

CHILD CARE ORGANIZATIONS (EXCERPT)
Act 116 of 1973

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 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.

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.

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