child care center staff on filter cartridge use, installation, and maintenance and water sampling protocol. Training under this subsection may be

provided as a webinar or incorporated into existing training programs. Within 2 years after the effective date of the amendatory act that added this section, and every 5 years thereafter, all child care center staff responsible for providing or overseeing children's access to drinking water shall participate in training provided by the department of licensing and regulatory affairs under this subsection.

(3) The department of licensing and regulatory affairs shall provide and make available the guidance documents required under subsection (1)(c) not later than 6 months after the effective date of the amendatory act that added this section. Before the department provides the guidance documents, the department shall issue the guidance documents as proposed guidance documents on its website and allow for a 30-day public comment period.

History: Add. 2023, Act 155, Eff. Oct. 24, 2023
Compiler's Notes: For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Compiler's Notes: Child Care Licensing Act

***** 722.113m.added THIS ADDED SECTION IS EFFECTIVE MARCH 24, 2026 *****

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722.113m.added Installation of temporary door locking device or system.

Sec. 3m.

(1) A temporary door locking device or system may be installed in a child care center in accordance with section 4i of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1504i.

(2) As used in this section, "temporary door locking device or system" means that term as defined in section 4i of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1504i.

History: Add. 2025, Act 62, Eff. Mar. 24, 2026
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.114 Consultation and assistance to organizations.

Sec. 4.

The department shall provide consultation to organizations covered by this act to assist them in meeting the requirements of this act and the rules promulgated under this act. The department shall offer assistance, training, and education, within fiscal limitations, upon request, in developing methods for the improvement of service.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1980, Act 232, Imd. Eff. July 20, 1980
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.114a Child care center, group child care home, or family child care home; driver license or identification card required for obtaining or renewing license by applicant, licensee, or licensee designate.

Sec. 4a.

An applicant, licensee, or licensee designee must present a valid driver license or a valid state or federal government-issued identification card in order to obtain or renew a license for a child care center, group child care home, or family child care home under this act.

History: Add. 2017, Act 258, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115 License required; applicability; application; forms; investigations; on-site visit; issuance or renewal of license; investigation and certification of foster family home or group home; placement of children in foster family home, foster family group home, unlicensed residence, adult foster care family home, or adult foster care small group home; certification; criminal history check; "good moral character" defined.

Sec. 5.

(1) This section and sections 5c, 5d, and 9 do not apply to a child care center, group child care home, or family child care home.

(2) A person, partnership, firm, corporation, association, nongovernmental organization, or governmental organization, except for the department of health and human services or a local county department of health and human services office, shall not establish or maintain a child care organization unless licensed by the department. Application for a license must be made on forms provided, and in the manner prescribed, by the department. Before issuing or renewing a license, the department shall investigate the applicant's activities and proposed standards of care and shall make an on-site visit of the proposed or established organization. Except as otherwise provided in this subsection, if the department is satisfied as to the need for a child care organization, its financial stability, the applicant's good moral character, and that the services and facilities are conducive to the welfare of the children, the department shall issue or renew the license. If a county juvenile agency as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622, certifies to the department that it intends to contract with an applicant for a new license, the department shall issue or deny the license within 60 days after it receives a complete application as provided in section 5b.

(3) The department may authorize a child placing agency or governmental unit to investigate a foster family home or a foster family group home according to subsection (2) and to certify that the foster family home or foster family group home meets the licensing requirements prescribed by this act. Before certifying to the department that a foster family home or foster family group home meets the licensing requirements prescribed by this act, the child placing agency or governmental unit shall receive and review a medical statement for each member of the household indicating that he or she does not have a known condition that would affect the care of a foster child. The medical statement required under this section must be signed and dated by a physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, a physician's assistant licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a certified nurse practitioner licensed as a registered professional nurse under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242, who has been issued a specialty certification as a nurse practitioner by the board of nursing under section 17210 of the public health code, 1978 PA 368, MCL 333.17210, within the 12 months immediately preceding the date of the initial evaluation. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered. A foster family home or a foster family group home must be certified for licensing by the department by only 1 child placing agency or governmental unit. Other child placing agencies may place children in a foster family home or foster family group home only upon the

approval of the certifying agency or governmental unit.

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

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

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

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

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

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

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

(7) On an exception basis, the director of the department, or his or her designee, may authorize a child placing agency or governmental unit to place an adult in a foster family home if a child placing agency or governmental unit certifies to the department all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Except as provided in section 5c(6), the department shall not issue to or renew the license of a child care organization under this act without requesting a criminal history check as required by section 5c. If a criminal history check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license under this act has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license under this act has been convicted of a listed offense, the department shall not renew that license. If a criminal history check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that a current licensee has been convicted of a listed offense, the department shall revoke the license of that licensee.

(10) Except as provided in section 5h(6), the department of health and human services shall not issue or renew a license to operate a foster family home or foster family group home under this act without requesting a criminal

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history check as required by sections 5h and 5j. If a criminal history check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license to operate a foster family home or foster family group home under this act or an adult member of the household has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license to operate a foster family home or foster family group home under this act or an adult member of the household has been convicted of a listed offense, the department shall not renew a license to that applicant. If a criminal history check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that a current licensee under this act of a foster family home or foster family group home or an adult member of the foster family home or foster family group home has been convicted of a listed offense, the department shall revoke that licensee's license.

(11) As used in this section, "good moral character" means that term as defined in and determined under 1974 PA 381, MCL 338.41 to 338.47, and the rules promulgated under this act.

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History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1974, Act 191, Imd. Eff. July 2, 1974 ;-- Am. 1978, Act 309, Imd. Eff. July 10, 1978 ;-- Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980 ;-- Am. 1980, Act 232, Imd. Eff. July 20, 1980 ;-- Am. 1980, Act 498, Imd. Eff. Jan. 21, 1981 ;-- Am. 1980, Act 510, Imd. Eff. Jan. 26, 1981 ;-- Am. 1981, Act 126, Imd. Eff. July 23, 1981 ;-- Am. 1982, Act 329, Imd. Eff. Dec. 14, 1982 ;-- Am. 1984, Act 421, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 169, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 72, Imd. Eff. June 16, 1989 ;-- Am. 1991, Act 162, Imd. Eff. Dec. 9, 1991 ;-- Am. 1995, Act 81, Imd. Eff. June 15, 1995 ;-- Am. 1998, Act 34, Imd. Eff. Mar. 18, 1998 ;-- Am. 1998, Act 519, Imd. Eff. Jan. 12, 1999 ;-- Am. 2004, Act 315, Eff. Oct. 1, 2007 ;-- Am. 2005, Act 133, Eff. Jan. 1, 2006 ;-- Am. 2006, Act 51, Imd. Eff. Mar. 9, 2006 ;-- Am. 2006, Act 580, Imd. Eff. Jan. 3, 2007 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2007, Act 218, Eff. Jan. 1, 2008 ;-- Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010 ;-- Am. 2011, Act 228, Imd. Eff. Nov. 22, 2011 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2020, Act 10, Imd. Eff. Jan. 27, 2020

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v Emmanuel Baptist Preschool, 434 Mich 380; 455 NW2d 1 (1990).

Compiler's Notes: For transfer of powers and duties of child welfare licensing from the department of social services to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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Admin Rule: R 400.1 et seq.; R 400.1301 et seq.; R 400.4101 et seq.; R 400.5101 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; and R 400.12101 et seq. the Michigan Administrative Code.

722.115a Providing records to child advocate.

Sec. 5a.

A child placing agency shall provide the child advocate created in section 3 of the office of the child advocate act, 1994 PA 204, MCL 722.923, with those records requested by the child advocate pertaining to a matter under investigation by the child advocate.

History: Add. 1994, Act 205, Eff. Jan. 1, 1995 ;-- Am. 2023, Act 304, Eff. Feb. 13, 2024

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see

E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115b Contract with license applicant; review of application; failure to issue or deny license within certain period of time; action for mandamus; county juvenile agency as party to proceeding.

Sec. 5b.

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

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

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

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History: Add. 1998, Act 519, Imd. Eff. Jan. 12, 1999 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115c Applicant for child care organization license; criminal history check; requirements; fee; renewal.

Sec. 5c.

(1) Except as provided in subsection (6), when a person or an applicant that is a legal entity, trust, or local or state governmental organization applies for a license for a child care organization under section 5, the department shall request the department of state police to perform a criminal history check on the person, licensee designee, chief administrator, and program director of the child care organization, as applicable.

(2) Each person applying for a license to operate a child care organization must give written consent at the time of the license application for the department of state police to conduct the criminal history check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check described in subsection (1).

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

(4) Within a reasonable time after receiving a complete request by the department for a criminal history check on a person under this section, the department of state police must conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police and the Federal Bureau of Investigation.

(5) The department of state police may charge the department a fee for a criminal history check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass

along to the licensee or applicant the actual cost or fee charged by the department of state police, the Federal Bureau of Investigation, or a vendor approved by the department of state police for performing a criminal history check required under this section.

(6) If a person, licensee designee, chief administrator, or program director of a child care organization applying to renew a license to operate a child care organization has previously undergone a criminal history check required under subsection (1) and has remained continuously licensed after the criminal history check has been performed and section 5k continues to apply, that person, licensee designee, chief administrator, or program director of a child care organization is not required to submit to another criminal history check upon renewal of the license obtained under section 5.

History: Add. 2005, Act 133, Eff. Jan. 1, 2006 ;-- Am. 2006, Act 580, Imd. Eff. Jan. 3, 2007 ;-- Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 107, Imd. Eff. June 23, 2022

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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722.115d Conditional offer of employment to person at child care organization; criminal history background check; cost; exception for renewal.

Sec. 5d.

(1) Before a child care organization makes a conditional offer of employment to a person, the child care organization shall perform a criminal history background check on that person using the department of state police's internet criminal history access tool (ICHAT) or equivalent check on that person from the state or province of residence.

(2) If a search of the department of state police's ICHAT or equivalent check on the person from the state or province of residence reveals that the person described in subsection (1) has been convicted of a listed offense, the child care organization shall not make an offer of employment to that person. If a search of the department of state police's ICHAT reveals that a current employee has been convicted of a listed offense, the child care organization shall not continue to employ that person. If a search of the department of state police's ICHAT or equivalent check on that person from the state or province of residence reveals that a person who regularly and continuously works under contract at the child care organization has been convicted of a listed offense, the child care organization shall not allow that person to regularly or continuously work under contract at the child care organization.

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

(4) A child caring institution subject to section 671 of title IV-E of the social security act, 42 USC 671, shall not permit a child caring institution staff member to begin working unless all of the following have been completed:

(a) The department receives written consent from the child caring institution staff member to conduct a criminal history check. The department shall require the person to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check.

(b) The child caring institution receives the results of the criminal history check from the department.

(c) If the employee has a criminal conviction, the child caring institution shall complete a written evaluation that addresses the nature of the conviction, the length of time since the conviction was entered, and the relationship between the conviction and regulated activity in the child caring institution for the purpose of determining suitability for employment in the child caring institution.

(5) If a child caring institution is applying to renew its license, a staff member, who has previously undergone a criminal history check required under subsection (4)(a) and has remained continuously employed with the child caring institution that is seeking renewal, is not required to submit to another criminal history check upon renewal

of the child caring institution's license.

History: Add. 2005, Act 133, Eff. Jan. 1, 2006 ;-- Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018 ;-- Am. 2020, Act 10, Imd. Eff. Jan. 27, 2020

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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722.115e Arraignment or conviction of licensee, staff member, or member of household; report; crime; staff member not convicted of crime; deletion of information from records; notice requirements.

Sec. 5e.

(1) A child care center licensee, licensee designee, or program director, group child care home licensee, and family child care home licensee shall report to the department within 3 business days after he or she has been arraigned for or convicted of 1 or more of the crimes listed in section 5r.

(2) Except as provided in subsection (1), a child care staff member shall report to the child care center, group child care home, or family child care home within 3 business days after he or she has been arraigned for or convicted of 1 or more of the crimes listed in section 5r.

(3) A child care center licensee, licensee designee, or program director, group child care home licensee, and family child care home licensee shall report to the department within 3 business days after receiving a report from a child care staff member under subsection (2).

(4) A group child care home licensee or family child care home licensee shall report to the department within 3 business days after he or she knows or should reasonably know that a member of the household has been arraigned for or convicted of 1 or more of the crimes listed in section 5r.

(5) A person who violates subsection (1), (2), (3), or (4) is guilty of a crime as follows:

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

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

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

(7) A child care center, group child care home, or family child care home shall delete from the child care staff member's records all information relating to an arraignment required to be reported under this section if it receives documentation that the child care staff member is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(8) At the time a child care center, group child care home, or family child care home allows a person to become a child care staff member, the child care center, group child care home, or family child care home shall notify that person of the requirement under this section to report when he or she is arraigned for or convicted of certain crimes and the penalty for not reporting.

History: Add. 2005, Act 133, Eff. Jan. 1, 2006 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department

of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115f Repealed. 2017, Act 257, Eff. Mar. 28, 2018.

Compiler's Notes: The repealed section pertained to duty of state police to perform criminal history check and criminal record check on person applying for or renewing certificate of registration to operate family or group child care home.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115g Duties of department upon conviction of household member.

Sec. 5g.

If the department becomes aware that a member of the household of a group child care home or family child care home has been convicted of a listed offense, the department shall not issue a license to the applicant, shall not renew a license to the licensee applying for renewal, or shall revoke a current licensee's license.

History: Add. 2005, Act 128, Eff. Jan. 1, 2006 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115h Application for or to renew license to operate foster family home or foster family group home; criminal history check required; procedures.

Sec. 5h.

(1) Except as provided in subsection (6), when a person applies for or to renew a license to operate a foster family home or foster family group home under this act, the department shall request the department of state police to perform a criminal history check on that person.

(2) Each person applying for a license to operate a foster family home or foster family group home shall give written consent at the time of application for the department of state police to conduct a criminal history check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check described in subsection (1).

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

(4) Within a reasonable time after receiving a complete request by the department for a criminal history check on a person under this section, the department of state police shall conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police and the Federal Bureau of Investigation.

(5) The department of state police may charge the department a fee for a criminal history check required under this section that does not exceed the actual and reasonable cost of conducting the check.

(6) If a person applying to renew a license to operate a foster family home or foster family group home under this act has previously undergone a criminal history check required under subsection (1) and has continuously maintained a license to operate a foster family home or foster family group home under this act after the criminal history check has been performed, that person is not required to submit to another criminal history check upon renewal of the license obtained to operate a foster family home or foster family group home under this act.

History: Add. 2007, Act 218, Eff. Jan. 1, 2008 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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722.115i Arraignment or conviction of licensee operating foster family home or foster family group home; report; crimes; violation; person not convicted; deletion of information from records.

Sec. 5i.

(1) A person to whom a license to operate a foster family home or foster family group home has been issued under this act shall report to the department within 3 business days after he or she has been arraigned for or convicted of 1 or more of the following crimes and within 3 business days after he or she knows or should reasonably know that an adult member of the household has been arraigned for or convicted of 1 or more of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

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

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

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

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

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

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

(vii) Any misdemeanor that is a listed offense.

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

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

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

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

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

arraignment.

History: Add. 2007, Act 218, Eff. Jan. 1, 2008 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115j Criminal history background check performed by department.

Sec. 5j.

(1) When a person applies for or to renew a license to operate a foster family home or foster family group home under this act, the department shall perform a criminal history background check on an adult member of the household using the department of state police's internet criminal history access tool (ICHAT). This section does not apply to a person residing in the home for a period of not more than 14 days.

(2) If a search of the department of state police's ICHAT reveals that an adult member of the household has been convicted of a listed offense, the department shall not issue a license to the applicant, shall not renew a license to the licensee applying for renewal, or shall revoke a current licensee's license.

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History: Add. 2007, Act 218, Eff. Jan. 1, 2008 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115k Storage and retention of fingerprints in automated fingerprint identification system database; automatic notification.

Sec. 5k.

(1) The department of state police shall store and retain all fingerprints submitted under this act in an automated fingerprint identification system database that provides for an automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted in accordance with this act. Upon that notification, the department of state police shall immediately notify the department and the department shall immediately contact the respective child care organization with which that individual is associated. Except for child placing agencies and child caring institutions, the criminal history record information must only be released to the individual to whom the criminal history record information pertains. Information in the database retained under this section is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and must not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(2) When the department of state police is able to participate with the Federal Bureau of Investigation's automatic notification system similar to the system administered by the department of state police under subsection (1), all fingerprints submitted to the Federal Bureau of Investigation may be stored and retained. When a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints for an individual

retained in accordance with this act, the department of state police shall immediately notify the department. The department shall immediately contact the child care organization with which the individual is associated if a conviction results from the arrest. Except for child placing agencies and child caring institutions, the criminal history record information must only be released to the individual to whom the criminal history record information pertains.

History: Add. 2007, Act 218, Eff. Jan. 1, 2008 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018 ;-- Am. 2020, Act 10, Imd. Eff. Jan. 27, 2020
Compiler's Notes: For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
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722.115l Person making report, cooperating in investigation, or assisting in other requirement; immunity from liability; confidentiality; anonymous complaint; false report.

Sec. 5l.

(1) A person acting in good faith who makes a report, cooperates in an investigation, or assists in any other requirement of this act is immune from civil or criminal liability that might otherwise be incurred by that action. A person making a report or assisting in any other requirement of this act is presumed to have acted in good faith. This immunity from civil or criminal liability extends only to an act performed according to this act for reporting a potential violation or assisting or cooperating with the department in an investigation conducted by the department.

(2) Except as provided in section 10(3), the identity of a person making a report and cooperating with or assisting the department relative to that report under this act is confidential, subject only to disclosure with the consent of that person or by judicial process.

(3) If the department receives a complaint by an individual remaining anonymous, the department may take no action on the complaint if the complaint does not include sufficient information to reasonably investigate.

(4) A person who intentionally makes a false report to the department regarding a child care organization that causes the department to initiate a special investigation that the department classifies as high-risk for which the child care organization is required to send notice under section 3f is guilty of a crime as follows:

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

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

(i) The penalty for the incident falsely reported.

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

History: Add. 2008, Act 15, Eff. June 1, 2008 ;-- Am. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115m Child care center, group child care home, or family child care home; requirements for licensure; disclosure of ownership interest.

Sec. 5m.

(1) This section and sections 5n to 5s apply only to a child care center, group child care home, or family child care home.

(2) A person, local or state governmental organization, trust, or legal entity shall not establish or maintain a child care center, group child care home, or family child care home unless licensed by the department. Application for a child care center, group child care home, or family child care home license must be made on forms provided, and in the manner prescribed, by the department, including the fees required under subsection (11). Before issuing or renewing a child care center, group child care home, or family child care home license, the department must investigate the applicant's activities and proposed standards of care and must make an on-site visit of the proposed or established child care center, group child care home, or family child care home. Except as otherwise provided in this subsection and sections 5q and 5r, if the department is satisfied as to the need for a child care center, group child care home, or family child care home, as to its financial stability, and that the service, facility, applicant, licensee, child care staff member, or member of the household is conducive to the welfare of the children, the department shall issue or renew the child care center, group child care home, or family child care home license. If the department determines that a service, facility, applicant, licensee, child care staff member, or member of the household is not conducive to the welfare of the children, the department shall deny that application or revoke that licensee's license according to section 11.

(3) An applicant for a child care center license must disclose the ownership interest in the child care center as follows:

(a) If the owner is a trust, the applicant must disclose the names and addresses of all the trustees.

(b) If the owner is a privately held corporation, the applicant must disclose the names and addresses of all shareholders, officers, and directors.

(c) If the owner is a publicly held corporation, the applicant must disclose the names and addresses of the officers and directors and all shareholders holding a direct or indirect interest of greater than 5%.

(d) If the owner is a partnership or limited liability partnership, the applicant must disclose the names and addresses of all the partners.

(e) If the owner is a limited partnership or limited liability limited partnership, the applicant must disclose the names and addresses of all partners, both general and limited.

(f) If the owner is a limited liability company, the applicant must disclose the names and addresses of all members and managers.

(g) If the owner is a legal entity not covered under subdivisions (a) to (f), the applicant must disclose the names and address of all individuals that participate in governance for the legal entity.

(4) To assess whether the service, facility, applicant, licensee, child care staff member, or member of the household is conducive to the welfare of the children, the department may utilize available information, including, but not limited to, any of the following:

(a) Investigative report, such as a law enforcement report and a children's protective services report.

(b) Medical report.

(c) Public record.

(d) Child care center, group child care home, or family child care home record.

(e) Inspection of the child care center, group child care home, or family child care home.

(5) The department may use information obtained under section 5k to obtain reports prepared independently for police, law enforcement, or other purposes to make a determination under this section.

(6) The department shall issue a group child care home or family child care home license to a person who has successfully completed an orientation session offered by the department and who meets the requirements of this act. The department must make available to group child care home or family child care home applicants for licensure an orientation session regarding this act, the rules promulgated under this act, and the needs of children in child care before issuing a group child care home or family child care home license.

(7) Except as provided in subsection (2), the department shall issue an original or renewal license under this act for a child care center, group child care home, or family child care home not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by the department. If the application is considered incomplete by the department, the department must notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

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

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the department.

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

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

(9) Except as provided in subsection (2), if the department fails to issue, deny, or refuse to renew a license to a child care center, group child care home, or family child care home within the time required by this section, the department must return the application fee required under subsection (11) and shall reduce the application fee for the applicant's next renewal application, if any, by 15%. Failure to issue, deny, or refuse to renew a license to a child care center, group child care home, or family child care home within the time period required under this section does not allow the department to otherwise delay the processing of the application. A completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(10) If, on a continual basis, inspections performed by a local health department delay the department in issuing or denying a license for a child care center, group child care home, or family child care home under this act within the 6-month period, the department may use department staff to complete the inspection instead of the local health department causing the delays.

(11) The department shall assess fees as provided in the following schedule:

(a) Family child care home license, $50.00 for an original license application and $25.00 for renewal.

(b) Group child care home license, $100.00 for an original license application and $50.00 for renewal.

(c) Child care center license with a capacity of 1 to 20, $150.00 for an original license application and $75.00 for renewal.

(d) Child care center license with a capacity of 21 to 50, $200.00 for an original license application and $100.00 for renewal.

(e) Child care center license with a capacity of 51 to 100, $250.00 for an original license application and $125.00 for renewal.

(f) Child care center license with a capacity of over 100, $300.00 for an original license application and $150.00 for renewal.

(12) The department shall use the fees collected under this section only to fund the program licensing child care centers, group child care homes, and family child care homes. Funds remaining at the end of the fiscal year shall not lapse to the general fund but shall remain available to fund the program in subsequent years.

(13) Fees described in this section are payable to the department at the time an application is submitted for original issuance or renewal. If a license is denied, revoked, or refused renewal, or an application is rejected as provided in section 15(4), the department shall not refund fees paid to the department.

(14) As used in this section:

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

(b) "Conducive to the welfare of the children" means:

(i) The service and facility comply with this act and the administrative rules promulgated under this act.

(ii) The disposition, temperament, condition, and action of the applicant, licensee, licensee designee, program director, child care staff member, and member of the household promote the safety and well-being of the children served.

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History: Add. 2017, Act 258, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 107, Imd. Eff. June 23, 2022

Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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722.115n Application for or renewal of license to operate child care center, group child care home, or family

child care home; household member or child care staff member; criminal history check; requirements; duties of department.

Sec. 5n.

(1) Except as otherwise provided in subsection (13), when a person, partnership, firm, corporation, association, governmental organization, or nongovernmental organization applies for or applies to renew a license to operate a child care center, group child care home, or family child care home under section 5m and before a group child care home or family child care home allows an individual to be a member of the household, or a child care center, group child care home, or family child care home allows an individual to become a child care staff member, the department shall do all of the following:

(a) Review its database of individuals with previous disciplinary action within a child care center, group child care home, or family child care home or an adult foster care facility.

(b) Conduct a search of the individual through the national sex offender registry.

(c) Request a search of the individual through all state criminal registries or repositories for any states of residence in the past 5 years.

(d) Request that the department of state police perform a criminal history check on the individual, child care staff member, or adult member of the household.

(2) If the individual, child care staff member, or adult member of the household has resided out of the United States within the preceding 5 years, equivalent clearances of those described in subsection (1)(b) and (d) and section 5q from each country must be provided, if available. If the country does not have the equivalent clearance, the individual must sign a self-certifying statement that he or she is not ineligible to receive a license, to be an adult member of the household, or to be a child care staff member as prescribed by sections 5q and 5r. An individual who provides or is determined to have provided false information or knowingly omits information in the self-certification statement is ineligible for that application.

(3) Each individual listed in subsection (1) shall give written consent at the time of the license application and before a group child care home or family child care home allows an individual to be a member of the household, or before becoming a child care staff member to allow the department of state police to conduct the criminal history check required under subsection (1). The department shall require the individual to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check as required in subsection (1).

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

(5) Within a reasonable time after receiving a complete request for a criminal history check on a person under this section, the department of state police shall conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police and the Federal Bureau of Investigation.

(6) The department of state police may charge the department a fee for a criminal history check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass along to the individual fingerprinted the actual cost or fee charged by the department of state police, the Federal Bureau of Investigation, or a vendor approved by the department of state police for performing a criminal history check required under this section.

(7) The department shall provide whether the individual is eligible or ineligible as provided by sections 5q and 5r within 45 days after the date on which the request was submitted.

(8) The individual may serve as a child care staff member pending the results of the record and database checks required by this section and section 5q if the individual is supervised at all times.

(9) Within 45 days after the date on which the request was submitted, the department shall provide a statement to the child care center, group child care home, or family child care home that indicates whether the individual is eligible or ineligible to be, a licensee, an adult member of the household, or a child care staff member as provided under sections 5q and 5r without revealing any disqualifying crime or other related information regarding the individual.

(10) If the individual is ineligible due to the records or database checks required under this section and section 5q, the department shall provide information related to each disqualifying item in a report to the individual who has been determined ineligible.

(11) An individual who has been determined to be ineligible as provided under sections 5q and 5r may request a redetermination by the department if he or she believes that the basis for the ineligible determination is inaccurate. The individual shall file the request for redetermination with the department within 30 calendar days after receiving the written notice that he or she was determined to be ineligible. If an individual has been determined to be ineligible based upon a conviction that has been expunged or set aside or a central registry case that has been expunged, the individual shall provide the supporting court, law enforcement, or department of health and human services, or equivalent department from another state, documents along with the request for redetermination. The

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individual shall not be determined to be ineligible based upon a conviction that has been set aside or expunged or a central registry case that has been expunged. The department shall review the request and issue a written decision within 30 business days after receiving the request for redetermination. The decision of the department is final.

(12) Each ineligible individual shall be given instructions about how to complete the request for redetermination process as provided in subsection (11).

(13) Except as otherwise provided in this subsection, not later than September 30, 2017, every child care center licensee, group child care home licensee, family child care home licensee, child care staff member, and adult member of the household shall submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation in order to carry out the records and database checks required under this section and section 5q. If the department of education obtains an extension on the implementation of this program from the federal government, the provisions of this section may be implemented no later than September 30, 2018.

(14) If a licensee, licensee designee, or program director of a child care center, group child care home, or family child care home applying for a new license or to renew a license to operate a child care center, group child care home, or family child care home has previously undergone a criminal history check required under subsections (1) and (13) and has remained continuously licensed after the criminal history check has been performed, that licensee, licensee designee, or program director of a child care center, group child care home, or family child care home is not required to submit to another criminal history check upon renewal of, or application for, the license obtained under this act.

(15) Upon consent of an applicant as required in subsection (3) and upon request from a child care center, group child care home, or family child care home, the department shall review the information received from the criminal history check, if any, and notify the requesting child care center, group child care home, or family child care home of the information in the manner prescribed in subsection (7). Until the Federal Bureau of Investigation implements an automatic notification system as outlined in section 5k, a child care center, group child care home, or family child care home may rely on the criminal history record information provided by the department under this subsection and a new request as provided under this section is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 5-year period.

(b) The applicant has been continuously employed by a child care center, group child care home, or family child care home since the criminal history check was conducted in compliance with this section.

(c) The applicant can provide evidence acceptable to the department that he or she has been a resident of this state for the immediately preceding 5-year period.

(16) The checks and clearances required in subsection (1)(a) to (c) and section 5q shall be updated at least every 5 years if the individual has been continuously licensed, has continuously been serving as a child care staff member, or has continuously been an adult member of the household.

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History: Add. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115o Operation of child care center, group child care home, or family child care home; criminal history check; issuance of license prohibited; revocation.

Sec. 5o.

(1) Except as provided in section 5n(14), the department shall not issue a license to operate a child care center, group child care home, or family child care home under this act without requesting a criminal history check as required by section 5n.

(2) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license to operate a child care center under this act has been convicted of a crime as described in section 5r, the department shall not issue a license to that applicant.

(3) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license to operate a child

care center under this act has been convicted of a crime as described in section 5r, the department shall not renew that license.

(4) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that a current child care center licensee has been convicted of a crime as described in section 5r, the department shall revoke the license of that licensee.

(5) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license to operate a group child care home or family child care home under this act or an adult member of the household has been convicted of a crime as described in section 5r, the department shall not issue a license to that applicant.

(6) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license to operate a group child care home or family child care home under this act or an adult member of the household has been convicted of a crime as described in section 5r, the department shall not renew a license to that applicant.

(7) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that a current group child care home or family child care home licensee under this act or an adult member of the household has been convicted of a crime as described in section 5r, the department shall revoke that licensee's license.

History: Add. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.115p Child care center, group child care home, or family child care home; potential or current child care staff member convicted of crime.

Sec. 5p.

(1) Except as provided in section 5n(14) and (15), a child care center, group child care home, or family child care home shall not allow an individual to be a child care staff member without requesting a criminal history check as required by section 5n.

(2) If a criminal history check performed under section 5n or information obtained as a result of notification from the department of state police under section 5k reveals that a potential or current child care staff member has been convicted of a crime as described in section 5r, the department shall notify the child care center, group child care home, or family child care home. The child care center, group child care home, or family child care home shall not allow the individual to be a child care staff member.

History: Add. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.115q Child care center, group child care home, or family child care home; contact with child by licensee, child care staff member, or household adult member prohibited; conditions.

Sec. 5q.

(1) Except as provided in section 5n(8), a licensee, child care staff member, or adult member of the household

may not have contact with a child who is in the care of a child care center, group child care home, or family child care home, until the department obtains documentation from the department of health and human services that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. Upon request by the department, the licensee, child care staff member, or adult member of the household shall provide the department with an updated authorization for a central registry clearance. If a central registry clearance documents that a licensee, child care staff member, or adult member of the household is named in a central registry case as a perpetrator of child abuse or child neglect, he or she is ineligible to receive a license to operate a child care center, group child care home, or family child care home, be an adult member of the household, or be a child care staff member.

(2) If the licensee, child care staff member, or adult member of the household has resided outside of this state as an adult within the 5 years immediately preceding the date of application for a license, or the date that he or she was hired as a child care staff member or resided in a group child care home or family child care home, except as provided in section 5n(8), the individual may not have contact with a child who is in the care of a child care center, group child care home, or family child care home until the department obtains documentation equivalent to the department of health and human services central registry clearance for the states of previous residence that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. If the documentation equivalent to the department of health and human services central registry clearance for the states of previous residence indicates that the individual is named as a perpetrator of child abuse or child neglect, the individual is ineligible to receive a license, be an adult member of the household, or be a child care staff member.

(3) Each child care center, group child care home, or family child care home that has volunteers on site shall establish and maintain a policy regarding supervision of volunteers including volunteers who are parents of a child receiving care at the child care center, group child care home, or family child care home.

(4) As used in this section, "child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

CAUTION! This document is from an archive and may contain outdated information.

History: Add. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.115r Individual required to undergo criminal history check or database check; individual ineligible to receive license, be adult member of household, or be child care staff member; conditions.

Sec. 5r.

(1) An individual required to undergo a criminal history check as described in section 5n is ineligible for that application only, to receive a license, be an adult member of the household or be a child care staff member if the individual does either of the following:

(a) Refuses to consent to the criminal history check or central registry check as required under section 5q.

(b) Knowingly makes a materially false statement or knowingly omits information in connection with a criminal history check or central registry check as required under section 5q.

(2) An individual required to undergo a database check as required under section 5n(1)(a) who has a confirmed history of disciplinary action or violations as outlined in section 11(5) and (6) may be considered ineligible to receive a license, be an adult member of the household, or be a child care staff member.

(3) An individual required to undergo a criminal history check as described in section 5n is ineligible to receive a license, be an adult member of the household, or be a child care staff member if the individual satisfies 1 or more of the following:

(a) Is registered, or is required to be registered, on a state sex offender registry or repository or the national sex offender registry.

(b) Has been convicted of a felony consisting of 1 or more of the following or any other state or federal equivalent:

(i) Murder or homicide.

(ii) Child abuse or child neglect.

(iii) A crime against a minor child, including, but not limited to, child pornography.

(iv) Spousal abuse or domestic violence.
(v) A crime involving rape or sexual assault.
(vi) Kidnapping.
(vii) Arson.
(viii) Physical assault or battery.
(ix) Human trafficking or involuntary servitude.
(c) Has been convicted of a violent misdemeanor against a child, including, but not limited to, 1 or more of the following crimes:
(i) Child abuse.
(ii) Child endangerment.
(iii) Sexual assault.
(d) Has been convicted of a misdemeanor involving child pornography.
(4) An individual required to undergo a criminal history check as described in section 5n is ineligible to receive a license, be an adult member of the household, or be a child care staff member if the individual has been convicted of 1 or more of the following felonies, an attempt or conspiracy to commit 1 or more of the following felonies, or any other state or federal equivalent, unless 10 years have lapsed since the conviction, before the date of application or before the date a group child care home or family child care home allows an individual to be an adult member of the household, or a child care center, group child care home, or family child care home allows an individual to be a child care staff member:
(a) A felony involving harm or threatened harm to an individual.
(b) A felony involving the use of a firearm or dangerous weapon.
(c) A felony involving cruelty or torture of any person.
(d) A felony involving a substantial misrepresentation of any material fact, bribery, fraud, larceny, embezzlement, theft, home invasion, breaking and entering, receiving and concealing stolen property or a crime of similar statute.
(e) A felony involving operating a motor vehicle while intoxicated or impaired causing serious injury or death.
(f) A felony involving the use of a computer or the internet to commit a crime.
(g) A felony involving cruelty to animals, including, but not limited to, fighting, killing, torturing, and abandoning.
(h) A felony involving aggravated stalking, aggravated indecent exposure, indecent exposure by a sexually delinquent person, pandering, transporting an individual for prostitution, and keeping, maintaining, or operating a house of ill fame.
(i) A felony as a habitual offender.
(5) An individual required to undergo a criminal history check as described in section 5n is ineligible to receive a license, be an adult member of the household, or be a child care staff member if the individual has been convicted of a felony drug offense, an attempt or conspiracy to commit a felony drug offense, or any other state or federal equivalent, unless 7 years have lapsed since the conviction before the date of application or before the date a group child care home or family child care home allows an individual to be an adult member of the household or a child care center, group child care home, or family child care home allows an individual to be a child care staff member.
(6) An individual required to undergo a criminal history check as described in section 5n is ineligible to receive a license, be an adult member of the household, or be a child care staff member if the individual has been convicted of 1 or more of the following misdemeanors, an attempt or conspiracy to commit any of those misdemeanors, or any other state or federal equivalent, unless 5 years have lapsed since the conviction before the date of application or before the date a group child care home or family child care home allows an individual to be an adult member of the household or a child care center, group child care home, or family child care home allows an individual to be a child care staff member:
(a) A misdemeanor involving operating under the presence of a controlled substance, use or possession of a controlled substance, and selling or furnishing a controlled substance to a minor.
(b) A misdemeanor involving using computers to commit a crime, a substantial misrepresentation of a material fact, embezzlement, breaking and entering, and any other fraudulent crime except retail fraud in the third degree, petty theft, or shoplifting.
(c) A misdemeanor involving stalking, assault, spousal abuse, domestic violence, weapons offense, harboring runaways, aiding and abetting, and arson.

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History: Add. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.115s Individual previously reviewed and approved before effective date of amendatory act; request for redetermination.

Sec. 5s.

(1) If an individual was previously reviewed and approved by the department as a licensee of a child care center or group child care home, as a registrant of a family child care home, as a licensee designee or program director for a child care center, or as an adult member of the household before the effective date of the amendatory act that added this section, the department may find the individual to be eligible to receive a license under this section, eligible to be a member of the household, or eligible to be a child care staff member if all of the following apply:

(a) The offense was previously known and approved by the department before the effective date of the amendatory act that added this section.

(b) The offense is not listed in section 5r(3).

(c) The individual has remained continuously licensed under this act or continuously employed with an active child care center license, group child care home license, or family child care home registration since the date of approval.

(2) An individual determined to be ineligible under section 5r, excluding section 5r(3), who was a licensee, child care staff member, or adult member of the household at the time the records and database checks required under section 5n were completed, may request a redetermination of his or her eligibility. A redetermination must be requested in writing by the individual determined to be ineligible within 30 days after receipt of that determination. The request for a redetermination must include all evidence of rehabilitation that the individual wishes the department to consider. The department has 60 days, after all requested information has been received by the department, to respond in writing with the recommendation for the redetermination. The decision of the director is final.

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History: Add. 2017, Act 256, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.116 Evaluation of governmental child care organizations; report; state funds.

Sec. 6.

(1) The department of health and human services and its local county department of health and human services offices similar to those organizations required to be licensed under this act shall be evaluated and approved at least once every 2 years, using this act and rules promulgated under this act for similar organizations licensed under this act.

(2) A report of the evaluation or inspection shall be furnished to the funding body for each governmental child care organization. Unless governmental child care organizations continue to meet the appropriate statutory requirements and administrative rules, state funds shall not be appropriated or provided for their continued operation. This subsection does not apply to the department of health and human services or a local county department of health and human services office.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see

E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.116a Annual comprehensive needs assessment.

Sec. 6a.

(1) Beginning January 1, 2023, and every January 1 after that, the department must conduct a comprehensive needs assessment regarding utilizing residential treatment and the needs of youth who are referred to this type of treatment. The assessment must identify the types of beds currently being utilized and the types of beds needed, the age group, gender, and geographic region of youth receiving these treatment services and those in need of the treatment services.

(2) As the department identifies needs of foster youth through the assessment required in subsection (1), the department must work with community partners to assist providers in meeting the identified needs of the foster youth.

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History: Add. 2022, Act 203, Imd. Eff. Oct. 7, 2022
Compiler's Notes: For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.117 Original license; renewal or refusal to renew; modification to provisional license.

Sec. 7.

An original license shall be issued to a new child care organization during the first 6 months of operation. An original license expires 6 months after the date of issuance. The renewal of an original license is contingent upon the submission of a new application and approval by the department. At the end of the first 6 months of operation, the department shall either renew as a regular license or refuse to renew the original license as provided in section 11 or modify to a provisional license as provided under section 7a(3).

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 2017, Act 258, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.117a Provisional license.

Sec. 7a.

(1) A provisional license may be issued to a child care organization that is temporarily unable to conform to the rules. The issuance of a provisional license shall be contingent upon the submission to the department of an acceptable plan to overcome the deficiency present in the child care organization within the time limitations of the provisional licensing period.

(2) A provisional license expires 6 months after the date of issuance and may be issued not more than 3 times. The renewal of a provisional license shall be contingent upon the submission of a new application and approval by the appropriate department. At the end of the 6 months, the department shall either issue a regular license, refuse to renew the license as provided in section 11, or modify to a provisional license as provided in this section.

(3) The department may modify the license of a child care organization to a provisional license when the licensee willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license. A license cannot be modified unless the licensee is given written notice of the grounds of the proposed modification. If the proposed modification is not appealed, the license will be modified. The proposed modification must be appealed within 30 days after receipt by writing the director or director's designee. Upon receipt of the appeal, the director or director's designee must initiate the provisions of chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292. Notice of a hearing must be given to the licensee by personal service or delivery to the proper address by certified mail not less than 2 weeks before the date of the hearing. The decision of the director must be made as soon as practicable after the hearing and forwarded to the licensee by certified mail not more than 10 days after that. The formal notice and hearing requirement in this subsection does not apply if the licensee and the department comply with subsection (4).

(4) The department may immediately modify a license without providing written notice of the grounds of the proposed action or giving the licensee 30 days to appeal if the licensee, in writing, does the following:

(a) Waives the requirement that the department provide written notice of the grounds for the proposed action.

(b) Waives the 30-day time frame in which to submit a written appeal to the proposed action.

(c) Waives the right to implement the provisions of chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292.

(5) As used in this section:

(a) "Substantially violates" means repeated violations or noncompliance of this act, a rule promulgated under this act, or the terms of a license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services.

(b) "Willfully violates" means, after receiving a copy of the act, the rules promulgated under the act and, for a license, a copy of the terms of a license, or a previous citation for a violation of this act or a rule promulgated under this act, a licensee or an applicant knew or had reason to know that his or her conduct was a violation of the act, rules promulgated under the act, or the terms of a license.

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History: Add. 2017, Act 258, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

722.118 Regular license; renewal; duration; contents; reissuance; extended license.

Sec. 8.

(1) A regular license is effective for 2 years after the date of issuance unless revoked or refused renewal as provided in section 11 or modified to a provisional as provided in section 7a. Unless the license is an extended license obtained under subsection (4), a license must be renewed biennially on application and approval. A license shall specify in general terms the kind of child care organization the licensee may undertake, and the number, and ages of children that can be received and maintained.

(2) The department may accept a licensee's written request to close a license if the department does not have an active investigation against the licensee or is not pursuing revocation or refusal to renew as provided in section 11.

(3) A certification of registration issued by the department before March 28, 2018 shall be reissued as a license. The reissuance must be completed in the manner determined by the department by March 28, 2019.

(4) Beginning January 1, 2023, the department shall issue an extended license to a foster family home or foster family group home under the following conditions:

(a) The foster family home or foster family group home has been licensed for, at least, 1 year.

(b) The foster family home or foster family group home is in good standing with the department.

(5) An extended license provided under subsection (4) is effective for 3 years after the date of issuance unless revoked or refused renewal as provided in section 11 or modified to a provisional as provided in section 7a. An extended license must be renewed every 3 years on application and approval.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980 ;-- Am. 1980, Act 232, Imd. Eff. July 20, 1980 ;-- Am. 2017, Act 258, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 205, Imd. Eff. Oct. 7, 2022

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

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722.118a Assessment of child care organization compliance with act and rules; assessment of foster family home or foster family group home; certification; on-site evaluation.

Sec. 8a.

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

(2) The department may authorize a child placing agency or governmental unit to periodically assess a licensed foster family home or a licensed foster family group home under subsection (1) and to certify that the foster family home or the foster family group home continues to comply with this act and the rules promulgated under this act. A periodic assessment of a licensed foster family home or a licensed foster family group home under this subsection may include an on-site evaluation of the child care organization.

History: Add. 1980, Act 32, Imd. Eff. Mar. 10, 1980 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

722.118b Regulation of foster family homes or foster family group homes; variance.

Sec. 8b.

(1) Upon the recommendation of a local foster care review board under section 7a of 1984 PA 422, MCL 722.137a, or of a child placing agency, the department may grant a variance to 1 or more licensing rules or statutes regulating foster family homes or foster family group homes for 1 or more of the following reasons:

(a) To allow the child and 1 or more siblings to remain or be placed together.

(b) To allow a child with an established meaningful relationship with the family to remain with the family.

(c) To allow a family with special training or skills to provide care to a child who has a severe disability.

(2) If the department determines that the placement would be in the child's best interests and that the variance from the particular licensing rules or statutes would not jeopardize the health or safety of a child residing in the foster family home or foster family group home, the department may grant the variance.

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

History: Add. 1997, Act 165, Eff. Mar. 31, 1998 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2020, Act 7, Imd. Eff. Jan. 27, 2020
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

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722.118c License; issuance to specific person or organization; location; nontransferable; property of department.

Sec. 8c.

A license shall be issued to a specific person or organization at a specific location, shall be nontransferable, and shall remain the property of the department.

History: Add. 2017, Act 258, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.118d Applicability of licensing requirements for certain services under safe families for children act.

Sec. 8d.

A service provided under the safe families for children act by an organization licensed under this act as a child placing agency is not subject to the licensing requirements under this act.

History: Add. 2018, Act 433, Eff. Mar. 20, 2019
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.118e Licensure and notification requirements for child care centers within a multiple occupancy building; rescission of R 400.8560.

Sec. 8e.

(1) Within 90 days after the effective date of this section, a child care center that is currently licensed and located in a multiple occupancy building shall, in a form and manner as prescribed by the department, notify the department if there has been any change in occupancy or use by occupants within the building since its license was issued. Beginning 90 days after the effective date of this section, the department shall require each applicant seeking licensure as a child care center within a multiple occupancy building to clearly state on the application that it will be located within a multiple occupancy building and describe the nature and character of each of the other occupants and the occupant use within that multiple occupancy building.

(2) Before issuing or renewing a license or provisional license under this act to a child care center located within a multiple occupancy building, the department shall inspect the location to verify that reasonable mitigation measures are in place to protect the health, safety, and well-being of children who are under the care of the child care center. As a condition of licensure for a child care center located within a multiple occupancy building, the department may require the child care center to do all of the following:

(a) Use reasonable measures to mitigate any significant risk associated with other occupants within the multiple occupancy building.

(b) Ensure the child care center is self-contained, with bathrooms located within the child care center.

(c) Secure the child care center against unauthorized entry during hours of operation.

(d) Ensure the child care center is separated from hazardous operations.

(e) If alcohol is served within the multiple occupancy building, ensure that alcohol is not transported or consumed within the child care center during hours of child care center operation.

(f) If an outdoor area is available and shared, ensure that there is a set schedule to keep the children separate from other occupants of that building.

(g) Satisfy any other reasonable staffing, program, or operational requirements that the department determines are necessary to protect children within the care of that child care center from any serious risk of harm that may stem from being located within a multiple occupancy building.

(h) Require the licensee to notify the department within 90 days of a change of occupants or occupant use within that building.

(3) The child care center hours of operation do not determine the hours of operation for the other occupants of a multiple occupancy building, including, but not limited to, occupants that serve alcohol.

(4) R 400.8560 of the Michigan Administrative Code is rescinded.

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History: Add. 2022, Act 113, Imd. Eff. June 23, 2022
Compiler's Notes: For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.119 Child care organization; presence of certain individuals prohibited; conditions; contact by certain individuals prohibited; conditions; documentation that individual not named in central registry; policy regarding supervision of volunteers; children's camps or campsites; administrative review for former applicant or licensee; expungement; criminal history check.

Sec. 9.

(1) A licensee, adult member of the household, licensee designee, chief administrator, or program director of a child care organization shall not be present in a child care organization if he or she has been convicted of either of the following:

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

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment or of becoming a member of the household.

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

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

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

(3) Except as provided in subsection (5), a licensee, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer may not have contact with a child who is in the care of a child care organization, until the licensee, adult member of the household, licensee designee, chief administrator, staff member, or volunteer provides the child care organization with documentation from the department that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. Upon request by the department, the licensee, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer shall provide the department with an updated authorization for central registry clearance. If an updated central registry clearance documents that a licensee, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer is named as a perpetrator in a central registry case, he or she may not be present in the child care organization. As used in this subsection and subsection (5), "child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

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

(5) Staff members or unsupervised volunteers in children's camps or children's campsites who are 21 years of age or older may not have contact with a child who is in the care of a children's camp until the staff member or volunteer provides the children's camp with documentation from the department of health and human services that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect.

(6) A former applicant or former licensee may request an administrative review by the department responsible for licensure under this act if the license for a child care organization was denied, revoked, or refused renewal due in whole or in part to the person's placement on the statewide electronic central registry originally maintained under section 7 of the child protection law, 1975 PA 238, MCL 722.627, prior to the effective date of the amendatory act that created the statewide electronic case management system under section 7j of the child protection law, 1975 PA 238, MCL 722.627j, and if the person's placement on the original central registry was subsequently expunged from the case management system as a central registry case after the effective date of the amendatory act that created the statewide electronic case management system under section 7j of the child protection law, 1975 PA 238, MCL 722.627j. The request for administrative review under this subsection must be submitted in writing addressed to the director of the department responsible for licensure or the director's designee within 60 days of receipt of the written notification under section 7j of the child protection law, 1975 PA 238, MCL 722.627j, and the local office file under section 7l from the department of health and human services that the person is no longer listed on central registry or named in a central registry case. The administrative review under this subsection is limited to determining if the department will enforce the 5-year prohibition in section 15(4). Within 90 days of receipt of the request for an administrative review under this subsection or receipt of the written notification under section 7j of the child protection law, 1975 PA 238, MCL 722.627j, and the local office file under section 7l from the department of health and human services of the removal of the person listed on the central registry, whichever is later, the director of the department responsible for licensure or the director's designee shall complete the review and notify the person in writing of the final decision. If the department's final decision is to enforce the 5-year prohibition in section 15(4), the person may appeal as provided in chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306. If the department's decision is to waive the 5-year prohibition in section 15(4), the former applicant or former licensee may apply for a new license with the department responsible for licensure under this act. As used in this subsection, "local office file" means that term as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(7) A child care staff member, adult member of the household, or a person who had been determined to be ineligible by the department as provided under section 5q, and who is no longer listed on the central registry nor named in a central registry case, may be eligible to be a child care staff member or adult member of the household as an employee or volunteer if that person complies with the criminal history check required under section 5n and submits documentation to the department from the department of health and human services demonstrating that the person is no longer listed on the central registry or named in a central registry case.

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History: Add. 2002, Act 674, Eff. Mar. 31, 2003 ;-- Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 71, Eff. Nov. 1, 2022

Compiler's Notes: Former MCL 722.119, which pertained to registration of family day care homes, was repealed by Act 232 of 1980, Imd. Eff. July 20, 1980.For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction

codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.119a Repealed. 2017, Act 257, Eff. Mar. 28, 2018.

Compiler's Notes: The repealed section pertained to duration and renewal of certificate of registration.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.120 Investigation, inspection, and examination of conditions, books, records, and reports; access by department, bureau of fire services, or local authorities; records; report; forms; confidentiality; disclosure of information; availability of confidential records; child information cards to be provided to department; failure of licensee to cooperate with investigation, inspection, or examination.

Sec. 10.

(1) The department may investigate, inspect, and examine conditions of a child care organization and may investigate and examine the licensee's books and records. The licensee must cooperate with the department's investigation, inspection, and examination by doing all of the following:

(a) Admitting members of the department into the child care organization and furnishing all reasonable facilities for thorough examination of its books, records, and reports.

(b) Allowing the department to perform routine investigative functions during the course of an investigation, inspection, or examination. Routine investigative functions include, but are not limited to, interviewing potential witnesses, such as staff and household members, and taking photographs to assess and document the conditions of the child care organization and its compliance with this act and the rules promulgated under this act.

(c) Providing accurate and truthful information to the department, and encouraging witnesses, such as staff and household members, to provide accurate and truthful information to the department.

(2) The licensee shall allow the department, the bureau of fire services, or local authorities access to the child care organization to carry out the provisions of this act and rules promulgated under this act related to the health or fire protection of children.

(3) A licensee shall keep the records the department prescribes regarding each child in its control and care and shall report to the department, if requested, the facts the department requires with reference to the children upon forms furnished by the department. Except as otherwise provided in this subsection and subsection (4), records regarding children and facts compiled about children and their parents and relatives are confidential and disclosure of this information must be properly safeguarded by the child care organization, the department, and any other entity in possession of the information. Records that are confidential under this section are available to 1 or more of the following:

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

(b) The child advocate established in section 3 of the office of the child advocate act, 1994 PA 204, MCL 722.923.

(c) An employee of an agency, bureau, division, or other entity within the department, or an employee of a child caring institution, or a child placing agency contracted with the department, but only to the extent necessary for the administration of child welfare services in each case. The director of the agency responsible for child welfare services, or the director's designee, is responsible for authorizing an employee to have access to the records

according to this subdivision and for ensuring that access is given only to the extent necessary.

(d) A national accreditation program, only while on-site, for the purpose of review and accreditation of a child welfare program, agency, or organization.

(4) Notwithstanding subsection (3) and sections 5 and 7(2) of the child protection law, 1975 PA 238, MCL 722.625 and 722.627, information or records in the possession of the department or the department of licensing and regulatory affairs may be shared to the extent necessary for the proper functioning of the department or the department of licensing and regulatory affairs in administering child welfare or child care licensing under this act or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by the department or the department of licensing and regulatory affairs unless otherwise permitted under this act or other state or federal law. Neither the department nor the department of licensing and regulatory affairs shall release or open for inspection any document, report, or record authored by or obtained from another agency or organization unless 1 of the conditions of section 7(5) of the child protection law, 1975 PA 238, MCL 722.627, applies.

(5) A child care center, group child care home, or family child care home licensee shall provide the department with child information cards for all children presently enrolled for care, as requested by the department, whenever the department initiates or conducts an investigation, inspection, or assessment. If the investigation, inspection, or assessment results in the department pursuing disciplinary action as provided by section 11, the child care center, group child care home, or family child care home licensee must provide the department with child information cards for newly enrolled children for the pendency of the proposed disciplinary action.

(6) The department may suspend, deny, revoke, or refuse to renew a license of the child care organization if the licensee does not cooperate with an investigation, inspection, or examination under this section.

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History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1980, Act 498, Imd. Eff. Jan. 21, 1981 ;-- Am. 1994, Act 205, Eff. Jan. 1, 1995 ;-- Am. 2006, Act 206, Imd. Eff. June 19, 2006 ;-- Am. 2016, Act 495, Eff. Apr. 6, 2017 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2019, Act 94, Eff. Jan. 22, 2020 ;-- Am. 2022, Act 69, Eff. Nov. 1, 2022 ;-- Am. 2023, Act 304, Eff. Feb. 13, 2024

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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Admin Rule: R 400.1 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; and R 400.12101 et seq. of the Michigan Administrative Code.

722.120a Contribution.

Sec. 10a.

(1) A child placing agency shall not solicit or accept a contribution from a prospective adoptive parent unless the contribution is equivalent in value to the cost of, and tendered as payment for, an adoption service actually performed for the prospective adoptive parent by the child placing agency.

(2) A child placing agency shall not give or offer to give an individual preferential treatment in connection with an adoption service in return for a contribution from or on behalf of that individual.

(3) As used in this section, "contribution" means the payment of money or donation of goods or services.

History: Add. 1994, Act 243, Eff. July 5, 1994

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

722.121 Denial, revocation, or refusal to renew license; grounds; notice; appeal; hearing; decision; protest; denial of license for noncompliance; complaint by legislative body of city, village, or township; procedure; previous revocation of license or certificate of registration; issuance of license to individuals prohibited; conditions; immediate revocation or refusal to renew license or denial of application; issuance of subpoena; order; definitions.

Sec. 11.

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

(2) The department may deny, revoke, or refuse to renew a license of a child care organization when the licensee or applicant falsifies information on the application or willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license. A license shall not be revoked, a renewal of a license shall not be refused, or an application for a license shall not be denied, unless the licensee or applicant is given notice in writing of the grounds of the proposed revocation, denial, or refusal. If revocation, denial, or refusal is appealed within 30 days after receipt of the notice by writing addressed to the department director, the department director or his or her designee shall conduct a hearing at which the licensee or applicant may present testimony and confront witnesses. If the proposed revocation, refusal, or denial is not appealed, the license shall be revoked, the license shall be refused renewal, or the application shall be denied. The proposed revocation, refusal, or denial must be appealed within 30 days after receipt by writing the department director or his or her designee. Upon receipt of the written appeal, the department director or his or her designee must initiate the provisions of chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292. Notice of the hearing must be given to the licensee or applicant by personal service or delivery to the proper address by certified mail not less than 2 weeks before the date of the hearing. The director's decision must be made as soon as practicable after the hearing, and forwarded to the licensee or applicant by certified mail not more than 10 days after that. The formal notice and hearing requirements in this subsection do not apply if the licensee or applicant and the department comply with the provisions of subsection (7).

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

(4) The legislative body of a city, village, or township in which a child caring institution or foster family group home is located may file a complaint with the department to have the organization's license suspended, denied, or revoked according to the procedures outlined in this act and the rules promulgated under this act. The department director shall resolve the issues of the complaint within 45 days after the receipt of the complaint. Notice of the resolution of the issues shall be mailed by certified mail to the complainant and the licensee. Failure of the department director to resolve the issues of the complaint within 45 days after receipt of the complaint shall serve as a decision by the director to suspend, deny, or revoke the organization's license. If the decision to suspend, deny, or revoke the license or the resolution of the issues is protested by written objection of the complainant or licensee to the department director within 30 days after the suspension, denial, or revocation of the license or the receipt of the notice of resolution, the department director or a designated representative of the director shall conduct a hearing according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, at which the complainant and licensee may present testimony and cross-examine witnesses. The director's decision shall be mailed by certified mail to the complainant and the licensee. If the resolution of the issues by the department director is not protested within 30 days after receipt of the notice of the resolution, the resolution by the department director is final.

(5) The department shall not issue a license to or renew a license of a child care center, group child care home, or family child care home if the applicant or licensee has had a previous license or certificate of registration revoked or refused renewal or an application denied due to a violation of this act, the rules promulgated under this act, or the terms of the license or certificate of registration that resulted in the severe physical injury, sexual abuse, or death of a child while under its care.

(6) The department shall not issue a license to an individual who worked in a child care center, group child care home, or family child care home at the time of a violation of this act, the rules promulgated under this act, or the terms of a license that resulted in the severe physical injury or death of a child or resulted in a child being sexually abused if the individual had direct care and supervision of that child at the time of the violation.

(7) The department may immediately revoke or refuse to renew a licensee or deny an application for a license

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without providing written notice of the grounds of the proposed action or giving the licensee or applicant 30 days to appeal if the licensee or applicant, in writing, does all of the following:

(a) Waives the requirement that the department provide written notice of the grounds for the proposed action.

(b) Waives the 30-day time frame in which to submit a written appeal to the proposed action.

(c) Waives the right to implement the provisions of chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292.

(8) The director or his or her designee may issue a subpoena to do either of the following:

(a) Compel the attendance of a witness to testify at a contested case hearing.

(b) Produce books, papers, documents, or other items relevant to the investigation or hearing.

(9) If a subpoena is disobeyed, the director or his or her designee may petition the circuit court to require the attendance of a witness or the production of books, papers, documents, or other items. The circuit court may issue an order requiring a person to appear and give testimony or produce books, papers, documents, or other items. Failure to obey the order of the circuit court may be punished by the court as a contempt of court.

(10) As used in this section:

(a) "Substantially violates" means repeated violations of this act or repeated instances of noncompliance or a single instance of noncompliance with this act, a rule promulgated under this act, or the terms of a license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services.

(b) "Willfully violates" means, after receiving a copy of the act, the rules promulgated under the act and, for a license, a copy of the terms of a license, or a previous citation for a violation of this act or a rule promulgated under this act, a licensee or an applicant knew or had reason to know that his or her conduct was a violation of the act, rules promulgated under the act, or the terms of a license.

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History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1976, Act 398, Eff. Mar. 31, 1977 ;-- Am. 1980, Act 232, Imd. Eff. July 20, 1980 ;-- Am. 2010, Act 85, Imd. Eff. May 27, 2010 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 106, Imd. Eff. June 23, 2022
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.121a Notice of location of new and existing licensed child caring institutions or foster family group homes.

Sec. 11a.

The director of the department shall notify the clerk of the city, village, or township and the legislature of the location of new and existing licensed child caring institution or foster family group home within the boundaries of the cities, villages, and townships in this state. The notification shall be given within 30 days after the licensing of a new organization.

History: Add. 1976, Act 398, Eff. Mar. 31, 1977 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

722.121b Database; establishment; maintenance; information.

Sec. 11b.

(1) The department shall establish and maintain a database of child care centers, family child care homes, and group child care homes. The database must include, at a minimum, all of the following information:

(a) The name, address, and telephone number of the child care center, family child care home, or group child care home.

(b) The days and general hours of operation of the child care center, family child care home, or group child care home.

(c) The license number, effective date, expiration date, and date of the last inspection of the child care center, family child care home, or group child care home.

(d) The number and nature of any adverse action taken against the child care center, family child care home, or group child care home by the department.

(e) The number and nature of any special investigations regarding the child care center, family child care home, or group child care home conducted by the department.

(2) The department must make the following database information available to the public on the internet for persons seeking information on child care options, without charge, through that department's website:

(a) The items listed in subsection (1)(a) to (c).

(b) The results of any monitoring inspections conducted in the past 3 years and information on corrective actions taken, if applicable.

(c) The results of any substantiated complaint investigations conducted in the past 3 years and information on corrective actions taken.

(d) The results of any special investigation conducted in the past 3 years and information on corrective actions taken, if applicable.

(3) The department must inform the public, through press releases or other media avenues, of the information available as provided under subsection (2).

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History: Add. 2002, Act 645, Imd. Eff. Dec. 23, 2002 ;-- Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007 ;-- Am. 2010, Act 86, Imd. Eff. May 27, 2010 ;-- Am. 2017, Act 258, Eff. Mar. 28, 2018 ;-- Am. 2022, Act 110, Imd. Eff. June 23, 2022

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

722.121c Temporary operation at unlicensed location in case of disaster; new license required if remaining at new location; determination of disaster.

Sec. 11c.

(1) In the case of a disaster, a child care center, group child care home, or family child care home may temporarily operate at an unlicensed location under this section. The requirements to temporarily operate at an unlicensed location under this section are as follows:

(a) The child care center, group child care home, or family child care home cannot operate in a new location until after the department has conducted an inspection and approved the new location.

(b) For a child care center, a fire safety inspection, an environmental health inspection, and, if necessary, a lead hazard risk assessment, and, for a group child care home or family child care home, an environmental health inspection, if necessary, are conducted within 45 days of the proposal of the new location. If any of the inspections

find the new location to be unsafe, the child care center, group child care home, or family child care home must discontinue operation in that new location.

(2) If the child care center, group child care home, or family child care home will remain at the new location, the licensee must apply for and obtain a new license within 1 year of moving to the new location.

(3) The department shall determine what constitutes a disaster under this section.

History: Add. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
Popular Name: Act 116
Popular Name: Child Care Licensing Act

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722.122 Appeal.

Sec. 12.

A person aggrieved by the decision of the director following a hearing under section 7a or 11 may appeal as provided in chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1980, Act 232, Imd. Eff. July 20, 1980 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.123 Injunction.

Sec. 13.

(1) The department may bring an action for injunctive relief in the circuit court for the county in which the person resides or in the circuit court for Ingham County, to enjoin a violation or threatened violation of this act or a rule promulgated under this act. An affidavit of an individual who is personally familiar with the basis of noncompliance must be filed with the action for injunctive relief.

(2) If the department has conducted an investigation that discloses an imminent threat to the public health, safety, or welfare, or the well-being of a child is endangered, the department may obtain an injunction to restrain or prevent a person from acting in a manner that threatens the public health, safety, or welfare, or to compel a person to affirmatively take reasonable corrective action. Before obtaining an injunction as provided by this subsection, the department must obtain an affidavit by a person familiar with the facts set forth in the affidavit, or, if appropriate, based upon an affidavit, that an imminent threat to the public health, safety, or welfare exists or the well-being of a child is endangered. The appropriate department is not required to provide prior warning to the person before obtaining an injunction under this section. The appropriate department is not required to demonstrate an imminent threat to the public health, safety, or welfare or child endangerment if the person is operating a child care organization without a license in violation of the director's final order issued under section 11.

(3) If the department is successful in obtaining an injunction as provided in this section, the department is entitled to actual costs and attorney fees for maintaining the action.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.123a Placement in a qualified residential treatment program; requirements; assessment of qualified individual; duties of court or administrative body; dispositional review; approval for continued placement; definitions.

Sec. 13a.

(1) In the case of a child in foster care who is placed in a qualified residential treatment program, the following requirements apply:

(a) Within 30 days after the start of each placement in a qualified residential treatment program, a qualified individual must do all of the following:

(i) Assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the secretary.

(ii) Determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child, as specified in the child's permanency plan.

(iii) Develop a list of child-specific short-term and long-term mental and behavioral health goals.

(b) The child placing agency responsible for care and supervision of the child must assemble a team for the child in accordance with the requirements of subdivision (a)(i) and (ii). The qualified individual conducting the assessment required under subdivision (a) must work in conjunction with the child's team while conducting and making the assessment.

(c) The child's team, as described in subdivision (b), must consist of all appropriate biological family members, relatives, and other supportive adults of the child, as well as professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the team must include members of the permanency planning team for the child that are selected by the child.

(d) The child placing agency responsible for the child's care and supervision must document in the child's case plan all the following:

(i) The reasonable and good-faith effort to identify and include all the individuals described in subdivision (c) on the child's team.

(ii) All contact information for members of the team, as well as contact information for other relatives and supportive adults who are not part of the child's team.

(iii) Evidence that meetings of the team, including meetings relating to the assessment required under subdivision (a), are held at a time and place convenient for family.

(iv) If reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input to the members of the child's team.

(v) Evidence that the assessment required under subdivision (a) is determined in conjunction with the child's team.

(vi) The placement preference of the child's team relative to the assessment that recognizes a child should be placed with his or her sibling unless there is a finding by the court that such placement is contrary to the child's best interests.

(vii) If the placement preferences of the child's team and the child are not the placement setting recommended by the qualified individual conducting the assessment under subdivision (a), the reason why the preferences of the child's team and of the child were not recommended.

(2) If the qualified individual conducting the assessment determines the child should not be placed in a foster family home, the qualified individual shall specify in writing the reason why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes is not an acceptable

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reason for determining that the needs of the child cannot be met in a foster family home. The qualified individual must specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child.

(3) Within 60 days after the start of each placement in a qualified residential treatment program, the court, or an administrative body appointed or approved by the court, independently, must do the following:

(a) Consider the assessment, determination, and documentation made by the qualified individual.

(b) Determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the goals for the child, as specified in the permanency plan for the child.

(c) Approve or disapprove the qualified residential treatment program placement.

(4) The written documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body under subsection (3) shall be included in and made part of the case plan for the child.

(5) As long as a child remains placed in a qualified residential treatment program, the department must submit evidence at each dispositional review hearing and each permanency planning hearing held with respect to the child that does the following:

(a) Demonstrates that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child.

(b) Documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services.

(c) Documents the reasonable efforts made by the department to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

(6) At each dispositional review hearing and permanency planning hearing held with respect to the child, the court shall approve or disapprove the qualified residential treatment program placement.

(7) In the case of a child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months, the department shall obtain the signed approval of the director of the department for the continued placement of the child in that setting.

(8) In response to the restrictions on title IV-E foster care payments for child caring institutions in section 472(k) of the family first prevention services act, 42 USC 672(k), the department shall not enact or advance policies or practices that would result in a significant increase in the population of youth in the juvenile justice system.

(9) As used in this section:

(a) "Foster care" means 24-hour substitute care for a child placed away from his or her parent or guardian and for whom the title IV-E agency has placement and care responsibility.

(b) "Qualified individual" means a trained professional or licensed clinician who is not an employee of the department and who is not connected to, or affiliated with, any placement setting in which children are placed by the department. The department may seek a waiver from the secretary to approve a qualified individual who does not meet the criteria in this subdivision to conduct the assessment. The individual must maintain objectivity with respect to determining the most effective and appropriate placement for the child.

(c) "Secretary" means the United States Secretary of the Department of Health and Human Services.

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History: Add. 2020, Act 8, Imd. Eff. Jan. 27, 2020 ;-- Am. 2021, Act 5, Imd. Eff. Mar. 26, 2021
Compiler's Notes: For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.124 Persons authorized to place child.

Sec. 14.

Only a parent, guardian of the person of a child, a person related to a child by blood, marriage, or adoption, a child placing agency, or a governmental unit may place a child in the control and care of a person. This section does not prevent foster parents from placing foster children in temporary care according to rules promulgated by the department.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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Admin Rule: R 400.1 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; and R 400.12101 et seq. of the Michigan Administrative Code.

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722.124a Consent to medical and surgical treatment of minor child; "routine, nonsurgical medical care" defined.

Sec. 14a.

(1) A probate court, a child placing agency, or the department may consent to routine, nonsurgical medical care, or emergency medical and surgical treatment of a minor child placed in out-of-home care under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, the probate code of 1939, 1939 PA 288, MCL 710.21 to 712B.41, or this act. If the minor child is placed in a child care organization, the probate court, the child placing agency, or the department making the placement shall execute a written instrument investing that organization with authority to consent to emergency medical and surgical treatment of the child. The department may also execute a written instrument investing a child care organization with authority to consent to routine, nonsurgical medical care of the child. If the minor child is placed in a child care institution, the probate court, the child placing agency, or the department making the placement shall in addition execute a written instrument investing that institution with authority to consent to the routine, nonsurgical medical care of the child.

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

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

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

History: Add. 1974, Act 191, Imd. Eff. July 2, 1974 ;-- Am. 1984, Act 396, Eff. Mar. 29, 1985 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.124b Definitions used in MCL 722.124b, 722.124c, and 722.124d.

Sec. 14b.

As used in this section and sections 14c and 14d:

(a) "Adoption attorney" means that term as defined in section 22 of the Michigan adoption code, MCL 710.22.

(b) "Adoption facilitator" means a child placing agency or an adoption attorney who assists biological parents or guardians or prospective adoptive parents with adoptions according to the Michigan adoption code.

(c) "Michigan adoption code" means chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

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

(e) "Public information form" means a form described in section 14d that is completed by a primary adoption facilitator and maintained in a central clearinghouse by the department for distribution according to section 14d to individuals seeking information about adoption.

History: Add. 1994, Act 209, Eff. Jan. 1, 1995 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.124c Filing of public information form by primary adoption facilitator; contents; authentication; applicability of section to certain adoptions.

Sec. 14c.

(1) Not later than 10 days after the entry of an order of adoption under section 56 of the Michigan adoption code, MCL 710.56, the primary adoption facilitator for that adoption shall file with the probate court a completed public information form setting forth information including costs connected with the adoption as prescribed by section 14d. The public information form shall be authenticated by verification under oath by the primary adoption facilitator, or, in the alternative, contain the following statement immediately above the date and signature of the facilitator: "I declare that this public information form has been examined by me and that its contents are true to the best of my information, knowledge, and belief.".

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

(3) Except as provided in subsection (2), this section applies to adoptions in which the order of adoption under section 56 of the Michigan adoption code, MCL 710.56, is entered after July 1, 1995, including adoptions pending on July 1, 1995.

History: Add. 1994, Act 209, Eff. July 1, 1995 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.124d Public information form; reporting nonconfidential information; detachable section; distribution of blank forms; acceptance and maintenance of completed forms; individual requests for information about adoption facilitators; sending nonconfidential portion in response to individual's request; fee.

Sec. 14d.

(1) The department shall develop a public information form for the reporting of the following nonconfidential information:

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

(b) The type of adoption, as follows:

(i) Direct placement or agency placement.

(ii) Intrastate, interstate, or intercountry.

(c) The name of the agency and individual who performed the preplacement assessment or the investigation required under section 46 of the Michigan adoption code, MCL 710.46, and the cost of the assessment or investigation.

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

(e) The name of each individual who performed counseling services for an adoptive parent; the individual's agency affiliation, if any; the number of hours of counseling performed; and the cost of that counseling.

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

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

(h) The total amount paid by an adoptive parent for expenses incurred in ascertaining the information required under section 27 of the Michigan adoption code, MCL 710.27.

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The legal residence of biological parents.

(g) The legal residence of adoptive parents.

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

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

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

(iii) The temporary placement, if applicable.

(iv) The formal placement.

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

(3) The department shall distribute blank public information forms to adoption facilitators, courts, and other interested individuals and organizations.

(4) Beginning on July 1, 1995, the department shall accept from the probate court of each county and maintain in a central clearinghouse completed public information forms for each adoption completed in this state. Upon the request of an individual seeking information about adoption facilitators serving a particular county or counties, the department shall send the individual a list of all adoption facilitators serving that county or those counties, the number of adoptions each person facilitated in the county or counties during the preceding 12 months, and the fees the department charges for transmitting copies of public information forms. Upon the individual's request for public

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information forms for a particular adoption facilitator or facilitators and payment of the required fees, the department shall send the individual copies of the nonconfidential portions of the public information forms completed by that adoption facilitator or those adoption facilitators during the preceding 12 months. If the number of adoptions facilitated by a particular adoption facilitator in a particular county or counties is insufficient to protect the confidentiality of the participants in an adoption, the department shall send the nonconfidential portions of additional public information forms for adoptions facilitated by that adoption facilitator in earlier years or in other counties. The additional forms required to protect confidentiality shall be sent without charge to the individual requesting the information.

(5) If the department receives public information forms completed by a probate register containing only the primary adoption facilitator's name and confidential information, the department shall send the nonconfidential portion of those public information forms completed by the probate register in response to an individual's request for public information forms for that adoption facilitator.

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

History: Add. 1994, Act 209, Eff. Jan. 1, 1995 ;-- Am. 1995, Act 107, Imd. Eff. June 23, 1995 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.124e Legislative findings and declaration; requirement to provide services that conflict with child placing agency's religious beliefs prohibited; adverse action against child placing agency prohibited; information to be provided to applicant; defense in administrative or judicial proceeding; ability of another child placing agency to provide services not limited; definitions.

Sec. 14e.

(1) The legislature finds and declares all of the following:

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

(b) As of September 9, 2015, there are 105 licensed adoption and foster care agencies in this state that are authorized to participate in and assist families with adoption and foster parent placements of children.

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

(d) As of September 9, 2015, the adoption and foster care licensees of this state represent a broad spectrum of organizations and groups, some of which are faith based and some of which are not faith based.

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

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

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

(h) Under well-established contracting practices of the department, a private child placing agency does not receive public funding with respect to a particular child or particular individuals referred by the department unless that agency affirmatively accepts the referral.

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

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

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

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

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

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

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

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

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

(7) For the purpose of this section:

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

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

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History: Add. 2015, Act 53, Eff. Sept. 9, 2015 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: Enacting section 1 of Act 53 of 2015 provides:"Enacting section 1. It is the intent of the legislature to protect child placing agencies' free exercise of religion protected by the United States constitution and the state constitution of 1963. This amendatory act is not intended to limit or deny any person's right to adopt a child or participate in foster care."For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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722.124f Decision to accept or not accept referral; defense in administrative or judicial proceeding; "adverse action" defined.

Sec. 14f.

(1) If the department makes a referral to a child placing agency for foster care case management or adoption services under a contract with the child placing agency, the child placing agency may decide not to accept the referral if the services would conflict with the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency. Before accepting a referral for services under a contract with the department, the child placing agency has the sole discretion to decide whether to engage in activities and perform services related to that referral. The department shall not control the

child placing agency's decision whether to engage in those activities or perform those services. For purposes of this subsection, a child placing agency accepts a referral by doing either of the following:

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

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

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

(3) If a child placing agency decides not to accept a referral under subsection (1), that occurrence shall not be a factor in determining whether a placement in connection with the referral is in the best interest of the child.

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

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

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History: Add. 2015, Act 53, Eff. Sept. 9, 2015 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: Enacting section 1 of Act 53 of 2015 provides:"Enacting section 1. It is the intent of the legislature to protect child placing agencies' free exercise of religion protected by the United States constitution and the state constitution of 1963. This amendatory act is not intended to limit or deny any person's right to adopt a child or participate in foster care."For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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722.125 Violation of act; violation of rule causing death of child; penalty; conviction as ground for revocation of license; effect of revocation, denial, or refusal to renew; rejection of application; "certificate of registration" defined.

Sec. 15.

(1) Except as provided in subsection (2), a person, child care organization, agency, or representative or officer of a firm, a corporation, an association, or an organization who violates this act is guilty of a misdemeanor punishable by the following:

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

(b) For a violation not described in either subdivision (a) or subsection (2), a fine of not less than $100.00 or more than $1,000.00, or imprisonment for not more than 90 days, or both.

(2) If a person, family child care home, group child care home, agency, or representative or officer of a firm, a corporation, an association, or an organization intentionally violates a licensing rule for family and group child care homes promulgated under this act and in effect on January 1, 2017, and that violation causes the death of a child, the person, family child care home, group child care home, agency, or representative or officer of a firm, a corporation, an association, or an organization is guilty of second degree child abuse described in section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, and punishable as provided in that section. In addition to any other penalty imposed, its license shall be permanently revoked.

(3) If a person, child care organization, agency, or representative or officer of a firm, a corporation, an association, or an organization is convicted under this act, the conviction is sufficient ground for the revocation of its license, and the person, child care organization, agency, or representative or officer of a firm, a corporation, an association, or an organization convicted shall not be granted a license, or be permitted to be connected, directly or indirectly, with a licensee or a registrant for a period of not less than 5 years after the conviction, except as

provided in subsection (2).

(4) A person, child care organization, agency, or representative or officer of a firm, a corporation, an association, or an organization who has a license or certificate of registration revoked, application denied, renewal refused, or, before the effective date of the 2017 amendatory act that amended this subsection, certificate of registration revoked or refused renewal or application denied may be refused a license, or be prohibited from being connected, directly or indirectly, with a licensee for a period of not less than 5 years after the revocation, denial, or refusal to renew. The department, in its discretion, is not required to accept an application from a person, child care organization, agency, or representative or officer of a firm, a corporation, an association, or an organization described in this subsection. The department may reject the application on its face without taking further action after notifying the applicant of the rejection and the reason for the rejection.

(5) As used in this section, "certificate of registration" means the written document issued previously under this act to a family child care home through registration.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 1980, Act 232, Imd. Eff. July 20, 1980 ;-- Am. 1993, Act 218, Eff. Apr. 1, 1994 ;-- Am. 2016, Act 487, Eff. Apr. 6, 2017 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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722.126 Education to public.

Sec. 16.

The department shall provide continuous education to the public in regard to the requirements of this act through the ongoing use of mass media and other methods as are considered appropriate.

History: 1973, Act 116, Eff. Mar. 29, 1974 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

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722.127 Objection on religious grounds to medical examination, immunization, or treatment of child.

Sec. 17.

Nothing in the rules adopted pursuant to this act shall authorize or require medical examination, immunization, or treatment for any child whose parent objects thereto on religious grounds.

History: 1973, Act 116, Eff. Mar. 29, 1974

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to

children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.127a Use of inhaler or epinephrine auto-injector by child at children's camp.

Sec. 17a.

(1) If the conditions prescribed in subsection (2) are met, notwithstanding any children's camp policy to the contrary, a minor child may possess and use 1 or more of the following at the children's camp, on camp-sponsored transportation, or at any activity, event, or program sponsored by the children's camp or in which the minor child is participating:

(a) A metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms or for use before exercise to prevent the onset of asthmatic symptoms.

(b) An epinephrine auto-injector or epinephrine inhaler to treat anaphylaxis.

(2) Subsection (1) applies to a minor child if all of the following conditions are met:

(a) The minor child has written approval to possess and use the inhaler or epinephrine auto-injector as described in subsection (1) from the minor child's physician or other health care provider authorized by law to prescribe an inhaler or epinephrine auto-injector and from the minor child's parent or legal guardian.

(b) The director or other chief administrator of the minor child's camp has received a copy of each written approval required under subdivision (a) for the minor child.

(c) There is on file at the children's camp a written emergency care plan that contains specific instructions for the minor child's needs, that is prepared by a licensed physician in collaboration with the minor child and the minor child's parent or legal guardian, and that is updated as necessary for changing circumstances.

(3) A children's camp or an owner, director, or employee of a children's camp is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from either of the following:

(a) An employee of the children's camp having prohibited a minor child from using an inhaler or epinephrine auto-injector because the conditions prescribed in subsection (2) had not been satisfied.

(b) An employee of the children's camp having permitted a minor child to use or possess an inhaler or epinephrine auto-injector because the conditions prescribed in subsection (2) had been satisfied.

(4) This section does not eliminate, limit, or reduce any other immunity or defense that a camp or an owner, director, or employee of a camp may have under other state law.

(5) A children's camp may request a minor child's parent or legal guardian to provide an extra inhaler or epinephrine auto-injector to designated camp personnel for use in case of emergency. A parent or legal guardian is not required to provide an extra inhaler or epinephrine auto-injector to camp personnel.

(6) A director or other chief administrator of a children's camp who is aware that a minor child possesses an inhaler or epinephrine auto-injector as authorized under this section shall notify each camp employee who supervises the minor child of that fact and of the provisions of this section.

History: Add. 2005, Act 120, Imd. Eff. Sept. 22, 2005
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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722.128 Repeal.

Sec. 18.

Act No. 47 of the Public Acts of 1944, being sections 722.101 to 722.108 of the Compiled Laws of 1970, is repealed.

History: 1973, Act 116, Eff. Mar. 29, 1974
Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.
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