

## CHAPTER 722. CHILDREN

### STATUS OF MINORS AND CHILD SUPPORT

#### Act 293 of 1968

AN ACT to establish the status of minors; to define the rights and duties of parents; to establish rights and duties to provide support for a child after the child reaches the age of majority under certain circumstances; and to establish the conditions for emancipation of minors.

**History:** 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1990, Act 238, Imd. Eff. Oct. 10, 1990.

**Popular name:** Emancipation of Minors Act

*The People of the State of Michigan enact:*

#### 722.1 Definitions.

Sec. 1. As used in this act:

- (a) "Minor" means a person under the age of 18 years.
- (b) "Parents" means natural parents, if married prior or subsequent to the minor's birth; adopting parents, if the minor has been legally adopted; or the mother, if the minor is illegitimate.
- (c) "Emancipation" means termination of the rights of the parents to the custody, control, services and earnings of a minor.

**History:** 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1972, Act 16, Imd. Eff. Feb. 19, 1972.

**Popular name:** Emancipation of Minors Act

#### 722.2 Unemancipated minors; parental rights.

Sec. 2. Unless otherwise ordered by a court order, the parents of an unemancipated minor are equally entitled to the custody, control, services and earnings of the minor, but if 1 parent provides, to the exclusion of the other parent, for the maintenance and support of the minor, that parent has the paramount right to control the services and earnings of the minor.

**History:** 1968, Act 293, Eff. Nov. 15, 1968.

**Popular name:** Emancipation of Minors Act

#### 722.3 Obligation of parents; exceptions; enforcement of duty to support; child support formula as guideline; agreement to transfer prosecutor's responsibilities; enforcement of judgment.

Sec. 3. (1) The parents are jointly and severally obligated to support a minor as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, unless a court of competent jurisdiction modifies or terminates the obligation or the minor is emancipated by operation of law, except as otherwise ordered by a court of competent jurisdiction. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, a court of competent jurisdiction may order support as provided in this section for a child after he or she reaches 18 years of age.

(2) The duty of support may be enforced by the minor or the child who has reached 18 years of age, his or her guardian, any relative within the third degree, an authorized government agency, or if the minor or the child who has reached 18 years of age is being supported in whole or in part by public assistance under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, by the director of the department of human services or his or her designated representative, or by the director of the county department of human services or his or her designated representative of the county where an action under this act is brought. An action for enforcement shall be brought in the circuit court in the county where the minor or the child who has reached 18 years of age resides. If a designated official of either the state or a county department of human services brings an action under this act on behalf of the minor or the child who has reached 18 years of age, the prosecuting attorney shall represent the official in initiating and conducting the proceedings under this act. The child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, shall be used as a guideline in petitioning for child support.

(3) The prosecuting attorney and the department of human services may enter into an agreement to transfer the prosecutor's responsibilities under this act to 1 of the following:

- (a) The friend of the court, with the approval of the chief judge of the circuit court.
- (b) An attorney employed or contracted by the county under section 1 of 1941 PA 14, MCL 49.71.
- (c) An attorney employed by, or under contract with, the department of human services.

(4) A judgment entered under this section providing for support is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

**History:** 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1971, Act 173, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 213, Eff. Mar. 1, 1986;—Am. 1989, Act 278, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 238, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 295, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 17, Eff. June 1, 1996;—Am. 2001, Act 110, Eff. Sept. 30, 2001;—Am. 2014, Act 372, Eff. Mar. 17, 2015.

**Popular name:** Emancipation of Minors Act

### **722.3a Repealed. 2001, Act 110, Eff. Sept. 30, 2001.**

**Compiler's note:** The repealed section pertained to child support after child reaches 18 years of age.

**Popular name:** Emancipation of Minors Act

### **722.4 Emancipation by operation of law or according to petition filed by minor with family division of circuit court.**

Sec. 4. (1) Emancipation may occur by operation of law or according to a petition filed by a minor with the family division of circuit court as provided in this act.

(2) An emancipation occurs by operation of law under any of the following circumstances:

(a) When a minor is validly emancipated under the laws of another state.

(b) When an individual reaches 18 years of age.

(c) During the period when the minor is on active duty with the United States Armed Forces.

(d) For the purposes of consenting to routine, nonsurgical medical care or emergency medical treatment to a minor, when the minor is in the custody of a law enforcement agency and the minor's parent or guardian cannot be promptly located. The minor or the minor's parent remains responsible for the cost of any medical care or treatment rendered under this subdivision. An emancipation under this subdivision ends upon the termination of medical care or treatment or upon the minor's release from custody, whichever occurs first.

(e) For the purposes of consenting to his or her own preventive health care or medical care including surgery, dental care, or mental health care, except vasectomies or any procedure related to reproduction, during the period when the minor is a prisoner committed to the jurisdiction of the department of corrections and is housed in a state correctional facility operated by the department of corrections or in a youth correctional facility operated by the department of corrections or a private vendor under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g; or the period when the minor is a probationer residing in a special alternative incarceration unit established under the special alternative incarceration act, 1988 PA 287, MCL 798.11 to 798.18. This subdivision applies only if a parent or guardian of the minor cannot promptly be located by the department of corrections or, in the case of a youth correctional facility operated by a private vendor, by the responsible official of the youth correctional facility.

(3) An emancipation occurs by court order under a petition filed by a minor with the family division of circuit court as provided in sections 4a to 4e.

**History:** 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1972, Act 16, Imd. Eff. Feb. 19, 1972;—Am. 1986, Act 164, Imd. Eff. July 7, 1986;—Am. 1988, Act 403, Eff. Mar. 30, 1989;—Am. 1993, Act 257, Eff. Apr. 1, 1994;—Am. 1996, Act 412, Eff. Jan. 1, 1998;—Am. 1998, Act 509, Imd. Eff. Jan. 8, 1999;—Am. 2023, Act 73, Imd. Eff. July 12, 2023.

**Popular name:** Emancipation of Minors Act

### **722.4a Petition; filing; signature; verification; contents; affidavit; service on parents or guardian; notice of hearing.**

Sec. 4a. (1) A minor seeking emancipation shall file a petition for emancipation in the family division of circuit court in the county where the minor resides. The petition shall be signed and verified by the minor, and shall include all of the following information:

(a) The minor's full name and birth date, and the county and state where the minor was born.

(b) A certified copy of the minor's birth certificate.

(c) The name and last known address of the minor's parents, guardian, or custodian.

(d) The minor's present address, and length of residency at that address.

(e) A declaration by the minor indicating that he or she has demonstrated the ability to manage his or her financial affairs. The minor may include any information he or she considers necessary to support the declaration.

(f) A declaration by the minor indicating that he or she has the ability to manage his or her personal and social affairs. The minor may include in this section any information he or she considers necessary to support

the declaration.

(2) The petition shall include an affidavit by any of the following individuals declaring that the individual has personal knowledge of the minor's circumstances and believes that under those circumstances emancipation is in the best interests of the minor:

- (a) Physician.
- (b) Nurse.
- (c) Member of the clergy.
- (d) Psychologist.
- (e) Family therapist.
- (f) Certified social worker.
- (g) Social worker.
- (h) Social work technician.
- (i) School administrator.
- (j) School counselor.
- (k) Teacher.
- (l) Law enforcement officer.
- (m) Duly regulated child care provider.

(3) A copy of the petition and a summons to appear at the hearing shall be served on the minor's parents or guardian. A notice of hearing shall be sent to the individual who provided the affidavit required under subsection (2).

**History:** Add. 1988, Act 403, Eff. Mar. 30, 1989;—Am. 1996, Act 412, Eff. Jan. 1, 1998.

**Popular name:** Emancipation of Minors Act

#### **722.4b Powers of court.**

Sec. 4b. After a petition is filed, the court may do 1 or more of the following:

- (a) Assign an employee of the court to investigate the allegations of the petition and to file a report containing the results of the investigation with the court.
- (b) Appoint legal counsel for the minor.
- (c) Appoint legal counsel for the minor's parents or guardian if they are indigent and if they oppose the petition.
- (d) Dismiss the petition if the minor's custodial parent does not consent and is providing support.

**History:** Add. 1988, Act 403, Eff. Mar. 30, 1989.

**Popular name:** Emancipation of Minors Act

#### **722.4c Hearing; issuance of emancipation order; burden of proof; retaining copy of order; emancipation obtained by fraud voidable; appeal.**

Sec. 4c. (1) The hearing shall be before a judge or referee sitting without a jury. If the minor requests that the hearing be before a judge, the hearing shall be before a judge and not before a referee.

(2) The court shall issue an emancipation order if it determines that emancipation is in the best interest of the minor and the minor establishes all of the following:

- (a) That the minor's parent or guardian does not object to the petition; or if a parent or guardian objects to the petition, that the objecting parent or guardian is not providing the minor with support.
  - (b) That the minor is at least 16 years of age.
  - (c) That the minor is a resident of the state.
  - (d) That the minor has demonstrated the ability to manage his or her financial affairs, including proof of employment or other means of support. "Other means of support" does not include general assistance or aid to families with dependent children administered under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws.
  - (e) That the minor has the ability to manage his or her personal and social affairs, including, but not limited to, proof of housing.
  - (f) That the minor understands his or her rights and responsibilities under this act as an emancipated minor.
- (3) A minor who petitions the court for emancipation shall have the burden of showing by a preponderance of evidence that emancipation should be ordered.
- (4) If the court issues an emancipation order, the court shall retain a copy of the order until the emancipated minor becomes 25 years of age.

(5) An emancipation obtained by fraud is voidable. Voiding such an order does not affect an obligation, responsibility, right, or interest that arose during the period of time the order was in effect.

(6) The minor or a parent or guardian of the minor may file an appeal from the court's grant or denial of an

emancipation petition. The appeal shall be filed in the court of appeals.

**History:** Add. 1988, Act 403, Eff. Mar. 30, 1989.

**Popular name:** Emancipation of Minors Act

#### **722.4d Petition for rescission; service of copy and summons; determinations; order; effect of rescission on obligations, rights, or interests; appeal.**

Sec. 4d. (1) A parent of a minor emancipated by court order or a minor emancipated by court order may petition the family division of circuit court that issued the order to rescind the order. If the order of emancipation is entered by the probate court before January 1, 1998, the parent or minor may petition the family division of the circuit court in the county in which the order was entered to rescind the order.

(2) A copy of the petition for rescission and a summons shall be served on the minor or the minor's parents.

(3) The court shall grant the petition and rescind the order of emancipation if it determines 1 or more of the following:

(a) That the minor is indigent and has no means of support.

(b) That the minor and the minor's parents agree that the order should be rescinded.

(c) That there is a resumption of family relations inconsistent with the existing emancipation order.

(4) If a petition for rescission is granted, the court shall issue an order rescinding the emancipation order and retain a copy of the order until the minor becomes 25 years of age.

(5) Rescission of an emancipation order does not alter any contractual obligations or rights or any property rights or interests that arose during the period of time that the emancipation order was in effect.

(6) The minor or a parent of the minor may file an appeal from the court's grant or denial of a petition for rescission of an emancipation order. The appeal shall be filed in the court of appeals.

**History:** Add. 1988, Act 403, Eff. Mar. 30, 1989;—Am. 1996, Act 412, Eff. Jan. 1, 1998.

**Popular name:** Emancipation of Minors Act

#### **722.4e Rights and responsibilities of emancipated minor; obligation and liability of parents.**

Sec. 4e. (1) A minor emancipated by operation of law or by court order has the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, and other health and safety regulations relevant to him or her because of his or her age. A minor is considered emancipated for the purposes of, but not limited to, all of the following:

(a) The right to enter into enforceable contracts, including apartment leases.

(b) The right to sue or be sued in his or her own name.

(c) The right to retain his or her own earnings.

(d) The right to establish a separate domicile.

(e) The right to act autonomously, and with the rights and responsibilities of an adult, in all business relationships, including, but not limited to, property transactions and obtaining accounts for utilities, except for those estate or property matters that the court determines may require a conservator or guardian ad litem.

(f) The right to earn a living, subject only to the health and safety regulations designed to protect those under the age of majority regardless of their legal status.

(g) The right to authorize his or her own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability.

(h) The right to apply for a driver license or other state licenses for which he or she might be eligible.

(i) The right to register for school.

(j) The right to apply to the medical assistance program administered under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, if needed.

(k) The right to apply for other public assistance, administered under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, if needed.

(l) The right, if a parent, to make decisions and give authority in caring for his or her own minor child.

(m) The right to make a will.

(2) The parents of a minor emancipated by court order are jointly and severally obligated to support the minor. The parents of a minor emancipated by court order are not liable for any debts incurred by the minor during the period of emancipation.

**History:** Add. 1988, Act 403, Eff. Mar. 30, 1989;—Am. 2023, Act 73, Imd. Eff. July 12, 2023.

**Popular name:** Emancipation of Minors Act

#### **722.5 Earnings of unemancipated minor.**

Sec. 5. The earnings of an employed unemancipated minor may be paid directly to him unless his parents or his guardian give notice to the employer that future payments should be made to the parents or guardian.

**History:** 1968, Act 293, Eff. Nov. 15, 1968.

**Popular name:** Emancipation of Minors Act

**722.6 Obligation to support not affected.**

Sec. 6. This act does not affect obligations of support imposed under other laws of this state.

**History:** 1968, Act 293, Eff. Nov. 15, 1968.

**Popular name:** Emancipation of Minors Act

## **MCGRUFF HOUSE PROGRAM AND MICHIGAN COMMUNITY CHILD WATCH PROGRAM**

### **Act 32 of 1989**

AN ACT to establish the McGruff house program and the Michigan community child watch program; to prescribe the powers and duties of the department of state police and certain other agencies and organizations; and to prescribe penalties.

**History:** 1989, Act 32, Imd. Eff. May 26, 1989;—Am. 1991, Act 127, Imd. Eff. Oct. 18, 1991.

*The People of the State of Michigan enact:*

#### **722.11 Definitions.**

Sec. 1. As used in this act:

(a) "McGruff house" or "Michigan community child watch house" means a house, designated by a sign bearing the standard McGruff house symbol or standard Michigan community child watch symbol, as applicable, occupied by a responsible adult, where a child may seek help when he or she faces an emergency such as being bullied, followed, threatened, or hurt while walking or playing in the neighborhood.

(b) "Program", except as used in subdivision (c), means the McGruff house program or Michigan community child watch program.

(c) "Standard McGruff house symbol" or "standard Michigan community child watch symbol" means the standard symbol to designate a McGruff house or Michigan community child watch house, adopted pursuant to section 2(1)(b), except that until May 27, 1991, the standard McGruff house symbol or standard Michigan community child watch symbol may include a symbol that before and on May 26, 1989 was used by a neighborhood safe house program to designate a neighborhood safe house similar to a McGruff house or Michigan community child watch house within that program.

**History:** 1989, Act 32, Imd. Eff. May 26, 1989;—Am. 1991, Act 127, Imd. Eff. Oct. 18, 1991.

#### **722.12 Duties of department of state police; cooperation of certain associations.**

Sec. 2. (1) The department of state police, in cooperation with the Michigan sheriffs' association, the Michigan association of chiefs of police, the crime prevention association of Michigan, and the child watch association shall do all of the following:

(a) Develop guidelines for the establishment and operation of McGruff house and Michigan community child watch programs.

(b) Adopt standard symbols and signs for the McGruff house programs and Michigan community child watch programs as statewide symbols for the programs. The local sponsor may choose either program. The signs for both programs shall be numbered and made available at cost to local law enforcement agencies sponsoring or cooperating with a sponsor of the selected program.

(c) Develop or adopt a model application form for designation of a home as a McGruff house or Michigan community child watch house.

(d) Make information available to nonprofit organizations, school districts, business entities, and local law enforcement agencies concerning the program.

(e) Publicize the program in as many ways as is reasonably practical.

(f) Cooperate with local law enforcement agencies in conducting background checks on persons who apply to have their homes designated as McGruff houses or Michigan community child watch houses.

(2) The department of state police may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, to implement this act.

**History:** 1989, Act 32, Imd. Eff. May 26, 1989;—Am. 1991, Act 127, Imd. Eff. Oct. 18, 1991.

#### **722.13 Sponsorship of program; conditions to receiving numbered sign bearing symbol; register; background check.**

Sec. 3. (1) A local law enforcement agency, or a school district, nonprofit organization, or business entity in cooperation with a local law enforcement agency, may sponsor a program.

(2) A program sponsor shall supply a numbered sign bearing the standard McGruff house symbol or standard Michigan community child watch symbol to a person in the community who applies for designation of his or her home as a McGruff house or Michigan community child watch house, if the person agrees in writing to follow the terms of the program and if the person and any other adult residing in the person's home passes a background check conducted by a local law enforcement agency.

(3) A program sponsor shall keep a register of the McGruff houses and Michigan community child watch

houses within the program.

(4) A local law enforcement agency that sponsors a program or agrees to cooperate with a nonprofit organization, school district, or business entity that sponsors a program shall conduct a background check, including a criminal history check, on each person who applies to have his or her home designated as a McGruff house or Michigan community child watch house and on each adult residing in the person's home.

**History:** 1989, Act 32, Imd. Eff. May 26, 1989;—Am. 1991, Act 127, Imd. Eff. Oct. 18, 1991.

**722.14 McGruff house/Michigan community child watch house signs; condition to display; sign as property of local law enforcement agency; return of sign; violation as misdemeanor.**

Sec. 4. (1) A person shall not display a sign bearing the standard McGruff house symbol or standard Michigan community child watch symbol so that the sign is visible from the outside of the person's house unless the person's home has been approved as a McGruff house or Michigan community child watch house by a program sponsor.

(2) The McGruff house and Michigan community child watch house signs are the property of the local law enforcement agency that sponsors or cooperates with the sponsor of the program that issued the sign. If the sponsor determines that a person's home no longer qualifies as a McGruff house and Michigan community child watch house, the person shall return the sign to the local law enforcement agency.

(3) A person who violates this section is guilty of a misdemeanor.

**History:** 1989, Act 32, Imd. Eff. May 26, 1989;—Am. 1991, Act 127, Imd. Eff. Oct. 18, 1991.



**CHILD CUSTODY ACT OF 1970**  
**Act 91 of 1970**

AN ACT to declare the inherent rights of minor children; to establish rights and duties to their custody, support, and parenting time in disputed actions; to establish rights and duties to provide support for a child after the child reaches the age of majority under certain circumstances; to provide for certain procedure and appeals; and to repeal certain acts and parts of acts.

**History:** 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1990, Act 245, Imd. Eff. Oct. 10, 1990;—Am. 1996, Act 19, Eff. June 1, 1996.

*The People of the State of Michigan enact:*

**722.21 Child custody act; short title.**

Sec. 1. This act shall be known and may be cited as the "child custody act of 1970".

**History:** 1970, Act 91, Eff. Apr. 1, 1971.

**722.22 Definitions.**

Sec. 2. As used in this act:

(a) "Active duty" means that term as defined in section 101 of the servicemembers civil relief act, 50 USC 511, except that "active duty" includes full-time national guard duty.

(b) "Agency" means a legally authorized public or private organization, or governmental unit or official, whether of this state or of another state or country, concerned in the welfare of minor children, including a licensed child placement agency.

(c) "Attorney" means, if appointed to represent a child under this act, an attorney serving as the child's legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan rules of professional conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child's expressed wishes as the attorney would to an adult client.

(d) "Child" means minor child and children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, for purposes of providing support, child includes a child and children who have reached 18 years of age.

(e) "Deployment" means the movement or mobilization of a servicemember to a location for a period of longer than 60 days and not longer than 540 days under temporary or permanent official orders as follows:

(i) That are designated as unaccompanied.

(ii) For which dependent travel is not authorized.

(iii) That otherwise do not permit the movement of family members to that location.

(iv) The servicemember is restricted from travel.

(f) "Grandparent" means a natural or adoptive parent of a child's natural or adoptive parent.

(g) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(h) "Lawyer-guardian ad litem" means an attorney appointed under section 4. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 4.

(i) "Parent" means the natural or adoptive parent of a child.

(j) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(k) "Third person" means an individual other than a parent.

**History:** 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1990, Act 245, Imd. Eff. Oct. 10, 1990;—Am. 1998, Act 482, Eff. Mar. 1, 1999;—Am. 1999, Act 156, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 9, Imd. Eff. Feb. 14, 2002;—Am. 2004, Act 542, Imd. Eff. Jan. 3, 2005;—Am. 2005, Act 327, Imd. Eff. Dec. 28, 2005;—Am. 2015, Act 51, Eff. Sept. 7, 2015.

**722.23 "Best interests of the child" defined.**

Sec. 3. As used in this act, "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court:

(a) The love, affection, and other emotional ties existing between the parties involved and the child.

(b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.

(c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.



(d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(e) The permanence, as a family unit, of the existing or proposed custodial home or homes.

(f) The moral fitness of the parties involved.

(g) The mental and physical health of the parties involved.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.

(j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents. A court may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent.

(k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

(l) Any other factor considered by the court to be relevant to a particular child custody dispute.

**History:** 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1980, Act 434, Imd. Eff. Jan. 14, 1981;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993;—Am. 2016, Act 95, Eff. Aug. 1, 2016.

## **722.24 Child custody disputes; powers of court; appointment of lawyer-guardian ad litem.**

Sec. 4. (1) In all actions involving dispute of a minor child's custody, the court shall declare the child's inherent rights and establish the rights and duties as to the child's custody, support, and parenting time in accordance with this act.

(2) If, at any time in the proceeding, the court determines that the child's best interests are inadequately represented, the court may appoint a lawyer-guardian ad litem to represent the child. A lawyer-guardian ad litem represents the child and has powers and duties in relation to that representation as set forth in section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d. All provisions of section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d, apply to a lawyer-guardian ad litem appointed under this act.

(3) In a proceeding in which a lawyer-guardian ad litem represents a child, he or she may file a written report and recommendation. The court may read the report and recommendation. The court shall not, however, admit the report and recommendation into evidence unless all parties stipulate the admission. The parties may make use of the report and recommendation for purposes of a settlement conference.

(4) After a determination of ability to pay, the court may assess all or part of the costs and reasonable fees of the lawyer-guardian ad litem against 1 or more of the parties involved in the proceedings or against the money allocated from marriage license fees for family counseling services under section 3 of 1887 PA 128, MCL 551.103. A lawyer-guardian ad litem appointed under this section shall not be paid a fee unless the court first receives and approves the fee.

**History:** 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1996, Act 19, Eff. June 1, 1996;—Am. 1998, Act 482, Eff. Mar. 1, 1999.

## **722.24a Repealed. 2001, Act 108, Eff. Sept. 30, 2001.**

**Compiler's note:** The repealed section pertained to support of child after child reaches 18 years of age.

## **722.25 Child custody dispute; controlling interests, presumption; award of custody to parent convicted of criminal sexual conduct or acts of nonconsensual sexual penetration; prohibition; support or maintenance obligation; defense; "offending parent" defined.**

Sec. 5. (1) If a child custody dispute is between the parents, between agencies, or between third persons, the best interests of the child control. If the child custody dispute is between the parent or parents and an agency or a third person, the court shall presume that the best interests of the child are served by awarding custody to the parent or parents, unless the contrary is established by clear and convincing evidence.

(2) Notwithstanding other provisions of this act, if a child custody dispute involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, or a substantially similar statute of another state or the federal government, or is found by clear and convincing evidence in a fact-finding hearing to have committed acts of nonconsensual sexual penetration, the court shall not award custody to that biological parent. This subsection does not apply to a conviction under section 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d. This subsection does not apply if, after the date of the conviction, or the date of the finding in a fact-finding hearing described in this subsection, the biological parents cohabit and establish a mutual custodial environment for the child.

(3) An offending parent is not entitled to custody of a child described in subsection (2) without the consent

of that child's other parent or guardian.

(4) Notwithstanding other provisions of this act, subsection (2) does not relieve an offending parent of any support or maintenance obligation to the child. The other parent or the guardian of the child may decline support or maintenance from the offending parent.

(5) A parent may assert an affirmative defense of the provisions of subsection (2) in a proceeding brought by the offending parent regarding a child described in subsection (2).

(6) Notwithstanding other provisions of this act, if an individual is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, and the victim is the individual's child, the court shall not award custody of that child or a sibling of that child to that individual, unless both the child's other parent and, if the court considers the child or sibling to be of sufficient age to express his or her desires, the child or sibling consent to the custody.

(7) As used in this section, "offending parent" means a parent who has been convicted of criminal sexual conduct as described in subsection (2) or who has been found by clear and convincing evidence in a fact-finding hearing to have committed acts of nonconsensual sexual penetration as described in subsection (2).

**History:** 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993;—Am. 2016, Act 96, Eff. Aug. 1, 2016.

## **722.26 Liberal construction and application of act; purpose; provisions applicable to child custody disputes and actions; precedence of other actions; submission of action; habeas corpus or warrant.**

Sec. 6. (1) This act is equitable in nature and shall be liberally construed and applied to establish promptly the rights of the child and the rights and duties of the parties involved. This act applies to all circuit court child custody disputes and actions, whether original or incidental to other actions. Those disputes and actions shall have precedence for hearing and assignment for trial over other civil actions.

(2) Except as otherwise provided in section 6b or 6e, if the circuit court of this state does not have prior continuing jurisdiction over a child, the action shall be submitted to the circuit court of the county where the child resides or may be found by complaint or complaint and motion for order to show cause. An application for a writ of habeas corpus or for a warrant in its place to obtain custody of a child shall not be granted unless it appears that this act is inadequate and ineffective to resolve the particular child custody dispute.

**History:** 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1990, Act 315, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

## **722.26a Joint custody.**

Sec. 6a. (1) In custody disputes between parents, the parents shall be advised of joint custody. At the request of either parent, the court shall consider an award of joint custody, and shall state on the record the reasons for granting or denying a request. In other cases joint custody may be considered by the court. The court shall determine whether joint custody is in the best interest of the child by considering the following factors:

(a) The factors enumerated in section 3.

(b) Whether the parents will be able to cooperate and generally agree concerning important decisions affecting the welfare of the child.

(2) If the parents agree on joint custody, the court shall award joint custody unless the court determines on the record, based upon clear and convincing evidence, that joint custody is not in the best interests of the child.

(3) If the court awards joint custody, the court may include in its award a statement regarding when the child shall reside with each parent, or may provide that physical custody be shared by the parents in a manner to assure the child continuing contact with both parents.

(4) During the time a child resides with a parent, that parent shall decide all routine matters concerning the child.

(5) If there is a dispute regarding residency, the court shall state the basis for a residency award on the record or in writing.

(6) Joint custody shall not eliminate the responsibility for child support. Each parent shall be responsible for child support based on the needs of the child and the actual resources of each parent. If a parent would otherwise be unable to maintain adequate housing for the child and the other parent has sufficient resources, the court may order modified support payments for a portion of housing expenses even during a period when the child is not residing in the home of the parent receiving support. An order of joint custody, in and of itself, shall not constitute grounds for modifying a support order.

(7) As used in this section, "joint custody" means an order of the court in which 1 or both of the following

is specified:

(a) That the child shall reside alternately for specific periods with each of the parents.

(b) That the parents shall share decision-making authority as to the important decisions affecting the welfare of the child.

**History:** Add. 1980, Act 434, Imd. Eff. Jan. 14, 1981.

**722.26b Standing of guardian or limited guardian of child to bring action for custody of child; filing of action; stay of proceedings; continuation of order in force; copy of judgment or order of disposition; assignment of judge.**

Sec. 6b. (1) Except as otherwise provided in subsection (2), a guardian or limited guardian of a child has standing to bring an action for custody of the child as provided in this act.

(2) A limited guardian of a child does not have standing to bring an action for custody of the child if the parent or parents of the child have substantially complied with a limited guardianship placement plan regarding the child entered into as required by section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, or section 424a of former 1978 PA 642.

(3) If the circuit court does not have prior continuing jurisdiction over the child, a child custody action brought by a guardian or limited guardian of the child shall be filed in the circuit court in the county in which the probate court appointed the guardian.

(4) Upon the filing of a child custody action brought by a child's guardian or limited guardian, guardianship proceedings concerning that child in the probate court are stayed until disposition of the child custody action. A probate court order concerning the guardianship of the child continues in force until superseded by a circuit court order. If the circuit court awards custody of the child, it shall send a copy of the judgment or order of disposition to the probate court in the county that appointed the child's guardian or limited guardian.

(5) If a child's guardian or limited guardian brings a child custody action, the circuit court shall request the supreme court in accordance with section 225 of the revised judicature act of 1961, 1961 PA 236, MCL 600.225, to assign the probate court judge who appointed that guardian or limited guardian to serve as the circuit court judge and hear the child custody action.

**History:** Add. 1990, Act 315, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993;—Am. 2000, Act 60, Eff. Apr. 1, 2000.

**722.26c Custody action by third person; conditions.**

Sec. 6c. (1) A third person may bring an action for custody of a child if the court finds either of the following:

(a) Both of the following:

(i) The child was placed for adoption with the third person under the adoption laws of this or another state, and the placement order is still in effect at the time the action is filed.

(ii) After the placement, the child has resided with the third person for a minimum of 6 months.

(b) All of the following:

(i) The child's biological parents have never been married to one another.

(ii) The child's parent who has custody of the child dies or is missing and the other parent has not been granted legal custody under court order.

(iii) The third person is related to the child within the fifth degree by marriage, blood, or adoption.

(2) A third person shall include with an action filed under this section both of the following:

(a) An affidavit setting forth facts relative to the existence of the prerequisites required by subsection (1)(a) or (b).

(b) Notice that a defense or objection to a third person's right to bring an action for custody may be raised as an affirmative defense or by a motion for summary disposition based on lack of standing as provided in the Michigan court rules.

**History:** Add. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

**Compiler's note:** Section 2 of Act No. 259 of the Public Acts of 1993 provided:

"Sections 6c to 6e as added by this amendatory act are remedial in nature and apply retroactively."

**722.26d Custody action by third person; jurisdiction.**

Sec. 6d. A third person filing an action under section 6c shall proceed as follows:

(a) If the circuit court has continuing jurisdiction over the child, the action shall be filed in the circuit court that has continuing jurisdiction over the child.

(b) If the circuit court does not have continuing jurisdiction over the child, the action shall be filed in the

circuit court in the county where the child has resided for the 6 months immediately preceding the filing of the action or, if the child has not resided in any county for the 6 months immediately preceding the filing of the action, the action shall be filed in the circuit court in the county having the most significant connection with the child.

**History:** Add. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

**Compiler's note:** Section 2 of Act No. 259 of the Public Acts of 1993 provided:

"Sections 6c to 6e as added by this amendatory act are remedial in nature and apply retroactively."

#### **722.26e Custody action by third person; notice; powers of court.**

Sec. 6e. (1) A third person filing an action under section 6c shall send notice of the action to each party who has legal custody of the child and to each parent whose parental rights have not been terminated.

(2) In addition to other powers of the court, in an action under section 6c, the court may do any of the following:

(a) Appoint an attorney for a parent.

(b) Order that a necessary and reasonable amount of money be paid to the court for reimbursement of a party's attorney. A party may request an order under this subdivision. The moving party shall allege facts showing that the party is otherwise unable to bear the expense of the action. The court shall require the disclosure of attorney fees or other expenses paid.

(c) The court may award costs and fees as provided in section 2591 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2591 of the Michigan Compiled Laws.

**History:** Add. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

**Compiler's note:** Section 2 of Act No. 259 of the Public Acts of 1993 provided:

"Sections 6c to 6e as added by this amendatory act are remedial in nature and apply retroactively."

#### **722.27 Child custody disputes; powers of court; support order; enforcement of judgment or order; child custody while parent on deployment.**

Sec. 7. (1) If a child custody dispute has been submitted to the circuit court as an original action under this act or has arisen incidentally from another action in the circuit court or an order or judgment of the circuit court, for the best interests of the child the court may do 1 or more of the following:

(a) Award the custody of the child to 1 or more of the parties involved or to others and provide for payment of support for the child, until the child reaches 18 years of age. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support as provided in this section for a child after he or she reaches 18 years of age. The court may require that support payments shall be made through the friend of the court, court clerk, or state disbursement unit.

(b) Provide for reasonable parenting time of the child by the parties involved, by the maternal or paternal grandparents, or by others, by general or specific terms and conditions. Parenting time of the child by the parents is governed by section 7a.

(c) Subject to subsection (3), modify or amend its previous judgments or orders for proper cause shown or because of change of circumstances until the child reaches 18 years of age and, subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, until the child reaches 19 years and 6 months of age. The court shall not modify or amend its previous judgments or orders or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child. The custodial environment of a child is established if over an appreciable time the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort. The age of the child, the physical environment, and the inclination of the custodian and the child as to permanency of the relationship shall also be considered. If a motion for change of custody is filed while a parent is active duty, the court shall not consider a parent's absence due to that active duty status in a best interest of the child determination.

(d) Utilize a guardian ad litem or the community resources in behavioral sciences and other professions in the investigation and study of custody disputes and consider their recommendations for the resolution of the disputes.

(e) Take any other action considered to be necessary in a particular child custody dispute.

(f) Upon petition consider the reasonable grandparenting time of maternal or paternal grandparents as provided in section 7b and, if denied, make a record of the denial.

(2) A judgment or order entered under this act providing for the support of a child is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to

552.650, this act controls in regard to that provision.

(3) As provided in the servicemembers civil relief act, 50 USC 501 to 597b, if a motion for change of custody is filed during the time a parent is on deployment, a parent may file and the court shall entertain an application for stay. The court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to deployment, except that the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interests of the child. When a temporary custody order is issued under this subsection, the court may include a limit on the period of time that the temporary custody order remains in effect. At any stage before final judgment in the proceeding, the parent may file an application for stay or otherwise request a stay of the proceedings or file an application for an extension of a stay. The parent and the custodial child are not required to be present to consider the application for stay or extension of a stay. The application for stay or extension of a stay is sufficient if it is a signed, written statement, certified to be true under penalty of perjury. The same conditions for the initial stay apply to an application for an extension of a stay. The parent's duration of deployment shall not be considered in making a best interest of the child determination.

(4) The parent shall inform the court of the deployment end date before or within 30 days after that deployment end date. Upon notification of a parent's deployment end date, the court shall reinstate the custody order in effect immediately preceding that period of deployment. If a motion for change of custody is filed after a parent returns from deployment, the court shall not consider a parent's absence due to that deployment in making a best interest of the child determination. Future deployments shall not be considered in making a best interest of the child determination.

(5) If the deploying parent and the other parent share custody, the deploying parent must notify the other parent of an upcoming deployment within a reasonable period of time.

**History:** 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1980, Act 161, Imd. Eff. June 18, 1980;—Am. 1985, Act 215, Eff. Mar. 1, 1986;—Am. 1988, Act 377, Eff. Mar. 30, 1989;—Am. 1989, Act 275, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 245, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 293, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 19, Eff. June 1, 1996;—Am. 1998, Act 482, Eff. Mar. 1, 1999;—Am. 1999, Act 156, Imd. Eff. Nov. 3, 1999;—Am. 2001, Act 108, Eff. Sept. 30, 2001;—Am. 2005, Act 328, Imd. Eff. Dec. 28, 2005;—Am. 2015, Act 52, Eff. Sept. 7, 2015.

## **722.27a Parenting time.**

Sec. 7a. (1) Parenting time shall be granted in accordance with the best interests of the child. It is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents. Except as otherwise provided in this section, parenting time shall be granted to a parent in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and the parent granted parenting time.

(2) If the parents of a child agree on parenting time terms, the court shall order the parenting time terms unless the court determines on the record by clear and convincing evidence that the parenting time terms are not in the best interests of the child.

(3) A child has a right to parenting time with a parent unless it is shown on the record by clear and convincing evidence that it would endanger the child's physical, mental, or emotional health.

(4) Notwithstanding other provisions of this act, if a proceeding regarding parenting time involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, or a substantially similar statute of another state or the federal government, or is found by clear and convincing evidence in a fact-finding hearing to have committed acts of nonconsensual sexual penetration, the court shall not grant parenting time to that biological parent. This subsection does not apply to a conviction under section 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d. This subsection does not apply if, after the date of the conviction, or the date of the finding in a fact-finding hearing described in this subsection, the biological parents cohabit and establish a mutual custodial environment for the child.

(5) A parent may assert an affirmative defense of the provisions of subsection (4) in a proceeding brought by the offending parent regarding a child described in subsection (4).

(6) Notwithstanding other provisions of this act, if an individual is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, and the victim is the individual's child, the court shall not grant parenting time with that child or a sibling of that child to that individual, unless both the child's other parent and, if the court considers the child or sibling to be of sufficient age to express his or her desires, the child or sibling consent to the parenting time.



(7) The court may consider the following factors when determining the frequency, duration, and type of parenting time to be granted:

- (a) The existence of any special circumstances or needs of the child.
- (b) Whether the child is a nursing child less than 6 months of age, or less than 1 year of age if the child receives substantial nutrition through nursing.
- (c) The reasonable likelihood of abuse or neglect of the child during parenting time.
- (d) The reasonable likelihood of abuse of a parent resulting from the exercise of parenting time.
- (e) The inconvenience to, and burdensome impact or effect on, the child of traveling for purposes of parenting time.
- (f) Whether a parent can reasonably be expected to exercise parenting time in accordance with the court order.
- (g) Whether a parent has frequently failed to exercise reasonable parenting time.
- (h) The threatened or actual detention of the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody. A custodial parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the custodial parent's intent to retain or conceal the child from the other parent.

(i) Any other relevant factors.

(8) Parenting time shall be granted in specific terms if requested by either party at any time.

(9) A parenting time order may contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of parenting time by a parent, including 1 or more of the following:

- (a) Division of the responsibility to transport the child.
- (b) Division of the cost of transporting the child.
- (c) Restrictions on the presence of third persons during parenting time.
- (d) Requirements that the child be ready for parenting time at a specific time.
- (e) Requirements that the parent arrive for parenting time and return the child from parenting time at specific times.

(f) Requirements that parenting time occur in the presence of a third person or agency.

(g) Requirements that a party post a bond to assure compliance with a parenting time order.

(h) Requirements of reasonable notice when parenting time will not occur.

(i) Any other reasonable condition determined to be appropriate in the particular case.

(10) Except as provided in this subsection, a parenting time order shall contain a prohibition on exercising parenting time in a country that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction. This subsection does not apply if both parents provide the court with written consent to allow a parent to exercise parenting time in a country that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction.

(11) During the time a child is with a parent to whom parenting time has been awarded, that parent shall decide all routine matters concerning the child.

(12) Prior to entry of a temporary order, a parent may seek an ex parte interim order concerning parenting time. If the court enters an ex parte interim order concerning parenting time, the party on whose motion the ex parte interim order is entered shall have a true copy of the order served on the friend of the court and the opposing party.

(13) If the opposing party objects to the ex parte interim order, he or she shall file with the clerk of the court within 14 days after receiving notice of the order a written objection to, or a motion to modify or rescind, the ex parte interim order. The opposing party shall have a true copy of the written objection or motion served on the friend of the court and the party who obtained the ex parte interim order.

(14) If the opposing party files a written objection to the ex parte interim order, the friend of the court shall attempt to resolve the dispute within 14 days after receiving it. If the matter cannot be resolved, the friend of the court shall provide the opposing party with a form motion and order with written instructions for their use in modifying or rescinding the ex parte order without assistance of counsel. If the opposing party wishes to proceed without assistance of counsel, the friend of the court shall schedule a hearing with the court that shall be held within 21 days after the filing of the motion. If the opposing party files a motion to modify or rescind the ex parte interim order and requests a hearing, the court shall resolve the dispute within 28 days after the hearing is requested.

(15) An ex parte interim order issued under this section shall contain the following notice:

**NOTICE:**

1. You may file a written objection to this order or a motion to modify or rescind this order. You must file the written objection or motion with the clerk of the court within 14 days after you were served with this order. You must serve a true copy of the objection or motion on the friend of the court and the party who  
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obtained the order.

2. If you file a written objection, the friend of the court must try to resolve the dispute. If the friend of the court cannot resolve the dispute and if you wish to bring the matter before the court without the assistance of counsel, the friend of the court must provide you with form pleadings and written instructions and must schedule a hearing with the court.

(16) As provided in the servicemembers civil relief act, 50 USC 501 to 597b, if a motion for change of parenting time is filed during the time a parent is on deployment, a parent may file and the court shall entertain an application for stay. The court shall presume that the best interests of the child are served by not entering an order modifying or amending a previous judgment or order, or issuing a new order, that changes the parenting time that existed on the date the parent was called to deployment, unless the contrary is established by clear and convincing evidence, at which time the court may enter a temporary parenting time order. When a temporary parenting time order is issued under this subsection, the court may include a limit on the period of time that the temporary parenting time order remains in effect. At any stage before final judgment in the proceeding, the parent may file an application for stay or otherwise request a stay of proceedings or file an application for an extension of a stay. The parent and the custodial child are not required to be present to consider the application for stay or extension of a stay. The application for stay or extension of a stay is sufficient if it is a signed, written statement, certified to be true under penalty of perjury. The same conditions for the initial stay apply to applications for an extension of a stay.

(17) The parent shall inform the court of the deployment end date before or within 30 days after that deployment end date. Upon notification of a parent's deployment end date, the court shall reinstate the parenting time order in effect immediately preceding that period of deployment. If a motion for change of parenting time is filed after a parent returns from deployment, the court shall not consider a parent's absence due to that deployment in making a determination regarding change of parenting time. Future deployments shall not be considered in making a best interest of the child determination.

(18) If the deploying parent and the other parent share custody, the deploying parent must notify the other parent of an upcoming deployment within a reasonable period of time.

(19) As used in this section, "offending parent" means a parent who has been convicted of criminal sexual conduct as described in subsection (4) or who has been found by clear and convincing evidence in a fact-finding hearing to have committed acts of nonconsensual sexual penetration as described in subsection (4).

**History:** Add. 1988, Act 377, Eff. Mar. 30, 1989;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993;—Am. 1996, Act 19, Eff. June 1, 1996;—Am. 2012, Act 600, Imd. Eff. Jan. 9, 2013;—Am. 2015, Act 50, Eff. Sept. 7, 2015;—Am. 2016, Act 96, Eff. Aug. 1, 2016.

**Compiler's note:** Former MCL 722.27a, which pertained to action by parent of deceased father or mother for visitation of unmarried minor child, was repealed by Act 161 of 1980, Imd. Eff. June 18, 1980.

**722.27b Order for grandparenting time; circumstances; acknowledgment of parentage; commencement of action; procedures; affidavit; basis for entry of order; best interests of child; alternative dispute resolution; frequency of filing complaint or motion seeking order; attorney fees; order prohibiting change of domicile of child; effect of entry of order; modifying or terminating order; record; termination of grandparent's right to commence action.**

Sec. 7b. (1) A child's grandparent may seek a grandparenting time order under 1 or more of the following circumstances:

(a) An action for divorce, separate maintenance, or annulment involving the child's parents is pending before the court.

(b) The child's parents are divorced, separated under a judgment of separate maintenance, or have had their marriage annulled.

(c) The child's parent who is a child of the grandparents is deceased.

(d) The child's parents have never been married, they are not residing in the same household, and paternity has been established by the completion of an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, by an order of filiation entered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or by a determination by a court of competent jurisdiction that the individual is the father of the child.

(e) Except as otherwise provided in subsection (13), legal custody of the child has been given to a person other than the child's parent, or the child is placed outside of and does not reside in the home of a parent.

(f) In the year preceding the commencement of an action under subsection (3) for grandparenting time, the grandparent provided an established custodial environment for the child as described in section 7, whether or not the grandparent had custody under a court order.



(2) A court shall not permit a parent of a father who has never been married to the child's mother to seek an order for grandparenting time under this section unless the father has completed an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, an order of filiation has been entered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or the father has been determined to be the father by a court of competent jurisdiction. The court shall not permit the parent of a putative father to seek an order for grandparenting time unless the putative father has provided substantial and regular support or care in accordance with the putative father's ability to provide the support or care.

(3) A grandparent seeking a grandparenting time order shall commence an action for grandparenting time, as follows:

(a) If the circuit court has continuing jurisdiction over the child, the child's grandparent shall seek a grandparenting time order by filing a motion with the circuit court in the county where the court has continuing jurisdiction.

(b) If the circuit court does not have continuing jurisdiction over the child, the child's grandparent shall seek a grandparenting time order by filing a complaint in the circuit court for the county where the child resides.

(4) All of the following apply to an action for grandparenting time under subsection (3):

(a) The complaint or motion for grandparenting time filed under subsection (3) shall be accompanied by an affidavit setting forth facts supporting the requested order. The grandparent shall give notice of the filing to each person who has legal custody of, or an order for parenting time with, the child. A party having legal custody may file an opposing affidavit. A hearing shall be held by the court on its own motion or if a party requests a hearing. At the hearing, parties submitting affidavits shall be allowed an opportunity to be heard.

(b) In order to give deference to the decisions of fit parents, it is presumed in a proceeding under this subsection that a fit parent's decision to deny grandparenting time does not create a substantial risk of harm to the child's mental, physical, or emotional health. To rebut the presumption created in this subdivision, a grandparent filing a complaint or motion under this section must prove by a preponderance of the evidence that the parent's decision to deny grandparenting time creates a substantial risk of harm to the child's mental, physical, or emotional health. If the grandparent does not overcome the presumption, the court shall dismiss the complaint or deny the motion.

(c) If a court of appellate jurisdiction determines in a final and nonappealable judgment that the burden of proof described in subdivision (b) is unconstitutional, a grandparent filing a complaint or motion under this section must prove by clear and convincing evidence that the parent's decision to deny grandparenting time creates a substantial risk of harm to the child's mental, physical, or emotional health to rebut the presumption created in subdivision (b).

(5) If 2 fit parents sign an affidavit stating that they both oppose an order for grandparenting time, the court shall dismiss a complaint or motion seeking an order for grandparenting time filed under subsection (3). This subsection does not apply if 1 of the fit parents is a stepparent who adopted a child under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, and the grandparent seeking the order is the natural or adoptive parent of a parent of the child who is deceased or whose parental rights have been terminated.

(6) If the court finds that a grandparent has met the standard for rebutting the presumption described in subsection (4), the court shall consider whether it is in the best interests of the child to enter an order for grandparenting time. If the court finds by a preponderance of the evidence that it is in the best interests of the child to enter a grandparenting time order, the court shall enter an order providing for reasonable grandparenting time of the child by the grandparent by general or specific terms and conditions. In determining the best interests of the child under this subsection, the court shall consider all of the following:

(a) The love, affection, and other emotional ties existing between the grandparent and the child.

(b) The length and quality of the prior relationship between the child and the grandparent, the role performed by the grandparent, and the existing emotional ties of the child to the grandparent.

(c) The grandparent's moral fitness.

(d) The grandparent's mental and physical health.

(e) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference.

(f) The effect on the child of hostility between the grandparent and the parent of the child.

(g) The willingness of the grandparent, except in the case of abuse or neglect, to encourage a close relationship between the child and the parent or parents of the child.

(h) Any history of physical, emotional, or sexual abuse or neglect of any child by the grandparent.

(i) Whether the parent's decision to deny, or lack of an offer of, grandparenting time is related to the child's well-being or is for some other unrelated reason.

(j) Any other factor relevant to the physical and psychological well-being of the child.

(7) If the court has determined that a grandparent has met the standard for rebutting the presumption described in subsection (4), the court may refer that grandparent's complaint or motion for grandparenting time filed under subsection (3) to alternative dispute resolution as provided by supreme court rule. If the complaint or motion is referred to the friend of the court for alternative dispute resolution and no settlement is reached through friend of the court alternative dispute resolution within a reasonable time after the date of referral, the complaint or motion shall be heard by the court as provided in this section.

(8) A grandparent may not file more than once every 2 years, absent a showing of good cause, a complaint or motion under subsection (3) seeking a grandparenting time order. If the court finds there is good cause to allow a grandparent to file more than 1 complaint or motion under this section in a 2-year period, the court shall allow the filing and shall consider the complaint or motion. Upon motion of a person, the court may order reasonable attorney fees to the prevailing party.

(9) The court shall not enter an order prohibiting an individual who has legal custody of a child from changing the domicile of the child if the prohibition is primarily for the purpose of allowing a grandparent to exercise the rights conferred in a grandparenting time order entered under this section.

(10) A grandparenting time order entered under this section does not create parental rights in the individual or individuals to whom grandparenting time rights are granted. The entry of a grandparenting time order does not prevent a court of competent jurisdiction from acting upon the custody of the child, the parental rights of the child, or the adoption of the child.

(11) A court shall not modify or terminate a grandparenting time order entered under this section unless it finds by a preponderance of the evidence, on the basis of facts that have arisen since entry of the grandparenting time order or were unknown to the court at the time it entered that order, that a change has occurred in the circumstances of the child or his or her custodian and that a modification or termination of the existing order is necessary to avoid creating a substantial risk of harm to the mental, physical, or emotional health of the child. A court modifying or terminating a grandparenting time order under this subsection shall include specific findings of fact in its order in support of its decision.

(12) A court shall make a record of its analysis and findings under subsections (4), (6), (8), and (11), including the reasons for granting or denying a requested grandparenting time order.

(13) Except as otherwise provided in this subsection, adoption of a child or placement of a child for adoption under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, terminates the right of a grandparent to commence an action for grandparenting time with that child. Adoption of a child by a stepparent under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, does not terminate the right of the parent of a deceased parent of the child to commence an action for grandparenting time with that child.

**History:** Add. 1982, Act 340, Imd. Eff. Dec. 17, 1982;—Am. 1996, Act 19, Eff. June 1, 1996;—Am. 2004, Act 542, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 353, Imd. Eff. Sept. 18, 2006;—Am. 2009, Act 237, Imd. Eff. Jan. 8, 2010.

**Constitutionality:** The Michigan Court of Appeals in *DeRose v DeRose*, 249 Mich App 388; 643 NW2d 259 (2002) held that section 7b of the child custody act of 1970, 1970 PA 91, MCL 722.27b, is unconstitutional. The Michigan Supreme Court affirmed. [*DeRose v DeRose*, 496 Mich 320; 666 NW2d 636 (2003)] The Michigan Supreme Court held that it was bound by the decision in US Supreme Court in *Troxel v Granville*, 530 US 57; 120 S Ct 2054; 147 L Ed 2d 49 (2000). The US Supreme Court established in that decision that parents have a fundamental right to raise their children, and on that basis, "the parents have the right to make decisions for children, and such decisions must be accorded deference or weight." The Michigan Supreme Court held that MCL 722.27b failed to "require that a trial court accord deference to the decisions of fit parents regarding grandparent visitation" and is therefore constitutionally invalid.

## **722.27c Parenting coordinator.**

Sec. 7c. (1) A parenting coordinator is a person appointed by the court for a specified term to help implement the parenting time orders of the court and to help resolve parenting disputes that fall within the scope of the parenting coordinator's appointment.

(2) The court may enter an order appointing a parenting coordinator if the parties and the parenting coordinator agree to the appointment and its scope. Before appointing a parenting coordinator, the court shall consider any history of a coercive or violent relationship between the parties. The court shall ensure that the order appointing the parenting coordinator provides adequate protection to the victim of a coercive or violent relationship.

(3) The order appointing a parenting coordinator shall include all of the following:

(a) An acknowledgment that each party has had the opportunity to consult with an attorney and a domestic violence counselor.

(b) An acknowledgment that the parenting coordinator is neutral; that the parenting coordinator may have ex parte communications with the parties, their attorneys, and third parties; that, except as provided in subsection (9), communications with the parenting coordinator are not privileged or confidential; and that by

agreeing to the order, the parties are giving the parenting coordinator authority to make recommendations regarding disputes.

(c) A specific duration of the appointment. The order shall provide that the parenting coordinator may resign at any time due to nonpayment of his or her fee. The order may include a provision for extension of the parenting coordinator's term by consent of the parties for specific periods of time.

(d) An explanation of the costs of the parenting coordinator, and each party's responsibility for those costs, including any required retainer and fees for any required court appearances. The order may include a provision allowing the parenting coordinator to allocate specific costs to 1 party for cause.

(e) The scope of the parenting coordinator's duties in resolving disputes between the parties. These may include any of the following:

(i) Transportation and transfers of the child between parents.

(ii) Vacation and holiday schedules and implementation.

(iii) Daily routines.

(iv) Activities and recreation.

(v) Discipline.

(vi) Health care management, including determining and recommending appropriate medical and mental health evaluation and treatment, including psychotherapy, substance use disorder and batterer intervention treatment or counseling, and parenting classes, for the child and the parents. The parenting coordinator shall designate whether any recommended counseling is or is not confidential. The parenting coordinator can recommend how any health care provider is chosen.

(vii) School-related issues.

(viii) Alterations in the parenting schedule, as long as the basic time-sharing arrangement is not changed by more than a specified number of days per month.

(ix) Phase in provision of court orders.

(x) Participation of other persons in parenting time.

(xi) Child care and babysitting issues.

(xii) Any other matters submitted to the parenting coordinator jointly by the parties before his or her appointment expires.

(f) Authorization for the parenting coordinator to have access that may include all of the following:

(i) Reasonable access to the child.

(ii) Notice of all proceedings, including requests for examinations affecting the child.

(iii) Access to a specific therapist of any of the parties or the child, provided that a proper release is executed.

(iv) Access to school, medical, and activity records.

(v) Copies of specific evaluations and psychological test results performed on any child or any parent, custodian, guardian, or other person living in the parent's households, including, but not limited to, friend of the court reports and psychological evaluations.

(vi) Access to the child's principal, teachers, and teachers' aides.

(vii) The right to interview the parties, attorneys, or the child in any combination, and to exclude any party or attorney from an interview.

(viii) The right to interview or communicate with any other person the parenting coordinator considers relevant to resolve an issue or to provide information and counsel to promote the best interests of the child.

(g) The dispute resolution process that will be used by the parenting coordinator, explaining how the parenting coordinator will make recommendations on issues and the effect to be given to those recommendations. The process must ensure that both parties have an opportunity to be heard on issues under consideration by the parenting coordinator and an opportunity to respond to relevant allegations against them before a recommendation is made. The parties may agree that on specific types of issues they must follow a parenting coordinator's recommendations until modified by the court.

(4) The court may terminate the appointment of the parenting coordinator if the court finds that the appointment is no longer helpful to the court in resolving parenting disputes or if the process is no longer safe for a party or a child.

(5) The parenting coordinator may resign at any time, with notice to the parties and to the court. If the court finds that a party has refused to pay its share of the parenting coordination costs as a means to force the parenting coordinator to resign, the court may use contempt sanctions to enforce payment of the parenting coordinator's fee.

(6) The parenting coordinator is immune from civil liability for an injury to a person or damage to property if he or she is acting within the scope of his or her authority as parenting coordinator.

(7) The parenting coordinator shall make reasonable inquiry whether either party has a history of a

coercive or violent relationship with the other party. A reasonable inquiry includes the use of the domestic violence screening protocol for mediation provided by the state court administrative office.

(8) If the parenting coordinator determines that there is a history of a coercive or violent relationship between the parties, the parenting coordinator shall not bring the parties within proximity of each other unless the party at risk from violence or coercion requests it and the parenting coordinator determines with that party what reasonable steps, if any, can be taken to address concerns regarding coercion or violence.

(9) The parenting coordinator is not required to disclose information if disclosure will compromise the safety of a party or a child.

(10) The parenting coordinator shall make his or her recommendations in writing and provide copies of the recommendation to the parties in the manner specified in the parenting coordination order. If a party attaches the recommendation to a motion or other filing, the court may read and consider the recommendation, but the recommendation is not evidence unless the parties stipulate that it is.

(11) The parenting coordinator shall not recommend relief that is less protective than any other order related to the parties.

(12) Subject to the Michigan rules of evidence, the court may allow the testimony of the parenting coordinator if the court finds the testimony useful to the resolution of a pending dispute. The parenting coordinator shall not testify regarding statements received from a child involved in the parenting coordination if the parenting coordinator believes the disclosure would be damaging to the child.

(13) A parenting coordinator who has reasonable cause to suspect child abuse or neglect shall immediately make oral and written reports, or cause oral and written reports to be made, to the department of human services as provided in section 3 of the child protection law, 1975 PA 238, MCL 722.623.

(14) As directed by the supreme court, the state court administrative office shall develop standards for the qualifications and training of parenting coordinators, including training regarding violent and coercive domestic relationships. Parenting coordinators must complete the training within 2 years of the promulgation of the standards described in this subsection.

**History:** Add. 2014, Act 526, Imd. Eff. Jan. 14, 2015.

#### **722.28 Child custody disputes; appeal, grounds.**

Sec. 8. To expedite the resolution of a child custody dispute by prompt and final adjudication, all orders and judgments of the circuit court shall be affirmed on appeal unless the trial judge made findings of fact against the great weight of evidence or committed a palpable abuse of discretion or a clear legal error on a major issue.

**History:** 1970, Act 91, Eff. Apr. 1, 1971.

#### **722.29 Transition to centralized receipt and disbursement of support and fees.**

Sec. 9. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

**History:** 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1999, Act 156, Imd. Eff. Nov. 3, 1999.

#### **722.30 Access to records or information by noncustodial parent.**

Sec. 10. Notwithstanding any other provision of law, a parent shall not be denied access to records or information concerning his or her child because the parent is not the child's custodial parent, unless the parent is prohibited from having access to the records or information by a protective order. As used in this section, "records or information" includes, but is not limited to, medical, dental, and school records, day care provider's records, and notification of meetings regarding the child's education.

**History:** Add. 1996, Act 304, Eff. Jan. 1, 1997.

#### **722.31 Legal residence change of child whose parental custody governed by court order.**

Sec. 11. (1) A child whose parental custody is governed by court order has, for the purposes of this section, a legal residence with each parent. Except as otherwise provided in this section, a parent of a child whose custody is governed by court order shall not change a legal residence of the child to a location that is more than 100 miles from the child's legal residence at the time of the commencement of the action in which the order is issued.

(2) A parent's change of a child's legal residence is not restricted by subsection (1) if the other parent consents to, or if the court, after complying with subsection (4), permits, the residence change. This section

does not apply if the order governing the child's custody grants sole legal custody to 1 of the child's parents.

(3) This section does not apply if, at the time of the commencement of the action in which the custody order is issued, the child's 2 residences were more than 100 miles apart. This section does not apply if the legal residence change results in the child's 2 legal residences being closer to each other than before the change.

(4) Before permitting a legal residence change otherwise restricted by subsection (1), the court shall consider each of the following factors, with the child as the primary focus in the court's deliberations:

(a) Whether the legal residence change has the capacity to improve the quality of life for both the child and the relocating parent.

(b) The degree to which each parent has complied with, and utilized his or her time under, a court order governing parenting time with the child, and whether the parent's plan to change the child's legal residence is inspired by that parent's desire to defeat or frustrate the parenting time schedule.

(c) The degree to which the court is satisfied that, if the court permits the legal residence change, it is possible to order a modification of the parenting time schedule and other arrangements governing the child's schedule in a manner that can provide an adequate basis for preserving and fostering the parental relationship between the child and each parent; and whether each parent is likely to comply with the modification.

(d) The extent to which the parent opposing the legal residence change is motivated by a desire to secure a financial advantage with respect to a support obligation.

(e) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

(5) Each order determining or modifying custody or parenting time of a child shall include a provision stating the parent's agreement as to how a change in either of the child's legal residences will be handled. If such a provision is included in the order and a child's legal residence change is done in compliance with that provision, this section does not apply. If the parents do not agree on such a provision, the court shall include in the order the following provision: "A parent whose custody or parenting time of a child is governed by this order shall not change the legal residence of the child except in compliance with section 11 of the "Child Custody Act of 1970", 1970 PA 91, MCL 722.31."

(6) If this section applies to a change of a child's legal residence and the parent seeking to change that legal residence needs to seek a safe location from the threat of domestic violence, the parent may move to such a location with the child until the court makes a determination under this section.

**History:** Add. 2000, Act 422, Imd. Eff. Jan. 9, 2001.

**BLOOD DONATIONS**  
**Act 22 of 1971**

AN ACT prescribing the age at which persons may donate their blood.

**History:** 1971, Act 22, Imd. Eff. May 13, 1971.

*The People of the State of Michigan enact:*

**722.41 Repealed. 2010, Act 382, Imd. Eff. Dec. 22, 2010.**

**Compiler's note:** The repealed section pertained to donation of blood by person 17 years of age or older without parental or guardian's permission or authorization.



**AGE OF MAJORITY ACT OF 1971**  
**Act 79 of 1971**

AN ACT to define the age of majority or legal age and to prescribe and define the duties, liabilities, responsibilities, rights and legal capacity of persons 18 or more years of age.

**History:** 1971, Act 79, Eff. Jan. 1, 1972.

*The People of the State of Michigan enact:*

**722.51 Short title.**

Sec. 1. This act shall be known and may be cited as the "Age of Majority Act of 1971".

**History:** 1971, Act 79, Eff. Jan. 1, 1972.

**722.52 Adult of legal age; support payments for person 18 years of age or older.**

Sec. 2. (1) Except as otherwise provided in the state constitution of 1963 and subsection (2), notwithstanding any other provision of law to the contrary, a person who is at least 18 years of age on or after January 1, 1972, is an adult of legal age for all purposes whatsoever, and shall have the same duties, liabilities, responsibilities, rights, and legal capacity as persons heretofore acquired at 21 years of age.

(2) A court may order support payments for a person 18 years of age or older as provided in 1 or more of the following:

(a) Chapter 84 of the revised statutes of 1846, being sections 552.1 to 552.45 of the Michigan Compiled Laws.

(b) The child custody act of 1970, Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled Laws.

(c) The family support act, Act No. 138 of the Public Acts of 1966, being sections 552.451 to 552.459 of the Michigan Compiled Laws.

(d) The paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws.

(e) Act No. 293 of the Public Acts of 1968, being sections 722.1 to 722.6 of the Michigan Compiled Laws.

**History:** 1971, Act 79, Eff. Jan. 1, 1972;—Am. 1990, Act 104, Eff. Oct. 10, 1990.

**Compiler's note:** In subsection (2)(a), the phrase "revised statutes of 1846" evidently should read "Revised Statutes of 1846."

**722.53 Superseded laws.**

Sec. 3. (1) This act supersedes all provisions of law that prescribe duties, liabilities, responsibilities, rights, and legal capacity of individuals 18 years of age to 20 years of age different from individuals 21 years of age, including, but not limited to, the following public acts:

(a) Sections 2 and 6 of 1927 PA 372, MCL 28.422 and 28.426.

(b) Section 1 of former 1921 PA 53.

(c) Former section 107 of 1846 RS 14.

(d) Former section 69 of the general property tax act, 1893 PA 206.

(e) Former sections 305 and 310a of the Michigan vehicle code, 1949 PA 300.

(f) Sections 9a and 44 of former 1923 PA 151.

(g) Former section 55b of the social welfare act, 1939 PA 280.

(h) Section 823 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.823.

(i) Section 12 of former 1959 PA 27.

(j) Sections 33, 33a, and 33b of former 1933 (Ex Sess) PA 8.

(k) Section 1 of 1919 PA 160, MCL 551.251.

(l) Sections 1 to 4, 6, 7, and 9 of former 1959 PA 172.

(m) Sections 15 and 29 of 1846 RS 66, MCL 558.15 and 558.29.

(n) The revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

(o) The probate code of 1939, 1939 PA 288, MCL 710.21 to 712B.41.

(p) 1968 PA 293, MCL 722.1 to 722.6.

(q) Sections 28, 141, 141a, and 142 of the Michigan penal code, 1931 PA 328, MCL 750.28, 750.141, 750.141a, and 750.142.

(r) Former sections 141c, 141d, 243a to 243e, and 345 of the Michigan penal code, 1931 PA 328.

(s) Former 1959 PA 186.

(t) Section 10 of chapter VI of the code of criminal procedure, 1927 PA 175, MCL 766.10.

(2) Notwithstanding subsection (1) and section 2, this act does not apply to the youth tobacco act, 1915 PA



31, MCL 722.641 to 722.645.

**History:** 1971, Act 79, Eff. Jan. 1, 1972;—Am. 2022, Act 170, Imd. Eff. July 21, 2022.

**722.54 Saving clause.**

Sec. 4. This act does not impair or affect any act done, offense committed or right accruing, accrued or acquired, or a liability, penalty, forfeiture or punishment incurred before this act takes effect, but the same may be enjoyed, asserted and enforced, as fully and to the same extent as if this act had not been passed. Such proceedings may be consummated under and in accordance with the law in force at the time the proceedings are or were commenced. Proceedings pending at the effective date of this act and proceedings instituted thereafter for any act, offense committed, right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred before the effective date of this act may be continued or instituted under and in accordance with the law in force at the time of the commission of the act, offense committed, right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred.

**History:** 1971, Act 79, Eff. Jan. 1, 1972.

**722.55 Effective date.**

Sec. 5. This act shall take effect January 1, 1972.

**History:** 1971, Act 79, Eff. Jan. 1, 1972.

**CHILD WELFARE AGENCIES**  
**Act 47 of 1944 (1st Ex. Sess.)**

**722.101-722.108 Repealed. 1973, Act 116, Eff. Mar. 29, 1974.**

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 2018-6**

**722.110 Transfer of powers and duties of department of licensing and regulatory affairs relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities arising from the child care organizations act and the social welfare act to the department of health and human services.**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that he considers necessary for efficient administration; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, there is a continued need to reorganize functions among state departments to ensure efficient administration; and

WHEREAS, programs, agencies, and services should be placed among the principal departments on a consistent, logical basis in order to ensure the most efficient use of public dollars and more streamlined services.

NOW, THEREFORE, I, Richard D. Snyder, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

**I. DEFINITIONS**

As used in this Order:

A. "Department of Health and Human Services" means the principal department of state government created as the Department of Health and Human Services under Executive Order No. 2015-4, MCL 400.227.

B. "Department of Licensing and Regulatory Affairs" means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, renamed the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011, renamed the Department of Energy, Labor and Economic Growth under Executive Order 2008-20, MCL 445.2025, and renamed the Department of Licensing and Regulatory Affairs under Executive Order 2011-4, MCL 445.2030.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of the Management and Budget Act, 1984 PA 431, MCL 18.321.

**II. TRANSFER OF CHILD WELFARE LICENSING AND REGULATION RESPONSIBILITIES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

A. Any authority, powers, duties, functions, and responsibilities of child welfare licensing and regulation of child caring institutions (including but not limited to children's therapeutic group homes), child placing agencies, foster family homes, foster family group homes, and court-operated facilities under the Child Care Organizations Act, 1973 PA 116, MCL 722.111 to 722.128, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122 are transferred from the Department of Licensing and Regulatory Affairs to the Department of Health and Human Services.

B. All records, contracts, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Licensing and Regulatory Affairs for the authority, powers, duties, functions, and responsibilities transferred to the Department of Health and Human Services by this Order are transferred to the Department of Health and Human Services.

**III. IMPLEMENTATION**

A. The Director of the Department of Health and Human Services, after consultation with the Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Health and Human Services.

B. The directors of the departments shall immediately initiate coordination to facilitate the transfers and shall, if necessary, develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Health and Human Services.

C. The directors of the departments impacted by this Order shall administer the functions transferred in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

D. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

#### **IV. MISCELLANEOUS**

A. All rules, orders, contracts, plans, and agreements relating to the functions transferred by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended, or rescinded.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective 60 days after the filing of this Order.

**History:** History: 2018, E.R.O. No. 2018-6, Eff. Dec. 17, 2018.

**Compiler's note:** Executive Reorganization Order No. 2018-6 was promulgated October 17, 2018, as Executive Order No. 2018-11, Eff. Dec. 17, 2018.

## 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 note:** 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

*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 not more than 6 minor 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) Complies with the rules for child caring institutions, except that behavior management rooms, personal restraint, mechanical restraint, or seclusion, which is allowed in certain circumstances under licensing rules, are prohibited in a children's therapeutic group home.

(iii) Is not a private home.

(iv) 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 persons 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 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.

(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) "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.

(ee) "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.

(ff) "Guardian" means the guardian of the person.

(gg) "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 a person 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).
- (hh) "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 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.
- (ii) "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.
- (jj) "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.
- (kk) "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.
- (ll) "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.
- (mm) "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).

**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.

**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 note:** 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.

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

**Compiler's note:** 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.

**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 note:** 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

**Administrative rules:** 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 note:** 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

## **722.112b Definitions; scope.**

Sec. 2b. (1) 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.

(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 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.

(2) The provisions of this section and sections 2c, 2d, and 2e only apply to a child caring institution that contracts with or 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 that child caring institution.

**History:** Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

**Compiler's note:** 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 Personal restraint or seclusion; use in child caring institution contracting with community mental health services program or prepaid inpatient health plan; education, training, and knowledge.**

Sec. 2c. (1) 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 may place a minor child in personal



restraint or seclusion only as provided in this section and sections 2d and 2e but shall not use mechanical restraint or chemical restraint.

(2) A child caring institution shall require its staff to have ongoing education, training, and demonstrated knowledge of all of the following:

(a) Techniques to identify minor children's behaviors, events, and environmental factors that may trigger emergency safety situations.

(b) The use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods to prevent emergency safety situations.

(c) The safe use of personal restraint or seclusion, including the ability to recognize and respond to signs of physical distress in minor children who are in personal restraint or seclusion or who are being placed in personal restraint or seclusion.

(3) A child caring institution's staff shall be trained in the use of personal restraint and seclusion, shall be knowledgeable of the risks inherent in the implementation of personal restraint and seclusion, and shall demonstrate competency regarding personal restraint or seclusion before participating in the implementation of personal restraint or seclusion. A child caring institution's staff shall demonstrate their competencies in these areas on a semiannual basis. The department shall review and determine the acceptability of the child caring institutions' staff education, training, knowledge, and competency requirements required by this subsection and the training and knowledge required of a licensed practitioner in the use of personal restraint and seclusion.

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

**Compiler's note:** 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.

(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.

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

**Compiler's note:** 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.

(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.

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

**Compiler's note:** 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.

**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 note:** 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

### **722.113a 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 note:** 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 note:** 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

### **722.113c 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 note:** 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

#### **722.113d Repealed. 2017, Act 257, Eff. Mar. 28, 2018.**

**Compiler's note:** 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.

**Popular name:** Act 116

**Popular name:** Child Care Licensing Act

#### **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 note:** 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

#### **722.113f 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 note:** 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

## **722.113g 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 note:** 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

## **722.113h 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 note:** 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

## **722.113i 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.

**History:** Add. 2023, Act 173, Imd. Eff. Oct. 24, 2023.

**Compiler's note:** 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

## **722.113j 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 note:** 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

### **722.113k 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 note:** 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/ 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 note:** 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 note:** 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 note:** 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

## **722.114a 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 note:** 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

## **722.115 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 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.

**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 note:** 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  
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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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**Administrative rules:** 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 note:** 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.

**History:** Add. 1998, Act 519, Imd. Eff. Jan. 12, 1999;—Am. 2017, Act 257, Eff. Mar. 28, 2018.

**Compiler's note:** 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 note:** 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 note:** 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 note:** 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 note:** 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 note:** 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 note:** 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 note:** 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.

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

**Compiler's note:** 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

### **722.115k 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 note:** 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

## **722.115/ 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 note:** 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

## **722.115m 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 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.

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

**Compiler's note:** 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

## **722.115n 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 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.

**History:** Add. 2017, Act 256, Eff. Mar. 28, 2018.

**Compiler's note:** 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

## **722.115o 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 note:** 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

### **722.115p 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 note:** 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.

**History:** Add. 2017, Act 256, Eff. Mar. 28, 2018.

**Compiler's note:** 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.

**History:** Add. 2017, Act 256, Eff. Mar. 28, 2018.

**Compiler's note:** 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.

**History:** Add. 2017, Act 256, Eff. Mar. 28, 2018.

**Compiler's note:** 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 note:** 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.

**History:** Add. 2022, Act 203, Imd. Eff. Oct. 7, 2022.

**Compiler's note:** 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 note:** 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.

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

**Compiler's note:** 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 note:** 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

## **722.118a 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 note:** 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. Rendered Thursday, May 30, 2024



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 note:** 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

### **722.118c 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 note:** 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 note:** 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.

**History:** Add. 2022, Act 113, Imd. Eff. June 23, 2022.

**Compiler's note:** 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.

**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 note:** 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.

**Popular name:** Act 116

**Popular name:** Child Care Licensing Act

## **722.119a Repealed. 2017, Act 257, Eff. Mar. 28, 2018.**

**Compiler's note:** 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.

**Popular name:** Act 116

**Popular name:** Child Care Licensing Act

## **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.

**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 note:** 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

**Administrative rules:** 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 note:** 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

## **722.121 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 note:** 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 note:** 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).

**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 note:** 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 note:** 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

## **722.122 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 note:** 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

## **722.123 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 note:** 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

## **722.123a 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 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.

**History:** Add. 2020, Act 8, Imd. Eff. Jan. 27, 2020;—Am. 2021, Act 5, Imd. Eff. Mar. 26, 2021.

**Compiler's note:** 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 note:** 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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**Administrative rules:** 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.

## **722.124a 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

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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 note:** 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

## **722.124b 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 note:** 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 note:** 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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**722.124d 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 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 note:** 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**

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**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.

**History:** Add. 2015, Act 53, Eff. Sept. 9, 2015;—Am. 2017, Act 257, Eff. Mar. 28, 2018.

**Compiler's note:** 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.

**History:** Add. 2015, Act 53, Eff. Sept. 9, 2015;—Am. 2017, Act 257, Eff. Mar. 28, 2018.

**Compiler's note:** 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.

**Popular name:** Act 116

**Popular name:** Child Care Licensing Act

**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 note:** 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

## **722.126 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 note:** 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

## **722.127 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 note:** 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

## **722.127a 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 note:** 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

## **722.128 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 note:** 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

## **FOSTER CARE REVIEW BOARDS**

### **Act 422 of 1984**

AN ACT to create a state foster care review board program in the state court administrative office; to create local foster care review boards; to prescribe the powers and duties of certain public officers and certain public and private agencies; and to provide penalties.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June 16, 1989.

*The People of the State of Michigan enact:*

#### **722.131 Definitions.**

Sec. 1. As used in this act:

(a) "Child care organization" means a child caring institution or a child placing agency as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.

(b) "Foster care" means care provided to a child on a 24-hour basis either by a child care organization or by a person or organization appointed by the juvenile division of the probate court, either temporarily or permanently, to provide court supervised child care, pursuant to any of the following:

(i) An order of the juvenile division of the probate court if the court acquired jurisdiction over the child pursuant to section 2(b)(1) or (2) of chapter XA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws.

(ii) A voluntary action of a parent or guardian that results in an expenditure of funds appropriated to the department of social services.

(iii) A voluntary release executed pursuant to section 28 of chapter X of Act No. 288 of the Public Acts of 1939, being section 710.28 of the Michigan Compiled Laws.

(d) "Foster care event" means any of the following:

(i) The child's return to the parent from whom the child was removed.

(ii) The child's placement with a parent other than the parent from whom the child was removed.

(iii) The child's placement with a relative.

(iv) The voluntary release of parental rights to the child.

(v) The filing on behalf of the child of a petition to terminate parental rights to the child.

(e) "Interested party" means any of the following:

(i) A biological parent whose parental rights have not been terminated.

(ii) A foster parent.

(iii) An employee or representative of the child care organization providing the foster care to the child.

(iv) A person with whom a local board consults during a review of a child in foster care.

(v) Any person designated by the state court administrator.

(f) "Local board" means a local foster care review board created under section 4.

(g) "State board program" means the state foster care review board program created in section 2.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June 16, 1989.

#### **722.132 State foster care review board program; creation; administration; access to and liaison with probate court; direct supervision of foster care services not authorized.**

Sec. 2. (1) The state foster care review board program is created within the state court administrative office, to consist of staff necessary to perform the functions of the state board program as prescribed by this act. The state court administrative office shall administer the state foster care review program.

(2) The state court administrative office shall assist the state board program in developing and maintaining access to and liaison with the probate court in each county of this state that has a local board.

(3) This act shall not be construed to authorize either the state court administrative office or the local boards to provide direct supervision of foster care services.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June 16, 1989.

#### **722.133 Duties of state court administrative office.**

Sec. 3. The state court administrative office shall do all of the following:

(a) Determine the number of children who are in foster care in this state.

(b) Establish uniform policies and procedures for foster care review pursuant to this act, including criteria



for the selection of foster care cases to be reviewed.

(c) In accordance with section 4, determine the appropriate number of local boards necessary to meet the needs of children in foster care, and establish the jurisdiction of each local board.

(d) Establish criteria and procedures for membership of a local board.

(e) Solicit and receive applications for local board membership and make membership decisions.

(f) Provide written notification to a local board of specific cases of children in foster care appropriate for review, and schedule those cases for review within the time intervals established under section 7.

(g) Inform the child care organization, department of social services, or probate court that provided notification pursuant to section 6(a) of the local board to which the child is assigned.

(h) Make a reasonable effort to provide written notification to each interested party of the date, time, and procedures for a review by a local board of a child in foster care.

(i) Establish a system to monitor the status of each child who is in foster care and who has been assigned to a local board.

(j) Analyze information gathered by local boards throughout this state.

(k) Employ and provide state board program staff and provide local board volunteers.

(l) Provide periodic training sessions for the members of each local board. The training sessions shall include instruction on the need to maintain confidentiality as required under section 8.

(m) Establish an advisory committee consisting of representatives from child care organizations, local boards, and others as the state court administrator considers necessary to review the foster care system and to make recommendations concerning the foster care system to the appropriate groups and agencies. Not less than a majority of the advisory committee shall consist of representatives of the local boards.

(n) Issue an annual report pursuant to section 9.

(o) Perform those duties necessary to implement and review the state board program.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June 16, 1989.

#### **722.134 Local foster care review board; creation; additional boards.**

Sec. 4. (1) There is created a local foster care review board in each county or in multiple counties as provided in subsection (2). Subject to subsection (3), additional boards may be created in each county or in multiple counties at the discretion of the state court administrative office.

(2) At the direction of the state court administrative office, a single county local board or a board comprised of 1 or more counties is created.

(3) A county shall not have more than 15 local foster care review boards.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June 16, 1989;—Am. 1997, Act 170, Eff. Mar. 31, 1998.

#### **722.135 Local foster care review board; membership; terms; persons ineligible for appointment to local board; election of chairperson and vice-chairperson; meetings; training sessions; reimbursement of expenses; removal of member.**

Sec. 5. (1) A local board shall be composed of 5 members who reside within the jurisdiction of the local board, and who represent to the maximum extent possible the socio-economic, racial, and ethnic groups residing within that jurisdiction. A local board may have 1 or more alternate members who serve when an appointed board member is unavailable.

(2) A local board member shall serve a renewable 3-year term. Of the initial members, 3 members shall serve for 3 years, and 2 members shall serve for 2 years.

(3) A person employed by a child care organization, the family independence agency, or the court shall not be appointed to a local board.

(4) A local board shall elect 1 of its members to serve as chairperson and 1 to serve as vice-chairperson. Each shall serve for a term of 1 year.

(5) A local board shall meet at a place and time specified by the state court administrative office and approved by the chairperson of the local board.

(6) Each member of a local board shall attend an orientation training session and subsequent training sessions as required by the state court administrative office.

(7) The members of a local board shall serve without compensation. Reimbursement of expenses of members of the local board shall be in accordance with standard travel reimbursement rates established annually by the department of management and budget.

(8) A local board member may be removed for cause by the state court administrator.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June 16, 1989;—Am. 1997, Act 170, Eff. Mar. 31, 1998.

#### **722.136 Duties of child care organization, department of social services, or probate court.**

Sec. 6. A child care organization, the department of social services, or the probate court responsible for supervising a child in foster care shall do all of the following:

(a) Provide written notification monthly to the state court administrator of an admission into, discharge from, or transfer of a child in foster care.

(b) Upon request submit an initial placement plan; a list of names, addresses, and telephone numbers of interested parties; and progress reports to the appropriate local board at least once each 6 months, and cooperate with and furnish other information requested by the state court administrator. If foster care is purchased from a child placing agency or child caring institution, that organization shall cooperate in the preparation of an initial placement plan and progress reports.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June 16, 1989.

#### **722.137 Powers and duties of local board.**

Sec. 7. (1) A local board shall do all of the following:

(a) Review each initial placement plan submitted under section 6 for a child in foster care. The review shall be to determine whether the placement plan for the child contains at least all of the following information:

(i) The purpose for which the child has been placed in foster care and the reason that the child cannot be returned to his or her home immediately.

(ii) The length of time in which the purpose of foster care will be accomplished.

(iii) An assessment of the involvement of the legal parent and steps taken by the child care organization to involve the legal parent in the planning and implementation of the plan.

(iv) A description of the services which have been and are to be provided in order for the purpose of foster care to be accomplished.

(v) The number of foster care placements the child has experienced while in foster care, and the length of time of each foster care placement.

(vi) The person within the child care organization who is directly responsible for assuring that the plan is implemented.

(vii) The type of permanent placement recommended for the child.

(b) Review progress reports submitted under section 6(b) every 6 months following the initial review to determine whether the purpose for which the child has been placed in foster care, as described in the initial placement plan, is being achieved, and whether the plan continues to be appropriate, based on a review of all of the following:

(i) An assessment of the extent to which the child care organization is accomplishing the purpose of foster care as described in the placement plan.

(ii) Identification of the person within the child care organization who is directly responsible for assuring that the placement plan is implemented.

(iii) The length of time the child has been in foster care.

(iv) The number of foster care placements the child has experienced while in foster care and the length of time of each foster care placement.

(v) An assessment of the involvement of the legal parent and steps taken by the child care organization to involve the legal parent in planning and implementation of the plan.

(c) Whenever practicable, conduct reviews and submit reports, as required under subdivision (e), before the judicial review or rehearing mandated in section 19 of chapter XIA of 1939 PA 288, MCL 712A.19.

(d) Review, at any time considered necessary by the local board, or at the request of the court or an interested party, the case and information submitted by a child care organization under section 6.

(e) Submit to the child care organization that submitted the initial placement plan and progress report and, if applicable, to the court, within 30 days after a review under subdivision (a) or (b), a written statement of findings and recommendations regarding the care, maintenance, and supervision of a child in foster care and the plan for permanent placement of the child. A copy of the statement may be sent to all interested parties. The local board may give information or file a petition for court action or rehearing under section 11 or 21 of chapter XIA of 1939 PA 288, MCL 712A.11 and 712A.21.

(f) Hear an appeal of a proposed change in foster care placement as provided in section 13b of chapter XIA of 1939 PA 288, MCL 712A.13b, and report to the court as required by that section.

(g) As part of the ongoing review process, select permanent wards for review from all of the following categories:

(i) Wards who are registered with the Michigan adoption resource exchange and who have been on hold status for not less than 12 months.

(ii) Wards who have not been registered with the Michigan adoption resource exchange, have been permanent wards for not less than 6 months, and do not have a documented permanency plan in place.

(iii) Wards who are less than 12 years of age and have been listed in the Michigan adoption resource exchange photo listing book for more than 6 months and for whom no family has been identified.

(h) Perform those duties necessary to implement this act.

(2) A local board may limit the review to a written report or request a personal appearance of an interested party, as considered necessary by the local board.

(3) If interested parties are provided with a copy of the findings and recommendations of the local board, the local board shall allow the interested parties to submit written comments. Upon approval of a local board, an interested party may make a personal appearance before the local board in connection with the foster care case.

(4) A local board may make recommendations to the state court administrative office regarding issues in foster care policy and procedure and the functions of child care organizations and the court.

(5) A local board shall compile and maintain statistics and make findings regarding its reviews of permanent wards under subsection (1)(g), including, but not limited to, identification of any barriers to permanency.

(6) The Michigan adoption resource exchange shall cooperate with the foster care review board program and submit copies of their file material and registration documentation as requested by the foster care review board program.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June 16, 1989;—Am. 1997, Act 170, Eff. July 1, 1998.

#### **722.137a Placement of siblings; variance from licensing rules or statutes.**

Sec. 7a. If the case of a child who has at least 1 sibling is otherwise before a local board, the local board may evaluate the child's placement in a foster family home or foster family group home that would allow the child and 1 or more siblings to remain or be placed together, but would also require obtaining a variance from 1 or more licensing rules or statutes under section 8b of 1973 PA 116, MCL 722.118b. If the local board determines that such a 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 local board shall recommend the variance to the department of consumer and industry services as provided in section 8b of 1973 PA 116, MCL 722.118b.

**History:** Add. 1997, Act 170, Eff. Mar. 31, 1998.

#### **722.138 Confidentiality.**

Sec. 8. (1) Records regarding specific children and their parents and relatives shall be confidential. Disclosure of this confidential information shall be properly safeguarded by the local board, the staff of the state board, and the state court administrator.

(2) A person who discloses confidential information contained in records, reports, and plans prepared pursuant to this act is guilty of a misdemeanor.

(3) Unauthorized disclosure of information contained in records and reports made pursuant to this act by a member of a local board shall be grounds for removal from the board.

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1989, Act 74, Imd. Eff. June 16, 1989.

#### **722.139 Annual report.**

Sec. 9. (1) The state court administrator shall publish an annual report of the state board program created by this act and shall make the annual report available to the public. Additionally, the state court administrator shall submit the annual report to the legislature and the governor.

(2) The annual report required by subsection (1) shall include, but is not limited to, all of the following:

(a) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of each local board during the preceding year.

(b) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of the aggregate of all local boards in the state during the preceding year.

(c) An identification of problems that impede the timely placement of children in a permanent placement and recommendations for improving the timely placement of children in a permanent placement.

(d) The statistics and findings compiled under section 7(5).

**History:** 1984, Act 422, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 159, Imd. Eff. July 7, 1986;—Am. 1989, Act 74, Imd. Eff. June

16, 1989;—Am. 1997, Act 170, Eff. Mar. 31, 1998.

**722.139a Reevaluation of state board program; recommendations.**

Sec. 9a. The state court administrator may reevaluate the state board program and make recommendations to the legislature that the state board program be terminated or placed under the jurisdiction of the legislative or executive branch.

**History:** Add. 1989, Act 74, Imd. Eff. June 16, 1989.

**722.140 Repealed. 1989, Act 74, Imd. Eff. June 16, 1989.**

**Compiler's note:** The repealed section provided for the repeal of this act effective October 1, 1989.

**AIDING OR ABETTING VIOLATIONS OF JUVENILE COURT ORDERS**  
**Act 296 of 1968**

AN ACT to prohibit the aiding or abetting of violations of juvenile court orders or to harbor juvenile runaways; and to provide penalties for violation of this act.

**History:** 1968, Act 296, Eff. Nov. 15, 1968.

*The People of the State of Michigan enact:*

**722.151 Aiding or abetting violations by juveniles, or harboring runaways prohibited.**

Sec. 1. No person shall knowingly and wilfully aid or abet a child under the age of 17 years to violate an order of a juvenile court or knowingly and wilfully conceal or harbor juvenile runaways who have taken flight from the custody of the court, their parents or legal guardian.

**History:** 1968, Act 296, Eff. Nov. 15, 1968.

**722.152 Violation of act; penalty.**

Sec. 2. Any person who violates the provisions of this act is guilty of a misdemeanor and shall be fined not more than \$500.00 or imprisoned not more than 1 year, or both.

**History:** 1968, Act 296, Eff. Nov. 15, 1968.



## **REIMBURSEMENT OF LEGAL COSTS OF FOSTER PARENTS**

### **Act 33 of 1980**

AN ACT to provide for the reimbursement of certain legal costs of foster parents; to provide for the recognition and nonrecognition of certain causes of action against foster parents and legal guardians; and to prescribe powers and duties of the department of social services.

**History:** 1980, Act 33, Imd. Eff. Mar. 11, 1980;—Am. 1988, Act 233, Eff. Aug. 1, 1988.

*The People of the State of Michigan enact:*

#### **722.161 Reimbursement of certain legal costs of foster parents; conditions.**

Sec. 1. (1) The department of social services may reimburse a foster parent for the costs of legal counsel when an action is commenced against the foster parent for injury or damage which is sustained or which is alleged to have been sustained by, or which resulted from or which is alleged to have resulted from the action of, a foster child during the time when the foster parent was acting within the scope of his or her authority as a foster parent. This subsection does not apply to an administrative hearing or judicial review under Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) The department of social services shall not reimburse a foster parent as provided in subsection (1), unless the department is satisfied that all of the following apply:

(a) The foster parent is licensed under Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

(b) If the action is a civil action, a judgment for damages is not awarded against the foster parent as a result of the action.

(c) If the action is a criminal action, the foster parent is not convicted, does not plead nolo contendere, or is not found guilty but mentally ill or not guilty by reason of insanity as a result of the action.

**History:** 1980, Act 33, Imd. Eff. Mar. 11, 1980.

#### **722.162 Defenses; liability.**

Sec. 2. (1) This act shall not be construed to defeat, deny, or diminish a defense otherwise available to a foster parent or to a foster child in another action.

(2) The reimbursement of a foster parent under this act shall not impose any liability on the department of social services or a foster parent.

**History:** 1980, Act 33, Imd. Eff. Mar. 11, 1980.

#### **722.163 Action against foster parent or legal guardian for injuries; "legal guardian" defined.**

Sec. 3. (1) A foster child may maintain an action against his or her foster parent who is licensed under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, and a child may maintain an action against his or her legal guardian for injuries suffered as a result of the alleged ordinary negligence of the foster parent or legal guardian except in either of the following instances:

(a) If the alleged negligent act involves an exercise of reasonable parental authority over the child.

(b) If the alleged negligent act involves an exercise of reasonable parental discretion with respect to the provision of food, clothing, housing, medical and dental services, and other care.

(2) As used in this section, "legal guardian" means a person appointed by a court of competent jurisdiction to exercise care and custody decisions over a minor.

**History:** Add. 1988, Act 233, Eff. Aug. 1, 1988.

**Compiler's note:** Section 3 of Act 233 of 1988 provides: "This amendatory act shall apply to causes of action occurring on or after August 1, 1988."

## **CRIPPLED CHILDREN'S ACT**

### **Act 158 of 1937**

**722.201-722.244 Repealed. 1978, Act 368, Eff. Sept. 30, 1978;—1978, Act 368, Eff. Sept. 30, 1980.**

## **AFFLICTED CHILDREN'S ACT**

### **Act 283 of 1939**

**722.301-722.325 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.**

**TREATMENT OF DEPENDENT CHILDREN AT UNIVERSITY HOSPITAL**  
**Act 138 of 1881**

**722.401-722.406 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.**

**CHILD GUIDANCE CLINICS; COMMUNITY MENTAL HEALTH CLINICS**  
**Act 13 of 1944 (1st Ex. Sess.)**

AN ACT to authorize county boards of supervisors and local governing bodies to appropriate moneys to child guidance clinics and community mental health clinics providing service for children and/or adults.

**History:** 1944, 1st Ex. Sess., Act 13, Imd. Eff. Feb. 19, 1944;—Am. 1956, Act 92, Eff. Aug. 11, 1956.

*The People of the State of Michigan enact:*

**722.481 Child guidance and community mental health clinic, financing.**

Sec. 1. The board of supervisors of any county or the governing body of any city, village, school district or township in this state may, except as otherwise specifically provided, furnish and appropriate moneys for the operation of child guidance clinics and community mental health clinics providing service for children or adults established by state authority and the governing body of any school district may appropriate money for land and buildings to be used by the clinics although title thereto is not vested in the appropriating body.

**History:** 1944, 1st Ex. Sess., Act 13, Imd. Eff. Feb. 19, 1944;—CL 1948, 722.481;—Am. 1956, Act 92, Eff. Aug. 11, 1956;—Am. 1967, Act 54, Eff. Nov. 2, 1967.

## CONTRACTS FOR CARE OF CHILDREN

### Act 137 of 1921

AN ACT authorizing counties of this state to contract with agencies, institutions, and hospitals licensed by the department of consumer and industry services for the aid, care, support, maintenance, treatment, cure, or relief of children.

**History:** 1921, Act 137, Eff. Aug. 18, 1921;—Am. 1996, Act 411, Eff. Jan. 1, 1998.

*The People of the State of Michigan enact:*

#### **722.501 Care of children; agreements by county board of commissioners with agency, institution, or hospital; charges; audit; maximum expenditure; county expense.**

Sec. 1. A county board of commissioners may enter into an agreement or agreements for a period not exceeding 1 year with any agency, institution, or hospital, or agencies, institutions, or hospitals that have been and are for the current year licensed by the department of licensing and regulatory affairs to receive aid, care for, support, maintain, treat, cure, or relieve in or by the agency, institution, or hospital, any poor, sick, distressed, abandoned, or needy children or youth, or children or youth with special health care needs, residing within the county who may be referred to the agency, institution, or hospital by a judge of the family division of circuit court for the county in accordance with the provisions of this act, whether the aid, care, support, maintenance, treatment, cure, or relief is furnished wholly or in part by the agency, institution, or hospital. The proper charges under the contract or contracts shall be audited and paid from time to time by the board of auditors, or by the county board of commissioners of the county in counties not having a board of auditors. A county board of commissioners, before entering into a contract under this section shall fix the maximum amount to be expended for the purposes described in this section during any 1 year, which shall be raised, levied, and collected as part of the general expense of the county.

**History:** 1921, Act 137, Eff. Aug. 18, 1921;—CL 1929, 12877;—CL 1948, 722.501;—Am. 1996, Act 411, Eff. Jan. 1, 1998;—Am. 2015, Act 93, Imd. Eff. June 25, 2015.

**Compiler's note:** The board of corrections and charities, referred to in this section, was abolished and its powers and duties transferred to the department of social welfare by MCL 400.19. The department of social welfare was subsequently transferred to the department of social services by MCL 16.552.

#### **722.502 Approval of contracts.**

Sec. 2. No contract or agreement entered into under the provisions of this act shall have any binding force until the same shall have been approved by the state board of corrections and charities.

**History:** 1921, Act 137, Eff. Aug. 18, 1921;—CL 1929, 12878;—CL 1948, 722.502.

**Compiler's note:** The board of corrections and charities, referred to in this section, was abolished and its powers and duties transferred to the department of social welfare by MCL 400.19. The department of social welfare was subsequently transferred to the department of social services by MCL 16.552.

#### **722.503 Judge of family division of circuit court; duties.**

Sec. 3. If a county board of commissioners enters into any contract under section 1, a judge of the family division of circuit court for the county shall refer to the proper agency, institution, or hospital with which the contract has been made, the poor, sick, distressed, abandoned, needy, or child or youth with special health care needs residing in the county as have been provided for by the appropriations made for the purpose in accordance with this act.

**History:** 1921, Act 137, Eff. Aug. 18, 1921;—CL 1929, 12879;—CL 1948, 722.503;—Am. 1996, Act 411, Eff. Jan. 1, 1998;—Am. 2015, Act 94, Imd. Eff. June 25, 2015.

#### **722.504 Forfeiture of license; effect on contracts.**

Sec. 4. Should the license of any such agency, institution or hospital with which such contract shall have been made be at any time forfeited for any reason, then any contract or contracts existing and unperformed between such agency, institution or hospital and any board of supervisors shall cease, and be null and void.

**History:** 1921, Act 137, Eff. Aug. 18, 1921;—CL 1929, 12880;—CL 1948, 722.504.

#### **722.505 Repealed. 1996, Act 411, Eff. Jan. 1, 1998.**

**Compiler's note:** The repealed section pertained to construction of act.

## **COMMITMENT OF CHILDREN TO STATE INSTITUTIONS**

### **Act 271 of 1925**

AN ACT to provide for the commitment to state institutions of certain children placed with, released to, or committed to persons, societies, organizations, associations or corporations licensed and approved by the state department of social welfare; to provide for the protection of the rights of children over whom jurisdiction is in doubt because of some question of residence, and providing for the payment of the expense thereof.

**History:** 1925, Act 271, Eff. Aug. 27, 1925;—Am. 1955, Act 186, Imd. Eff. June 14, 1955.

*The People of the State of Michigan enact:*

#### **722.531 Children incapable of adoption; commitment to state institution; expenses of commitment; maintenance.**

Sec. 1. Whenever it appears to the court that a child placed with, committed to, or released to a person, society, organization, association, or corporation licensed and approved by the family independence agency to receive, maintain, or place out for adoption minor children or to obtain homes for dependent and neglected children, is, by reason of mental or physical disability or for any other reason, incapable of adoption, the child may be committed to a proper state institution. A commitment under this section may be made by the family division of the circuit court for the county in which the home of the person, or the principal office of the society, organization, association, or corporation is located, or for the county in which the child was placed with, released to, or committed to the person, society, organization, association, or corporation, or for the county in which the child may be found, upon application of the person or the principal officer of the society, organization, association, or corporation to which such child has been committed or released. The expense of committing the child to a state institution and any expense chargeable to counties for maintenance in a state institution shall be paid by the county where the child was a resident at the time of his or her placement with, release to, or commitment to the person, society, organization, association, or corporation.

**History:** 1925, Act 271, Eff. Aug. 27, 1925;—CL 1929, 12882;—CL 1948, 722.531;—Am. 1955, Act 186, Imd. Eff. June 14, 1955;—Am. 1996, Act 410, Eff. Jan. 1, 1998.

#### **722.532 Protection of children's rights; director of social welfare, duties.**

Sec. 2. Whenever, after a careful investigation and report, it shall appear to the director of the state department of social welfare that any child in Michigan under 17 years of age has no guardian willing and able to take suitable action in behalf of the child or that it appears that such child is being deprived of some service or right generally available to children in Michigan because of the refusal or asserted inability of some administrative or judicial agency or agencies of the state or its political subdivisions to provide or order such service or enforce such right, and it further appears that such refusal or asserted inability exists for the reason of no jurisdiction or power because of some question of residence of the child, it shall be the duty of said director, acting as the agent of the state, to take such action as may be necessary to obtain a final legal determination as to which administrative or judicial agency has the duty of furnishing or ordering the service to or protecting the rights of such child.

**History:** Add. 1955, Act 186, Imd. Eff. June 14, 1955.

#### **722.533 Protection of children's rights; prosecuting attorney.**

Sec. 3. It shall be the duty of the prosecuting attorney of the county, in some court of or for which the director, with the advice of the attorney general, determines to begin his action to discharge this service for the state including appeals whenever such may be necessary to reach a final determination.

**History:** Add. 1955, Act 186, Imd. Eff. June 14, 1955.

#### **722.534 Protection of children's rights; question of jurisdiction, residence, costs.**

Sec. 4. As it is the intent of the legislature that this duty shall be for the general purpose of clarifying the laws for the protection of children, when a question of jurisdiction based on residence is concerned, all cases arising under this act shall be deemed public cases without assessment of costs against any party.

**History:** Add. 1955, Act 186, Imd. Eff. June 14, 1955.

## **CARE AND CUSTODY OF CHILDREN ON SEPARATION OF FATHER AND MOTHER**

### **Act 192 of 1873**

#### **722.541 Repealed. 1970, Act 91, Eff. Apr. 1, 1971.**



**PROTECTION OF CHILDREN**  
**Act 260 of 1881**

**722.553-722.565 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.**

**REPORTING PHYSICAL INJURIES TO CHILDREN**  
**Act 98 of 1964**

**722.571-722.575 Repealed. 1975, Act 238, Eff. Oct. 1, 1975.**

**PROTECTION OF CHILDREN FROM IMMORALITY AND CRIME**  
**Act 193 of 1887**

**722.581-722.583 Repealed. 1983, Act 208, Imd. Eff. Nov. 10, 1983.**

**LEAD POISONING IN MINORS**  
**Act 183 of 1972**

**722.591-722.594 Repealed. 1978, Act 312, Imd. Eff. July 10, 1978;—1978, Act 368, Eff. Sept. 30, 1978.**

## **CHILD ABUSE AND NEGLECT PREVENTION ACT**

### **Act 250 of 1982**

AN ACT to establish the state child abuse and neglect prevention board; to provide the powers and duties of the state child abuse and neglect prevention board; and to prescribe the powers and duties of certain state departments.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

*The People of the State of Michigan enact:*

#### **722.601 Short title.**

Sec. 1. This act shall be known and may be cited as the "child abuse and neglect prevention act".

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of authority, powers, duties, functions, and responsibilities State Child Abuse and Neglect Prevention Board from the Department of Management and Budget to the Department of Social Services, see E.R.O. No. 1992-5, compiled at MCL 722.620 of the Michigan Compiled Laws.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

#### **722.602 Definitions.**

Sec. 2. (1) As used in this act:

(a) "Child" means a person under 18 years of age.

(b) "Child abuse" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare, which harm occurs or is threatened through nonaccidental physical or mental injury; sexual abuse, which includes a violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(c) "Local council" means an organization that meets the criteria described in section 10(a).

(d) "Neglect" means harm to a child's health or welfare by a person responsible for the child's health or welfare that occurs through negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care, though financially able to do so, or the failure to seek financial or other reasonable means to provide adequate food, clothing, shelter, or medical care.

(e) "State board" means the state child abuse and neglect prevention board created in section 3.

(f) "Prevention program" means a system of direct provision of child abuse and neglect prevention services to a child, parent, or guardian, and may include research programs related to prevention of child abuse and neglect.

(g) "Trust fund" means the children's trust fund established in the department of treasury.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982;—Am. 2018, Act 60, Eff. June 12, 2018.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

#### **722.603 State child abuse and neglect prevention board; creation; exercise of powers and duties; performance of management functions; appointment and qualifications of executive director; staff.**

Sec. 3. (1) The state child abuse and neglect prevention board is created as an autonomous agency within the department of management and budget. The state board shall exercise its powers and duties independently of the director of the department of management and budget except that budget, procurement, and related management functions shall be performed by the director of the department of management and budget.

(2) The state board shall appoint the executive director of the state board. The executive director shall be a member of the state classified civil service.

(3) The executive director shall hire all staff required to exercise the powers and carry out the duties of the state board. The state board shall approve the number of staff members hired and their job descriptions.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of authority, powers, duties, functions, and responsibilities State Child Abuse and Neglect Prevention Board from the Department of Management and Budget to the Department of Social Services, see E.R.O. No. 1992-5, compiled at MCL 722.620 of the Michigan Compiled Laws.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

#### **722.604 State board; composition; appointment, qualifications, and terms of public members; chairperson; election of officers and committees; compensation, reimbursement, salaries, and operating expenses.**

Sec. 4. (1) The state board shall be composed of the following members:

(a) The director of human services, the director of community health, the superintendent of public instruction, and the director of the department of state police, or designees authorized to speak on their behalf.

(b) Eleven public members appointed by the governor with the advice and consent of the senate. As a group, the public members shall do all of the following:

(i) Demonstrate knowledge in the area of child abuse and neglect prevention.

(ii) Be representative of the demographic composition of this state.

(iii) To the extent practicable, be representative of all of the following categories: parents, organized labor, the business community, the religious community, the legal community, professional providers of child abuse and neglect prevention services, and volunteers in child abuse and neglect prevention services.

(2) The term of each public member shall be 3 years, except that of the public members first appointed, 3 shall serve for 3 years, 3 for 2 years, and 4 for 1 year. A public member shall not serve more than 2 consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The governor shall designate a chairperson of the state board from among the public members. The chairperson shall serve in that position at the pleasure of the governor. The state board may elect other officers and committees as it considers appropriate.

(4) The actual and necessary per diem compensation and the schedule for reimbursement of expenses for the public members of the state board shall be the same as is established annually by the legislature for similar boards that are reimbursed from the general fund. The compensation and reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, according to an authorization as provided in section 9.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982;—Am. 2005, Act 82, Imd. Eff. July 19, 2005.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

For amendment to substitute director of department of health and human services for director of department of human services and executive director of Michigan children's services agency for director of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

For renaming of Michigan children's services agency to children's services administration, see E.R.O. No. 2023-1, compiled at MCL 125.1999.

#### **722.605 Conducting business at public meeting; notice; availability of writings to public.**

Sec. 5. (1) The business which the state board performs shall be conducted at a public meeting of the state board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(2) A writing prepared, owned, used, in the possession of, or retained by the state board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

## **722.606 Duties of state board.**

Sec. 6. (1) The state board shall do all of the following:

(a) Meet not less than twice annually at the call of the chairperson.

(b) One year after the original appointment of the state board, and biennially thereafter, develop a state plan for the distribution of funds from the trust fund. In developing the plan, the state board shall review already existing prevention programs. The plan shall assure that an equal opportunity exists for establishment of prevention programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the house of representatives and to the secretary of the senate. The state board shall notify the governor and the members of the legislature that the plan is available.

(c) Provide for the coordination and exchange of information on the establishment and maintenance prevention programs.

(d) Develop and publicize criteria for the receipt of trust fund money by eligible local councils and eligible prevention programs.

(e) Review, approve, and monitor the expenditure of trust fund money by local councils and prevention programs.

(f) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the prevention of child abuse and neglect; encourage professional persons and groups to recognize and deal with prevention of child abuse and neglect; encourage and coordinate the development of local councils; make information about the prevention of child abuse and neglect available to the public and organizations and agencies which deal with problems of child abuse and neglect; and encourage the development of community prevention programs.

(g) Establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the state board. In a year in which the biennial state plan is prepared, the evaluation shall be coordinated with the preparation of the state plan.

(2) The state board shall enter into contracts with public or private agencies to fulfill the requirements of subsection (1)(f) and may contract to fulfill the other requirements of subsection (1). The state board shall utilize existing state resources and staff of participating departments whenever practicable.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

## **722.607 Recommending changes to governor and legislature.**

Sec. 7. The state board may recommend to the governor and the legislature changes in state programs, statutes, policies, budgets, and standards which will reduce the problem of child abuse and neglect, improve coordination among state agencies that provide prevention services, and improve the condition of children and parents or guardians who are in need of prevention program services.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

## **722.608 Federal funds, gifts, grants, bequests, and donations; disposition.**

Sec. 8. (1) The state board may do any of the following:

(a) Accept federal money granted by congress or executive order for the purposes of this act as well as gifts, grants, bequests, and donations from individuals, private organizations, or foundations. The acceptance and use of federal money does not commit state money and does not place an obligation upon the legislature to continue the purposes for which the federal money is made available.

(b) Enter into a contract with a charitable organization licensed under the charitable organizations and solicitations act, Act No. 169 of the Public Acts of 1975, being sections 400.271 to 400.294 of the Michigan Compiled Laws, for the solicitation of contributions to be used exclusively for the purposes prescribed by section 9. A contract under this subdivision shall include provisions for at least all of the following:

(i) A reasonable administrative fee not to exceed 10% for contributions obtained by the charitable organization.

(ii) An independent audit of the charitable organization in regard to the solicitation.

(iii) Appropriate bonding by the charitable organization.

(c) Plan, manage, or conduct a campaign to solicit gifts, bequests, grants, or donations of money or property, or pledges of gifts, bequests, grants, or donations.

(2) Money received in the manner described in this section shall be transmitted to the state treasurer for deposit in the trust fund and shall be made available for expenditure as appropriated by the legislature.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982;—Am. 1995, Act 146, Imd. Eff. July 11, 1995.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

### **722.609 Authorization for disbursement of trust fund money; purposes; order of preference; limitation.**

Sec. 9. (1) The state board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, for exclusively the following purposes, which are listed in the order of preference for expenditure:

(a) To fund a private nonprofit or public organization in the development or operation of a prevention program if at least all of the following conditions are met:

(i) The appropriate local council has reviewed and approved the program. This subparagraph does not apply if a local council does not exist for the geographic area to be served by the program.

(ii) The organization demonstrates an ability to match, through money or in-kind services, 50% of the amount of any trust fund money received. The amount and types of in-kind services are subject to the approval of the state board.

(iii) The organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance.

(iv) Other conditions that the state board may deem appropriate.

(b) To fund local councils.

(c) To fund the state board created in section 3 for the actual and necessary operating expenses that the board incurs in performing its duties.

(2) Authorizations for disbursement of trust fund money under subsection (1)(c) shall be kept at a minimum in furtherance of the primary purpose of the trust fund which is to disburse money under subsection (1)(a) and (b) to encourage the direct provision of services to prevent child abuse and neglect.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

### **722.610 Grants to local council; criteria.**

Sec. 10. In making grants to a local council, the state board shall consider the degree to which the local council meets the following criteria:

(a) Has as its primary purpose the development and facilitation of a collaborative community prevention program in a specific geographical area. The prevention program shall utilize trained volunteers and existing community resources wherever practicable.

(b) Is administered by a board of directors composed of an equal number of members from the following 2 groups:

(i) A representative from each of the following local agencies: the county department of social services, the department of public health, the department of mental health, the probate court, the office of the prosecuting attorney, a local law enforcement agency, a school district, and a number of private, local agencies that provide treatment or prevention services for abused and neglected children and their parents or guardians. The number of private agencies to be represented on the local council shall be designated in the bylaws of the local council by the remaining members.

(ii) Members of the local council elected by the membership. The elected members shall represent the demographic composition of the community served, as far as practicable.

(c) Does not provide direct services except on a demonstration project basis, or as a facilitator of interagency projects.

(d) Demonstrates a willingness and ability to provide prevention program models and consultation to



organizations and communities regarding prevention program development and maintenance.

(e) Demonstrates an ability to match, through money or in-kind services, 50% of the amount of any trust fund money received. The amount and types of in-kind services are subject to the approval of the state board.

(f) Other criteria that the state board deems appropriate.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

### **722.611 Rules.**

Sec. 11. Not later than 2 years after the effective date of this act, the state board shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

### **722.612 Review of functions, responsibilities, and performance of state board; transmittal; notice.**

Sec. 12. A thorough, written review of the functions, responsibilities, and performance of the state board shall be completed by the auditor general each 3 years after the effective date of this act. The review shall be transmitted and notice given in the same manner as provided in section 6(1)(b).

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** Former MCL 722.601 to 722.612, deriving from Ch. 42 of R.S. 1846 and pertaining to maintenance of children born out of wedlock, were repealed by Act 256 of 1964.

For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

### **722.613 Conditional effective date.**

Sec. 13. This act shall not take effect unless the following bills of the 81st Legislature are enacted into law:

(a) House Bill No. 5610.

(b) House Bill No. 5609.

**History:** 1982, Act 250, Imd. Eff. Sept. 29, 1982.

**Compiler's note:** House Bill No. 5610, referred to in this section, was approved by the Governor on September 29, 1982, and became P.A. 1982, No. 249, Imd. Eff. Sept. 29, 1982. House Bill No. 5609, also referred to in this section, was approved by the Governor on July 2, 1982, and became P.A. 1982, No. 211, Eff. Sept. 29, 1982.

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 1992-5**

**722.620 Transfer of state child abuse and neglect prevention board from department of management and budget to the department of social services by type I transfer.**

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Children's Trust Fund was created as a separate fund in the Department of Treasury by Act No. 249 of the Public Acts of 1982, being Section 21.171 et seq. of the Michigan Compiled Laws; and

WHEREAS, the State Child Abuse and Neglect Prevention Board was created by Act No. 250 of the Public Acts of 1982, being Section 722.601 et seq. of the Michigan Compiled Laws, in the Department of Management and Budget with, inter alia, responsibilities for development of a state plan for the distribution of funds from the Children's Trust Fund; publicizing of criteria for receipt of Children's Trust Fund funds; review, approval and monitoring of expenditure of Children's Trust Fund money; and, authorizing disbursement of available money from the Children's Trust Fund; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

(1) All the statutory authority, powers, duties, functions and responsibilities, including the functions of budgeting, procurement and management-related functions, of the State Child Abuse and Neglect Prevention Board created under Act No. 250 of the Public Acts of 1982, being Section 722.601 et seq. of the Michigan Compiled Laws, and the State Child Abuse and Neglect Prevention Board itself, are hereby transferred from the Department of Management and Budget to the Department of Social Services by a Type I transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

(2) The Director of the Department of Social Services shall provide executive direction and supervision for the implementation of the transfers. All budgeting, procurement and related management functions of the State Child Abuse and Neglect Prevention Board shall be performed under the direction and supervision of the Director of the Department of Social Services.

(3) All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the State Child Abuse and Neglect Prevention Board for the functions transferred to the Department of Social Services by this Order are hereby transferred to the Department of Social Services.

(4) The Director of the Department of Social Services shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

(5) The Director of the Department of Social Services and the Director of the Department of Management and Budget shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the State Child Abuse and Neglect Prevention Board.

(6) All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

(7) Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

(8) The State Child Abuse and Neglect Prevention Board shall develop procedures to assure, among other things, that grants or other transfers made by it to the Department of Social Services shall be free of any conflict of interest and shall not result in any duplication of efforts or services.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Order shall become effective 60 days after the filing of this Order.

**History:** 1992, E.R.O. No. 1992-5, Eff. Aug. 29, 1992.

**Compiler's note:** For transfer of state child abuse and neglect prevention board, which was transferred from the department of management and budget to the department of human services by E.R.O. No. 1992-5, compiled at MCL 722.620, from the department of human services to the department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

## **CHILD PROTECTION LAW**

### **Act 238 of 1975**

AN ACT to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1988, Act 372, Eff. Mar. 30, 1989.

*The People of the State of Michigan enact:*

#### **722.621 Short title.**

Sec. 1. This act shall be known and may be cited as the "child protection law".

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

#### **722.622 Definitions.**

Sec. 2. As used in this act:

(a) "Adult foster care location authorized to care for a child" means an adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703, in which a child is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

(b) "Attorney" means, if appointed to represent a child under the provisions referenced in section 10, an attorney serving as the child's legal advocate in the manner defined and described in section 13a of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(c) "Central registry" means a repository of names of individuals who are identified as perpetrators related to a central registry case in the department's statewide electronic case management system.

(d) "Central registry case" means the department confirmed that a person responsible for the child's health or welfare committed serious abuse or neglect, sexual abuse, or sexual exploitation of a child, or allowed a child to be exposed to or have contact with methamphetamine production.

(e) "Centralized intake" means the department's statewide centralized processing center for reports of suspected child abuse and child neglect.

(f) "Child" means an individual under 18 years of age.

(g) "Child abuse" means harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, any other person responsible for the child's health or welfare, a teacher, a teacher's aide, a member of the clergy, or an individual 18 years of age or older who is involved with a youth program.

(h) "Child care organization" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(i) "Child care provider" means an owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child.

(j) "Child care regulatory agency" means the department of licensing and regulatory affairs, the department's division of child welfare licensing, or a successor state department that is responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child.

(k) "Child neglect" means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

(i) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care, though financially able to do so, or by the failure to seek financial or other reasonable means to provide adequate food, clothing, shelter, or medical care.

(ii) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

(l) "Children's advocacy center" means an entity accredited as a child advocacy center by the National

Children's Alliance or its successor agency or an entity granted associate or developing membership status by the National Children's Alliance or its successor agency.

(m) "Citizen review panel" means a panel established as required by section 5106a of the child abuse prevention and treatment act, 42 USC 5106a.

(n) "Confirmed case" means the department has determined, by a preponderance of evidence, that child abuse or child neglect occurred by a person responsible for the child's health, welfare, or care.

(o) "Confirmed case of methamphetamine production" means a confirmed case that involved a child's exposure or contact with methamphetamine production.

(p) "Confirmed serious abuse or neglect" means a confirmed case of mental injury or physical injury or neglect to a child that involves any of the following:

(i) Battering, torture, or other serious physical harm.

(ii) Loss or serious impairment of an organ or limb.

(iii) Life-threatening injury.

(iv) Murder or attempted murder.

(v) Serious mental harm.

(q) "Confirmed sexual abuse" means a confirmed case that involves sexual penetration, sexual contact, attempted sexual penetration, or assault with intent to penetrate as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

(r) "Confirmed sexual exploitation" means a confirmed case that involves allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as that term is defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(s) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(t) "Department" means the department of health and human services.

(u) "Director" means the director of the department.

(v) "Electronic case management system" means the child protective service information system, that is an internal data system maintained within and by the department.

(w) "Expunge" means to physically remove or eliminate and destroy a record or report.

(x) "Lawyer-guardian ad litem" means an attorney appointed under section 10 who has the powers and duties referenced by section 10.

(y) "Local office file" means the system used to keep a record of a written report, document, or photograph filed with and maintained by a county or a regionally based office of the department.

(z) "Member of the clergy" means a priest, minister, rabbi, Christian science practitioner, spiritual leader, or other religious practitioner, or similar functionary of a church, temple, spiritual community, or recognized religious body, denomination, or organization.

(aa) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child:

(i) Has substantial and regular contact with the child.

(ii) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(iii) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(bb) "Online reporting system" means the electronic system established by the department for individuals identified in section 3(1) to report suspected child abuse or child neglect.

(cc) "Person responsible for the child's health or welfare" means a parent, legal guardian, individual 18 years of age or older who resides for any length of time in the same home in which the child resides, or, except when used in section 7(1)(e) or 8(8), nonparent adult; or an owner, operator, volunteer, or employee of 1 or more of the following:

(i) A licensed or registered child care organization.

(ii) A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(iii) A court-operated facility as approved under section 14 of the social welfare act, 1939 PA 280, MCL 400.14.

(dd) "Relevant evidence" means evidence having a tendency to make the existence of a fact that is at issue more probable than it would be without the evidence.

(ee) "Serious mental harm" and "serious physical harm" mean those terms as defined in section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(ff) "Specified information" means information in a children's protective services case record related specifically to the department's actions in responding to a complaint of child abuse or child neglect. Specified information does not include any of the following:

(i) Except as provided in this subparagraph regarding a perpetrator of child abuse or child neglect, personal identification information for any individual identified in a child protective services record. The exclusion of personal identification information as specified information prescribed by this subparagraph does not include personal identification information identifying an individual alleged to have perpetrated child abuse or child neglect, which allegation has been classified as a central registry case.

(ii) Information in a police agency report or other law enforcement agency report as provided in section 7(3).

(iii) Any other information that is specifically designated as confidential under other law.

(iv) Any information not related to the department's actions in responding to a report of child abuse or child neglect.

(gg) "Structured decision-making tool" means the department document labeled "DSS-4752 (P3) (3-95)" or a revision of that document that better measures the risk of future harm to a child.

(hh) "Substantiated" means a confirmed case.

(ii) "Unsubstantiated" means a case that is not confirmed.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1978, Act 252, Eff. Mar. 30, 1979;—Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981;—Am. 1984, Act 418, Eff. Mar. 29, 1985;—Am. 1988, Act 372, Eff. Mar. 30, 1989;—Am. 1990, Act 212, Imd. Eff. Sept. 27, 1990;—Am. 1993, Act 251, Imd. Eff. Nov. 24, 1993;—Am. 1996, Act 581, Eff. Mar. 31, 1997;—Am. 1998, Act 428, Eff. Apr. 1, 1999;—Am. 1998, Act 483, Eff. Mar. 1, 1999;—Am. 1998, Act 484, Eff. July 1, 1999;—Am. 1998, Act 531, Eff. July 1, 1999;—Am. 2000, Act 45, Imd. Eff. Mar. 27, 2000;—Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002;—Am. 2002, Act 693, Eff. Mar. 1, 2003;—Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005;—Am. 2014, Act 30, Eff. Mar. 31, 2015;—Am. 2016, Act 35, Imd. Eff. Mar. 8, 2016;—Am. 2016, Act 491, Eff. Apr. 6, 2017;—Am. 2018, Act 59, Eff. June 12, 2018;—Am. 2022, Act 67, Eff. Nov. 1, 2022.

## **722.623 Individual required to report child abuse or neglect; report by telephone or online reporting system; written report; contents; transmitting report to centralized intake; copies to prosecuting attorney and probate court; conditions requiring transmission of report to law enforcement agency; pregnancy or presence of sexually transmitted infection in child less than 12 years of age; exposure to or contact with methamphetamine production.**

Sec. 3. (1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, physical therapist, physical therapist assistant, occupational therapist, athletic trainer, marriage and family therapist, licensed professional counselor, social worker, licensed master's social worker, licensed bachelor's social worker, registered social service technician, social service technician, a person employed in a professional capacity in any office of the friend of the court, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or child neglect shall make an immediate report to centralized intake by telephone, or, if available, through the online reporting system, of the suspected child abuse or child neglect. Within 72 hours after making an oral report by telephone to centralized intake, the reporting person shall file a written report as required in this act. If the immediate report has been made using the online reporting system and that report includes the information required in a written report under subsection (2), that report is considered a written report for the purposes of this section and no additional written report is required. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written or electronic report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school is adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or child neglect shall make a report of suspected child abuse or child neglect to the department in the same manner as required under subdivision (a):

(i) Eligibility specialist.

(ii) Family independence manager.

(iii) Family independence specialist.



- (iv) Social services specialist.
- (v) Social work specialist.
- (vi) Social work specialist manager.
- (vii) Welfare services specialist.

(c) Any employee of an organization or entity that, as a result of federal funding statutes, regulations, or contracts, would be prohibited from reporting in the absence of a state mandate or court order. A person required to report under this subdivision shall report in the same manner as required under subdivision (a).

(2) The written report or a report made using the online reporting system must contain the name of the child and a description of the child abuse or child neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the child abuse or child neglect, and the manner in which the child abuse or child neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section must be mailed or otherwise transmitted to centralized intake.

(5) Upon receipt of a written report of suspected child abuse or child neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.

(6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of section 136b, 145c, 462a to 462h, or 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.462a to 750.462h, and 750.520b to 750.520g, or a violation of section 7401c of the public health code, 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, a teacher's aide, or an individual 18 years of age or older who is involved in a youth program, the department must transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected child abuse or child neglect is a child care provider and the department believes that the report has basis in fact, the department shall, within 24 hours after completion of the allegation, written report, or subsequent investigation, transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.

(7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect or discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with methamphetamine production, and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect or allowing a child to be exposed to or to have contact with methamphetamine production, was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county department of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected child abuse or child neglect or allowed a child to be exposed to or to have contact with methamphetamine production, is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Neither this subsection nor subsection (1) relieves the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a sexually transmitted infection in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse or child neglect has occurred.

(9) In conducting an investigation of child abuse or child neglect, if the department suspects that a child has been exposed to or has had contact with methamphetamine production, the department shall immediately contact the law enforcement agency in the county in which the incident occurred.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1978, Act 252, Eff. Mar. 30, 1979;—Am. 1978, Act 573, Eff. Mar. 30, 1979;—Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981;—Am. 1984, Act 418, Eff. Mar. 29, 1985;—Am. 1988, Act 372, Eff. Mar. 30, 1989;—Am. 1994, Act

177, Imd. Eff. June 20, 1994;—Am. 2002, Act 10, Imd. Eff. Feb. 14, 2002;—Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002;—Am. 2002, Act 693, Eff. Mar. 1, 2003;—Am. 2006, Act 264, Imd. Eff. July 6, 2006;—Am. 2006, Act 583, Imd. Eff. Jan. 3, 2007;—Am. 2008, Act 300, Imd. Eff. Oct. 8, 2008;—Am. 2008, Act 510, Imd. Eff. Jan. 13, 2009;—Am. 2014, Act 344, Eff. Jan. 14, 2015;—Am. 2016, Act 35, Imd. Eff. Mar. 8, 2016;—Am. 2022, Act 47, Eff. June 21, 2022;—Am. 2022, Act 66, Eff. Nov. 1, 2022.

#### **722.623a Knowledge or suspicion of alcohol, controlled substance, or metabolite of controlled substance in body of newborn infant; report required; exception.**

Sec. 3a. In addition to the reporting requirement in section 3, a person who is required to report suspected child abuse or neglect under section 3(1) and who knows, or from the child's symptoms has reasonable cause to suspect, that a newborn infant has any amount of alcohol, a controlled substance, or a metabolite of a controlled substance in his or her body shall report to the department in the same manner as required under section 3. A report is not required under this section if the person knows that the alcohol, controlled substance, or metabolite, or the child's symptoms, are the result of medical treatment administered to the newborn infant or his or her mother.

**History:** Add. 1996, Act 581, Eff. Mar. 31, 1997.

#### **722.623b Comprehensive training materials; availability.**

Sec. 3b. (1) The department shall, in consultation with the Michigan domestic and sexual violence prevention and treatment board and the Michigan Coalition to End Domestic and Sexual Violence, create comprehensive training materials for individuals who are required to report suspected child abuse or child neglect under section 3 within 180 days after the effective date of the amendatory act that added this section.

(2) An employer or organization that employs a mandatory reporter must provide the training materials described in subsection (1) to that employee. This subsection does not apply to an employer or organization that provides to an employee its own training that is updated annually based on the department's training materials described in subsection (1).

(3) The department must make the training materials described in subsection (1) publicly available on its website in addition to any other form that the department chooses.

**History:** Add. 2023, Act 46, Eff. Sept. 27, 2023.

#### **722.624 Persons permitted to report child abuse or neglect.**

Sec. 4. In addition to those persons required to report child abuse or neglect under section 3, any person, including a child, who has reasonable cause to suspect child abuse or neglect may report the matter to the department or a law enforcement agency.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1984, Act 418, Eff. Mar. 29, 1985.

#### **722.625 Identity of reporting person; confidentiality; disclosure; immunity; good faith presumed.**

Sec. 5. Except for records available under section 7(1)(a), (b), and (n), the identity of a reporting person is confidential subject to disclosure only with the consent of that person or by judicial process. 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 acts done according to this act and does not extend to a negligent act that causes personal injury or death or to the malpractice of a physician that results in personal injury or death.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1988, Act 372, Eff. Mar. 30, 1989;—Am. 1994, Act 393, Imd. Eff. Dec. 29, 1994;—Am. 1998, Act 428, Eff. Apr. 1, 1999;—Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005;—Am. 2022, Act 66, Eff. Nov. 1, 2022.

#### **722.626 Detention of child in temporary protective custody; preliminary hearing; examinations; report; medical evaluation.**

Sec. 6. (1) If a child suspected of being abused or neglected is admitted to a hospital or brought to a hospital for outpatient services and the attending physician determines that the release of the child would endanger the child's health or welfare, the attending physician shall notify the person in charge and the department. The person in charge may detain the child in temporary protective custody until the next regular business day of the probate court, at which time the probate court shall order the child detained in the hospital or in some other suitable place pending a preliminary hearing as required by section 14 of chapter 12A of the probate code of 1939, 1939 PA 288, MCL 712A.14, or order the child released to the child's parent, guardian, or custodian.

(2) When a child suspected of being an abused or neglected child is seen by a physician, the physician shall

make the necessary examinations, which may include physical examinations, x-rays, photographs, laboratory studies, and other pertinent studies. The physician's written report to the department shall contain summaries of the evaluation, including medical test results.

(3) If a report is made by a person other than a physician, or if the physician's report is not complete, the department may request a court order for a medical evaluation of the child. The department shall have a medical evaluation made without a court order if either of the following occurs:

(a) The child's health is seriously endangered and a court order cannot be obtained.

(b) The child is displaying symptoms suspected to be the result of exposure to or contact with methamphetamine production.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1984, Act 418, Eff. Mar. 29, 1985;—Am. 2006, Act 266, Imd. Eff. July 6, 2006.

**722.627 Availability of confidential record; closed court proceeding not required; release of reports compiled by law enforcement agency; information obtained by citizen review panel; release or inspection of documents from another agency or organization; sharing of information or records.**

Sec. 7. (1) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following:

(a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or child neglect or a legally mandated public or private child protective agency or foster care agency prosecuting a disciplinary action against its own employee involving child protective services or foster care records.

(b) A police agency or other law enforcement agency investigating a report of known or suspected child abuse or child neglect.

(c) A physician who is treating a child whom the physician reasonably suspects may be abused or neglected.

(d) A person legally authorized to place a child in protective custody when the person is confronted with a child whom the person reasonably suspects may be abused or neglected and the confidential record is necessary to determine whether to place the child in protective custody.

(e) A person, agency, or organization, including a multidisciplinary case consultation team, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record under this act, or who is responsible for the child's health or welfare.

(f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or child neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.

(g) A court for the purposes of determining the suitability of a person as a minor's guardian or that otherwise determines that the information is necessary to decide an issue before the court, or in the event of a child's death, a court that had jurisdiction over that child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(h) A grand jury that determines the information is necessary to conduct the grand jury's official business.

(i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize release of information to a person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.

(j) A lawyer-guardian ad litem or other attorney appointed as provided by section 10.

(k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other person in a foster care or adoptive home who is directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency must disclose the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

(l) Family division of circuit court staff authorized by the court to investigate foster care applicants and

licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and any other person in the home who is directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court must disclose this information to the applicant or licensee.

(m) Subject to section 7a, a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over child protective services matters.

(n) The child advocate appointed under the office of the child advocate act, 1994 PA 204, MCL 722.921 to 722.932.

(o) A child fatality review team established under section 7b and authorized under that section to investigate and review a child death.

(p) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the purpose of carrying out his or her duties under that act.

(q) A citizen review panel established by the department. Access under this subdivision is limited to information the department determines necessary for the panel to carry out its prescribed duties.

(r) A child care regulatory agency.

(s) A foster care review board for the purpose of meeting the requirements of 1984 PA 422, MCL 722.131 to 722.139a.

(t) A local friend of the court office.

(u) A department employee actively representing himself or herself in a disciplinary action, a labor union representative who is actively representing a department employee in a disciplinary action, or an arbitrator or administrative law judge conducting a hearing involving a department employee's dereliction, malfeasance, or misfeasance of duty, for use solely in connection with that action or hearing. Information disclosed under this subdivision must be returned not later than 10 days after the conclusion of the action or hearing. A recipient must not receive further disclosures under this subdivision while he or she retains disclosed information beyond the deadline specified for return.

(v) A federal or state governmental agency that may, by law, conduct an audit or similar review of the department's activities under this act.

(w) A children's advocacy center in the course of providing services to a child alleged to have been the victim of child abuse or child neglect or to that child's family.

(x) A tribal representative, agency, or organization, including a multidisciplinary team, authorized by the Indian child's tribe, to care for, diagnose, treat, review, evaluate, or monitor active efforts regarding an Indian child, parent, or Indian custodian. As used in this subdivision, "active efforts", "Indian child", "Indian child's tribe", "Indian custodian", and "parent" mean those terms as defined in section 3 of chapter XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.3.

(y) A child caring institution licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for employment or an employee of a child caring institution to determine suitability of the applicant or employee for initial or continued employment. The child caring institution must disclose the information to the applicant or employee.

(2) Subject to subsection (4), a person or entity to whom information described in subsection (1) is disclosed shall make the information available only to a person or entity described in subsection (1). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.

(3) In releasing information under this act, the department shall not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected child abuse or child neglect. This subsection does not prohibit the department from releasing reports of convictions of crimes related to child abuse or child neglect.

(4) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Documents, reports, or records authored by or obtained from another agency or organization shall not be released or open for inspection under subsection (1) unless required by other state or federal law, in response to an order issued by a judge, magistrate, or other authorized judicial officer, or unless the documents, reports, or records are requested for a child abuse or child neglect case or for a criminal investigation of a child abuse or child neglect case conducted by law enforcement.

(6) Notwithstanding subsection (1), 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 organization licensing under 1973 PA 116, MCL 722.111 to 722.128, 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 either 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 subsection (5) applies.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981;—Am. 1984, Act 418, Eff. Mar. 29, 1985;—Am. 1991, Act 78, Imd. Eff. July 18, 1991;—Am. 1993, Act 251, Imd. Eff. Nov. 24, 1993;—Am. 1994, Act 393, Imd. Eff. Dec. 29, 1994;—Am. 1995, Act 220, Imd. Eff. Dec. 1, 1995;—Am. 1995, Act 225, Imd. Eff. Dec. 14, 1995;—Am. 1997, Act 168, Eff. Mar. 31, 1998;—Am. 1998, Act 428, Eff. Apr. 1, 1999;—Am. 1998, Act 483, Eff. Mar. 1, 1999;—Am. 1998, Act 484, Eff. July 1, 1999;—Am. 1998, Act 485, Eff. Aug. 1, 1999;—Am. 2000, Act 45, Imd. Eff. Mar. 27, 2000;—Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002;—Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 621, Imd. Eff. Jan. 3, 2007;—Am. 2008, Act 300, Imd. Eff. Oct. 8, 2008;—Am. 2011, Act 70, Imd. Eff. June 28, 2011;—Am. 2014, Act 30, Eff. Mar. 31, 2015;—Am. 2014, Act 527, Eff. Mar. 31, 2015;—Am. 2016, Act 35, Imd. Eff. Mar. 8, 2016;—Am. 2016, Act 491, Eff. Apr. 6, 2017;—Am. 2016, Act 494, Eff. Mar. 29, 2017;—Am. 2018, Act 56, Eff. June 4, 2018;—Am. 2022, Act 68, Eff. Nov. 1, 2022;—Am. 2023, Act 305, Eff. Feb. 13, 2024.

#### **722.627a Availability of information, reports, and records to legislature; disclosure of or keeping confidential information as misdemeanor.**

Sec. 7a. (1) The department shall make information contained in the central registry and reports and records made pursuant to this act available to a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over protective services matters for children subject to all of the following:

(a) The department shall not provide confidential information protected by section 7 to the committee unless the committee members appointed and serving agree by roll call vote that the information is essential for the protection of Michigan children or for legislative oversight of the protective services program and that the confidential information will only be considered at a closed session of the committee. The affirmative vote required by this subdivision shall be by not less than the super majority required by section 7 of the open meetings act, Act No. 267 of the Public Acts of 1976, being section 15.267 of the Michigan Compiled Laws, and may serve as the vote required under that section for holding a closed session.

(b) In addition to compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, a closed session held under this section shall comply with all of the following:

(i) Tape recording, camera, or other electronic equipment for documenting the proceedings shall not be permitted in the closed session.

(ii) Attendance at the closed session shall be limited to committee members, other members of the legislature and legislative staff at the discretion of the chairperson, and staff members from the department designated by the director.

(2) A person who discloses or causes to be disclosed confidential information to which the person has gained access at a meeting held under this section is guilty of a misdemeanor. A person who keeps a confidential record or file, or a copy of a confidential record or file, at the conclusion of a closed session held under this section, which record or file is obtained at that meeting, is guilty of a misdemeanor.

**History:** Add. 1993, Act 251, Imd. Eff. Nov. 24, 1993.

#### **722.627b Child fatality review team; membership; review of child fatality; training and orientation; creation of advisory committee; review by citizen review panel; annual report; transmission of report to governor and legislature; disclosure of information; member of review team as member for purposes of MCL 691.1407; registry of statistical information regarding children's deaths.**

Sec. 7b. (1) Each county may have in place a standing child fatality review team. Two or more counties may appoint a single child fatality review team for those counties. The membership of a child fatality review team shall consist of at least all of the following:

(a) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216.

(b) A representative of a local law enforcement agency.

(c) A representative of the department.

(d) The county prosecuting attorney or a designated assistant county prosecutor.



- (e) A representative of the department of health and human services or a local health department.
- (f) A representative of the local court.
- (2) A child fatality review team established under subsection (1) shall review each child fatality occurring in the county or counties that established the child fatality review team.
- (3) The department shall make available to each child fatality review team established under subsection (1) professional, interagency training and orientation on the review of child fatalities. The department shall make available, as necessary, training on specific types of child fatalities, investigation techniques, and prevention initiatives.
- (4) The department shall establish a multiagency, multidisciplinary advisory committee to identify and make recommendations on policy and statutory changes pertaining to child fatalities and to guide statewide prevention, education, and training efforts.
- (5) The advisory committee created under subsection (4) consists of the following:
  - (a) Two representatives of the department.
  - (b) Two representatives of the department of health and human services.
  - (c) One county medical examiner.
  - (d) One representative of law enforcement.
  - (e) One county prosecuting attorney.
  - (f) The child advocate or his or her designee.
  - (g) A representative of a state or local court.
- (6) The citizen review panel shall review each child fatality that involves allegations of child abuse or child neglect for each child who, at the time of death or within the 12 months preceding the death, was under the court's jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.
- (7) Beginning December 31, 2012, and using the annual compilation of child fatalities reported by the state registrar under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899, and data received from the child fatality review teams established under subsection (1) and the citizen review panel established under subsection (6), the advisory committee established under subsection (4) shall author an annual report on child fatalities reviewed during the previous calendar year. The advisory committee shall include in the report, at a minimum, all of the following:
  - (a) The total number of child fatalities and the type or cause of each child fatality.
  - (b) The number of child fatalities that occurred while the child was in foster care.
  - (c) The number of cases where the child's death occurred within 5 years after family preservation or family reunification.
  - (d) Trends in child fatalities.
- (8) The advisory committee established under subsection (4) shall break down the information required under subsection (7) by county or by groups of counties as described in subsection (1). The information contained in the report is public information. The advisory committee shall not include identifying information of persons named in the report. The advisory committee shall transmit the final report under subsection (7) to the department by December 31 of each year. Not less than 30 days and not more than 60 days after transmitting the report to the department, the department shall ensure publication of the report and transmit a copy to the governor and to the standing committees of the legislature with jurisdiction over matters pertaining to child protection.
- (9) Except as provided in subsection (11), information obtained by a child fatality review team established under subsection (1) is confidential and may be disclosed by the child fatality review team only to the department, the child advocate, the county prosecutor's office, local law enforcement, or another child fatality review team. The information is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (10) An individual who is a member of a child fatality review team established under subsection (1) or of the advisory committee established under subsection (4) is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407.
- (11) The department shall establish and maintain a registry of statistical information regarding children's deaths that shall be accessible to the public. The registry created in this section shall not disclose any identifying information and shall only include statistical information covering all of the following:

- (a) The number of children who died while under court jurisdiction for child abuse or neglect regardless of placement setting.

- (b) The number of children who died as a result of child abuse or neglect after a parent had 1 or more child protective services complaints within the 2 years preceding the child's death and the category dispositions of

those complaints.

- (c) The total number of children as identified in subdivisions (a) and (b) who died in the preceding year.
- (d) The child protective services disposition of the child fatality.

**History:** Add. 1997, Act 167, Eff. Mar. 31, 1998;—Am. 2011, Act 68, Imd. Eff. June 28, 2011;—Am. 2011, Act 69, Imd. Eff. June 28, 2011;—Am. 2011, Act 89, Imd. Eff. July 15, 2011;—Am. 2023, Act 305, Eff. Feb. 13, 2024.

#### **722.627c Release of information from child protective services records or case in which child has died; decision by director; determination.**

Sec. 7c. (1) Sections 7d to 7i govern the director's decisions to release specified information from child protective services records.

(2) The director shall release specified information in a child abuse or neglect case in which a child who was a part of the case has died.

(3) The director may designate another individual to act for the director under sections 7d to 7i, and a reference to the director under those sections applies to an individual designated by the director.

(4) For the purposes of sections 7d to 7i, a child's best interest shall be determined based on all of the following:

(a) Protection of the child's safety.

(b) Preservation of the child's physical, mental, and emotional health.

(c) Consideration of the child's likelihood of establishing a successful and timely permanent family and community relationship.

(5) Sections 7d to 7i do not subject a report or record that is confidential under this act to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999;—Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005.

#### **722.627d Release of information by director; preliminary decision to release or deny information; extension of time period; evidence.**

Sec. 7d. (1) Subject to sections 7c to 7i, at the director's initiative or upon written request, the director may release specified information. If a written request for specified information is submitted to the department, the director must make a preliminary decision to release or to deny release of the specified information within 14 days after receipt of the request. After notifying the requester, the director may extend that time period for an additional 14 days if the additional time is necessary to research and compile the requested specified information.

(2) The director may release specified information under this section if there is clear and convincing evidence that either of the following is true:

(a) The release of the specified information is in the best interest of the child to whom the specified information relates.

(b) The release of the specified information is not in conflict with the best interest of the child to whom the specified information relates, and 1 or more of the following are true:

(i) The release is in the best interest of a member of the child's family or of an individual who resides in the same home in which the child resides. For the purposes of this subparagraph, the child's family includes the child's parents, legal guardians, grandparents, and siblings.

(ii) The release clarifies actions taken by the department on a specific case.

(iii) The report or record containing the specified information concerns a child who has died or concerns a member of that child's family.

(iv) All or part of the report or record containing the specified information is publicly disclosed in a judicial proceeding.

(v) A child abuse or child neglect complaint or investigation to which the report or record containing the specified information relates has been part of the subject matter of a published or broadcast media story.

(vi) The report or record containing the specified information concerns a confirmed report of sexual abuse, serious injury, or life threatening harm involving the child or a sibling of the child identified in the request.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999;—Am. 2022, Act 66, Eff. Nov. 1, 2022.

#### **722.627e Release of information by director; prohibitions.**

Sec. 7e. (1) The director shall not deny a request for specified information under section 7d based upon a desire to shield a lack of or an inappropriate performance by the department.

(2) Regardless of the director's determination that specified information may be released under section 7d, the director shall not release the specified information if 1 or more of the following are true:

(a) The request for release does not include information sufficient to identify the specific case to which the

request relates.

(b) An investigation of the report of child abuse or child neglect to which the specified information relates is in progress and the report has not been confirmed or not confirmed.

(c) A hearing is pending under section 7j(6).

(d) There is an ongoing criminal investigation and, as determined by the local prosecuting attorney, release would interfere with the criminal investigation.

(e) The individual who submits the request is serving a sentence of imprisonment in a state, county, or federal correctional facility in this state or in another state.

(f) The child to whom the report or record relates is 18 years of age or older.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999;—Am. 2022, Act 66, Eff. Nov. 1, 2022.

#### **722.627f Release of information by director; preliminary decision to release or deny request; notice; final decision; writing; right to appeal.**

Sec. 7f. (1) Not less than 14 days before specified information is released or within 14 days after making a decision to deny a request for release of specified information under section 7d, the director shall give notice as provided in this subsection and section 7g of a preliminary decision to release or to deny a request to release specified information. The notice shall be in writing and shall be made by personal service or by registered or certified mail, return receipt requested and deliverable to the addressee only. The notice shall include at least all of the following:

(a) The basis on which the specified information is being released or the basis for denial of the request for release.

(b) A statement that the decision becomes a final decision unless information that could be the basis for a different decision is submitted to the director in writing within 14 days after the notice is given.

(c) A statement that there is a right to appeal a final decision as provided in section 7h. The notice shall include information regarding where to file the appeal and describing appellate procedures.

(2) If, within 14 days after giving notice, the director does not receive information in writing that could be the basis for a different decision, the director's decision is final.

(3) If the director does receive information as described in subsection (2), the director shall make a final decision to release or deny a request to release the specified information within 7 days after receipt of the information. The director shall give notice of a final decision made under this subsection to each individual required to be notified under section 7g(1) or (2). The notice required by this subsection shall be in writing and shall include at least notification of the right to appeal a final decision as provided in section 7h.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

#### **722.627g Release of information by director; individuals to be notified; Wyatt's law.**

Sec. 7g. (1) If the director decides to release specified information under section 7d, the department must give each notice required under section 7f to each of the following:

(a) Each person named in the report as a perpetrator or an alleged perpetrator of the child abuse or child neglect, unless the person named in the report has been convicted of a crime relating to the child abuse or child neglect, and no appeal is pending.

(b) Each parent or legal guardian of the child.

(c) Each attorney representing the child who is the subject of the case, or representing a person listed in subdivision (a) or (b), if the department has notice of that representation.

(d) The child's guardian ad litem.

(2) If the director denies a request for release of information under section 7d, the department must notify only the requesting person.

(3) If a person required to be notified under subsection (1)(a) is named as a perpetrator of child abuse or child neglect in a report that contains specified information requested to be released, and that person was not previously notified under section 7j(3), the department must notify that person as required by section 7j(3) not less than 14 days before the specified information is released. If a person who is required to be notified under this subsection requests expunction of the record within 14 days after the notice is given, the specified information shall not be released under this section until the procedures governing expunction under section 7j are completed. If a person who is required to be notified under this subsection does not request expunction within 14 days, the procedures for release of specified information under sections 7c to 7i must be followed, and the individual does not have a right to appeal the decision to release.

(4) This section may be cited as "Wyatt's law".

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999;—Am. 2022, Act 66, Eff. Nov. 1, 2022.

#### **722.627h Appeal of director's decision.**

Sec. 7h. (1) Before the release of specified information under section 7d and except as provided in section 7g, an individual required to be notified under section 7g may appeal the director's decision to the circuit court. If an appeal is filed and the department notified before the release, the specified information shall not be released until the decision to release is upheld by the circuit court. If the director denies a request to release specified information under section 7d, within 30 days after notice of the denial, the person whose request is denied may file an appeal of the denial with the circuit court. The court shall uphold a decision to release or to deny release of specified information unless the court finds that the director's decision was an abuse of the director's discretion based upon the criteria for releasing or not releasing specified information prescribed by sections 7c to 7i.

(2) Proceedings on an appeal filed under this section are confidential, and any record of these proceedings shall not be released unless the court upholds a decision to release specified information or reverses the denial of a request for release. The court shall conduct its review so that a person whose request for specified information was denied does not have access to that specified information during the appeal proceedings.

(3) If the court reverses the director's decision to release or to deny release of specified information in an appeal under this section, the court may order the department to pay the appellant's costs and reasonable attorney fees that are related to the appeal.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

#### **722.627i Fee; federal assurances and waivers.**

Sec. 7i. (1) The department may charge a fee for a copy of specified information released under section 7d in the same manner that a public body is authorized to charge a fee under section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

(2) Sections 7c to 7i shall not be enforced and the family independence agency shall not utilize or implement those provisions unless the family independence agency consults with and receives assurances from the federal government, including any necessary federal waivers, that utilization and implementation of those provisions do not jeopardize this state's receipt of federal money.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

#### **722.627j Statewide electronic case management system; classification of confirmed cases; placement on central registry; motion for removal; notification; requirements; request for amendment of report; hearing; expungement; death of perpetrator; receipt of central registry placement confirmation; automated systems; search of children's protective services records.**

Sec. 7j. (1) The department must maintain a statewide, electronic case management system to carry out the intent of this act. The department may enter into vendor contracts that it considers necessary and proper for implementation, review, and update of the electronic case management system. The department must solicit proposals from entities to provide the services necessary to implement, review, and update the electronic case management system.

(2) The department must classify a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation, as a central registry case.

(3) In addition to a case classified under subsection (2), a court in this state entering an order of conviction for a violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, a conviction for a violation of chapter LXXVI of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520o, involving a minor victim, a conviction for a violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c, and any conviction involving the death of a child must request that the conviction be classified as a central registry case by the department. The department, with cooperation from the state court administrative office, must promulgate rules to regulate this referral process.

(4) At any time, an individual who has been placed on the central registry under subsection (3) may request, and the court shall request, an individual's name be removed from the central registry upon the individual prevailing in a motion to the convicting court for the following reasons:

(a) The individual was not convicted of an offense listed under this section.

(b) Demonstrating that the individual's conviction of the offense that caused the individual to be placed on the central registry has been expunged.

(5) Not more than once every 10 years after an individual has been placed on the central registry under subsection (3), the individual may make a motion to the convicting court to request removal from the central registry. In a hearing on this motion, the individual is presumed to be a risk to children, and the burden is on

the individual requesting to be removed from the central registry. If the individual demonstrates that the presumption is unreasonable, the court shall request that the department remove the individual from the central registry.

(6) Within 30 days after the classification of a central registry case, the department must notify in writing each person who is named in the record as a perpetrator of the confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, or confirmed case of methamphetamine production. The notice requirements include all of the following:

(a) The notice must be sent by registered or certified mail, return receipt requested, and delivery restricted to the addressee.

(b) The notice must set forth the person's right to request expunction of the record and the right to a hearing if the department refuses the request.

(c) The notice must state that the record may be released under section 7d.

(d) The notice must not identify the person reporting the suspected child abuse or child neglect.

(7) An individual who is the subject of a report or record made under this section may request the department amend an inaccurate report or record from the central registry and local office file. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(8) If the department denies the request to amend a report, an individual who is the subject of a report or record made under this section may, within 180 days from the date of service of notice of the right to a hearing, request the department hold a hearing to review the request for amendment. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(9) The department must hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part meets the statutory requirement of confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, or confirmed case of methamphetamine production and should be amended or expunged from the central registry. The hearing must be held before an administrative law judge and must be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may, for good cause, hold a hearing under this subsection if the department determines that the person who is the subject of the report or record submitted the request for a hearing within 60 days after the 180-day notice period expired. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(10) If the investigation of a report conducted under this section does not show serious child abuse or child neglect, sexual abuse, sexual exploitation, or methamphetamine production by a preponderance of the evidence, or if a court dismisses a petition based on the merits of the petition filed under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, because the petitioner has failed to establish, or a court has failed to find, that the child comes within the jurisdiction of the court following an adjudication hearing, the information identifying the subject of the report must be expunged from the central registry after a party has exhausted all appellate remedies and an appellate review does not find that the child is within the jurisdiction of the court. If a preponderance of evidence of child abuse or child neglect exists, or if a court takes jurisdiction of the child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, the department must maintain the information and must maintain the perpetrator's information in the central registry if the case is determined to be a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(11) Except as otherwise provided in this section, the department must maintain the information in the central registry until the department receives reliable information that the perpetrator is dead. Not more than once every 10 years after an individual has been listed on the central registry, the individual may request a hearing regarding removal from the central registry. Except for confirmed sexual abuse or confirmed sexual exploitation, the department must hold a hearing to determine whether the information should be maintained on the central registry. The hearing must be held before an administrative law judge and must be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. In this hearing, the individual is presumed to be a risk to children and the burden of proof is on the individual requesting to be removed from the central registry. If the individual demonstrates by a preponderance of the evidence that the presumption is unreasonable, then the information must be expunged from the central registry. The facts and circumstances as determined by the department or an administrative law judge on review of the department's decision that resulted in the individual originally being placed on the central registry are not subject to review. The administrative law judge shall take into account the facts and circumstances in the years since the individual was listed on the central registry that bear on the assessment of



the individual's risk to children in the future. For the purpose of this subsection, "reliable information" includes, but is not limited to, information obtained using the United States Social Security death index database. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(12) Upon written request, the department may provide confirmation of central registry placement to an individual, office, or agency authorized to receive it.

(13) A person or the department may share the document provided in subsection (12) with whoever is appropriate for the purpose of seeking employment or serving as a volunteer if that employment or volunteer work will include contact with children.

(14) An individual or organization for whom a person is applying for employment, licensing for a child care organization, or to act as a volunteer, may, with appropriate authorization and identification, request and receive confirmation of central registry placement, if that employment or volunteer work includes contact with children.

(15) A parent or other person responsible for a child, who has reason to believe another caregiver may place that child at risk, may, with appropriate authorization and identification, receive confirmation of central registry placement of that parent, person responsible, or caregiver. This request must be made through the office of the friend of the court created in section 3 of the friend of the court act, 1982 PA 294, MCL 552.503.

(16) The department may develop an automated system that will allow a person applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the person is not a person responsible for that child's health or welfare to be listed in that system if a screening of the person finds that he or she has not been named in a central registry case as the perpetrator of a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation. The automated system developed under this section must provide for public access to the list of persons who have been screened for the purposes of complying with this section. An automated system developed under this section must have appropriate safeguards and procedures to ensure that information that is confidential under this act, state law, or federal law is not accessible or disclosed through that system.

(17) An action taken to exclude an individual from licensure to provide foster care, child care, or camp services by the department of licensing and regulatory affairs or the division of child welfare licensing in the department, or a predecessor agency, in effect before the effective date of the amendatory act that added this subsection, must remain in effect according to its terms, except if an individual is successful in an administrative review or appeal of the exclusionary status in accord with section 9 of 1973 PA 116, MCL 722.119.

(18) In addition to the central registry clearance, the department must search children's protective services records to determine if an applicant or licensee, relative, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer has a children's protective services history before making a licensing or placement determination, or provide clearance for staff employment or a volunteer in a child caring organization.

**History:** Add. 2002, Act 716, Eff. Mar. 31, 2003;—Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005;—Am. 2008, Act 374, Imd. Eff. Dec. 23, 2008;—Am. 2010, Act 81, Imd. Eff. May 21, 2010;—Am. 2022, Act 64, Eff. Nov. 1, 2022.

#### **722.627k Death of child under court jurisdiction; notification to legislator and child advocate.**

Sec. 7k. (1) If a child dies who is under the court's jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, the department shall provide notification in writing or electronically not later than 1 business day to the court that had jurisdiction over the child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, at the time of the child's death, the state senator and state representative who represent the district in which that court is located, and the child advocate.

(2) The department shall notify the child advocate within 1 business day when a child dies and any of the following apply:

(a) The child died during an active child protective services investigation or an open child protective services case.

(b) The department received a prior child protective services complaint concerning the child's caretaker.

(c) The child's death may have resulted from child abuse or child neglect.

**History:** Add. 2011, Act 67, Imd. Eff. June 28, 2011;—Am. 2023, Act 305, Eff. Feb. 13, 2024.

#### **722.627l Statewide electronic case management system; administrative review for expungement.**

Sec. 7l. (1) An individual who is listed on the central registry before the effective date of the amendatory act that added this section may submit a request to the department for an administrative review for the expungement of the individual's name from the statewide electronic case management system created under section 7j. Within 180 days of receipt of the request for an administrative review under this subsection, the department shall complete the review and notify the individual in writing of the final decision to expunge the individual from the central registry under the statewide electronic case management system created under section 7j or to classify the individual's case as a confirmed case of methamphetamine production, confirmed serious abuse or serious neglect, confirmed sexual abuse, or confirmed sexual exploitation and keep the individual on the central registry in the statewide electronic case management system.

(2) If the department's final decision after the administrative review under subsection (1) is to expunge the individual from the central registry under the statewide electronic case management system created under section 7j, then the department shall notify the director of the department responsible for the licensure of that individual or the director's designee within 45 days of the final decision.

**History:** Add. 2022, Act 72, Eff. Nov. 1, 2022.

**722.628 Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; procedures by prosecuting attorney; cooperation of school or other institution; information as to disposition of report; request to amend report; exception to reporting requirement; surrender of newborn; training of employees in rights of children and families; determination of open friend of the court case.**

Sec. 8. (1) Within 24 hours after receiving a report made under this act, the department must refer the report to the prosecuting attorney and the local law enforcement agency if the report meets the requirements of subsection (3)(a), (b), or (c) or section 3(6) or (9) or must commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under subsection (3)(a), (b), or (c) or section 3(6) or (9), the local law enforcement agency must refer the report to the department if the report meets the requirements of section 3(7) or must commence an investigation of the child suspected of being abused or neglected or exposed to or who has had contact with methamphetamine production. If the child suspected of being abused or exposed to or who has had contact with methamphetamine production is not in the physical custody of the parent or legal guardian and informing the parent or legal guardian would not endanger the child's health or welfare, the local law enforcement agency or the department must inform the child's parent or legal guardian of the investigation as soon as the local law enforcement agency or the department discovers the identity of the child's parent or legal guardian.

(2) In the course of its investigation, the department must determine if the child is abused or neglected. The department must cooperate with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying, and treating child abuse and child neglect; must provide, enlist, and coordinate the necessary services, directly or through purchasing services from other agencies and professions; and must take necessary action to prevent further abuses, to safeguard and enhance the child's welfare, and to preserve family life where possible. In the course of an investigation, at the time that a department investigator contacts an individual about whom a report has been made under this act or contacts an individual responsible for the health or welfare of a child about whom a report has been made under this act, the department investigator must advise that individual of the department investigator's name, whom the department investigator represents, and the specific complaints or allegations made against the individual. The department must ensure that its policies, procedures, and administrative rules ensure compliance with this act.

(3) In conducting its investigation, the department must seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that 1 or more of the following conditions exist:

(a) Child abuse or child neglect is the suspected cause of a child's death.

(b) The child is the victim of suspected sexual abuse or sexual exploitation.

(c) Child abuse or child neglect resulting in serious physical harm to the child.

(d) Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.

(e) The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.

(f) The child has been exposed to or had contact with methamphetamine production.

(4) Law enforcement officials must cooperate with the department in conducting investigations under subsections (1) and (3) and must comply with sections 5 and 7. The department and law enforcement officials

must conduct investigations in compliance with the protocols adopted and implemented as required by subsection (6).

(5) Involvement of law enforcement officials under this section does not relieve or prevent the department from proceeding with its investigation or treatment if there is reasonable cause to suspect that the child abuse or child neglect was committed by a person responsible for the child's health or welfare.

(6) In each county, the prosecuting attorney and the department must develop and establish procedures for involving law enforcement officials and children's advocacy centers, as appropriate, as provided in this section. In each county, the prosecuting attorney and the department must adopt and implement standard child abuse and child neglect investigation and interview protocols using as a model the protocols developed by the governor's task force on children's justice as published in FIA Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or an updated version of those publications.

(7) If there is reasonable cause to suspect that a child in the care of or under the control of a public or private agency, institution, or facility is an abused or neglected child, the agency, institution, or facility must be investigated by an agency administratively independent of the agency, institution, or facility being investigated. If the investigation produces evidence of a violation of section 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to 750.520g, the investigating agency must transmit a copy of the results of the investigation to the prosecuting attorney of the county in which the agency, institution, or facility is located.

(8) A school or other institution must cooperate with the department during an investigation of a report of child abuse or child neglect. Cooperation includes allowing access to the child without parental consent if access is determined by the department to be necessary to complete the investigation or to prevent child abuse or child neglect of the child. The department must notify the person responsible for the child's health or welfare about the department's contact with the child at the time or as soon afterward as the person can be reached. The department may delay the notice if the notice would compromise the safety of the child or child's siblings or the integrity of the investigation, but only for the time 1 of those conditions exists.

(9) If the department has contact with a child in a school, all of the following apply:

(a) Before contact with the child, the department investigator must review with the designated school staff person the department's responsibilities under this act and the investigation procedure.

(b) After contact with the child, the department investigator must meet with the designated school staff person and the child about the response the department will take as a result of contact with the child. The department may also meet with the designated school staff person without the child present and share additional information the investigator determines may be shared subject to the confidentiality provisions of this act.

(c) Lack of cooperation by the school does not relieve or prevent the department from proceeding with its responsibilities under this act.

(10) A child must not be subjected to a search at a school that requires the child to remove his or her clothing to expose his buttocks or genitalia or her breasts, buttocks, or genitalia unless the department has obtained an order from a court of competent jurisdiction permitting that search. If the access occurs within a hospital, the investigation must be conducted so as not to interfere with the medical treatment of the child or other patients.

(11) The department must enter each report made under this act that is the subject of a field investigation into the electronic case management system. The department must maintain a report entered on the electronic case management system as required by this subsection until the child about whom the investigation is made is 18 years old or until 10 years after the investigation is commenced, whichever is later, or, if the case is classified as a central registry case, until the department receives reliable information that the perpetrator of the child abuse or child neglect is dead. Unless made public as specified information released under section 7d, a report that is maintained on the electronic case management system is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) After completing a field investigation and based on its results, the department must determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or child neglect and determine whether the child abuse or child neglect must be classified as a central registry case.

(13) A person who is the subject of a report or record made under this section in which the violation does not result in being placed on the central registry, but is categorized as a category I, II, or III case under section 8d, may request the department amend an inaccurate report or record from the local office file. Within 30 days after the classification of a confirmed case that does not result in being placed on the central registry, the department must notify in writing each person who is named in the report or record as a perpetrator of confirmed serious abuse or neglect. This notice requirement includes all the following:

(a) Must be sent by first-class mail to the identified perpetrator.

(b) Must set forth the person's right to request amendment of the record and the right to an administrative review conducted by the department.

(c) Must state that the record may be released under section 7d, and may impact future employment or licensing opportunities.

(d) Must not identify the person reporting the suspected child abuse or child neglect.

(14) The request described in subsection (13) must be made within 180 days after the date of service of notice of a confirmed serious abuse or neglect. The department may, for good cause, extend the time frame for the request after the 180-day notice if the department determines that the person who is the subject of the report or record submitted the request for an administrative review within 60 days after the 180-day notice period expired. The department must create an administrative process to determine whether the report or record should be amended.

(15) Except as provided in subsection (16), upon completion of the investigation by the local law enforcement agency or the department, the law enforcement agency or department may inform the person who made the report as to the disposition of the report.

(16) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department must inform the person in writing as to the disposition of the case and must include in the information at least all of the following:

(a) What determination the department made under subsection (12) and the rationale for that decision.

(b) Whether legal action was commenced and, if so, the nature of that action.

(c) Notification that the information being conveyed is confidential.

(17) Information sent under subsection (16) must not include personally identifying information for a person named in a report or record made under this act.

(18) Unless section 5 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the department, the surrender of a newborn in compliance with chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse or child neglect and is not subject to the section 3 reporting requirement. This subsection does not apply to circumstances that arise on or after the date that chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies to a newborn whose birth is described in the born alive infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and who is considered to be a newborn surrendered under the safe delivery of newborns law as provided in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

(19) All department employees involved in investigating child abuse or child neglect cases must be trained in the legal duties to protect the state and federal constitutional and statutory rights of children and families from the initial contact of an investigation through the time services are provided.

(20) The department must determine whether there is an open friend of the court case regarding a child who is suspected of being abused or neglected if a child protective services investigation of child abuse and child neglect allegations result in any of the following dispositions:

(a) A finding that a preponderance of evidence indicates that there has been child abuse or child neglect.

(b) Emergency removal of the child for child abuse or child neglect before the investigation is completed.

(c) The family court takes jurisdiction on a petition and a child is maintained in his or her own home under the supervision of the department.

(d) If 1 or more children residing in the home are removed and 1 or more children remain in the home.

(e) Any other circumstances that the department determines are applicable and related to child safety.

(21) If the department determines that there is an open friend of the court case and the provisions of subsection (20) apply, the department must notify the office of the friend of the court in the county in which the friend of the court case is open that there is an investigation being conducted under this act regarding that child and must also report to the local friend of the court office when there is a change in that child's placement.

(22) Child protective services may report to the local friend of the court office any situation in which a parent, more than 3 times within 1 year or on 5 cumulative reports over several years, made unfounded reports to child protective services regarding alleged child abuse or child neglect of his or her child.

(23) If the department determines that there is an open friend of the court case, the department must provide a noncustodial parent of a child who is suspected of being abused or neglected with the form developed by the department that has information on how to change a custody or parenting time court order.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1978, Act 252, Eff. Mar. 30, 1979;—Am. 1984, Act 418, Eff. Mar. 29, 1985;—Am. 1988, Act 372, Eff. Mar. 30, 1989;—Am. 1997, Act 59, Eff. Oct. 1, 1997;—Am. 1997, Act 166, Eff. Mar. 31, 1998;—Am. 1998, Act 484, Eff. July 1, 1999;—Am. 2000, Act 45, Imd. Eff. Mar. 27, 2000;—Am. 2000, Act 234, Eff. Jan. 1, 2001;—Am. 2002, Act 690, Eff. Mar. 31, 2003;—Am. 2004, Act 195, Imd. Eff. July 8, 2004;—Am. 2006, Act 256, Imd. Eff. July 6, 2006;—Am. 2006, Act 583, Imd. Rendered Thursday, May 30, 2024

### **722.628a Execution of notices by prosecuting attorney of individuals bound over to circuit court for certain crimes; notification upon final disposition; confidentiality.**

Sec. 8a. (1) If an individual is bound over to circuit court for any of the following crimes, the prosecuting attorney shall execute the notices as prescribed by subsections (2) to (5):

(a) Criminal sexual conduct in the first, second, or third degree in violation of section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d.

(b) Assault with intent to commit criminal sexual conduct in violation of section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g.

(c) A felonious attempt or a felonious conspiracy to commit criminal sexual conduct.

(d) An assault on a child that is punishable as a felony.

(e) Child abuse in the first, second, or third degree, in violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(f) Involvement in child sexually abusive material or child sexually abusive activity in violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(2) If the individual is an employee of a nonpublic school as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5, the prosecuting attorney shall notify the governing body of the nonpublic school.

(3) If the individual is an employee of a school district or intermediate school district, the prosecuting attorney shall notify the superintendent of the school district or intermediate school district.

(4) If the individual is an employee of the department who provides a service to children and youth as described in section 115 of the social welfare act, 1939 PA 280, MCL 400.115, the prosecuting attorney shall notify the county director of social services or the superintendent of the training school.

(5) If the individual is a child care provider, the prosecuting attorney shall notify the department, the owner or operator of the child care provider's child care organization or adult foster care location authorized to care for a child, and the child care regulatory agency with authority over that child care organization or adult foster care location authorized to care for a child.

(6) Upon final disposition of a criminal matter for which a notice was given under subsections (2) to (5), the prosecuting attorney shall notify each person previously notified under subsections (2) to (5) of that disposition.

(7) A person who is notified or otherwise receives information under this section shall keep the information received confidential except so far as disclosure is necessary to take appropriate action in response to the information.

**History:** Add. 1992, Act 39, Eff. Mar. 31, 1993;—Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002.

### **722.628b Referral of case to prosecuting attorney; review.**

Sec. 8b. (1) If a case involves a child's death, serious physical harm of a child, or sexual abuse or sexual exploitation of a child, the department must refer the case to the prosecuting attorney for the county in which the child is located. The prosecuting attorney must review the investigation of the case to determine if the investigation complied with the protocol adopted as required by section 8.

(2) If a central registry case involves a child's exposure to or contact with methamphetamine production, the department must refer the case to the prosecuting attorney for the county in which the child is located. The prosecuting attorney must review the investigation of the case to determine whether the investigation complied with the protocol adopted as required by section 8.

**History:** Add. 1997, Act 168, Eff. Mar. 31, 1998;—Am. 1998, Act 484, Eff. July 1, 1999;—Am. 2006, Act 263, Imd. Eff. July 6, 2006;—Am. 2022, Act 66, Eff. Nov. 1, 2022.

### **722.628c Interview with child.**

Sec. 8c. During an investigation of suspected child abuse or neglect, the child reported to have been abused or neglected shall not be interviewed in the presence of an individual suspected to have perpetrated the abuse.

**History:** Add. 1997, Act 168, Eff. Mar. 31, 1998.

### **722.628d Categories and departmental response.**

Sec. 8d. (1) For the department's determination required by section 8, the categories, and the departmental response required for each category, are the following:

(a) Category V - services not needed. Following a field investigation, the department determines that there



is no evidence of child abuse or child neglect.

(b) Category IV - community services recommended. Following a field investigation, the department determines that there is not a preponderance of evidence of child abuse or child neglect, but the structured decision-making tool indicates that there is future risk of harm to the child. The department must assist the child's family in voluntarily participating in community-based services commensurate with the risk to the child.

(c) Category III - community services needed. The department determines that there is a preponderance of evidence of child abuse or child neglect, and the structured decision-making tool indicates a low or moderate risk of future harm to the child. The department must assist the child's family in receiving community-based services commensurate with the risk to the child. If the family does not voluntarily participate in services, or the family voluntarily participates in services, but does not progress toward alleviating the child's risk level, the department must consider reclassifying the case as category II.

(d) Category II - child protective services required. The department determines that there is evidence of child abuse or child neglect, and the structured decision-making tool indicates a high or intensive risk of future harm to the child. The department must open a protective services case and provide the services necessary under this act.

(e) Category I - court petition required. The department determines that there is evidence of child abuse or child neglect and 1 or more of the following are true:

(i) A court petition is required under another provision of this act.

(ii) The child is not safe and a petition for removal is needed.

(iii) The department previously classified the case as category II and the child's family does not voluntarily participate in services.

(iv) There is a violation, involving the child, of a crime listed or described in section 8a(1)(b), (c), (d), or (f) or of child abuse in the first or second degree as prescribed by section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(2) In response to a category I classification, the department must do both of the following:

(a) If a court petition is not required under another provision of this act, submit a petition for authorization by the court under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(b) Open a protective services case and provide the services necessary under this act.

**History:** Add. 1998, Act 484, Eff. July 1, 1999;—Am. 2000, Act 45, Imd. Eff. Mar. 27, 2000;—Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002;—Am. 2006, Act 618, Imd. Eff. Jan. 3, 2007;—Am. 2014, Act 30, Eff. Mar. 31, 2015;—Am. 2022, Act 66, Eff. Nov. 1, 2022.

## **722.628e Investigation checklist.**

Sec. 8e. (1) The department shall implement an investigation checklist to be used in each investigation of suspected abuse and neglect handled by the department.

(2) Subject to subsections (3) and (4), an investigation shall not be closed until the checklist described in subsection (1) is completed.

(3) A supervisor must review the completed checklist. If the supervisor determines that the investigation complies with the investigation checklist and with the following state laws and department policy, the investigation may be closed:

(a) Face-to-face contact was made with all alleged child victims.

(b) A petition was filed as required by sections 8d(1)(e), 17, and 18.

(c) A petition was filed when court intervention was needed to ensure child safety.

(d) Any other items that impact child safety and well-being that are specifically outlined in department policy to require the approvals outlined in subsection (4).

(4) If the supervisor determines that the investigation does not comply with the investigation checklist and the state laws and department policy outlined in subsection (3), the supervisor shall determine the reason the investigation checklist and state law or department policy outlined in subsection (3) were not followed. An investigation that falls under this subsection shall not be closed until after the local office director has reviewed the investigation.

**History:** Add. 2008, Act 511, Eff. Apr. 1, 2009.

## **722.629 Multidisciplinary services; biennial report; continuing education programs; dissemination of information.**

Sec. 9. (1) The department, in discharging its responsibilities under this act, shall provide, directly or through the purchase of services from other agencies and professions, multidisciplinary services such as those of a pediatrician, psychologist, psychiatrist, public health nurse, social worker, or attorney through the establishment of regionally based or strategically located teams. The department shall prepare a biennial

report to the legislature containing information on the activities of the teams created pursuant to this subsection and including recommendations by the teams and the department regarding child abuse and neglect when committed by persons responsible for the child's health or welfare.

(2) The department shall assure a continuing education program for department, probate court, and private agency personnel. The program shall include responsibilities, obligations, and powers under this act and the diagnosis and treatment of child abuse and neglect when committed by persons responsible for the child's health or welfare.

(3) The department shall provide for the dissemination of information to the general public with respect to the problem of child abuse and neglect in this state and the facilities, prevention, and treatment methods available to combat child abuse and neglect when committed by persons responsible for the child's health or welfare.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1984, Act 418, Eff. Mar. 29, 1985;—Am. 1988, Act 372, Eff. Mar. 30, 1989.

#### **722.629a Annual report.**

Sec. 9a. The agency within the department that is responsible for administering and providing services under this act must make an annual comprehensive report to the legislature that includes at least all of the following:

(a) Statistical information including at least all of the following:

(i) Total reports of abuse and neglect investigated under this act and the number that were confirmed and not confirmed.

(ii) Characteristics of perpetrators of child abuse and child neglect and the child victims such as age, sex, relationship, socioeconomic status, race, and ethnicity.

(iii) The occupation or description listed under section 3 in which the individual who made the report fits, or other description if the individual is not within a group required to report under this act.

(iv) Statistics relating to the central registry such as number of individuals and their characteristics.

(v) Statistics relating to the basis for determining that reported cases of child abuse or child neglect are not confirmed.

(b) Policy related to child protective services including, but not limited to, major policy changes and court decisions affecting the administration of this act.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999;—Am. 2022, Act 66, Eff. Nov. 1, 2022.

#### **722.630 Lawyer-guardian ad litem.**

Sec. 10. In each case filed under this act in which judicial proceedings are necessary, the court shall appoint a lawyer-guardian ad litem to represent the child. A lawyer-guardian ad litem represents the child and has powers and duties in relation to that representation as set forth in section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d. All provisions of section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d, apply to a lawyer-guardian ad litem appointed under this act.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1998, Act 483, Eff. Mar. 1, 1999.

#### **722.631 Privileged communications.**

Sec. 11. Any legally recognized privileged communication except that between attorney and client or that made to a member of the clergy in his or her professional character in a confession or similarly confidential communication is abrogated and shall not constitute grounds for excusing a report otherwise required to be made or for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this act. This section does not relieve a member of the clergy from reporting suspected child abuse or child neglect under section 3 if that member of the clergy receives information concerning suspected child abuse or child neglect while acting in any other capacity listed under section 3.

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 2002, Act 693, Eff. Mar. 1, 2003.

#### **722.632 Report to law enforcement officials or probate court.**

Sec. 12. This act shall not prohibit a person who has reasonable cause to suspect child abuse or neglect from making a report to the appropriate law enforcement officials or probate court.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

#### **722.632a Investigations by hospital, school, or other agency.**

Sec. 12a. This act does not preclude or hinder a hospital, school, or other agency from investigating reported claims of child abuse or neglect by its employees or from taking disciplinary action based upon that investigation against its employees.

**History:** Add. 1988, Act 372, Eff. Mar. 30, 1989.

**722.632b Task force on prevention of sexual abuse of children; creation; appointment; qualifications; officer; meetings; recommendations; consultation; compensation; abolishment; child excused from participating in information-gathering efforts.**

Sec. 12b. (1) The task force on the prevention of sexual abuse of children is created within the department.

(2) The governor shall appoint members to the task force in consultation with the department. The appointment of members must reflect the geographic diversity of this state. Members of the task force must include the following:

(a) Individuals who have experience and expertise in the fields of intervention and prevention of child abuse and neglect, education, or child welfare.

(b) A representative from the Michigan coalition to end domestic and sexual violence.

(c) A representative from the Michigan domestic and sexual violence prevention and treatment board.

(d) A representative from the Michigan chapter of the national children's alliance.

(e) An administrator or staff member of a child assessment center.

(f) A licensed therapist trained to counsel or treat child sexual abuse victims.

(g) A circuit court judge or his or her designee.

(h) A school district board member, intermediate school district board member, or public school academy board member.

(3) The department director or his or her designee shall serve as the task force's presiding officer. The task force shall meet at the call of the presiding officer. The task force shall make recommendations for reducing child sexual abuse in this state. The task force shall also make recommendations for school policies that address the sexual abuse of children. In making those recommendations, the task force shall do all of the following:

(a) Gather information concerning child sexual abuse throughout this state.

(b) Receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations.

(c) Review steps taken and programs established in other states to reduce child sexual abuse.

(d) Create goals for state policy that are aimed at preventing child sexual abuse.

(e) Create recommendations and guidelines for school policies addressing sexual abuse of children according to section 1505 of the revised school code, 1976 PA 451, MCL 380.1505. These recommendations and guidelines shall be flexible enough to allow accommodation for local autonomy and values.

(f) Create recommendations and guidelines for age-appropriate, evidence-based child sexual abuse awareness.

(g) Create recommendations and guidelines for school personnel to respond appropriately to pupils affected by sexual abuse.

(h) Create recommendations and guidelines for providing educational material to parents and guardians on the warning signs of child sexual abuse and information on assistance and referrals or resources.

(i) Develop a child sexual abuse protocol to be utilized by all community partners in order to help to identify, prevent, and investigate child sexual abuse.

(j) Submit a final report with the task force's recommendations to the governor and the legislature not later than 365 days after the members of the task force are appointed.

(4) The recommendations described under subsection (3) may include proposals for specific statutory changes and methods to foster cooperation among state agencies and between the state and local government.

(5) The task force shall consult with the employees of the department who work on child protection matters, the department of state police, the state board of education, and any other state agency or department necessary to accomplish the task force's responsibilities under this section.

(6) The members of the task force shall serve without compensation and shall not be reimbursed for their expenses.

(7) The task force shall be abolished upon submission of the final report required in subsection (3) to the governor and the legislature.

(8) Upon written request from a child or the child's parent or legal guardian, that child shall be excused, without penalty, from participating in the task force's information-gathering efforts.

(9) As used in this section, "task force" means the task force on the prevention of sexual abuse of children created in subsection (1).

**History:** Add. 2012, Act 593, Imd. Eff. Jan. 9, 2013.

**722.633 Failure to report suspected child abuse or neglect; damages; violation as**

**misdemeanor; unauthorized dissemination of information as misdemeanor; civil liability; maintaining report or record required to be expunged as misdemeanor; false report of child abuse or neglect.**

Sec. 13. (1) A person who is required by this act to report an instance of suspected child abuse or neglect and who fails to do so is civilly liable for the damages proximately caused by the failure.

(2) A person who is required by this act to report an instance of suspected child abuse or neglect and who knowingly fails to do so is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) Except as provided in section 7, a person who disseminates, or who permits or encourages the dissemination of, information contained in the central registry and in reports and records made as provided in this act 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, and is civilly liable for the damages proximately caused by the dissemination.

(4) A person who willfully maintains a report or record required to be expunged under section 7 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.

(5) A person who intentionally makes a false report of child abuse or neglect under this act knowing that the report is false is guilty of a crime as follows:

(a) If the child abuse or neglect 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 child abuse or neglect 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 child abuse or neglect falsely reported.

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

**History:** 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1978, Act 252, Eff. Mar. 30, 1979;—Am. 1984, Act 418, Eff. Mar. 29, 1985;—Am. 1988, Act 372, Eff. Mar. 30, 1989;—Am. 1993, Act 56, Imd. Eff. June 9, 1993;—Am. 1994, Act 393, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 309, Eff. Jan. 1, 1997;—Am. 2002, Act 14, Imd. Eff. Feb. 19, 2002.

**722.634 Religious beliefs.**

Sec. 14. A parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. This section shall not preclude a court from ordering the provision of medical services or nonmedical remedial services recognized by state law to a child where the child's health requires it nor does it abrogate the responsibility of a person required to report child abuse or neglect.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

**722.635 Repeal of MCL 722.571 to 722.575.**

Sec. 15. Act No. 98 of the Public Acts of 1964, being sections 722.571 to 722.575 of the Compiled Laws of 1970, is repealed.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

**722.636 Effective date.**

Sec. 16. This act shall take effect October 1, 1975.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

**722.637 Submission of petition for authorization under MCL 712A.2; exception.**

Sec. 17. (1) Except as provided in subsection (2), within 24 hours after the department determines that a child was severely physically injured as defined in section 8, sexually abused, or allowed to be exposed to or have contact with methamphetamine production, the department shall submit a petition for authorization by the court under section 2(b) of chapter XIIA of 1939 PA 288, MCL 712A.2.

(2) The department is not required to file a petition for authorization by the court as described in subsection (1) if the department determines that the parent or legal guardian is not a suspected perpetrator of the abuse and the department determines that all of the following apply:

(a) The parent or legal guardian did not neglect or fail to protect the child.

(b) The parent or legal guardian does not have a historical record that shows a documented pattern of neglect or failing to protect the child.

(c) The child is safe in the parent's or legal guardian's care.

**History:** Add. 1997, Act 168, Eff. Mar. 31, 1998;—Am. 2006, Act 256, Imd. Eff. July 6, 2006;—Am. 2006, Act 630, Imd. Eff. Jan.

**722.638 Submission of petition for authorization under MCL 712A.2; conditions; request for termination of parental rights; conference.**

Sec. 18. (1) The department shall submit a petition for authorization by the court under section 2(b) of chapter XIIA of 1939 PA 288, MCL 712A.2, if 1 or more of the following apply:

(a) The department determines that a parent, guardian, or custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included 1 or more of the following:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other serious physical harm.

(iv) Loss or serious impairment of an organ or limb.

(v) Life threatening injury.

(vi) Murder or attempted murder.

(b) The department determines that there is risk of harm, child abuse, or child neglect to the child and either of the following is true:

(i) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state and the parent has failed to rectify the conditions that led to the prior termination of parental rights.

(ii) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state, the parent has failed to rectify the conditions that led to the prior termination of parental rights, and the proceeding involved abuse that included 1 or more of the following:

(A) Abandonment of a young child.

(B) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(C) Battering, torture, or other serious physical harm.

(D) Loss or serious impairment of an organ or limb.

(E) Life-threatening injury.

(F) Murder or attempted murder.

(G) Voluntary manslaughter.

(H) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the department shall include a request for termination of parental rights at the initial dispositional hearing as authorized under section 19b of chapter XIIA of 1939 PA 288, MCL 712A.19b.

(3) If the department is considering petitioning for termination of parental rights at the initial dispositional hearing as authorized under section 19b of chapter XIIA of 1939 PA 288, MCL 712A.19b, even though the facts of the child's case do not require departmental action under subsection (1), the department shall hold a conference among the appropriate agency personnel to agree upon the course of action. The department shall notify the attorney representing the child of the time and place of the conference, and the attorney may attend. If an agreement is not reached at this conference, the department director or the director's designee shall resolve the disagreement after consulting the attorneys representing both the department and the child.

**History:** Add. 1997, Act 168, Eff. Mar. 31, 1998;—Am. 1998, Act 383, Eff. Mar. 23, 1999;—Am. 1998, Act 428, Imd. Eff. Dec. 30, 1998;—Am. 2010, Act 12, Eff. Sept. 4, 2010;—Am. 2018, Act 59, Eff. June 12, 2018;—Am. 2022, Act 66, Eff. Nov. 1, 2022.



## YOUTH TOBACCO ACT Act 31 of 1915

AN ACT to prohibit the selling, giving, or furnishing of tobacco products, vapor products, and alternative nicotine products to minors; to prohibit the purchase, possession, or use of tobacco products, vapor products, and alternative nicotine products by minors; to regulate the retail sale of tobacco products, vapor products, alternative nicotine products, and liquid nicotine containers; to prescribe penalties; and to prescribe the powers and duties of certain state agencies and departments.

**History:** 1915, Act 31, Eff. Aug. 24, 1915;—Am. 1988, Act 314, Eff. Mar. 30, 1989;—Am. 1992, Act 272, Imd. Eff. Dec. 16, 1992;—Am. 2006, Act 236, Eff. Sept. 1, 2006;—Am. 2019, Act 18, Eff. Sept. 2, 2019.

*The People of the State of Michigan enact:*

### **722.641 Selling, giving, or furnishing tobacco products, vapor products, or alternative nicotine products to minor prohibited; misdemeanor; penalty; sign required; copies of sign; affirmative defense; notice; rebuttal testimony; notice of rebuttal; exception; identity and age verification requirements.**

Sec. 1. (1) A person shall not sell, give, or furnish a tobacco product, vapor product, or alternative nicotine product to a minor, including, but not limited to, through a vending machine. A person who violates this subsection or subsection (8) is guilty of a misdemeanor punishable by a fine as follows:

- (a) For a first offense, not more than \$100.00.
- (b) For a second offense, not more than \$500.00.
- (c) For a third or subsequent offense, not more than \$2,500.00.

(2) A person who sells tobacco products, vapor products, or alternative nicotine products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of health and human services that includes the following statement:

"The purchase of a tobacco product, vapor product, or alternative nicotine product by a minor under 21 years of age and the provision of a tobacco product, vapor product, or alternative nicotine product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product, vapor product, or alternative nicotine product is subject to criminal penalties."

(3) If the sign required under subsection (2) is more than 6 feet from the point of sale, it must be 5-1/2 inches by 8-1/2 inches and the statement required under subsection (2) must be printed in 36-point boldfaced type. If the sign required under subsection (2) is 6 feet or less from the point of sale, it must be 2 inches by 4 inches and the statement required under subsection (2) must be printed in 20-point boldfaced type.

(4) The department of health and human services shall produce the sign required under subsection (2) and have adequate copies of the sign ready for distribution to licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products and to persons who sell vapor products or alternative nicotine products at retail free of charge. Licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products shall obtain copies of the sign from the department of health and human services and distribute them free of charge, upon request, to persons who sell tobacco products and who are subject to subsection (2). The department of health and human services shall provide copies of the sign free of charge, upon request, to persons subject to subsection (2) who do not purchase their supply of tobacco products from wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products licensed under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, and to persons who sell vapor products or alternative nicotine products at retail.

(5) It is an affirmative defense to a charge under subsection (1) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of tobacco products, vapor products, or alternative nicotine products, as applicable, to individuals less than 21 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file notice of the defense, in writing, with the court and serve a copy of the notice on the prosecuting attorney. The defendant shall serve the notice not less than 14 days before the date set for trial.

(6) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (5) shall file a notice of rebuttal, in writing, with the court and serve a copy of the notice on the defendant. The prosecuting attorney shall serve the notice not less than 7 days before the date set for trial and shall include in the notice the name and address of each rebuttal witness.

(7) Subsection (1) does not apply to the handling or transportation of a tobacco product, vapor product, or

alternative nicotine product by a minor under the terms of the minor's employment.

(8) Before selling, offering for sale, giving, or furnishing a tobacco product, vapor product, or alternative nicotine product to an individual, a person shall verify that the individual is at least 21 years of age by doing 1 of the following:

(a) If the individual appears to be less than 27 years of age, examining a government-issued photographic identification that establishes that the individual is at least 21 years of age.

(b) For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 21 years of age or older.

**History:** 1915, Act 31, Eff. Aug. 24, 1915;—CL 1915, 5185;—CL 1929, 12826;—CL 1948, 722.641;—Am. 1972, Act 29, Imd. Eff. Feb. 19, 1972;—Am. 1988, Act 314, Eff. Mar. 30, 1989;—Am. 2006, Act 236, Eff. Sept. 1, 2006;—Am. 2019, Act 18, Eff. Sept. 2, 2019;—Am. 2022, Act 167, Imd. Eff. July 21, 2022.

## **722.642 Prohibited conduct by minor for tobacco products, vapor products, or alternative nicotine products; violation and penalties; participation in health promotion and risk reduction assessment program; costs; community service; exceptions; other violations.**

Sec. 2. (1) Subject to subsection (6), a minor shall not do any of the following:

(a) Purchase or attempt to purchase a tobacco product.

(b) Possess or attempt to possess a tobacco product.

(c) Use a tobacco product in a public place.

(d) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require an individual who violates subsection (1) to participate in a health promotion and risk reduction assessment program, if available. In addition, an individual who violates subsection (1) is subject to the following:

(a) For the first violation, the court may order the individual to do 1 of the following:

(i) Perform not more than 16 hours of community service.

(ii) Participate in a health promotion and risk reduction assessment program.

(b) For a second violation, in addition to participation in a health promotion and risk reduction assessment program, the court may order the individual to perform not more than 32 hours of community service.

(c) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction assessment program, the court may order the individual to perform not more than 48 hours of community service.

(3) Subject to subsection (6), a minor shall not do any of the following:

(a) Purchase or attempt to purchase a vapor product or alternative nicotine product.

(b) Possess or attempt to possess a vapor product or alternative nicotine product.

(c) Use a vapor product or alternative nicotine product in a public place.

(d) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor product or alternative nicotine product.

(4) An individual who violates subsection (3) is responsible for a state civil infraction or guilty of a misdemeanor as follows:

(a) For the first violation, the individual is responsible for a state civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 16 hours of community service.

(b) For the second violation, the individual is responsible for a state civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 32 hours of community service.

(c) If a violation of subsection (3) occurs after 2 or more prior judgments, the individual is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 48 hours of

community service.

(5) An individual who is ordered to participate in a health promotion and risk reduction assessment program under subsection (2) or (4) is responsible for the costs of participating in the program.

(6) Subsections (1) and (3) do not apply to a minor participating in any of the following:

(a) An undercover operation in which the minor purchases or receives a tobacco product, vapor product, or alternative nicotine product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) An undercover operation in which the minor purchases or receives a tobacco product, vapor product, or alternative nicotine product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product, vapor product, or alternative nicotine product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.

(c) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance use disorder coordinating agency and with the prior approval of the state police or a local police agency.

(7) Subsections (1) and (3) do not apply to the handling or transportation of a tobacco product, vapor product, or alternative nicotine product by a minor under the terms of the minor's employment.

(8) This section does not prohibit an individual from being charged with, convicted of, or sentenced for any other violation of law that arises out of the violation of subsection (1) or (3).

**History:** 1915, Act 31, Eff. Aug. 24, 1915;—CL 1915, 5186;—CL 1929, 12827;—CL 1948, 722.642;—Am. 1972, Act 29, Imd. Eff. Feb. 19, 1972;—Am. 1988, Act 314, Eff. Mar. 30, 1989;—Am. 2006, Act 236, Eff. Sept. 1, 2006;—Am. 2019, Act 18, Eff. Sept. 2, 2019.

#### **722.642a Selling cigarette separately prohibited; exception; violation as misdemeanor; penalty.**

Sec. 2a. (1) Except as otherwise provided in subsection (2), a person who sells tobacco products at retail shall not sell a cigarette separately from its package.

(2) Subsection (1) does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.

(3) A person who violates subsection (1) is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 for each offense.

**History:** Add. 1992, Act 272, Imd. Eff. Dec. 16, 1992.

#### **722.642b Selling liquid nicotine container that doesn't meet child-resistant standards prohibited; violation as misdemeanor; penalty; definitions.**

Sec. 2b. (1) A person shall not sell in this state a liquid nicotine container unless the liquid nicotine container meets the child-resistant effectiveness standards of 16 CFR 1700.15(b).

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation.

(3) As used in this section:

(a) "Liquid nicotine" means a liquid or other substance containing nicotine in any concentration that is sold, marketed, or intended for use in a noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or any other substance, and the use or inhalation of which simulates smoking.

(b) "Liquid nicotine container" means a bottle or other container holding liquid nicotine in any concentration but does not include a cartridge containing liquid nicotine if the cartridge is prefilled and sealed by the manufacturer of the cartridge and is not intended to be opened by the consumer.

**History:** Add. 2019, Act 17, Eff. Sept. 2, 2019.

#### **722.642c Requirements for selling and displaying of vapor products; violation as civil infraction; fine.**

Sec. 2c. A person who sells vapor products or alternative nicotine products at retail shall not display for sale in this state a vapor product unless the vapor product is stored for sale behind a counter in an area accessible only to employees or within a locked case so that a customer wanting access to the vapor product must ask an employee for assistance. A person who violates this section is responsible for a state civil infraction and shall be fined not more than \$500.00.

**History:** Add. 2019, Act 17, Eff. Sept. 2, 2019.

#### **722.643 Noninterference with right of parent or guardian.**

Sec. 3. This act does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises.

**History:** 1915, Act 31, Eff. Aug. 24, 1915;—CL 1915, 5187;—CL 1929, 12828;—CL 1948, 722.643;—Am. 1972, Act 29, Imd. Eff. Feb. 19, 1972;—Am. 1988, Act 314, Eff. Mar. 30, 1989.

#### **722.644 Definitions.**

Sec. 4. As used in this act:

(a) "Alternative nicotine product" means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include a tobacco product, a vapor product, food, or a product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360fff-7.

(b) "Minor" means an individual who is less than 21 years of age.

(c) "Person who sells vapor products or alternative nicotine products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products or alternative nicotine products.

(d) "Person who sells tobacco products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

(e) "Public place" means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or public place of business.

(f) "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, a cigarette, noncigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and a cigar.

(g) "Use a tobacco product, vapor product, or alternative nicotine product" means to smoke, chew, suck, inhale, or otherwise consume a tobacco product, vapor product, or alternative nicotine product.

(h) "Vapor product" means a noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or any other substance, and the use or inhalation of which simulates smoking. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine or other substance in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360fff-7.

**History:** Add. 1988, Act 314, Eff. Mar. 30, 1989;—Am. 1992, Act 272, Imd. Eff. Dec. 16, 1992;—Am. 2006, Act 236, Eff. Sept. 1, 2006;—Am. 2019, Act 18, Eff. Sept. 2, 2019;—Am. 2022, Act 167, Imd. Eff. July 21, 2022.

**Compiler's note:** Previous section 4 of this act was not compiled. See Act 267 of 1945, Obsolete and inoperative laws repealed.

#### **722.645 Short title.**

Sec. 5. This act shall be known and may be cited as the "youth tobacco act".

**History:** Add. 1988, Act 314, Eff. Mar. 30, 1989.

### **SELLING OR FURNISHING TOBACCO TO MINORS Act 77 of 1889**

**722.651, 722.652 Repealed. 1988, Act 314, Eff. Mar. 30, 1989.**

**DISSEMINATING, EXHIBITING, OR DISPLAYING SEXUALLY EXPLICIT MATTER TO  
MINORS  
Act 33 of 1978**

AN ACT to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter and ultra-violent explicit video games to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter and ultra-violent explicit video games to minors; to provide penalties and sanctions; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal acts and parts of acts.

**History:** 1978, Act 33, Eff. June 1, 1978;—Am. 2005, Act 108, Eff. Dec. 1, 2005.

*The People of the State of Michigan enact:*

**PART I  
SEXUALLY EXPLICIT MATTER**

**722.671 Definitions generally.**

Sec. 1. As used in this part:

- (a) "Display" means to put or set out to view or to make visible.
- (b) "Disseminate" means to sell, lend, give, exhibit, show, or allow to examine or to offer or agree to do the same.
- (c) "Exhibit" means to do 1 or more of the following:
  - (i) Present a performance.
  - (ii) Sell, give, or offer to agree to sell or give a ticket to a performance.
  - (iii) Admit a minor to premises where a performance is being presented or is about to be presented.
- (d) "Minor" means a person less than 18 years of age.
- (e) "Restricted area" means any of the following:
  - (i) An area where sexually explicit matter is displayed only in a manner that prevents public view of the lower 2/3 of the matter's cover or exterior.
  - (ii) A building, or a distinct and enclosed area or room within a building, if access by minors is prohibited, notice of the prohibition is prominently displayed, and access is monitored to prevent minors from entering.
  - (iii) An area with at least 75% of its perimeter surrounded by walls or solid, nontransparent dividers that are sufficiently high to prevent a minor in a nonrestricted area from viewing sexually explicit matter within the perimeter if the point of access provides prominent notice that access to minors is prohibited.

**History:** 1978, Act 33, Eff. June 1, 1978;—Am. 2003, Act 192, Eff. Jan. 1, 2004;—Am. 2005, Act 108, Eff. Dec. 1, 2005.

**722.671a Repealed. 2003, Act 192, Eff. Jan. 1, 2004.**

**Compiler's note:** The repealed section pertained to definitions; "C" to "I."

**722.672 Additional definitions.**

Sec. 2. As used in this part:

- (a) "Nudity" means the lewd display of the human male or female genitals or pubic area.
- (b) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (c) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, for the purpose of sexual gratification or stimulation.
- (d) "Sadomasochistic abuse" means either of the following:
  - (i) Flagellation, or torture, for sexual stimulation or gratification, by or upon a person who is nude or clad only in undergarments or in a revealing or bizarre costume.
  - (ii) The condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification, of a person who is nude or clad only in undergarments or in a revealing or bizarre costume.
- (e) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal.

**History:** 1978, Act 33, Eff. June 1, 1978;—Am. 2005, Act 108, Eff. Dec. 1, 2005.

**722.673 Definitions.**



Sec. 3. As used in this part:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(f) "Sexually explicit matter" means sexually explicit visual material, sexually explicit verbal material, or sexually explicit performance.

(g) "Sexually explicit performance" means a motion picture, video game, exhibition, show, representation, or other presentation that, in whole or in part, depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

(h) "Sexually explicit verbal material" means a book, pamphlet, magazine, printed matter reproduced in any manner, or sound recording that contains an explicit and detailed verbal description or narrative account of sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

(i) "Sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film, video game, or similar visual representation that depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse, or a book, magazine, or pamphlet that contains such a visual representation. An undeveloped photograph, mold, or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.

(j) "Video game" means an object or device that stores recorded data or instructions generated by a person who uses it, and by processing the data or instructions creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, game console, or other technology.

**History:** 1978, Act 33, Eff. June 1, 1978;—Am. 1999, Act 33, Eff. Aug. 1, 1999;—Am. 2003, Act 192, Eff. Jan. 1, 2004;—Am. 2005, Act 104, Eff. Dec. 1, 2005;—Am. 2005, Act 107, Eff. Dec. 1, 2005.

**Constitutionality:** Act 33 of 1999 violates the First Amendment and the Dormant Commerce Clause of the US Constitution. Defendants are permanently restrained and enjoined from enforcing any provisions of 1999 PA 33. Cyberspace Communications, Inc v. Engler, 142 F Supp 2d 827 (ED Mich, 2001).

## 722.674 Additional definitions.

Sec. 4. As used in this part:

(a) "Harmful to minors" means sexually explicit matter that meets all of the following criteria:

(i) Considered as a whole, it appeals to the prurient interest of minors as determined by contemporary local community standards.

(ii) It is patently offensive to contemporary local community standards of adults as to what is suitable for minors.

(iii) Considered as a whole, it lacks serious literary, artistic, political, educational, and scientific value for minors.

(b) "Local community" means the county in which the matter was disseminated.

(c) "Prurient interest" means a lustful interest in sexual stimulation or gratification. In determining whether sexually explicit matter appeals to the prurient interest, the matter shall be judged with reference to average 17-year-old minors. If it appears from the character of the matter that it is designed to appeal to the prurient interest of a particular group of persons, including, but not limited to, homosexuals or sadomasochists, then the matter shall be judged with reference to average 17-year-old minors within the particular group for which it appears to be designed.

**History:** 1978, Act 33, Eff. June 1, 1978;—Am. 2005, Act 108, Eff. Dec. 1, 2005.

## 722.675 Disseminating sexually explicit matter to minor; felony; penalty.

Sec. 5. (1) A person is guilty of disseminating sexually explicit matter to a minor if that person does either of the following:

(a) Knowingly disseminates to a minor sexually explicit visual or verbal material that is harmful to minors.

(b) Knowingly exhibits to a minor a sexually explicit performance that is harmful to minors.

(2) A person knowingly disseminates sexually explicit matter to a minor if the person knows both the nature of the matter and the status of the minor to whom the matter is disseminated.

(3) A person knows the nature of matter if the person either is aware of its character and content or recklessly disregards circumstances suggesting its character and content.

(4) A person knows the status of a minor if the person either is aware that the person to whom the dissemination is made is under 18 years of age or recklessly disregards a substantial risk that the person to whom the dissemination is made is under 18 years of age.

(5) Disseminating sexually explicit matter to a minor is a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$10,000.00, or both. In imposing the fine, the court shall consider the scope of the defendant's commercial activity in disseminating sexually explicit matter to minors.

**History:** 1978, Act 33, Eff. June 1, 1978;—Am. 1999, Act 33, Eff. Aug. 1, 1999;—Am. 2003, Act 192, Eff. Jan. 1, 2004.

**Constitutionality:** Act 33 of 1999 violates the First Amendment and the Dormant Commerce Clause of the US Constitution. Defendants are permanently restrained and enjoined from enforcing any provisions of 1999 PA 33. Cyberspace Communications, Inc v. Engler, 142 F Supp 2d 827 (ED Mich, 2001).

## **722.676 Persons excepted from MCL 722.675.**

Sec. 6. Section 5 does not apply to the dissemination of sexually explicit matter to a minor by any of the following:

(a) A parent or guardian who disseminates sexually explicit matter to his or her child or ward unless the dissemination is for the sexual gratification of the parent or guardian.

(b) A teacher or administrator at a public or private elementary or secondary school that complies with the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and who disseminates sexually explicit matter to a student as part of a school program permitted by law.

(c) A licensed physician or licensed psychologist who disseminates sexually explicit matter in the treatment of a patient.

(d) A librarian employed by a library of a public or private elementary or secondary school that complies with the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or employed by a public library, who disseminates sexually explicit matter in the course of that person's employment.

(e) Any public or private college or university or any other person who disseminates sexually explicit matter for a legitimate medical, scientific, governmental, or judicial purpose.

(f) A person who disseminates sexually explicit matter that is a public document, publication, record, or other material issued by a state, local, or federal official, department, board, commission, agency, or other governmental entity, or an accurate republication of such a public document, publication, record, or other material.

**History:** 1978, Act 33, Eff. June 1, 1978;—Am. 1999, Act 33, Eff. Aug. 1, 1999;—Am. 2003, Act 192, Eff. Jan. 1, 2004;—Am. 2005, Act 245, Eff. Feb. 1, 2006.

**Constitutionality:** Act 33 of 1999 violates the First Amendment and the Dormant Commerce Clause of the US Constitution. Defendants are permanently restrained and enjoined from enforcing any provisions of 1999 PA 33. Cyberspace Communications, Inc v. Engler, 142 F Supp 2d 827 (ED Mich, 2001).

## **722.677 Displaying sexually explicit matter to minor; misdemeanor; penalty.**

Sec. 7. (1) A person is guilty of displaying sexually explicit matter to a minor if that person possesses managerial responsibility for a business enterprise selling sexually explicit visual material that visually depicts sexual intercourse or sadomasochistic abuse and is harmful to minors, and that person does either of the following:

(a) Knowingly permits a minor who is not accompanied by a parent or guardian to view that matter.

(b) Displays that matter knowing its nature, unless the person does so in a restricted area.

(2) A person knowingly permits a minor to view visual matter that depicts sexual intercourse or sadomasochistic abuse and is harmful to minors if the person knows both the nature of the matter and the status of the minor permitted to examine the matter.

(3) A person knows the nature of the matter if the person either is aware of its character and content or recklessly disregards circumstances suggesting its character and content.

(4) A person knows the status of a minor if the person either is aware that the person who is permitted to view the matter is under 18 years of age or recklessly disregards a substantial risk that the person who is permitted to view the matter is under 18 years of age.

(5) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$5,000.00, or both.

**History:** 1978, Act 33, Eff. June 1, 1978;—Am. 1999, Act 33, Eff. Aug. 1, 1999;—Am. 2003, Act 192, Eff. Jan. 1, 2004.

**Constitutionality:** Act 33 of 1999 violates the First Amendment and the Dormant Commerce Clause of the US Constitution. Defendants are permanently restrained and enjoined from enforcing any provisions of 1999 PA 33. Cyberspace Communications, Inc v. Engler, 142 F Supp 2d 827 (ED Mich, 2001).

#### **722.678 Facilitative misrepresentation; misdemeanor; penalty.**

Sec. 8. (1) A person is guilty of facilitative misrepresentation when that person knowingly makes a false representation that he or she is the parent or guardian of a minor, or that a minor is 18 years of age or older, with the intent to facilitate the dissemination to the minor of sexually explicit matter that is harmful to minors.

(2) A person knowingly makes a false representation as to the age of a minor or as to the status of being the parent or guardian of a minor if the person either is aware that the representation is false or recklessly disregards a substantial risk that the representation is false.

(3) Facilitative misrepresentation is a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$5,000.00, or both.

**History:** 1978, Act 33, Eff. June 1, 1978.

#### **722.679 Injunction.**

Sec. 9. A prosecuting attorney may commence an action in the circuit court against a person, other than a person described in section 6, to enjoin that person from disseminating to a minor sexually explicit matter that is harmful to minors.

**History:** 1978, Act 33, Eff. June 1, 1978.

#### **722.680 Advisory opinion as to legality of disseminating sexually explicit matter to minor; action for declaratory judgment; prosecuting attorney as defendant; counterclaim for injunctive relief; dismissal of action.**

Sec. 10. (1) A person intending to disseminate to a minor matter that may be considered sexually explicit may request, from the prosecuting attorney of the county in which the dissemination is intended, an advisory opinion as to the legality of that dissemination. The request for an advisory opinion shall be in writing and shall be accompanied by a reasonable and timely opportunity for the prosecuting attorney to examine the matter. Not more than 5 business days after receipt of a proper request, the prosecuting attorney shall issue to the person making the request an advisory opinion, or a refusal to issue an advisory opinion, in writing. The advisory opinion shall state in unequivocal terms whether knowing dissemination of the matter to a minor would be considered by the prosecuting attorney to violate section 5.

(2) A person who has requested an advisory opinion may commence an action for a declaratory judgment in the circuit court in the same county to obtain an adjudication of the legality of the intended dissemination if either of the following conditions exist:

(a) The action is commenced more than 5 business days after submission of a proper request, and the prosecuting attorney has failed to issue an advisory opinion.

(b) The prosecuting attorney has issued an advisory opinion and that opinion fails to state in unequivocal terms that knowing dissemination of the matter to a minor would not be considered by the prosecuting attorney to violate section 5.

(3) The prosecuting attorney shall be made the defendant to an action commenced pursuant to subsection (2). In responding to the complaint, the prosecuting attorney may join a counterclaim for the injunctive relief permitted under section 9.

(4) If the prosecuting attorney, after commencement of the action, issues an advisory opinion stating in unequivocal terms that knowing dissemination of the matter to a minor would not be considered by the prosecuting attorney to violate section 5, the action shall be dismissed.

**History:** 1978, Act 33, Eff. June 1, 1978.

#### **722.681 Provisions applicable to actions commenced pursuant to MCL 722.679 or MCL 722.680.**

Sec. 11. The following provisions apply in an action commenced pursuant to section 9 or 10:

(a) The prosecuting attorney shall bear the burden of proving, by clear and convincing evidence, that knowing dissemination of the specified matter to a minor would violate section 5.

(b) Upon appropriate motion of the prosecuting attorney or order to show cause, the court may grant a preliminary injunction or ex parte restraining order. A person enjoined under this subdivision is entitled to a

trial on the legality of the intended dissemination within 1 day after joinder of issue, and a decision shall be rendered by the court within 2 days after the conclusion of the trial.

(c) The prosecuting attorney shall not be required to file any security before the granting of a preliminary injunction or restraining order, shall not be liable for costs, and shall not be liable for damages sustained by reason of the preliminary injunction or restraining order.

(d) The proceedings are equitable in nature.

**History:** 1978, Act 33, Eff. June 1, 1978.

**722.682 Effect of MCL 722.679 to 722.681 on prosecutions under other laws; declaratory judgment or denial of injunction as defense; withdrawing opinion and obtaining injunction as conditions for prosecution under MCL 722.675; applicability of declaratory judgment or injunction.**

Sec. 12. (1) Except as provided in this section, sections 9 to 11 shall not preclude or impair prosecution for violation of any law of this state.

(2) If a declaratory judgment has been obtained pursuant to sections 10 and 11, or an application for an injunction pursuant to section 9 has been denied, on the ground that the knowing dissemination to a minor of specified matter does not violate section 5, that determination is a complete defense for a person against a prosecution under section 5 based upon the dissemination of that specified matter and against a prosecution for violation of a preliminary injunction or restraining order granted pursuant to section 11.

(3) If a prosecuting attorney issues an advisory opinion stating in unequivocal terms that knowing dissemination of specified matter to a minor is not considered by the prosecuting attorney to violate section 5, then the recipient of the opinion may be prosecuted under section 5 for the dissemination of that specified matter only after the prosecutor has both withdrawn the opinion and obtained an injunction pursuant to section 9 against the dissemination of that specified material by that person.

(4) A declaratory judgment or injunction shall apply only to the county in which the prosecuting attorney serves.

**History:** 1978, Act 33, Eff. June 1, 1978.

**722.682a Exceptions.**

Sec. 12a. This part does not apply to any of the following:

(a) A medium of communication to the extent regulated by the federal communications commission.

(b) An internet service provider or computer network service provider that is not selling the sexually explicit matter being communicated but that provides the medium for communication of the matter. As used in this section, "internet service provider" means a person who provides a service that enables users to access content, information, electronic mail, or other services offered over the internet or a computer network.

(c) A person providing a subscription multichannel video service under terms of service that require the subscriber to meet both of the following conditions:

(i) The subscriber is not less than 18 years of age at the time of the subscription.

(ii) The subscriber proves that he or she is not less than 18 years of age through the use of a credit card, through the presentation of government-issued identification, or by other reasonable means of verifying the subscriber's age.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**722.683 Repeal of MCL 750.343e.**

Sec. 13. Section 343e of Act No. 328 of the Public Acts of 1931, being section 750.343e of the Compiled Laws of 1970, is repealed.

**History:** 1978, Act 33, Eff. June 1, 1978.

**722.684 Effective date.**

Sec. 14. This act shall not take effect until June 1, 1978.

**History:** 1978, Act 33, Eff. June 1, 1978.

**PART II**

**ULTRA-VIOLENT EXPLICIT VIDEO GAMES**

**722.685 Legislative findings.**

Sec. 15. In light of section 51 of article IV of the state constitution of 1963, which directs that "The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.", and

after hearing from expert witnesses and law enforcement officials, considering the testimony of expert witnesses before other legislative bodies, and reviewing dozens of studies and metastudies of hundreds of studies, the legislature finds all of the following:

(a) Published research overwhelmingly finds that ultra-violent explicit video games are harmful to minors because minors who play ultra-violent explicit video games are consistently more likely to exhibit violent, asocial, or aggressive behavior and have feelings of aggression.

(b) Spokespersons for not less than 6 major national health associations have concluded and testified that after reviewing more than 1,000 studies, the studies "point overwhelmingly to a causal connection between media violence and aggressive behavior in some children", concluding that the effects of media violence on minors "are measurable and long-lasting".

(c) Law enforcement officers testified that recent statewide targeted enforcement efforts reveal that minors are capable of purchasing, and do purchase, ultra-violent explicit video games.

(d) Law enforcement officers testified about cases of minors acting out ultra-violent explicit video game behaviors by victimizing other citizens.

(e) The state has a legitimate and compelling interest in safeguarding both the physical and psychological well-being of minors.

(f) The state has a legitimate and compelling interest in preventing violent, aggressive, and asocial behavior from manifesting itself in minors.

(g) The state has a legitimate and compelling interest in directly and substantially alleviating the real-life harms perpetrated by minors who play ultra-violent explicit video games.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

## **722.686 Definitions.**

Sec. 16. As used in this part:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(b) "Computer network" means the interconnection of hardware or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(f) "Disseminate" means to sell, lend, give, exhibit, show, or allow to examine or to offer or agree to do the same.

(g) "Extreme and loathsome violence" means real or simulated graphic depictions of physical injuries or physical violence against parties who realistically appear to be human beings, including actions causing death, inflicting cruelty, dismemberment, decapitation, maiming, disfigurement, or other mutilation of body parts, murder, criminal sexual conduct, or torture.

(h) "Harmful to minors" means having all of the following characteristics:

(i) Considered as a whole, appeals to the morbid interest in asocial, aggressive behavior of minors as determined by contemporary local community standards.

(ii) Is patently offensive to contemporary local community standards of adults as to what is suitable for minors.

(iii) Considered as a whole, lacks serious literary, artistic, political, educational, or scientific value for minors.

(i) "Local community" means the county in which the video game was disseminated.



(j) "Minor" means a person less than 17 years of age.

(k) "Morbid interest in asocial, aggressive behavior" means a morbid interest in committing uncontrolled aggression against an individual. In determining whether an ultra-violent explicit video game appeals to this interest, the video game shall be judged with reference to average 16-year-old minors. If it appears from the character of the video game that it is designed to appeal to this interest of a particular group of persons, then the video game shall be judged with reference to average 16-year-old minors within the particular group for which it appears to be designed.

(l) "Ultra-violent explicit video game" means a video game that continually and repetitively depicts extreme and loathsome violence.

(m) "Video game" means an object or device that stores recorded data or instructions generated by a person who uses it, and by processing the data or instructions creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, game console, or other technology.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

### **722.687 Dissemination of ultra-violent explicit video game to minor; prohibition; violation; penalties.**

Sec. 17. (1) A person shall not knowingly disseminate to a minor an ultra-violent explicit video game that is harmful to minors. Except as provided in subsections (2) and (3), a person who violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$5,000.00.

(2) A person who violates subsection (1) and who has 1 prior determination of responsibility under this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$15,000.00.

(3) A person who violates subsection (1) and who has 2 or more prior determinations of responsibility under this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$40,000.00. In imposing a fine under this subsection, the court shall consider the scope of the defendant's commercial activity in disseminating ultra-violent explicit video games to minors.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

### **722.688 Exceptions.**

Sec. 18. Section 17 does not apply to the dissemination of an ultra-violent explicit video game to a minor by any of the following:

(a) A parent or guardian who disseminates an ultra-violent explicit video game to his or her child or ward.

(b) An immediate family member of the minor who disseminates an ultra-violent explicit video game to the minor in the immediate family member's residence or the minor's residence.

(c) An individual who disseminates an ultra-violent video game to a minor who is a guest in the individual's residence.

(d) An individual who disseminates an ultra-violent explicit video game for a legitimate medical, scientific, governmental, or judicial purpose.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

### **722.689 False representation as to age or status as parent or guardian; violation; penalty.**

Sec. 19. (1) A person shall not knowingly make a false representation that he or she is the parent or guardian of a minor, or that a minor is 17 years of age or older, with the intent to facilitate the dissemination to the minor of an ultra-violent explicit video game that is harmful to minors. A person knowingly makes a false representation as to the age of a minor or as to the status of being the parent or guardian of a minor if the person either is aware that the representation is false or recklessly disregards a substantial risk that the representation is false.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both.

more than 93 days or a fine of not more than \$15,000.00, or both.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

#### **722.690 Manager of business enterprise renting or selling ultra-violent explicit video games; permitting minor to play or view prohibited; violation; penalty.**

Sec. 20. A person who possesses managerial responsibility for a business enterprise renting or selling ultra-violent explicit video games that are harmful to minors shall not knowingly permit a minor who is not accompanied by a parent or guardian to play or view the playing of an ultra-violent explicit video game that is harmful to minors. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$25,000.00, or both.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

#### **722.691 Knowingly disseminating ultra-violent explicit video game.**

Sec. 21. (1) A person knowingly disseminates an ultra-violent explicit video game to a minor if the person knows both the nature of the video game and the status of the minor to whom the video game is disseminated.

(2) A person knows the nature of the ultra-violent explicit video game if the person either is aware of its character and content or recklessly disregards circumstances suggesting its character and content.

(3) A person knows the status of a minor if the person either is aware that the person to whom the dissemination is made is a minor or recklessly disregards a substantial risk that the person to whom the dissemination is made is a minor.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

#### **722.692 Violation arising from same transaction.**

Sec. 22. A conviction, sentence, or determination of responsibility for a violation of this part does not preclude a conviction, sentence, or determination of responsibility for a violation of any other law of this state arising from the same transaction.

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

#### **722.693 Good faith as defense.**

Sec. 23. (1) It is an affirmative defense to an alleged violation under this part that the person acted in good faith. Except as provided in subsection (2), good faith exists if at the time the alleged violation occurs all of the following conditions are satisfied:

(a) The minor shows the person identification that appears to be valid and that contains a photograph and a date of birth purporting to show that the minor is 17 years of age or older, or the service terms of the internet provider of a seller or rental enterprise that sells or rents ultra-violent explicit video games over the internet require a purchaser or renter to be 17 years of age or older if all of the following conditions are met:

(i) The ultra-violent explicit video game is purchased or rented over the internet.

(ii) The ultra-violent explicit video game is sent to the purchaser's or renter's home or place of residence or otherwise made directly available through the internet to the purchaser or renter.

(iii) The purchaser or renter of the ultra-violent explicit video game uses a credit card to purchase or rent the ultra-violent explicit video game.

(b) The person does not have independent knowledge that the minor is under 17 years of age.

(c) Relying upon information described in subdivisions (a) and (b), the person complies with a rating system established by the pertinent entertainment industry that does not conflict with this part.

(2) If the person possesses managerial responsibility for a business enterprise, good faith exists if at the time the alleged violation occurs the business enterprise satisfies all of the following conditions:

(a) The business enterprise has in existence a policy that its employees are required to comply with a rating system established by the pertinent entertainment industry that does not conflict with this part.

(b) The business enterprise trains its employees to follow the policy described in subdivision (a).

(c) The business enterprise enforces the policy described in subdivision (a).

**History:** Add. 2005, Act 108, Eff. Dec. 1, 2005.

**Constitutionality:** In *Entertainment Software Association v Granholm*, F Supp (2006), the United States district court for the Eastern District of Michigan, Southern Division, permanently enjoined enforcement of an act regulating sexually explicit and ultra-violent video games as violating free speech rights and the due process requirement that a law be sufficiently definite to provide notice of the conduct prohibited that are granted in the First and Fourteenth Amendments to the United States Constitution.

**CHILD WELFARE COMMISSION**  
**Act 293 of 1917**

**722.701-722.703 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.**

**THE PATERNITY ACT**  
**Act 205 of 1956**

AN ACT to confer upon circuit courts jurisdiction over proceedings to compel and provide support of children born out of wedlock; to prescribe the procedure for determination of such liability; to authorize agreements providing for furnishing of such support and to provide for the enforcement thereof; and to prescribe penalties for the violation of certain provisions of this act.

**History:** 1956, Act 205, Eff. Aug. 11, 1956.

*The People of the State of Michigan enact:*

\*\*\*\*\* 722.711 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.711.amended \*\*\*\*\*

**722.711 Definitions.**

Sec. 1. As used in this act:

(a) "Child born out of wedlock" means a child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.

(b) "Child" means a child born out of wedlock.

(c) "Mother" means the mother of a child born out of wedlock.

(d) "Court" means the circuit court.

(e) "DNA identification profile" means the results of the DNA identification profiling of genetic testing material.

(f) "DNA identification profiling" means a validated scientific method of analyzing components of deoxyribonucleic acid molecules in a sample of genetic testing material to identify the pattern of the components' chemical structure that is unique to the individual.

(g) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(h) "Genetic testing material" means a sample of an individual's blood, saliva, or tissue collected from the individual that is used for genetic paternity testing conducted under this act.

(i) "Summary report" means a written summary of the DNA identification profile that includes only the following information:

(i) The court case number, if applicable, the laboratory case number or identification number, and the family independence agency case number.

(ii) The mother's name and race.

(iii) The child's name.

(iv) The alleged father's name and race.

(v) The collection dates and identification numbers of the genetic testing material.

(vi) The cumulative paternity index.

(vii) The probability of paternity.

(viii) The conclusion as to whether the alleged father can or cannot be excluded as the biological father.

(ix) The name, address, and telephone number of the contracting laboratory.

(x) The name of the individual certifying the report.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1980, Act 54, Imd. Eff. Mar. 31, 1980;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 1999, Act 157, Imd. Eff. Nov. 3, 1999;—Am. 2000, Act 31, Imd. Eff. Mar. 15, 2000.

\*\*\*\*\* 722.711.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.711.amended Definitions.**

Sec. 1. As used in this act:

(a) "Child born out of wedlock" means a child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.

(b) "Child" means a child born out of wedlock.

(c) "Court" means the circuit court.

(d) "Department" means the department of health and human services.

- (e) "Director" means the director of the department.
- (f) "DNA identification profile" means the results of the DNA identification profiling of genetic testing material.
- (g) "DNA identification profiling" means a validated scientific method of analyzing components of deoxyribonucleic acid molecules in a sample of genetic testing material to identify the pattern of the components' chemical structure that is unique to the individual.
- (h) "Genetic testing material" means a sample of an individual's blood, saliva, or tissue collected from the individual that is used for genetic paternity testing conducted under this act.
- (i) "Mother" means the mother of a child born out of wedlock.
- (j) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.
- (k) "Summary report" means a written summary of the DNA identification profile that includes only the following information:
  - (i) The court case number, if applicable, the laboratory case number or identification number, and the department case number.
  - (ii) The mother's name and race.
  - (iii) The child's name.
  - (iv) The alleged father's name and race.
  - (v) The collection dates and identification numbers of the genetic testing material.
  - (vi) The cumulative paternity index.
  - (vii) The probability of paternity.
  - (viii) The conclusion as to whether the alleged father can or cannot be excluded as the biological father.
  - (ix) The name, address, and telephone number of the contracting laboratory.
  - (x) The name of the individual certifying the report.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1980, Act 54, Imd. Eff. Mar. 31, 1980;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 1999, Act 157, Imd. Eff. Nov. 3, 1999;—Am. 2000, Act 31, Imd. Eff. Mar. 15, 2000;—Am. 2024, Act 28, Eff. (sine die).

## **722.712 Child born out of wedlock; liability of parents; duties of court; medical expenses; death of father of child born out of wedlock; "Medicaid" defined.**

Sec. 2. (1) The parents of a child born out of wedlock are liable for all of the following:

- (a) The medical expenses connected to the mother's pregnancy.
  - (b) The medical expenses connected to the birth of the child.
  - (c) The necessary support and education of the child.
  - (d) The child's funeral expenses.
- (2) Subject to subsection (3), if medicaid has not paid a medical expense described in subsection (1)(a) or (b), on request from a parent, the court in an action brought under this act shall do all of the following:
- (a) If the court determines the expense to be reasonable and necessary, apportion the expense between the parents based on each parent's ability to pay and on any other relevant factor, in the same manner as health care expenses of a child are divided under the child support formula established under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519.
  - (b) In the court's discretion, if 1 parent has paid the expense, require the parent who did not pay the expense to pay his or her share of the expense to the other parent.
  - (c) In the court's discretion, at the request of a person other than a parent who has paid the expense, order a parent against whom the request is made to pay to the person the parent's share of the expense.
  - (d) On request from a parent, require an itemized bill for the expense before making an apportionment under this subsection.
- (3) Subject to subsection (4), if medicaid has paid a medical expense described in subsection (1)(a) or (b), on request from the office of child support or its designee, the court in an action brought under this act shall do all of the following:
- (a) Determine the amount of the expense that is reasonable and necessary by using the actuarially based case rate established and certified by the department of community health or the amount of the expense certified by the department of community health.
  - (b) Apportion the amount determined under subdivision (a) to the father using the method established under section 3(o) of the office of child support act, 1971 PA 174, MCL 400.233.
  - (c) Require the father to pay the amount apportioned to the father under subdivision (b) to the medicaid agency through the state disbursement unit.
  - (d) Not require the mother to pay any of the expenses.



(4) If a pregnancy or a complication of a pregnancy has been determined in another proceeding to have been the result of either a physical or sexual battery by a party to the case, the court shall apportion the medical expenses described in subsection (1)(a) and (b) to the party who was the perpetrator of the battery.

(5) A court order entered under subsection (2) or (3) shall provide that if the father marries the mother after the birth of the child and provides a copy of the marriage license or other documentation of the marriage to the friend of the court, the father's obligation for payment of any unpaid medical expense described in subsection (1)(a) or (b) is abated subject to reinstatement after notice and hearing for good cause shown, including, but not limited to, dissolution of the marriage. An expense abated under this subsection is abated as of the date that documentation of the marriage is provided to the friend of the court.

(6) An order that provides for the payment of a medical expense connected to a mother's pregnancy or a child's birth entered by the court in an action under this act on or before October 1, 2004 shall be considered by operation of law to provide for the abatement of any such medical expense that remains unpaid if the father marries the mother. An abatement under this subsection shall be implemented under the same circumstances and enforced in the same manner as an abatement of expenses under subsection (5).

(7) The court shall admit in proceedings under this act a bill for funeral expenses or for expenses connected to the mother's pregnancy or the birth of the child, or actuarially based case rates as determined by the department of community health, without third party foundation testimony. A bill or case rates admitted under this subsection are prima facie evidence of the relevant funeral or medical expense.

(8) This section does not prohibit the department of community health from seeking reimbursement of expenses from a party or other person, including an insurer, by a legal procedure other than an action under this act.

(9) If the father of a child born out of wedlock dies, an order of filiation or a judicially approved settlement made before his death is enforceable against his estate in the same manner and way as a divorce decree.

(10) As used in this section, "medicaid" means the medical assistance program administered by this state under section 105 of the social welfare act, 1939 PA 280, MCL 400.105.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 2004, Act 204, Eff. Oct. 1, 2004;—Am. 2004, Act 253, Eff. Oct. 1, 2004;—Am. 2009, Act 235, Imd. Eff. Jan. 8, 2010.

## **722.713 Repealed. 1996, Act 308, Eff. June 1, 1997.**

**Compiler's note:** The repealed section pertained to father's agreement for support and education.

\*\*\*\*\* 722.714 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.714.amended \*\*\*\*\*

## **722.714 Paternity proceeding; parties; venue; action not required; commencement of action; statute of limitations; initiating and conducting proceedings; child support formula as guideline; verification of complaint; agreement to transfer prosecutor's responsibilities; charge; summons; default judgment; genetic paternity testing; next friend or guardian ad litem; rights of indigent defendant; order of filiation.**

Sec. 4. (1) An action under this act shall be brought in the circuit court by the mother, the father, a child who became 18 years of age after August 15, 1984 and before June 2, 1986, or the department of human services as provided in this act. The Michigan court rules for civil actions apply to all proceedings under this act. A complaint shall be filed in the county where the mother or child resides. If both the mother and child reside outside of this state, then the complaint shall be filed in the county where the putative father resides or is found. The fact that the child was conceived or born outside of this state is not a bar to entering a complaint against the putative father.

(2) An action to determine paternity shall not be brought under this act if the child's father acknowledges paternity under the acknowledgment of parentage act, or if the child's paternity is established under the law of another state.

(3) An action under this act may be commenced during the pregnancy of the child's mother or at any time before the child reaches 18 years of age. For a child who became 18 years of age after August 15, 1984 and before June 2, 1986, an action under this act may be commenced before January 1, 1995. This subsection applies regardless of whether the cause of action accrued before June 1, 1986 and regardless of whether the cause of action was barred under this subsection before June 1, 1986. A summons issued under this section shall be in the form the court determines and shall be served in the same manner as is provided by court rules for the service of process in civil actions.

(4) If the county department of human services of the county in which the mother or alleged father resides first determines that she or he has physical possession of the child and is eligible for public assistance or

without means to employ an attorney; if the department of human services is the complainant; or if the mother, alleged father, or child is receiving services under part D of title IV of the social security act, 42 USC 651 to 669b, then the prosecuting attorney shall initiate and conduct proceedings under this act. The child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, shall be used as a guideline in petitioning for child support. A complaint filed under this act shall be verified by oath or affirmation.

(5) The prosecuting attorney and the department of human services may enter into an agreement to transfer the prosecutor's responsibilities under this act to 1 of the following:

- (a) The friend of the court, with the approval of the chief judge of the circuit court.
- (b) An attorney employed or contracted by the county under section 1 of 1941 PA 15, MCL 49.71.
- (c) An attorney employed by or under contract with the department of human services.

(6) A proceeding under this section is conducted on behalf of the state and not as the attorney for any other party.

(7) The party filing the complaint shall name the person believed to be the father of the child and state in the complaint the time and place, as near as possible, when and where the mother became pregnant. If the department of human services is the plaintiff, the required facts shall be stated upon information and belief.

(8) Upon the filing of a complaint, the court shall issue a summons against the named defendant. If the defendant does not file and serve a responsive pleading as required by the court rules, the court may enter a default judgment. Neither party is required to testify before entry of a default judgment in a proceeding under this act.

(9) If, after service of process, the parties fail to consent to an order naming the man as the child's father as provided in this act within the time permitted for a responsive pleading, then the department of human services or its designee may file and serve both the mother and the alleged father with a notice requiring that the mother, alleged father, and child appear for genetic paternity testing as provided in section 6.

(10) If the mother, alleged father, or child does not appear for genetic paternity testing as provided in subsection (9), then the department of human services or its designee may apply to the court for an order compelling genetic paternity tests as provided in section 6 or may seek other relief as permitted by statute or court rule.

(11) It is unnecessary in any proceedings under this act commenced by or against a minor to have a next friend or guardian ad litem appointed for the minor unless required by the circuit judge. A minor may prosecute or defend any proceedings in the same manner and with the same effect as if he or she were of legal age.

(12) If a child born out of wedlock is being supported in whole or in part by public assistance, including medical assistance, the department of human services may file a complaint on behalf of the child in the circuit court in the county in which the child resides. The mother or alleged father of the child shall be made a party plaintiff and notified of the hearing on the complaint by summons. The complaint made by the department of human services shall be verified by the director of the department of human services, or his or her designated representative, or by the director of the county department of human services of the county in which an action is brought, or the county director's designated representative.

(13) 1986 PA 107, which added this subsection, does not affect the rights of an indigent defendant in proceedings under this act as established by decisions of the courts of this state before June 1, 1986.

(14) If a determination of paternity is made under this act, the court may enter an order of filiation as provided in section 7. Regardless of who commences an action under this act, an order of filiation entered under this act has the same effect, is subject to the same provisions, and is enforced in the same manner as an order of filiation entered on complaint of the mother or father.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1962, Act 238, Eff. Mar. 28, 1963;—Am. 1972, Act 98, Eff. Mar. 30, 1973;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1992, Act 289, Eff. Jan. 1, 1993;—Am. 1994, Act 388, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 308, Eff. June 1, 1997;—Am. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 2014, Act 367, Eff. Mar. 17, 2015.

\*\*\*\*\* 722.714.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.714.amended Paternity proceeding; parties; venue; action not required; commencement of action; statute of limitations; initiating and conducting proceedings; child support formula as guideline; verification of complaint; agreement to transfer prosecutor's responsibilities; charge; summons; default judgment; genetic paternity testing; next friend or guardian ad litem; rights of indigent defendant; order of filiation.**

Sec. 4. (1) An action under this act must be brought in the circuit court by the mother, the father, a child

who became 18 years of age after August 15, 1984 and before June 2, 1986, or the department as provided in this act. The Michigan court rules for civil actions apply to all proceedings under this act. A complaint must be filed in the county where the mother or child resides. If both the mother and child reside outside of this state, the complaint must be filed in the county where the putative father resides or is found. The fact that the child was conceived or born outside of this state is not a bar to entering a complaint against the putative father.

(2) An action to determine paternity must not be brought under this act if the child's father or other parent acknowledges parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, or if the child's parentage is established under the law of another state.

(3) An action under this act may be commenced during the pregnancy of the child's mother or at any time before the child reaches 18 years of age. For a child who became 18 years of age after August 15, 1984 and before June 2, 1986, an action under this act may be commenced before January 1, 1995. This subsection applies regardless of whether the cause of action accrued before June 1, 1986 and regardless of whether the cause of action was barred under this subsection before June 1, 1986. A summons issued under this section must be in the form the court determines and must be served in the same manner as is provided by court rules for the service of process in civil actions.

(4) If the county department of the county in which the mother or alleged father resides first determines that she or he has physical possession of the child and is eligible for public assistance or without means to employ an attorney; if the department is the complainant; or if the mother, alleged father, or child is receiving services under part D of title IV of the social security act, 42 USC 651 to 669b, the prosecuting attorney must initiate and conduct proceedings under this act. The child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, must be used as a guideline in petitioning for child support. A complaint filed under this act must be verified by oath or affirmation.

(5) The prosecuting attorney and the department may enter into an agreement to transfer the prosecutor's responsibilities under this act to 1 of the following:

(a) The friend of the court, with the approval of the chief judge of the circuit court.

(b) An attorney employed or contracted by the county under section 1 of 1941 PA 15, MCL 49.71.

(c) An attorney employed by or under contract with the department.

(6) A proceeding under this section is conducted on behalf of the state and not as the attorney for any other party.

(7) The party filing the complaint must name the person believed to be the father of the child and state in the complaint the time and place, as near as possible, when and where the mother became pregnant. If the department is the plaintiff, the required facts must be stated upon information and belief.

(8) Upon the filing of a complaint, the court must issue a summons against the named defendant. If the defendant does not file and serve a responsive pleading as required by the court rules, the court may enter a default judgment. Neither party is required to testify before entry of a default judgment in a proceeding under this act.

(9) If, after service of process, the parties fail to consent to an order naming the man as the child's father as provided in this act within the time permitted for a responsive pleading, the department or its designee may file and serve both the mother and the alleged father with a notice requiring that the mother, alleged father, and child appear for genetic paternity testing as provided in section 6.

(10) If the mother, alleged father, or child does not appear for genetic paternity testing as provided in subsection (9), the department or its designee may apply to the court for an order compelling genetic paternity tests as provided in section 6 or may seek other relief as permitted by statute or court rule.

(11) It is unnecessary in any proceedings under this act commenced by or against a minor to have a next friend or guardian ad litem appointed for the minor unless required by the circuit judge. A minor may prosecute or defend any proceedings in the same manner and with the same effect as if the minor were of legal age.

(12) If a child born out of wedlock is being supported in whole or in part by public assistance, including medical assistance, the department may file a complaint on behalf of the child in the circuit court in the county in which the child resides. The mother or alleged father of the child must be made a party plaintiff and notified of the hearing on the complaint by summons. The complaint made by the department must be verified by the director of the department, or the director's designated representative, or by the director of the county department of the county in which an action is brought, or the county director's designated representative.

(13) 1986 PA 107, which added this subsection, does not affect the rights of an indigent defendant in proceedings under this act as established by decisions of the courts of this state before June 1, 1986.

(14) If a determination of paternity is made under this act, the court may enter an order of filiation as provided in section 7. Regardless of who commences an action under this act, an order of filiation entered

under this act has the same effect, is subject to the same provisions, and is enforced in the same manner as an order of filiation entered on complaint of the mother or father.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1962, Act 238, Eff. Mar. 28, 1963;—Am. 1972, Act 98, Eff. Mar. 30, 1973;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1992, Act 289, Eff. Jan. 1, 1993;—Am. 1994, Act 388, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 308, Eff. June 1, 1997;—Am. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 2014, Act 367, Eff. Mar. 17, 2015;—Am. 2024, Act 28, Eff. (sine die).

#### **722.714a Summons or notice; notification of obligation and rights; court order for genetic paternity testing.**

Sec. 4a. (1) The summons or other initial notice to a party in an action under this act shall contain notification that the party's obligation to support the child will be determined and that the party's rights to custody of and parenting time with the child may be determined during the paternity action.

(2) The family independence agency or its designee that requires a party to appear for genetic paternity testing as provided in section 4, or the party requesting genetic paternity testing if a court orders genetic paternity testing for an individual as provided in section 4, shall serve notice of the testing on the mother and the alleged father. The notice shall include explanations of all of the following:

- (a) The test to be performed.
- (b) The purpose and potential uses of the test.
- (c) How the test results will be used to establish paternity or nonpaternity as provided in section 6.
- (d) How the individual will be provided with the test results.
- (e) The individual's right to keep the test results confidential as provided in section 6a.

**History:** Add. 1994, Act 388, Eff. Oct. 1, 1995;—Am. 1996, Act 18, Eff. June 1, 1996;—Am. 1998, Act 113, Eff. Aug. 10, 1998.

\*\*\*\*\* 722.714b THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.714b.amended \*\*\*\*\*

#### **722.714b Effect of paternity in another state.**

Sec. 4b. The establishment of paternity under the law of another state has the same effect and may be used for the same purposes as an acknowledgment of paternity or order of filiation under this act.

**History:** Add. 1994, Act 388, Imd. Eff. Dec. 29, 1994.

\*\*\*\*\* 722.714b.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

#### **722.714b.amended Effect of parentage in another state.**

Sec. 4b. The establishment of parentage under the law of another state has the same effect and may be used for the same purposes as an acknowledgment of parentage or order of filiation under this act.

**History:** Add. 1994, Act 388, Imd. Eff. Dec. 29, 1994;—Am. 2024, Act 28, Eff. (sine die).

\*\*\*\*\* 722.714c.added THIS ADDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

#### **722.714c.added Determination of parentage; prohibitions.**

Sec. 4c. The parentage of either of the following must not be determined under this act:

- (a) A child conceived through the use of assisted reproduction that does not involve surrogacy if the parents of the child may be determined under the assisted reproduction and surrogacy parentage act.
- (b) A child conceived under a surrogacy agreement that complies with the assisted reproduction and surrogacy parentage act.

**History:** Add. 2024, Act 28, Eff. (sine die).

#### **722.715 Mother and alleged father competent to testify; cross-examination; exclusion of public; continuance until birth of child.**

Sec. 5. (1) Both the mother and the alleged father of the child shall be competent to testify, and if either gives evidence he or she shall be subject to cross-examination. The court may exclude the general public from the room where proceedings are held, pursuant to this act, admitting only persons directly interested in the case, including the officers of the court, officers or public welfare agents presenting the case, and witnesses.

(2) If the child is not born at the time set for trial, the case, unless the defendant mother or defendant father consents to trial, shall be continued until the child is born.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1966, Act 146, Eff. Mar. 10, 1967;—Am. 1986, Act 107, Eff. June 1, 1986;—

**722.716 Pretrial proceedings; blood or tissue typing determinations as to mother, child, and alleged father; court order; refusal to submit to typing or identification profiling; qualifications of person conducting typing or identification profiling; compensation of expert; result of typing or identification profiling; filing summary report; objection; admissibility; establishment of paternity.**

Sec. 6. (1) In a proceeding under this act before trial, the court, upon application made by or on behalf of either party, or on its own motion, shall order that the mother, child, and alleged father submit to blood or tissue typing determinations that may include, but are not limited to, determinations of red cell antigens, red cell isoenzymes, human leukocyte antigens, serum proteins, or DNA identification profiling, to determine whether the alleged father is likely to be, or is not, the father of the child. If the court orders a blood or tissue typing or DNA identification profiling to be conducted and a party refuses to submit to the typing or DNA identification profiling, in addition to any other remedies available, the court may do either of the following:

(a) Enter a default judgment at the request of the appropriate party.

(b) If a trial is held, allow the disclosure of the fact of the refusal unless good cause is shown for not disclosing the fact of refusal.

(2) A blood or tissue typing or DNA identification profiling shall be conducted by a person accredited for paternity determinations by a nationally recognized scientific organization, including, but not limited to, the American association of blood banks.

(3) The court shall fix the compensation of an expert at a reasonable amount and may direct the compensation to be paid by the county or by any other party to the case, or by both in the proportions and at the times the court prescribes. Before blood or tissue typing or DNA identification profiling is conducted, the court may order a part or all of the compensation paid in advance. If the department of human services paid for the genetic testing expenses, the court may order repayment by the alleged father if the court declares paternity. Documentation of the genetic testing expenses is admissible as evidence of the amount, which evidence constitutes prima facie evidence of the amount of those expenses without third party foundation testimony.

(4) Subject to subsection (5), the result of blood or tissue typing or a DNA identification profile and the summary report shall be served on the mother and alleged father. The summary report shall be filed with the court. Objection to the DNA identification profile or summary report is waived unless made in writing, setting forth the specific basis for the objection, within 14 calendar days after service on the mother and alleged father. The court shall not schedule a trial on the issue of paternity until after the expiration of the 14-day period. If an objection is not filed, the court shall admit in proceedings under this act the result of the blood or tissue typing or the DNA identification profile and the summary report without requiring foundation testimony or other proof of authenticity or accuracy. If an objection is filed within the 14-day period, on the motion of either party, the court shall hold a hearing to determine the admissibility of the DNA identification profile or summary report. The objecting party has the burden of proving by clear and convincing evidence by a qualified person described in subsection (2) that foundation testimony or other proof of authenticity or accuracy is necessary for admission of the DNA identification profile or summary report.

(5) If the probability of paternity determined by the qualified person described in subsection (2) conducting the blood or tissue typing or DNA identification profiling is 99% or higher, and the DNA identification profile and summary report are admissible as provided in subsection (4), paternity is established. If the results of the analysis of genetic testing material from 2 or more persons indicate a probability of paternity greater than 99%, the contracting laboratory shall conduct additional genetic paternity testing until all but 1 of the putative fathers is eliminated, unless the dispute involves 2 or more putative fathers who have identical DNA.

(6) This section does not abrogate the right of either party to child support from the date of birth of the child if applicable under section 7.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1982, Act 129, Imd. Eff. Apr. 20, 1982;—Am. 1989, Act 258, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 303, Imd. Eff. Dec. 14, 1990;—Am. 1994, Act 388, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 308, Eff. June 1, 1997;—Am. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 2000, Act 31, Imd. Eff. Mar. 15, 2000;—Am. 2014, Act 364, Eff. Mar. 17, 2015.

**722.716a Information obtained from genetic paternity testing; disclosure prohibited; retention and destruction of material; confidentiality; sale, transfer, or offer; audit; violation as misdemeanor; penalty.**

Sec. 6a. (1) Except as authorized under this act, a person shall not disclose information obtained from genetic paternity testing that is authorized under this act.

(2) If an alleged father who is tested as part of an action under this act is found to be the child's father, the



contracting laboratory shall retain the genetic testing material of the alleged father, mother, and child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. If a man is found not to be the child's father, the contracting laboratory shall destroy the man's genetic testing material after it is used in the paternity action, in compliance with section 13811 of the public health code, 1978 PA 368, MCL 333.13811, and in the presence of a witness. The witness may be an individual who is a party to the destruction of the genetic testing material. After the man's genetic testing material is destroyed, the contracting laboratory shall make and keep a written record of the destruction and have the individual who witnessed the destruction sign the record. The contracting laboratory shall also expunge the contracting laboratory's records regarding the genetic paternity testing performed on the genetic testing material in accordance with the national standards under which the laboratory is accredited. The contracting laboratory shall retain the genetic testing material of the mother and child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. After a contracting laboratory destroys an individual's genetic testing material as provided in this subsection, it shall notify the adult individual, or the parent or legal guardian of a minor individual, by certified mail that the genetic testing material was destroyed.

(3) A contracting laboratory, the family independence agency or its designee, or another entity involved with the genetic paternity testing are all required to protect the confidentiality of genetic testing material, except as required for a paternity determination under this act. The court, its officers, and the family independence agency shall not use or disclose genetic testing material for a purpose other than the paternity determination as authorized by this act.

(4) A person shall not sell, transfer, or offer genetic testing material obtained under this act except as authorized by this act.

(5) A contracting laboratory shall annually cause to be conducted an independent audit verifying the contracting laboratory's compliance with this section and section 6. The audit shall not disclose the names of, or otherwise identify, the test subjects required to submit to blood or tissue typing or DNA identification profiling under section 6 during the previous year. The contracting laboratory shall forward the audit to the department of consumer and industry services.

(6) A violation of this section is a misdemeanor punishable by a fine of not more than \$5,000.00. A second or subsequent violation of this section is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both.

**History:** Add. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 2000, Act 31, Imd. Eff. Mar. 15, 2000.

\*\*\*\*\* 722.717 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.717.amended \*\*\*\*\*

## **722.717 Order of filiation; circumstances; contents; support order; retroactivity; enforcement of judgment or order; fee; report to director of department of community health; service of copies to parties.**

Sec. 7. (1) In an action under this act, the court shall enter an order of filiation declaring paternity and providing for the support of the child under 1 or more of the following circumstances:

(a) The finding of the court or the verdict determines that the man is the father.

(b) The defendant acknowledges paternity either orally to the court or by filing with the court a written acknowledgment of paternity.

(c) The defendant is served with summons and a default judgment is entered against him or her.

(d) Genetic testing under section 6 determines that the man is the father.

(2) An order of filiation entered under subsection (1) shall specify the sum to be paid weekly or otherwise, as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, until the child reaches the age of 18. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for a child after he or she reaches 18 years of age. In addition to providing for the support of the child, the order shall also provide for the payment of the necessary expenses connected to the mother's pregnancy and the birth of the child and for the funeral expenses if the child has died, as determined by the court under section 2. A child support obligation is only retroactive to the date that the paternity complaint was filed unless any of the following circumstances exist:

(a) The defendant was avoiding service of process.

(b) The defendant threatened or coerced through domestic violence or other means the complainant not to file a proceeding under this act.

(c) The defendant otherwise delayed the imposition of a support obligation.

(3) A judgment or order entered under this act providing for the support of a child or payment of expenses

connected to the mother's pregnancy or the birth of the child is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(4) Upon entry of an order of filiation, the clerk of the court shall collect a fee of \$9.00 for entering the order and the fee imposed by section 2891(9)(a) of the public health code, 1978 PA 368, MCL 333.2891, from the person against whom the order of filiation is entered. The clerk shall retain the \$9.00 fee and remit the fee imposed by section 2891(9)(a) of the public health code, 1978 PA 368, MCL 333.2891, with a written report of the order of filiation, to the director of the department of community health. The report shall be on a form prescribed by or in a manner approved by the director of the department of community health. Regardless of whether the fees required by this section are collected, the clerk shall transmit and the department of community health shall receive the report of the order of filiation.

(5) If an order of filiation or acknowledgment of parentage is abrogated by a later judgment or order of a court, the clerk of the court that entered the order shall immediately communicate that fact to the director of the department of community health on a form prescribed by the director of the department of community health. An order of filiation supersedes an acknowledgment of parentage.

(6) Within the time prescribed by court rule, the party, attorney, or agency that secures the signing of an order of filiation shall serve a copy of the order on all parties to the action and file proof of service with the court clerk.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1962, Act 238, Eff. Mar. 28, 1963;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1989, Act 277, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 244, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 294, Imd. Eff. Dec. 14, 1990;—Am. 1993, Act 146, Imd. Eff. Aug. 19, 1993;—Am. 1994, Act 388, Eff. Oct. 1, 1995;—Am. 1996, Act 18, Eff. June 1, 1996;—Am. 1996, Act 308, Eff. June 1, 1997;—Am. 2001, Act 109, Eff. Sept. 30, 2001;—Am. 2004, Act 209, Eff. Oct. 1, 2004;—Am. 2009, Act 235, Imd. Eff. Jan. 8, 2010;—Am. 2014, Act 364, Eff. Mar. 17, 2015.

\*\*\*\*\* 722.717.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.717.amended Order of filiation; circumstances; contents; support order; retroactivity; enforcement of judgment or order; fee; report to department director; service of copies to parties.**

Sec. 7. (1) In an action under this act, the court must enter an order of filiation declaring paternity and providing for the support of the child under 1 or more of the following circumstances:

(a) The finding of the court or the verdict determines that the man is the father.

(b) The defendant acknowledges paternity either orally to the court or by filing with the court a written acknowledgment of parentage.

(c) The defendant is served with summons and a default judgment is entered against him or her.

(d) Genetic testing under section 6 determines that the man is the father.

(2) An order of filiation entered under subsection (1) must specify the sum to be paid weekly or otherwise, as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, until the child reaches the age of 18. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for a child after the child reaches 18 years of age. In addition to providing for the support of the child, the order must also provide for the payment of the necessary expenses connected to the mother's pregnancy and the birth of the child and for the funeral expenses if the child has died, as determined by the court under section 2. A child support obligation is only retroactive to the date that the paternity complaint was filed unless any of the following circumstances exist:

(a) The defendant was avoiding service of process.

(b) The defendant threatened or coerced through domestic violence or other means the complainant not to file a proceeding under this act.

(c) The defendant otherwise delayed the imposition of a support obligation.

(3) A judgment or order entered under this act providing for the support of a child or payment of expenses connected to the mother's pregnancy or the birth of the child is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(4) Upon entry of an order of filiation, the clerk of the court must collect a fee of \$9.00 for entering the

order and the fee imposed by section 2891(9)(a) of the public health code, 1978 PA 368, MCL 333.2891, from the person against whom the order of filiation is entered. The clerk must retain the \$9.00 fee and remit the fee imposed by section 2891(9)(a) of the public health code, 1978 PA 368, MCL 333.2891, with a written report of the order of filiation, to the department director. The report must be on a form prescribed by or in a manner approved by the department director. Regardless of whether the fees required by this section are collected, the clerk must transmit and the department must receive the report of the order of filiation.

(5) If an order of filiation or acknowledgment of parentage is abrogated by a later judgment or order of a court, the clerk of the court that entered the order must immediately communicate that fact to the department director on a form prescribed by the department director. An order of filiation supersedes an acknowledgment of parentage.

(6) Within the time prescribed by court rule, the party, attorney, or agency that secures the signing of an order of filiation must serve a copy of the order on all parties to the action and file proof of service with the court clerk.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1962, Act 238, Eff. Mar. 28, 1963;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1989, Act 277, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 244, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 294, Imd. Eff. Dec. 14, 1990;—Am. 1993, Act 146, Imd. Eff. Aug. 19, 1993;—Am. 1994, Act 388, Eff. Oct. 1, 1995;—Am. 1996, Act 18, Eff. June 1, 1996;—Am. 1996, Act 308, Eff. June 1, 1997;—Am. 2001, Act 109, Eff. Sept. 30, 2001;—Am. 2004, Act 209, Eff. Oct. 1, 2004;—Am. 2009, Act 235, Imd. Eff. Jan. 8, 2010;—Am. 2014, Act 364, Eff. Mar. 17, 2015;—Am. 2024, Act 28, Eff. (sine die).

#### **722.717a Repealed. 2001, Act 109, Eff. Sept. 30, 2001.**

**Compiler's note:** The repealed section pertained to support for child after child reaches 18 years of age.

#### **722.717b Provisions for custody and parenting time; temporary order in case of dispute; referral to friend of the court; attorneys not required to represent parties in dispute.**

Sec. 7b. If the court makes a determination of paternity and there is no dispute regarding custody, the court shall include in the order of filiation specific provisions for the custody and parenting time of the child as provided in the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled Laws. If there is a dispute between the parties concerning custody or parenting time, the court shall immediately enter an order that establishes support and temporarily establishes custody of and parenting time with the child. Pending a hearing on or other resolution of the dispute, the court may also refer the matter to the friend of the court for a report and recommendation as provided in section 5 of the friend of the court act, Act No. 294 of the Public Acts of 1982, being section 552.505 of the Michigan Compiled Laws. In a dispute regarding custody or parenting time, the prosecuting attorney, an attorney appointed by the county, or an attorney appointed by the court under section 4 shall not be required to represent either party regarding that dispute.

**History:** Add. 1994, Act 388, Eff. Oct. 1, 1995;—Am. 1996, Act 18, Eff. June 1, 1996;—Am. 1996, Act 308, Eff. June 1, 1997.

#### **722.718 Payments to friend of court, clerk of court, or state disbursement unit; disbursement.**

Sec. 8. The court shall require the payment of money to be made to the friend of the court, clerk of the court, or state disbursement unit, which money shall be disbursed in accordance with the order of the court, except that upon certification by a county family independence agency that a complainant is receiving public assistance, a payment received by the friend of the court for support and education of a child born out of wedlock shall be transmitted to the family independence agency.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1971, Act 176, Imd. Eff. Dec. 2, 1971;—Am. 1999, Act 157, Imd. Eff. Nov. 3, 1999.

#### **722.719 Bond to perform court order and indemnify county; filing; dismissal of complaint; default; issuance of citation to principal and sureties; service; execution; contempt of court; commitment; decree or judgment; appointment of receiver.**

Sec. 9. (1) The person so adjudged to be the father of the child may be required to give bond with 1 or more sufficient sureties to the satisfaction of the court, to perform the order of the court, and to indemnify the county that is chargeable with the confinement expenses and with the maintenance of the child. The bond shall be filed with the friend of the court or the clerk of the court. If on the trial he is adjudged not to be the father of the child, the court shall dismiss the complaint; and the judgment of the court is final.

(2) If default is made in the payment of an installment or a part of the installment, mentioned in the bond filed under subsection (1), the judge of the court in which the bond is filed, at the request of the mother, guardian, or any other person interested in the support of the child, shall issue a citation to the principal and

sureties in the bond requiring them to appear on a day specified in the citation, and show cause why execution shall not issue against them for the amount of the installment due and unpaid on the bond. The citation shall be served by the sheriff of any county in which the principal or sureties reside or may be found. If the amount due on the installment is not paid on or before the time mentioned for showing cause, the judge shall render judgment in favor of the complainant against the principal and sureties who have been served with the citation, for the amount unpaid on the installment due on the bond. Execution shall issue from the court against the goods and chattels of the person or persons against whom the judgment is rendered for the amount of the judgment and costs to the sheriff of any county in the state where a party to the judgment resides or has property subject to the execution.

(3) The judge, in case of default in the payment, when due, of any installment or any part of the installment or in the condition of the bond, may adjudge the reputed father guilty of contempt of court as provided in sections 31 to 39 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631 to 552.639. The commitment of the reputed father under sections 31 to 39 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631 to 552.639, does not operate to stay or defeat the obtaining of judgment and the collection of the judgment by execution. The rendition and the enforcement of decree or judgment does not bar or hinder the taking of similar proceedings for subsequent defaults.

(4) In order to make effective the purpose and intention of the bonds required under subsection (1), the court may appoint a receiver of the real and personal property belonging to the judgment debtors with powers not exceeding those customarily exercised by receivers.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1982, Act 296, Eff. July 1, 1983;—Am. 1996, Act 18, Eff. June 1, 1996;—Am. 1998, Act 113, Eff. Aug. 10, 1998.

## **722.720 Continuing jurisdiction; purposes.**

Sec. 10. The court has continuing jurisdiction over proceedings brought under this act to do any of the following:

- (a) Increase or decrease the amount fixed by the order of filiation subject to section 7.
- (b) Provide for, change, and enforce provisions of the order of filiation relating to the custody or support of or parenting time with the child.
- (c) Determine an action to set aside the order of filiation under the revocation of paternity act.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1990, Act 244, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 294, Imd. Eff. Dec. 14, 1990;—Am. 1994, Act 388, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 18, Eff. June 1, 1996;—Am. 2001, Act 109, Eff. Sept. 30, 2001;—Am. 2012, Act 162, Imd. Eff. June 12, 2012.

## **722.720a Repealed. 1982, Act 296, Eff. July 1, 1983.**

**Compiler's note:** The repealed section pertained to review of orders of filiation.

## **722.721 Mother's support and education of child born out of wedlock; bond; default; liability of father.**

Sec. 11. (1) If a mother of a child born out of wedlock possesses property and fails to support and educate her child, the court having jurisdiction, on application of the child's guardian or next friend, or the family independence agency if the child is being supported in whole or in part by public assistance, may investigate the matter and, after a hearing and subject to section 7, may make an order charging the mother with the payment of money weekly or otherwise for the child's support and education.

(2) The court may require the mother to give security, by bond, with sufficient sureties approved by the court for the payment as directed by the order. In case of default under the bond, the bond shall be enforced in the manner provided in section 9.

(3) This section does not relieve the father from liability for the child's support and education in accordance with this act.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1972, Act 98, Eff. Mar. 30, 1973;—Am. 1990, Act 244, Imd. Eff. Oct. 10, 1990;—Am. 2001, Act 109, Eff. Sept. 30, 2001.

## **722.722 False complaint; penalty.**

Sec. 12. Any person making a false complaint under this act as to identity of the father, or the aiding or abetting therein, shall be guilty of a misdemeanor. This section shall not apply to an authorized official of the department of social services who in good faith filed a complaint under this act based upon information and belief.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1972, Act 98, Eff. Mar. 30, 1973.

## **722.723 Repealed. 1982, Act 296, Eff. July 1, 1983.**

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**Compiler's note:** The repealed section pertained to civil jurisdiction.

**722.724 Appeal; stay of execution, bond, security for costs.**

Sec. 14. An appeal in all cases may be taken by either the complainant or the defendant, a guardian ad litem appointed by the court for the child, the mother or her personal representative, from any final order or judgment of any court having jurisdiction of filiation proceedings.

No appeal, however, shall operate as a stay of execution unless the defendant gives the security provided in section 9 of this act and further security to pay the costs of such appeal.

**History:** 1956, Act 205, Eff. Aug. 11, 1956.

**722.725 Reference to mother as parent of child in records, certificates, or other papers.**

Sec. 15. In a record, certificate, or other paper made or executed requiring a declaration by or notice to the mother of a child born out of wedlock or otherwise requiring a reference to the relation of a mother to such a child, it shall be sufficient to refer to the mother as the parent of the child. An explicit reference shall not be made to illegitimacy.

**History:** 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1980, Act 20, Imd. Eff. Mar. 7, 1980.

**722.726 Application of act.**

Sec. 16. This act applies to all cases arising out of birth out of wedlock commenced after this act takes effect, and such cases shall not thereafter be commenced under chapter 42 of the Revised Statutes of 1846, as amended, being sections 722.601 to 722.612, inclusive, of the Compiled Laws of 1948, which shall, however, apply to and govern all cases commenced thereunder prior to the time this act takes effect.

**History:** 1956, Act 205, Eff. Aug. 11, 1956.

**722.727 Fees; assessment in order of filiation.**

Sec. 17. No fees for commencement of suit, filing fee, decree or judgment fee, or stenographer fee shall be required in proceedings under this act, but the court may assess such fees against the father in the order of filiation.

**History:** 1956, Act 205, Eff. Aug. 11, 1956.

**722.728 Enforcement remedies.**

Sec. 18. In addition to the methods provided under this act for the enforcement of any court order or judgment, whether interlocutory or final, any such order, decree or judgment may be also enforced under the provisions of Act No. 8 of the Public Acts of 1952, as amended, being sections 780.151 to 780.173, inclusive, of the Compiled Laws of 1948.

**History:** 1956, Act 205, Eff. Aug. 11, 1956.

**722.729 Repealed. 2009, Act 235, Imd. Eff. Jan. 8, 2010**

**Compiler's note:** The repealed section pertained to reimbursement of county for cost of enforcing support or parenting time orders.

**722.729a Centralized receipt and disbursement of support and fees.**

Sec. 19a. The SDU is responsible for the centralized receipt and disbursement of support. An office of the friend of the court may continue to receive support and fees.

**History:** Add. 1999, Act 157, Imd. Eff. Nov. 3, 1999;—Am. 2009, Act 235, Imd. Eff. Jan. 8, 2010.

**722.730 Paternity act; short title.**

Sec. 20. This act shall be known and may be cited as "The paternity act".

**History:** 1956, Act 205, Eff. Aug. 11, 1956.



**CURFEW FOR CHILDREN**  
**Act 41 of 1960**

AN ACT to regulate the hours that children under the age of 16 years may be in or on the public streets, highways, alleys and parks; and to prescribe penalties for violations of the provisions of this act.

**History:** 1960, Act 41, Eff. Aug. 17, 1960.

*The People of the State of Michigan enact:*

**722.751 Curfew for children under 12 years old.**

Sec. 1. No minor under the age of 12 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10 o'clock p.m. and 6 o'clock a.m., unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

**History:** 1960, Act 41, Eff. Aug. 17, 1960.

**722.752 Curfew for minors under age 16.**

Sec. 2. A minor under the age of 16 years shall not loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 12 midnight and 6 a.m., immediately following, except where the minor is accompanied by a parent or guardian, or an adult delegated by the parent or guardian to accompany the minor, or where the minor is upon an errand or other legitimate business directed by his parent or guardian.

**History:** 1960, Act 41, Eff. Aug. 17, 1960;—Am. 1972, Act 20, Imd. Eff. Feb. 19, 1972.

**722.753 Aiding underage children to violate law; misdemeanor.**

Sec. 3. Any person of the age of 16 years or over assisting, aiding, abetting, allowing, permitting or encouraging any minor under the age of 16 years to violate the provisions of sections 1 and 2 hereof is guilty of a misdemeanor.

**History:** 1960, Act 41, Eff. Aug. 17, 1960.

**722.754 Local regulation as to curfew.**

Sec. 4. Nothing in this act shall be deemed to limit any powers now or hereafter possessed by law by any township, charter township, city or village to regulate by ordinance a curfew of minors.

**History:** 1960, Act 41, Eff. Aug. 17, 1960.

**COUNTY REHABILITATION WORK CAMPS FOR JUVENILE OFFENDERS**  
**Act 71 of 1965**

AN ACT authorizing the establishment of county rehabilitation work camps for the custody of juvenile offenders and the powers and duties of the board of supervisors.

**History:** 1965, Act 71, Eff. Mar. 31, 1966.

*The People of the State of Michigan enact:*

**722.761 County rehabilitation work camps; operation by board of supervisors.**

Sec. 1. The board of supervisors of any county may construct, maintain, equip, furnish, appoint the necessary personnel and supervise the operation of county rehabilitation work camps for the purpose of rehabilitating juvenile offenders. County rehabilitation work camps established under this law must meet licensing standards as established by the state department of social welfare.

**History:** 1965, Act 71, Eff. Mar. 31, 1966.

**722.762 Agreements with county maintaining work camps.**

Sec. 2. The board of supervisors of any county not having a county rehabilitation work camp or the legislative body of any municipality either within or without the county maintaining a county rehabilitation work camp may enter into agreements with a county maintaining such camps.

**History:** 1965, Act 71, Eff. Mar. 31, 1966.

## **CHILD IDENTIFICATION AND PROTECTION ACT**

### **Act 176 of 1985**

AN ACT to safeguard the privacy of children by regulating the fingerprinting of children.

**History:** 1985, Act 176, Imd. Eff. Dec. 2, 1985.

*The People of the State of Michigan enact:*

#### **722.771 Short title.**

Sec. 1. This act shall be known and may be cited as the "child identification and protection act".

**History:** 1985, Act 176, Imd. Eff. Dec. 2, 1985.

#### **722.772 Definitions.**

Sec. 2. As used in this act:

(a) "Child" means any person under 17 years of age.

(b) "Child or youth with special health care needs" means a single or married individual under 21 years of age whose activity is or may become so restricted by disease or specified medical condition as to reduce the individual's normal capacity for education and self-support.

(c) "Department" means the department of state police.

(d) "Department-approved entity" means an entity, including a local law enforcement agency or a private company, approved by the department to take the fingerprints and photograph of a child or youth with special health care needs under section 4.

(e) "Governmental unit" means the state or any political subdivision of the state, an authorized representative of the state or any political subdivision of the state, any school district, intermediate school district, or an authorized representative of any school district or intermediate school district.

(f) "Guardian" means a person who has qualified as a guardian of a minor or a child or youth with special health care needs under a parental or spousal nomination or a court order issued under section 19a or 19c of chapter XIIA of the probate code of 1939, MCL 712A.19a and 712A.19c, section 5204, 5205, or 5306 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204, 700.5205, and 700.5306, or sections 600 to 644 of the mental health code, 1974 PA 258, MCL 330.1600 to 330.1644. Guardian may also include a person appointed by a tribal court under tribal code or custom. Guardian does not include a guardian ad litem.

**History:** 1985, Act 176, Imd. Eff. Dec. 2, 1985;—Am. 2017, Act 24, Eff. Aug. 2, 2017.

#### **722.773 Fingerprinting child; prohibition; exception.**

Sec. 3. Except as provided in section 4, a governmental unit shall not fingerprint a child.

**History:** 1985, Act 176, Imd. Eff. Dec. 2, 1985.

#### **722.774 Fingerprinting and photographing child; conditions.**

Sec. 4. (1) Except for fingerprints taken from a child or youth with special health care needs under the process provided for in subsection (2), the following conditions govern a governmental unit's authority to fingerprint a child:

(a) A governmental unit may fingerprint a child if a parent or guardian has given written authorization for the taking of the fingerprints for use in the future if the child becomes a runaway or a missing child. Only 1 set of prints shall be taken and the fingerprint cards must be given to the parent or guardian for safekeeping. The fingerprints, written authorizations for fingerprinting, or notice of their existence must not be recorded, stored, or kept in any manner by a police agency, except as provided in this subdivision or except at the request of the parent or guardian if the child becomes a runaway or a missing child. If the child is located or the case is otherwise disposed of, the fingerprint cards must be returned to the parents or guardian.

(b) A governmental unit shall fingerprint a child if required under section 3 of 1925 PA 289, MCL 28.243, section 1 of 1935 PA 120, MCL 28.271, or section 724 of the mental health code, 1974 PA 258, MCL 330.1724.

(c) A governmental unit shall fingerprint a child if fingerprinting is required by court order.

(d) A governmental unit may fingerprint a child if fingerprints are voluntarily given with the written permission of the child and parent or guardian, upon request of a law enforcement officer, to aid in a specific criminal investigation. Only 1 set of prints shall be taken and, upon completion of the investigation, the law enforcement agency shall return the fingerprint cards to the parent or guardian of the child.

(2) A parent or guardian of a child or youth with special health care needs may submit a written request to a department-approved entity to take the fingerprints and photograph of the child or youth with special health

care needs and add them to the automated fingerprint identification system (AFIS) database and the statewide network of agency photos maintained by the department. As used in this subsection and subsections (5), (6), and (8), "parent" means the natural or adoptive parent of a child or youth with special health care needs who has either or both sole or joint legal or physical custody of the child if a court order dictating custody is in place, or the natural or adoptive parent of a child or youth with special health care needs if there is no court order dictating custody in place.

(3) A written request made under subsection (2) must be made on a form posted on the department's website. Along with the form, the department shall provide a list of department-approved entities on the department's website.

(4) The department may charge a fee sufficient to reimburse the department for the costs associated with processing a request under subsection (2).

(5) At the time a child or youth with special health care needs is presented at a department-approved entity to have his or her fingerprints and photograph taken under subsection (2), the department-approved entity taking the fingerprints and photograph shall require the parent or guardian presenting the child or youth with special health care needs to execute a signed waiver allowing the child's fingerprints and digital image to be collected.

(6) At the time a child or youth with special health care needs is presented at a department-approved entity to have his or her fingerprints and photograph taken under subsection (2), the department-approved entity taking fingerprints and photograph shall require the parent or guardian presenting the child or youth with special health care needs to remit the fee described in subsection (4). The department-approved entity shall forward the fee collected under this subsection to the department in the manner the department prescribes.

(7) The department shall forward the fingerprints and photographs taken under subsection (2) to the director of the Federal Bureau of Investigation on forms furnished by or in a manner prescribed by the director for registration, storage, and use for identification purposes by the Federal Bureau of Investigation.

(8) A parent or guardian may make a written request to the department to have the fingerprints and photograph of a child or youth with special health care needs taken under subsection (2) removed from the automated fingerprint identification system (AFIS) database and the statewide network of agency photos. The department shall remove the fingerprints and photograph of a child or youth with special health care needs taken under subsection (2) from the automated fingerprint identification system (AFIS) database and the statewide network of agency photos upon receipt of a written request made by a parent or guardian under this subsection.

**History:** 1985, Act 176, Imd. Eff. Dec. 2, 1985;—Am. 2017, Act 24, Eff. Aug. 2, 2017;—Am. 2017, Act 103, Eff. Aug. 2, 2017.

#### **722.775 Conditional effective date.**

Sec. 5. This act shall not take effect unless House Bill No. 4228 of the 83rd Legislature is enacted into law.

**History:** 1985, Act 176, Imd. Eff. Dec. 2, 1985.

**Compiler's note:** House Bill No. 4228, referred to in this section, became P.A. 1985, No. 175, Imd. Eff. Dec. 2, 1985.

### **JUVENILE JUSTICE SERVICES ACT Act 280 of 1975**

#### **722.801-722.819 Repealed. 1977, Act 296, Eff. Dec. 31, 1977;—1978, Act 87, Eff. Apr. 1, 1978.**

**Compiler's note:** Several of the repealed sections had already expired on March 31, 1978, pursuant to the terms of former MCL 722.819.

## JUVENILE DIVERSION ACT Act 13 of 1988

AN ACT to permit certain minors to be diverted from the court system having jurisdiction over minors; to establish diversion criteria and procedures; to require certain records to be made and kept; to prescribe certain powers and duties of courts having jurisdiction over minors and of law enforcement agencies; and to prescribe certain penalties.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 1996, Act 415, Eff. Jan. 1, 1998.

*The People of the State of Michigan enact:*

### 722.821 Short title.

Sec. 1. This act shall be known and may be cited as the "juvenile diversion act".

**History:** 1988, Act 13, Eff. Apr. 1, 1988.

\*\*\*\*\* 722.822 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 722.822.amended \*\*\*\*\*

### 722.822 Definitions.

Sec. 2. As used in this act:

(a) "Assaultive crime" means an offense that, if committed by an adult, would constitute an offense against a person described in section 82, 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, and 750.530.

(b) "Court" means the family division of circuit court.

(c) "Divert" or "diversion" means the placement that occurs when a formally recorded apprehension is made by a law enforcement agency for an act by a minor that if a petition were filed with the court would bring that minor within section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, and instead of petitioning the court or authorizing a petition, either of the following occurs:

(i) The minor is released into the custody of his or her parent, guardian, or custodian and the investigation is discontinued.

(ii) The minor and the minor's parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation.

(d) "Law enforcement agency" means a police department of a city, village, or township, a sheriff's department, the department of state police, or any other governmental law enforcement agency in this state.

(e) "Minor" means an individual less than 18 years of age.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 1994, Act 197, Eff. Oct. 1, 1994;—Am. 1996, Act 415, Eff. Jan. 1, 1998;—Am. 2019, Act 101, Eff. Oct. 1, 2021.

\*\*\*\*\* 722.822.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024 \*\*\*\*\*

### 722.822.amended Definitions.

Sec. 2. As used in this act:

(a) "Court" means the family division of circuit court.

(b) "Divert" or "diversion" means the placement that occurs when a law enforcement agency makes a formally recorded investigation or apprehension for an act by a minor that if a petition were filed with the court would bring that minor within section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, and instead of petitioning the court or authorizing a petition, either of the following occurs:

(i) The minor is released into the custody of the minor's parent, guardian, or custodian and the investigation is discontinued.

(ii) The minor and the minor's parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation.

(c) "Law enforcement agency" means a police department of a city, village, or township, a sheriff's department, the department of state police, or any other governmental law enforcement agency in this state.

(d) "Minor" means an individual who is less than 18 years of age.



(e) "Specified juvenile violation" means any of the following:

(i) A specified juvenile violation as that term is defined in section 2 of chapter XIII A of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(ii) A violation of section 82(2), 321, 397, or 520c of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.321, 750.397, and 750.520c.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 1994, Act 197, Eff. Oct. 1, 1994;—Am. 1996, Act 415, Eff. Jan. 1, 1998;—Am. 2019, Act 101, Eff. Oct. 1, 2021;—Am. 2023, Act 287, Eff. Oct. 1, 2024.

\*\*\*\*\* 722.823 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 722.823.amended \*\*\*\*\*

**722.823 Powers of law enforcement official or court intake worker where petition not filed or authorized; diversion of minor.**

Sec. 3. (1) If in the course of investigating an alleged offense by a minor a petition has not been filed with the court, or if a petition has not been authorized, a law enforcement official or court intake worker may do 1 of the following:

(a) Release the minor into the custody of his or her parent, guardian, or custodian and discontinue the investigation.

(b) Divert the matter by making an agreement pursuant to section 5 with the minor and the minor's parent, guardian, or custodian to refer the minor to a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation.

(c) File a petition with the court or authorize a petition that has been filed.

(2) A minor may be diverted only as provided in subsection (1)(a) or (b) and subsection (3).

(3) A minor accused or charged with an assaultive offense shall not be diverted.

**History:** 1988, Act 13, Eff. Apr. 1, 1988.

\*\*\*\*\* 722.823.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024 \*\*\*\*\*

**722.823.amended Powers of law enforcement official or court intake worker where petition not filed or authorized; diversion of minor; exception specified juvenile violation; use of risk screening or mental health screening tools; guidelines.**

Sec. 3. (1) If in the course of investigating an alleged offense by a minor a petition has not been filed with the court, or if a petition has not been authorized, a law enforcement official or court intake worker may do 1 of the following:

(a) Release the minor into the custody of the minor's parent, guardian, or custodian and discontinue the investigation.

(b) Subject to subsections (4) and (5), divert the matter by making an agreement under section 5 with the minor and the minor's parent, guardian, or custodian to refer the minor to a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation. Restitution must not be considered when deciding if the minor may be diverted under this subdivision.

(c) File a petition with the court or authorize a petition that has been filed.

(2) A minor may be diverted only as provided in subsection (1)(a) or (b) and subsection (3).

(3) A minor accused or charged with a specified juvenile violation must not be diverted.

(4) Except as otherwise provided in this subsection, before a diversion decision is made for a minor, a risk screening tool and a mental health screening tool may be conducted on the minor. A risk screening tool and a mental health screening tool may not be conducted on a minor who meets any of the following criteria:

(a) Is accused or charged with a specified juvenile violation.

(b) Is currently under supervision in the juvenile justice system by the court or the department of health and human services.

(5) A minor must not be diverted under subsection (1)(b) unless both of the following requirements are met:

(a) The law enforcement official or court intake worker receives the results of a risk screening tool and a mental health screening tool for the minor conducted by a designated individual or agency that is trained in those screening tools.

(b) The law enforcement official or court intake worker uses the results of the risk screening tool and the mental health screening tool, and the best interests of public safety and the minor, to inform the decision to divert the minor.

(6) A risk screening tool and a mental health screening tool described in subsections (4) and (5) must meet both of the following requirements:

- (a) Be research based and nationally validated for use with minors.
- (b) Comply with the guidelines created under subsection (7).

(7) The state court administrative office, under the supervision and direction of the supreme court, shall create guidelines on the use of risk screening tools and mental health screening tools described in subsections (4) and (5).

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 2023, Act 287, Eff. Oct. 1, 2024.

#### **722.824 Decision to divert minor; factors to be examined.**

Sec. 4. Before a decision is made to divert a minor, all of the following factors shall be examined:

- (a) The nature of the alleged offense.
- (b) The minor's age.
- (c) The nature of the problem that led to the alleged offense.
- (d) The minor's character and conduct.
- (e) The minor's behavior in school, family, and group settings.

(f) Any prior diversion decisions made concerning the minor and the nature of the minor's compliance with the diversion agreement.

**History:** 1988, Act 13, Eff. Apr. 1, 1988.

\*\*\*\*\* 722.825 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 722.825.amended \*\*\*\*\*

#### **722.825 Conference; notice; time; prohibitions; diversion agreement; filing petition; noncompliance with terms of agreement or plan.**

Sec. 5. (1) If a decision is made to divert a minor with a referral under section 3(1)(b), a conference with the minor and the minor's parent, guardian, or custodian shall be held to consider alternatives to the filing of a petition with the court or to the authorization of a petition. The law enforcement official or intake worker shall notify the minor and the minor's parent, guardian, or custodian of the proposed conference and shall inform the minor, and the minor's parent, guardian, or custodian of all of the following:

- (a) That participation in the conference or resulting referral plan is voluntary.
- (b) That an attorney may accompany the minor and the minor's parent, guardian, or custodian at the conference.

(c) The alternative referral programs available and the criteria utilized to determine whether to file a petition with the court or to dispose of the petition with a referral.

(d) That if diversion is agreed to and the minor complies with the terms of the diversion agreement and the referral plan, a petition cannot be filed with the court, or if a petition has been filed, the petition cannot be authorized.

(2) The conference to consider alternatives to the filing of a petition with the court or to consider alternatives to the authorization of a petition shall not be held until after the questioning, if any, of the minor has been completed or after an investigation has been made concerning the alleged offense. Mention of, or promises concerning, diversion shall not be made by a law enforcement official or court intake worker in the presence of the minor or the minor's parent, guardian, or custodian during any questioning of the minor. Information divulged by the minor during the conference or after the diversion is agreed to, but before a petition is filed with the court or has been authorized, shall not be used against the minor.

(3) If a conference held under this section results in diversion that imposes conditions on the minor and that will prevent the filing of a petition with the court or the authorization of a petition, the terms of the diversion agreement shall be set forth in writing, dated, and signed by the law enforcement official or court intake worker, the minor, and the minor's parent, guardian, or custodian.

(4) If a conference is held under this section and an agreement under subsection (3) is not reached, a petition may be filed with the court as provided by law and a petition may be authorized as provided by law. If an agreement under subsection (3) is not reached and a petition is to be filed, the petition shall be filed with the court not later than 30 days after the conference.

(5) If the minor fails to comply with the terms of the diversion agreement and the referral plan, the law enforcement official or the court intake worker may revoke the diversion agreement. If the diversion agreement is revoked, a petition may be filed with the court as provided by law and a petition may be authorized as provided by law.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 1996, Act 137, Eff. May 1, 1996.

**722.825.amended Conference; notice; time; prohibitions; diversion agreement; filing petition; noncompliance with terms of agreement or plan.**

Sec. 5. (1) If a decision is made to divert a minor with a referral under section 3(1)(b), a conference with the minor and the minor's parent, guardian, or custodian must be held to consider alternatives to the filing of a petition with the court or to the authorization of a petition. The law enforcement official or court intake worker shall notify the minor and the minor's parent, guardian, or custodian of the proposed conference and shall inform the minor, and the minor's parent, guardian, or custodian of all of the following:

- (a) That participation in the conference or resulting referral plan is voluntary.
- (b) That an attorney may accompany the minor and the minor's parent, guardian, or custodian at the conference.
- (c) The alternative referral programs available and the criteria utilized to determine whether to file a petition with the court or to dispose of the petition with a referral.
- (d) That if diversion is agreed to and the minor complies with the terms of the diversion agreement and the referral plan, a petition cannot be filed with the court, or if a petition has been filed, the petition cannot be authorized.

(2) The conference to consider alternatives to the filing of a petition with the court or to consider alternatives to the authorization of a petition must not be held until after the questioning, if any, of the minor has been completed or after an investigation has been made concerning the alleged offense. Mention of, or promises concerning, diversion must not be made by a law enforcement official or court intake worker in the presence of the minor or the minor's parent, guardian, or custodian during any questioning of the minor. Information divulged by the minor during the conference or after the diversion is agreed to, but before a petition is filed with the court or has been authorized, must not be used against the minor.

(3) If a conference held under this section results in diversion that imposes conditions on the minor and that will prevent the filing of a petition with the court or the authorization of a petition, the terms of the diversion agreement must be set forth in writing, dated, and signed by the law enforcement official or court intake worker, the minor, and the minor's parent, guardian, or custodian. The time period for a minor to complete the terms of a diversion agreement must not exceed 3 months, unless the law enforcement official or court intake worker determines that a longer period is needed for the minor to complete a specific treatment program and documents this determination as required under section 6. The diversion agreement must not include a term requiring the reimbursement of costs related to diversion services.

(4) If a conference is held under this section and an agreement under subsection (3) is not reached, a petition may be filed with the court as provided by law and a petition may be authorized as provided by law. If an agreement under subsection (3) is not reached and a petition is to be filed, the petition must be filed with the court not later than 30 days after the conference.

(5) If the minor fails to comply with the terms of the diversion agreement and the referral plan, the law enforcement official or the court intake worker may revoke the diversion agreement. If the diversion agreement is revoked, a petition may be filed with the court as provided by law and a petition may be authorized as provided by law.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 1996, Act 137, Eff. May 1, 1996;—Am. 2023, Act 288, Eff. Oct. 1, 2024.

\*\*\*\*\* 722.826 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 722.826.amended

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**722.826 Decision to divert minor; information to be filed; revocation.**

Sec. 6. (1) When a decision is made to divert a minor, the law enforcement official or court intake worker shall file with the court in the county in which the minor resides or is found all of the following information:

- (a) The minor's name, address, and date of birth.
- (b) The act or offense for which the minor was apprehended.
- (c) The date and place of the act or offense for which the minor was apprehended.
- (d) The diversion decision made, whether referred or released.
- (e) The nature of the minor's compliance with the diversion agreement.

(2) If a diversion agreement is revoked pursuant to section 5(5), the law enforcement official or court intake worker shall file with the court in which the information described in subsection (1) is filed the fact of and reasons for the revocation.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 1996, Act 137, Eff. May 1, 1996.

\*\*\*\*\* 722.826.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024 \*\*\*\*\*

**722.826.amended Decision to divert minor; information to be filed; revocation.**

Sec. 6. (1) When a decision is made to divert a minor, the law enforcement official or court intake worker shall file with the court in the county in which the minor resides or is found all of the following information:

- (a) The minor's name, address, and date of birth.
- (b) The act or offense for which the minor was apprehended.
- (c) The date and place of the act or offense for which the minor was apprehended.
- (d) The diversion decision made, whether referred or released.
- (e) The nature of the minor's compliance with the diversion agreement.
- (f) The time period to complete the terms of the diversion agreement and, if the period exceeds 3 months, the determination that a longer period is necessary for the minor to complete a specific treatment program.
- (g) If the diversion is under section 3(1)(b), the results of the minor's risk screening tool and mental health screening tool.

(2) If a diversion agreement is revoked under section 5(5), the law enforcement official or court intake worker shall file the fact of and reasons for the revocation with the court in which the information described in subsection (1) is filed.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 1996, Act 137, Eff. May 1, 1996;—Am. 2023, Act 287, Eff. Oct. 1, 2024;—Am. 2023, Act 288, Eff. Oct. 1, 2024.

**722.827 Separate diversion record.**

Sec. 7. The court in the county in which a diverted minor resides or is found shall keep a separate diversion record for that minor.

**History:** 1988, Act 13, Eff. Apr. 1, 1988.

**722.828 Opening record; destruction of record.**

Sec. 8. (1) Except as otherwise required in subsection (2), a record required to be kept under this act shall be open only by order of the court to a person who has a legitimate interest.

(2) A record required to be kept under this act shall be open to a law enforcement agency or court intake worker for only the purpose of deciding whether to divert a minor.

(3) A minor's record kept under this act shall be destroyed within 28 days after the minor becomes 18 years of age.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 2019, Act 101, Eff. Oct. 1, 2021.

\*\*\*\*\* 722.829 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 722.829.amended \*\*\*\*\*

**722.829 Use of record; violation as misdemeanor; penalty.**

Sec. 9. (1) A record kept under this act shall not be used by any person, including a court official or law enforcement official, for any purpose except in making a decision on whether to divert a minor.

(2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 180 days, or a fine of not more than \$1,000.00, or both.

**History:** 1988, Act 13, Eff. Apr. 1, 1988.

\*\*\*\*\* 722.829.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024 \*\*\*\*\*

**722.829.amended Use of record; violation as misdemeanor; penalty; admissibility of screening tools.**

Sec. 9. (1) A record kept under this act must not be used by any person, including a court official or law enforcement official, for any purpose except in making a decision on whether to divert a minor.

(2) A person that violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 180 days, a fine of not more than \$1,000.00, or both.

(3) A risk screening tool and a mental health screening tool conducted as part of a proceeding under this act and any information obtained from a minor in the course of those screenings or provided by the minor in order to participate in a diversion program, including, but not limited to, any admission, confession, or incriminating evidence, are not admissible into evidence in any adjudicatory hearing in which the minor is accused and are not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.

**History:** 1988, Act 13, Eff. Apr. 1, 1988;—Am. 2023, Act 287, Eff. Oct. 1, 2024.

**722.830 Conditional effective date.**

Sec. 10. This act shall not take effect unless Senate Bill No. 602 of the 84th Legislature is enacted into law.

**History:** 1988, Act 13, Eff. Apr. 1, 1988.

**722.831 Effective date.**

Sec. 11. This act shall take effect April 1, 1988.

**History:** 1988, Act 13, Eff. Apr. 1, 1988.



\*\*\*\*\* Act 199 of 1988 THIS ACT IS REPEALED BY ACT 24 OF 2024 EFFECTIVE 91 DAYS AFTER  
ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**SURROGATE PARENTING ACT**  
**Act 199 of 1988**

AN ACT to establish surrogate parentage contracts as contrary to public policy and void; to prohibit surrogate parentage contracts for compensation; to provide for children conceived, gestated, and born pursuant to a surrogate parentage contract; and to provide for penalties and remedies.

**History:** 1988, Act 199, Eff. Sept. 1, 1988.

*The People of the State of Michigan enact:*

\*\*\*\*\* 722.851 THIS SECTION IS REPEALED BY ACT 24 OF 2024 EFFECTIVE 91 DAYS AFTER  
ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.851 Short title.**

Sec. 1. This act shall be known and may be cited as the "surrogate parenting act".

**History:** 1988, Act 199, Eff. Sept. 1, 1988.

\*\*\*\*\* 722.853 THIS SECTION IS REPEALED BY ACT 24 OF 2024 EFFECTIVE 91 DAYS AFTER  
ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.853 Definitions.**

Sec. 3. As used in this act:

(a) "Compensation" means a payment of money, objects, services, or anything else having monetary value except payment of expenses incurred as a result of the pregnancy and the actual medical expenses of a surrogate mother or surrogate carrier.

(b) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a.

(c) "Intellectually disabled" means intellectual disability as that term is defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(d) "Mental illness" means that term as defined in section 400 of the mental health code, 1974 PA 258, MCL 330.1400.

(e) "Participating party" means a biological mother, biological father, surrogate carrier, or the spouse of a biological mother, biological father, or surrogate carrier, if any.

(f) "Surrogate carrier" means the female in whom an embryo is implanted in a surrogate gestation procedure.

(g) "Surrogate gestation" means the implantation in a female of an embryo not genetically related to that female and subsequent gestation of a child by that female.

(h) "Surrogate mother" means a female who is naturally or artificially inseminated and who subsequently gestates a child conceived through the insemination according to a surrogate parentage contract.

(i) "Surrogate parentage contract" means a contract, agreement, or arrangement in which a female agrees to conceive a child through natural or artificial insemination, or in which a female agrees to surrogate gestation, and to voluntarily relinquish her parental or custodial rights to the child. It is presumed that a contract, agreement, or arrangement in which a female agrees to conceive a child through natural or artificial insemination by a person other than her husband, or in which a female agrees to surrogate gestation, includes a provision, whether or not express, that the female will relinquish her parental or custodial rights to the child.

**History:** 1988, Act 199, Eff. Sept. 1, 1988;—Am. 1990, Act 190, Imd. Eff. July 24, 1990;—Am. 2014, Act 69, Imd. Eff. Mar. 28, 2014.

\*\*\*\*\* 722.855 THIS SECTION IS REPEALED BY ACT 24 OF 2024 EFFECTIVE 91 DAYS AFTER  
ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.855 Surrogate parentage contract as void and unenforceable.**

Sec. 5. A surrogate parentage contract is void and unenforceable as contrary to public policy.

**History:** 1988, Act 199, Eff. Sept. 1, 1988.

\*\*\*\*\* 722.857 THIS SECTION IS REPEALED BY ACT 24 OF 2024 EFFECTIVE 91 DAYS AFTER

ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.857 Surrogate parentage contract prohibited; conditions; surrogate parentage contract as felony; penalty.**

Sec. 7. (1) A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract under which an unemancipated minor female or a female diagnosed as being intellectually disabled or as having a mental illness or developmental disability is the surrogate mother or surrogate carrier.

(2) A person other than an unemancipated minor female or a female diagnosed as being intellectually disabled or as having a mental illness or developmental disability who enters into, induces, arranges, procures, or otherwise assists in the formation of a contract described in subsection (1) is guilty of a felony punishable by a fine of not more than \$50,000.00 or imprisonment for not more than 5 years, or both.

**History:** 1988, Act 199, Eff. Sept. 1, 1988;—Am. 2014, Act 69, Imd. Eff. Mar. 28, 2014.

\*\*\*\*\* 722.859 THIS SECTION IS REPEALED BY ACT 24 OF 2024 EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.859 Surrogate parentage contract for compensation prohibited; surrogate parentage contract for compensation as misdemeanor or felony; penalty.**

Sec. 9. (1) A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract for compensation.

(2) A participating party other than an unemancipated minor female or a female diagnosed as being intellectually disabled or as having a mental illness or developmental disability who knowingly enters into a surrogate parentage contract for compensation is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00 or imprisonment for not more than 1 year, or both.

(3) A person other than a participating party who induces, arranges, procures, or otherwise assists in the formation of a surrogate parentage contract for compensation is guilty of a felony punishable by a fine of not more than \$50,000.00 or imprisonment for not more than 5 years, or both.

**History:** 1988, Act 199, Eff. Sept. 1, 1988;—Am. 2014, Act 69, Imd. Eff. Mar. 28, 2014.

\*\*\*\*\* 722.861 THIS SECTION IS REPEALED BY ACT 24 OF 2024 EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.861 Custody of child.**

Sec. 11. If a child is born to a surrogate mother or surrogate carrier pursuant to a surrogate parentage contract, and there is a dispute between the parties concerning custody of the child, the party having physical custody of the child may retain physical custody of the child until the circuit court orders otherwise. The circuit court shall award legal custody of the child based on a determination of the best interests of the child. As used in this section, "best interests of the child" means that term as defined in section 3 of the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being section 722.23 of the Michigan Compiled Laws.

**History:** 1988, Act 199, Eff. Sept. 1, 1988.

\*\*\*\*\* 722.863 THIS SECTION IS REPEALED BY ACT 24 OF 2024 EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.863 Effective date.**

Sec. 13. This act shall take effect September 1, 1988.

**History:** 1988, Act 199, Eff. Sept. 1, 1988.

## **GUARDIANSHIP ASSISTANCE ACT**

### **Act 260 of 2008**

AN ACT to provide for assistance payments to certain guardians of minors; and to provide for duties and responsibilities of certain state departments and agencies.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009.

*The People of the State of Michigan enact:*

#### **722.871 Short title.**

Sec. 1. This act shall be known and may be cited as the "guardianship assistance act".

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009.

#### **722.872 Definitions.**

Sec. 2. As used in this act:

(a) "Certification" means a determination of eligibility by the department that a foster child is eligible for guardianship assistance or a medical subsidy, or both.

(b) "Child" means an individual less than 18 years of age.

(c) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(d) "Department" means the department of health and human services.

(e) "Eligible child" means a child who meets the eligibility criteria under section 3 for receiving guardianship assistance.

(f) "Guardian" means a person appointed by the court to act as a legal guardian for a child under section 19a or 19c of chapter XIIA of the probate code, MCL 712A.19a and 712A.19c, another state's law or code, or applicable tribal law or code.

(g) "Guardianship assistance agreement" means a negotiated binding agreement regarding financial support as described in section 5 for children who meet the qualifications for guardianship assistance as specified in this act or in the department's administrative rules.

(h) "Legal custodian" means an individual who is at least 18 years of age in whose care a child remains or is placed after a court makes a finding under section 13a of chapter XIIA of the probate code, MCL 712A.13a, another state's law or code, or tribal law or code.

(i) "Probate code" means the probate code of 1939, 1939 PA 288, MCL 710.21 to 712B.41.

(j) "Prospective guardian" means an individual seeking guardianship of a child if an order appointing that guardianship has not been finalized by the court.

(k) "Relative" means that term as defined in section 13a of chapter XIIA of the probate code, MCL 712A.13a.

(l) "Successor guardian" means a person appointed by the court to act as a legal guardian when the preceding guardian is no longer able to act, as a result of his or her death or incapacitation, under section 19a or 19c of chapter XIIA of the probate code, MCL 712A.19a and 712A.19c, another state's law or code, or tribal law or code. Successor guardian does not include an individual appointed as a guardian if that individual's parental rights to the child have been terminated or suspended.

(m) "Title IV-E" refers to the federal assistance provided through the United States Department of Health and Human Services to reimburse states for foster care, adoption assistance payments, and guardianship assistance payments.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015;—Am. 2022, Act 210, Imd. Eff. Oct. 7, 2022;—Am. 2023, Act 69, Imd. Eff. July 12, 2023.

#### **722.873 Guardianship assistance; eligibility.**

Sec. 3. (1) A child is eligible to receive guardianship assistance if the department determines that all of the following have been met:

(a) The child has been removed from his or her home as a result of a judicial determination by a state court or tribal court within this state that allowing the child to remain in the home would be contrary to the child's welfare.

(b) The child has resided in the home of the prospective guardian for, at a minimum, 6 consecutive months.

(c) Reunification and placing the child for adoption are not appropriate permanency options.

(d) The child demonstrates a strong attachment to the prospective guardian and the guardian has a strong commitment to caring permanently for the child until the child reaches 18 years of age.

(e) If the child has reached 14 years of age, he or she has been consulted regarding the guardianship

arrangement.

(f) Certification has been made before the child's eighteenth birthday.

(g) The guardianship assistance agreement has been signed by the prospective guardian and the department before the guardianship is finalized by the court and before the child's eighteenth birthday.

(2) A determination by the department on the eligibility of guardianship assistance does not affect a judicial finding that a guardianship should be ordered for the child.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015;—Am. 2023, Act 69, Imd. Eff. July 12, 2023.

#### **722.874 Guardianship assistance; payment to eligible guardian; criteria; eligibility for federal funding under title IV-E; sibling ineligible for federal funding; successor guardian.**

Sec. 4. (1) Subject to subsection (2), a guardian who meets all of the following criteria may receive guardianship assistance on behalf of an eligible child:

(a) The guardian is the eligible child's relative or legal custodian.

(b) The guardian is a licensed foster parent and approved for guardianship assistance by the department. The approval process must include criminal record checks and child abuse and child neglect central registry checks on the guardian, all successor guardians, and all adults living in the guardian's or successor guardian's home as well as submission of the guardian's or successor guardian's fingerprints to the department of state police and the Federal Bureau of Investigation for a criminal history check.

(c) The eligible child has resided with the prospective guardian in the prospective guardian's residence for a minimum of 6 months before the application for guardianship assistance is received by the department.

(2) Only a relative who is a licensed foster parent caring for a child who is eligible to receive title IV-E-funded foster care payments for 6 consecutive months after licensure of the family is eligible for federal funding under title IV-E for guardianship assistance. A child who is not eligible for title IV-E funding who is placed with a licensed foster parent, related or unrelated, and who meets the requirements of section 3(a) to (e) may be eligible for state-funded guardianship assistance.

(3) If a child is eligible for title IV-E-funded guardianship assistance under section 3 but has a sibling who is not eligible under section 3, both of the following apply:

(a) The child and any of the child's siblings may be placed in the same relative guardianship arrangement in accordance with chapter XIIA of the probate code, MCL 712A.1 to 712A.32, another state's law or code, or tribal law or code, if the department and the relative agree on the appropriateness of the arrangement for the sibling.

(b) Title IV-E-funded relative guardianship assistance payments may be paid on behalf of each sibling placed in accordance with this subsection.

(4) A successor guardian may receive guardianship assistance payments if the eligibility criteria set forth in section 3 are met.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015;—Am. 2019, Act 95, Eff. Jan. 22, 2020;—Am. 2023, Act 69, Imd. Eff. July 12, 2023.

#### **722.875 Guardianship assistance; negotiating and entering guardianship assistance agreement; specifications; limitation on payment; review by department; eligibility determination.**

Sec. 5. (1) Subject to the provisions of this act, the department may pay guardianship assistance to an eligible guardian on behalf of an eligible child.

(2) The guardian must apply for guardianship assistance under this act to the department.

(3) For a child who is eligible under section 3 and a guardian who is eligible under section 4, the department must negotiate and enter into a written, binding guardianship assistance agreement with the child's prospective guardian and must provide the prospective guardian a signed copy of the guardianship assistance agreement.

(4) The guardianship assistance agreement must specify all of the following:

(a) The additional services and assistance the child and the guardian are eligible for under the guardianship assistance agreement.

(b) The procedure by which the guardian may apply for additional services, if needed.

(c) That the department will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of an eligible child, to the extent the total cost does not exceed \$2,000.00.

(5) The guardianship assistance agreement must remain in effect without regard to the state residency of the guardian.

(6) The department must determine eligibility for the guardianship assistance without regard to the income

of the prospective guardian. A guardianship assistance payment on a child's behalf may not exceed the foster care maintenance payment that would have been paid on that child's behalf if that child had remained in a foster family home. The payment includes the determination of care rate that was paid or would have been paid for the child in a foster care placement, except that the amount must be increased to reflect the increase made in the standard age-appropriate foster care rate paid by the department.

(7) The department must review the eligibility of the guardian and the child for continuation of guardianship assistance annually. The guardian must provide the eligibility information requested by the department for purposes of the annual review.

(8) The department must make an eligibility determination within 30 days after receipt of a complete application for guardianship assistance.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2023, Act 68, Imd. Eff. July 12, 2023.

#### **722.875a Permanency plan including placement with guardian and receipt of guardianship assistance payments; information to be included in case service plan.**

Sec. 5a. For a child whose permanency plan includes placement with a guardian and will include receiving guardianship assistance payments, the department, child placing agency, or tribal child welfare agency must include in the case service plan for the child all of the following:

(a) The steps that the department, child placing agency, or tribal child welfare agency has taken to determine that reunification and placing the child for adoption have been determined not to be in the child's best interest and ruled out as appropriate permanency options.

(b) The reason for any separation of siblings during placement.

(c) The reason a permanent placement through guardianship until the child reaches 18 years of age is in the child's best interest.

(d) The reason why reunification and adoption have or have not been ruled out.

(e) The efforts the department, child placing agency, or tribal child welfare agency has made to discuss adoption by the prospective guardian as a permanent alternative to legal guardianship and documentation of the reason the prospective guardian has chosen not to pursue adoption.

(f) In cases where the parental rights have not been terminated, the efforts the department, the child placing agency, or the tribal child welfare agency has made to discuss with the child's birth parent or parents the guardianship assistance arrangement, or the reasons why the efforts were not made.

**History:** Add. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015;—Am. 2023, Act 68, Imd. Eff. July 12, 2023.

#### **722.875b Legal guardianship as judicially created relationship; transfer of parental rights to guardian.**

Sec. 5b. The legal guardianship must be a judicially created relationship as provided for under sections 19a and 19c of chapter XIIA of the probate code, MCL 712A.19a and 712A.19c, another state's law or code, or tribal law or code when the child is a ward of this state, between the child and the child's guardian that is intended to be permanent and self-sustaining as evidenced by the transfer to the guardian of the following parental rights with respect to the child:

(a) Protection.

(b) Education.

(c) Care and control of the individual.

(d) Custody of the individual.

(e) Decision making.

**History:** Add. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015;—Am. 2023, Act 68, Imd. Eff. July 12, 2023.

#### **722.875c Guardianship assistance; successor guardian.**

Sec. 5c. (1) Subject to provisions of this act, the department may pay guardianship assistance to an eligible successor guardian on behalf of an eligible child.

(2) The successor guardian shall apply for guardianship assistance under this act to the department.

(3) The preceding guardianship assistance agreement may be transferred to a successor guardian who has been appointed by the court. This occurs when the successor guardian enters into a written, binding guardianship assistance agreement with the department.

(4) Payment of guardian assistance shall not be made to a successor guardian until the court appoints a successor guardian. If the successor guardian began caring for the child before the court appoints the



successor guardian, guardianship assistance payments can be made retroactively to either the date of death of the relative guardian, the date of incapacity of the relative guardian, or the date the successor guardian assumed care of the child, whichever is later.

(5) A successor guardian may be eligible to receive guardianship assistance on behalf of an eligible child if the department determines that all of the following apply:

(a) A guardianship assistance agreement for the child was in effect before the appointment of the successor guardian.

(b) The successor guardian was appointed by the court as a result of the death or incapacitation of the preceding guardian.

(c) The preceding guardian had an active guardianship assistance agreement for the child before his or her death or incapacitation.

(d) The successor guardian meets all of the conditions set forth in this act.

**History:** Add. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

#### **722.875d Rules.**

Sec. 5d. The department may promulgate rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that are necessary to implement and administer the program under this act in compliance with federal law.

**History:** Add. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

#### **722.876 Guardianship assistance; prohibition; conditions; notice of termination.**

Sec. 6. (1) Except as provided in subsection (2), the department may not provide guardianship assistance after 1 of the following occurs:

(a) The child reaches 18 years of age.

(b) The department determines that the guardian is no longer legally responsible for support of the child.

(c) The department determines that the child is no longer receiving any support from the relative guardian.

(d) The death of the child.

(e) The child is adopted by the guardian or another individual under the Michigan adoption code, chapter X of the probate code, MCL 710.21 to 710.70, or the adoption laws of any other state or tribal government.

(f) The guardianship is terminated by order of the court having jurisdiction in the guardianship proceeding.

(g) The death of the guardian unless a successor guardian has been appointed by the court.

(2) The department may provide extended guardianship assistance until the youth reaches 21 years of age if the youth meets the requirements set forth in the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671.

(3) The department must send notice of termination of guardianship assistance under this section by mail to the guardian at the guardian's current or last known address and to the court with jurisdiction over the guardianship case. Notice mailed under this subsection must include a statement of the department's reason for termination.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2011, Act 229, Imd. Eff. Nov. 22, 2011;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015;—Am. 2023, Act 68, Imd. Eff. July 12, 2023.

#### **722.877 Public or private medical insurance or assistance; application and maintenance.**

Sec. 7. The guardian or successor guardian shall apply for and maintain on behalf of the child any public or private medical insurance or assistance for which the child is eligible, including eligibility under applicable laws providing financial assistance for medical or health care expenses.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

#### **722.878 Collecting, assembling, and reporting data and information.**

Sec. 8. (1) The department is responsible for collecting, assembling, and reporting all data and information required for reporting purposes.

(2) The guardian or successor guardian shall cooperate with the department and provide all information that the guardian or successor guardian possesses as requested by the department to facilitate compliance with this section.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

#### **722.879 Appeal of decision.**

Sec. 9. An applicant for guardianship assistance under this act or a guardian, successor guardian, or child who has received guardianship assistance under a guardianship assistance agreement may appeal a decision of

the department denying the application, establishing or modifying the guardianship assistance, or terminating guardianship assistance according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008;—Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009;—Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015.

**722.880 Repealed. 2009, Act 15, Imd. Eff. Apr. 9, 2009.**

**Compiler's note:** The repealed section pertained to department being subject to federal laws and regulations if title IV-E is approved.

**722.881 Postpermanency services; eligibility.**

Sec. 11. Families are eligible for postpermanency services in the same manner as adoptive families.

**History:** 2008, Act 260, Imd. Eff. Aug. 4, 2008.

## **THE PARENTAL RIGHTS RESTORATION ACT**

### **Act 211 of 1990**

An initiation of Legislation to require parental consent for abortions performed on unemancipated minors and to provide a judicial alternative to parental consent; to provide for certain rights, powers, and duties of departments, individuals, and courts; and to prescribe penalties.

**History:** 1990, Act 211, Eff. Mar. 28, 1991;—Am. 1991, Act 80, Imd. Eff. July 18, 1991.

**Compiler's note:** This new act was proposed by initiative petition pursuant to Const 1963, art 2, § 9. On September 12, 1990, the initiative petition was approved by an affirmative vote of the majority of the Senators elect and filed with the Secretary of State. On September 12, 1990, the initiative petition was approved by an affirmative vote of the majority of the Members elect of the House of Representatives and filed with the Secretary of State. The Legislature did not vote pursuant to Const 1963, art 4, § 27, to give immediate effect to this enactment.

*The People of the State of Michigan enact:*

#### **722.901 Short title.**

Section 1. This act shall be known and may be cited as "the parental rights restoration act".

**History:** 1990, Act 211, Eff. Mar. 28, 1991.

**Popular name:** Parental Consent Law

#### **722.902 Definitions.**

Section 2. As used in this act:

(a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

(b) "Medical emergency" means that condition which, on the basis of a physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate an immediate abortion of that woman's pregnancy to avert her death, or for which a delay in performing an abortion will create serious risk of substantial and irreversible impairment of a major bodily function.

(c) "Minor" means a person under the age of 18 years who is not emancipated pursuant to section 4 of Act No. 293 of the Public Acts of 1968, being section 722.4 of the Michigan Compiled Laws.

(d) "Next friend" means a person who is not 1 of the following:

(i) A physician who performs abortions.

(ii) A person who is employed by, or receives financial consideration from, a physician who performs abortions or an organization that provides abortions or abortion counseling and referral services.

(iii) A person who serves as a board member or volunteer to an organization that provides abortions or abortion counseling and referral services.

**History:** 1990, Act 211, Eff. Mar. 28, 1991;—Am. 1992, Act 244, Eff. Mar. 31, 1993.

**Popular name:** Parental Consent Law

#### **722.903 Consent to abortion on minor; petition for waiver of parental consent.**

Section 3. (1) Except as otherwise provided in this act, a person shall not perform an abortion on a minor without first obtaining the written consent of the minor and 1 of the parents or the legal guardian of the minor.

(2) If a parent or the legal guardian is not available or refuses to give his or her consent, or if the minor elects not to seek consent of a parent or the legal guardian, the minor may petition the probate court pursuant to section 4 for a waiver of the parental consent requirement of this section.

**History:** 1990, Act 211, Eff. Mar. 28, 1991.

**Popular name:** Parental Consent Law

#### **722.904 Jurisdiction of probate court; confidential and expeditious proceedings; granting waiver of parental consent; reporting suspected child abuse; duties of probate court on disclosure of sexual abuse; "child abuse" and "sexual abuse" defined.**

Section 4. (1) The probate court has jurisdiction of proceedings related to a minor's petition for a waiver of parental consent.

(2) Proceedings held pursuant to this act shall be completed with confidentiality and sufficient expedition to provide an effective opportunity for the minor to provide self-consent to an abortion, in accordance with all of the following:

(a) The probate court shall, upon its first contact with a minor seeking a waiver of parental consent under this act, provide the minor with notice of the minor's right to all of the following:

- (i) Confidentiality of the proceedings, including the right to use initials in the petition.
- (ii) Court appointment of an attorney or guardian ad litem.
- (iii) Assistance with preparing and filing the petition.

(b) A minor may file a petition for waiver of parental consent in the probate court of the county in which the minor resides. For purposes of this act, the county in which the minor resides means the county in which the minor's residence is located or the county in which the minor is found.

(c) Upon request of the minor, the probate court shall provide the minor with assistance in preparing and filing the petition for waiver of parental consent.

(d) A minor may file a petition for waiver of parental consent under this act on her own behalf or through a next friend. The minor may use initials or some other means of assuring confidentiality in the petition.

(e) Upon request of the minor, the probate court shall appoint an attorney or guardian ad litem within 24 hours to represent the minor in proceedings under this section.

(f) A minor is not required to pay a fee for proceedings under this section.

(g) A hearing on a petition for waiver of parental consent under this act shall be held within 72 hours, excluding Sundays and holidays, after the petition is filed and shall be closed to the public. All records of proceedings related to the petition for waiver of parental consent under this act are confidential.

(h) The probate court that hears the petition for waiver of parental consent shall issue and make a part of the confidential record its specific findings of fact and conclusions of law in support of its ruling either on the record or in a written opinion.

(i) A written order granting or denying a petition for waiver of parental consent filed pursuant to this act shall be issued within 48 hours, excluding Sundays and holidays, after the hearing on the petition is held.

(3) The probate court shall grant a waiver of parental consent if it finds either of the following:

(a) The minor is sufficiently mature and well-enough informed to make the decision regarding abortion independently of her parents or legal guardian.

(b) The waiver would be in the best interests of the minor.

(4) A minor who is denied a waiver under this section may appeal the probate court's decision to the court of appeals. Appeal proceedings shall be expedited and confidential. The notice of appeal shall be filed within 24 hours of the issuance of the order denying the petition. The appeal shall be perfected within 72 hours, excluding Sundays and holidays, from the filing of the notice of appeal.

(5) The confidentiality requirements of this section do not prevent the probate court from reporting suspected child abuse under section 4 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.624 of the Michigan Compiled Laws.

(6) If a minor who is seeking a waiver of parental consent reveals to the probate court that she is the victim of sexual abuse, and that her pregnancy is, or may be, the result of sexual abuse, the probate court shall immediately do all of the following:

(a) Report the suspected sexual abuse to the department of social services or a law enforcement agency pursuant to the child protection law, Act No. 238 of the Public Acts of 1975, being sections 722.621 to 722.636 of the Michigan Compiled Laws.

(b) Inform the minor that there are laws designed to protect her, including all of the following provisions of chapter XIIA of the probate code, Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws:

(i) That a law enforcement officer may without court order take the minor into temporary protective custody if, after investigation, the officer has reasonable grounds to conclude that the minor's health, safety, or welfare would be endangered by leaving her in the custody of her parent or legal guardian.

(ii) That the juvenile division of the probate court may, upon learning of the suspected sexual abuse, immediately hold a preliminary inquiry to determine whether a petition for court jurisdiction should be filed or whether other action should be taken.

(iii) That the juvenile court shall appoint an attorney to represent the minor in protective proceedings.

(iv) That after a petition has been filed, the juvenile court may order that the minor be placed with someone other than her parent or legal guardian pending trial or further court order if such placement is necessary to avoid substantial risk to the minor's life, physical health, or mental well-being.

(7) As used in this section, "child abuse" and "sexual abuse" mean those terms as defined in section 2 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.622 of the Michigan Compiled Laws.

**History:** 1990, Act 211, Eff. Mar. 28, 1991.

**Popular name:** Parental Consent Law

**722.905 Medical emergency abortion.**

Section 5. The requirements of Section 3 do not apply to an abortion performed pursuant to a medical emergency.

**History:** 1990, Act 211, Eff. Mar. 28, 1991;—Am. 1992, Act 244, Eff. Mar. 31, 1993.

**Popular name:** Parental Consent Law

**722.906 Residency of minor.**

Section 6. The requirements of this act apply regardless of whether the minor is a resident of this state.

**History:** 1990, Act 211, Eff. Mar. 28, 1991.

**Popular name:** Parental Consent Law

**722.907 Violation as misdemeanor; failure to obtain parental consent or copy of waiver as evidence in civil action; exemplary damages.**

Section 7. (1) A person who intentionally performs an abortion in violation of this act is guilty of a misdemeanor.

(2) A person's failure to obtain either parental consent pursuant to this act or a copy of a waiver granted under section 4 before performing an abortion on a minor is prima facie evidence in appropriate civil actions of his or her failure to obtain informed consent to perform the abortion or of his or her interference with family relations. A court shall not construe the law of this state to preclude exemplary damages in a civil action related to violations of this act.

**History:** 1990, Act 211, Eff. Mar. 28, 1991.

**Popular name:** Parental Consent Law

**722.908 Right to abortion not created; prohibited conduct.**

Section 8. (1) This act does not create a right to an abortion.

(2) Notwithstanding any other provision of this act, a person shall not perform an abortion that is prohibited by law.

**History:** 1990, Act 211, Eff. Mar. 28, 1991.

**Popular name:** Parental Consent Law

**722.909 Repealed. 1991, Act 80, Imd. Eff. July 18, 1991.**

**Compiler's note:** The repealed section pertained to required information for certain pupils and standardized information form.

**Popular name:** Parental Consent Law



**OFFICE OF THE CHILD ADVOCATE ACT**  
**Act 204 of 1994**

AN ACT to establish the office of the child advocate; to prescribe the powers and duties of the child advocate, certain state departments and officers, certain county and private agencies serving children, and certain residential facilities providing juvenile justice services; and to provide remedies from certain administrative acts.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

*The People of the State of Michigan enact:*

**722.921 Short title.**

Sec. 1. This act may be cited as the "office of the child advocate act".

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

**722.922 Definitions.**

Sec. 2. As used in this act:

(a) "Administrative act" includes an action, omission, decision, recommendation, practice, or other procedure of the department, an adoption attorney, a child placing agency, or a residential facility, with respect to a particular child related to adoption, foster care, protective services, or juvenile justice services.

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

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

(d) "Central registry" means that term as defined in section 2 of the child protection law, MCL 722.622.

(e) "Child" means an individual under the age of 18.

(f) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, MCL 722.622.

(g) "Child advocate" or "advocate" means the individual appointed to the office of child advocate under section 3.

(h) "Child caring institution" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(i) "Child placing agency" means an organization licensed or approved by the department to receive children for placement in private family homes for foster care or adoption and to provide services related to adoption.

(j) "Child protection law" means the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(k) "Closed session" means that term as defined in section 2 of the open meetings act, 1976 PA 267, MCL 15.262.

(l) "Complainant" means an individual who makes a complaint as provided in section 5.

(m) "Department" means the department of health and human services.

(n) "Foster care" means care provided to a child in a foster family home, foster family group home, or child caring institution licensed by the department under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a child in a relative's home under a court order.

(o) "Foster parent's bill of rights law" means the foster parent's bill of rights law created in section 8a of the foster care and adoption services act, 1994 PA 203, MCL 722.958a.

(p) "Full investigation" means an act of fact finding, document review, or systematic inquiry or examination that occurs after the completion of a preliminary investigation.

(q) "Investigation" means either a preliminary investigation or a full investigation.

(r) "Juvenile justice services" means that term as defined in section 117a of the social welfare act, 1939 PA 280, MCL 400.117a.

(s) "Office" means the office of the child advocate established under section 3.

(t) "Preliminary investigation" means an act of fact finding, document review, or systematic inquiry or examination to determine if there is a correlation between an administrative act and the death of a child or to determine if a trend or systematic issue is identified that would cause the ombudsman to open a full investigation.

(u) "Residential facility" means a facility that provides juvenile justice services and is state operated, county operated, public, private and contracted, secure, or nonsecure.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2014, Act 455, Eff. Apr. 1, 2015;—Am. 2020, Act 186, Imd. Eff. Oct. 8, 2020;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

### **722.923 Office of the child advocate; establishment; appointment; removal.**

Sec. 3. (1) As a means of effecting changes in policy, procedure, and legislation, educating the public, investigating and reviewing actions of the department, child placing agencies, child caring institutions, or residential facilities, monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, treatment, and improving delivery of care of children in foster care and adoptive homes, and providing juvenile justice services, the office of the child advocate is established as an autonomous entity in the department of technology, management, and budget.

(2) The governor shall appoint an individual as the child advocate with the advice and consent of the senate. The individual must be qualified by training and experience to perform the duties and exercise the powers of the child advocate and the office of the child advocate as provided in this act.

(3) The governor may remove the child advocate from office for cause that includes, but is not limited to, incompetency to properly exercise duties, official misconduct, habitual or willful neglect of duty, or other misfeasance or malfeasance in connection with the operation of the office of the child advocate. The governor must report the reason for the removal to the legislature.

(4) The child advocate serves at the pleasure of the governor.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

### **722.924 Procedures; training; complaint; investigation; notification of safety concerns.**

Sec. 4. (1) The child advocate shall establish procedures for the office for budgeting, expending money, and employing personnel according to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594. Subject to annual appropriations, the child advocate must employ sufficient personnel to carry out the duties and powers prescribed by this act.

(2) The child advocate must establish procedures for receiving and processing complaints from complainants and individuals not meeting the definition of complainant, conducting investigations, holding informal hearings, and reporting findings and recommendations resulting from investigations.

(3) Personnel employed by the office of the child advocate shall receive training in the areas of child abuse or child neglect as determined by the child advocate.

(4) Any individual may submit a complaint to the child advocate. The child advocate has the sole discretion and authority to determine if a complaint falls within his or her duties and powers to investigate and if a complaint involves an administrative act. The child advocate may initiate an investigation without receiving a complaint. The child advocate may initiate an investigation upon receipt of a complaint from an individual not meeting the definition of complainant. An individual not meeting the definition of complainant is not entitled to receive information under this act as if he or she is a complainant. The individual is entitled to receive the published findings and recommendations of the child advocate and the department's or the residential facility's response to the recommendations of the child advocate in accordance with state and federal law. During the course of an investigation, the child advocate may refer a case to the department if the child advocate determines that the department received a complaint on the case, but did not conduct an investigation. If the child advocate refers a case to the department, the department must conduct an investigation of the case or provide notice to the child advocate why an investigation was not conducted, or what alternative steps may have been taken to address the situation. If an investigation has been conducted, the department must report the results to the child advocate.

(5) The child advocate must notify the department or residential facility of any immediate safety concerns regarding a child or children who are part of an active or open child protective services or foster care case. This notification must occur as soon as possible, but not later than 1 business day after the child advocate becomes aware of the concerns.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2014, Act 243, Eff. Sept. 25, 2014;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

### **722.925 Individuals making complaint to child advocate.**

Sec. 5. All of the following individuals may make a complaint to the child advocate with respect to a particular child, alleging that an administrative act is contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds:

- (a) The child, if he or she is able to articulate a complaint.
- (b) A biological parent of the child.
- (c) A foster parent of the child.
- (d) An adoptive parent or a prospective adoptive parent of the child.
- (e) A legally appointed guardian of the child.

- (f) A guardian ad litem of the child.
- (g) An adult who is related to the child within the fifth degree by marriage, blood, or adoption, as defined in section 22 of the adoption code, MCL 710.22.
- (h) A Michigan legislator.
- (i) An individual required to report child abuse or child neglect under section 3 of the child protection law, MCL 722.623.
- (j) A judge for a juvenile receiving juvenile justice services.
- (k) The governor.
- (l) An attorney for any individual described in subdivisions (a) to (k).

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

#### **722.925a Child advocate; powers.**

Sec. 5a. The child advocate is authorized to do all of the following:

- (a) Pursue all necessary action, including, but not limited to, legal action, to protect the rights and welfare of a child under the jurisdiction, control, or supervision of the department, the Michigan children's institute, the family division of circuit court under section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, a child caring institution, a child placing agency, or a residential facility or a child who is the victim in a child protective services maltreatment in care investigation. A court's placement decision is not subject to the child advocate's authority.
- (b) Pursue legislative advocacy in the best interests of children.
- (c) Review policies and procedures relating to the department's or a residential facility's involvement with children and make recommendations for improvement.
- (d) Subject to an appropriation of funds, commence and conduct investigations into alleged violations of the foster parent's bill of rights law.
- (e) Mediate issues and educate the public regarding complaints dealing with certain county and private agencies serving children, maltreatment in care investigations, and investigations of lack of or insufficient services regarding a residential facility.

**History:** Add. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2013, Act 38, Imd. Eff. June 4, 2013;—Am. 2014, Act 455, Eff. Apr. 1, 2015;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

#### **722.926 Victim of child abuse or child neglect; powers of child advocate; child fatality cases; investigation.**

Sec. 6. (1) The child advocate may do all of the following in relation to a child who may be a victim of child abuse or child neglect, including a child who may have died as a result of suspected child abuse or child neglect:

- (a) Upon his or her own initiative or upon receipt of a complaint, investigate an administrative act that is alleged to be contrary to law or rule, contrary to policy of the department, a child placing agency, or a residential facility, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds. The child advocate has sole discretion to determine if a complaint involves an administrative act.
- (b) Decide, in his or her discretion, whether to investigate an administrative act.
- (c) Upon his or her own initiative or upon receipt of a complaint and subject to an appropriation of funds, investigate an alleged violation of the foster parent's bill of rights law.
- (d) Except as otherwise provided in this subdivision, access records and reports necessary to carry out the child advocate's powers and duties under this act to the same extent and in the same manner as provided to the department under the provisions of the child protection law. The child advocate must be provided access to medical records in the same manner as access is provided to the department under section 16281 of the public health code, 1978 PA 368, MCL 333.16281. The child advocate must be provided access to mental health records in the same manner as access is provided to the department in section 748a of the mental health code, 1974 PA 258, MCL 330.1748a, subject to section 9. The child advocate may request substance use disorder records if the child advocate obtains a valid consent or a court order under 42 CFR part 2. The child advocate is subject to the same standards for safeguarding the confidentiality of information under this section and the same sanctions for unauthorized release of information as the department. In the course of a child fatality investigation, the child advocate may access records from the court of jurisdiction, attorney general, prosecuting attorney, or any attorney retained by the department and reports from a county child fatality review team to the same extent and in the same manner as provided to the department under state law.
- (e) Request a subpoena from a court requiring the production of a record or report necessary to carry out the child advocate's duties and powers, including a child fatality investigation. If the person to whom a

subpoena is issued fails or refuses to produce the record or report, the child advocate may petition the court for enforcement of the subpoena.

(f) Hold informal hearings and request that individuals appear before the child advocate and give testimony or produce documentary or other evidence that the child advocate considers relevant to a matter under investigation.

(g) Make recommendations to the governor and the legislature concerning the need for children's protective services, adoption, foster care, or juvenile justice services legislation, policy, or practice without prior review by other offices, departments, or agencies in the executive branch in order to facilitate rapid implementation of recommendations or for suggested improvements to the recommendations. No other office, department, or child placing agency shall prohibit the release of a child advocate's recommendation to the governor or the legislature.

(2) The child advocate must conduct a preliminary investigation into all child fatality cases that occurred or are alleged to have occurred due to child abuse or child neglect in 1 or more of the following situations:

(a) A child died during an active child protective services investigation or open services case, or there was an assigned or rejected child protective services complaint within 24 months immediately preceding the child's death.

(b) A child died while in foster care, unless the death resulted from natural causes and there was not a previous child protective services or licensing complaint concerning the foster home.

(c) A child was returned home from foster care and there is an active foster care case.

(d) The foster care case involving the deceased child or sibling was closed within 24 months immediately preceding the child's death.

(e) A child died while committed to a residential facility.

(3) Upon completing a preliminary investigation into a child fatality case described under subsection (2), the child advocate must determine whether a full investigation is necessary. If the child advocate determines a full investigation is necessary, he or she must open a full investigation into the child fatality case described under subsection (2).

(4) Subject to state appropriations, a full investigation under subsection (3) must be completed within 12 months after the child advocate opens that child fatality case for a full investigation.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2013, Act 38, Imd. Eff. June 4, 2013;—Am. 2014, Act 243, Eff. Sept. 25, 2014;—Am. 2014, Act 455, Eff. Apr. 1, 2015;—Am. 2020, Act 186, Imd. Eff. Oct. 8, 2020;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

## **722.927 Decision to investigate; notice; pursuing administrative remedies or channels of complaint; further investigation; violation of state or federal criminal law; complaint against child placing agency; petition requesting court jurisdiction or termination of parental rights.**

Sec. 7. (1) Upon deciding to investigate a complaint, from a complainant and an individual not meeting the definition of complainant, the child advocate must notify the complainant or the individual not meeting the definition of complainant of the decision to investigate and must notify the department, adoption attorney, child placing agency, or residential facility of the intention to investigate. If the child advocate declines to investigate a complaint or continue an investigation, the child advocate must notify the complainant or the individual not meeting the definition of complainant and the department, child placing agency, or residential facility of the decision and of the reasons for the child advocate's action.

(2) The child advocate must advise a complainant of administrative remedies and may advise the individual to pursue all administrative remedies or channels of complaint open to the complainant before pursuing a complaint with the child advocate. Subsequent to the administrative processing of a complaint, the child advocate may conduct further investigations of a complaint upon the request of the complainant or upon the child advocate's own initiative.

(3) If the child advocate finds in the course of an investigation that an individual's action is in violation of state or federal criminal law, the child advocate must immediately report that fact to the county prosecutor or the attorney general. If the complaint is against a child placing agency or residential facility, the child advocate must refer the matter to the department for further action with respect to licensing.

(4) The child advocate may file a petition on behalf of a child requesting the court to take jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or a petition for termination of parental rights under section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, if the child advocate is satisfied that the complainant has contacted the department, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and that none of these persons intend to file a petition as described in this subsection.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2013, Act 38, Imd. Eff. June 4, 2013;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

**722.928 Department, child placing agency, and residential facility; duties; information to be provided to biological parent, adoptive parent, or foster parent; access to departmental computer networks.**

Sec. 8. (1) The department, a child placing agency, and a residential facility must do all of the following:

(a) Upon the child advocate's request, grant the child advocate or his or her designee access to all information, records, and documents in the possession of the department, child placing agency, or residential facility that the child advocate considers relevant and necessary in an investigation.

(b) Assist the child advocate to obtain the necessary releases of those documents that are specifically restricted.

(c) Upon the child advocate's request, provide the child advocate with progress reports concerning the administrative processing of a complaint.

(d) Upon the child advocate's request, provide the child advocate information he or she requests under subdivision (a) within 10 business days after the request. If the department determines that release of the information would violate federal or state law, the child advocate must be notified of that determination within the same 10-day deadline.

(2) The department, an attorney involved with an adoption, a child placing agency, and a residential facility must provide information to a biological parent, legal guardian, prospective adoptive parent, or foster parent regarding the provisions of this act.

(3) The child advocate, the department, and the department of technology, management, and budget must ensure that the child advocate has access, in the child advocate's own office, to departmental computer networks pertaining to protective services, foster care, adoption, juvenile delinquency, the central registry, and juvenile justice services, unless otherwise prohibited by state or federal law, or the release of the information to the child advocate would jeopardize federal funding. The cost of implementing this subsection must be negotiated among the office of the child advocate, the department, and the department of technology, management, and budget.

(4) A residential facility must conspicuously post in an area accessible to residents, employees, and visitors a description of the office of child advocate services and the contact information for the purpose of filing a complaint.

(5) During the course of an investigation conducted by the child advocate, the residential facility must ensure that a resident has anonymity, privacy, and procedures in place to accommodate interviews conducted by the office of child advocate.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2013, Act 38, Imd. Eff. June 4, 2013;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

**722.929 Confidentiality of record of child advocate's office; disclosure; limitations; release of certain information.**

Sec. 9. (1) Subject to subsections (2) through (7) and except as provided in subsection (8), a record of the child advocate's office is confidential, shall only be used for purposes set forth in this act, is not subject to court subpoena, and is not discoverable in a legal proceeding. A record of the child advocate's office is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. If the child advocate identifies action or inaction by the state, through its agencies or services, that failed to protect children, the child advocate must provide his or her findings and recommendations to the child placing agency affected by those findings, and make those findings and recommendations available to the complainant and the legislature upon request to the extent consistent with state or federal law. The child advocate must not disclose any information that impairs the rights of the child or the child's parents or guardians.

(2) The child advocate may release information to a complainant or to a closed session of a legislative committee that has jurisdiction over family and children's services issues or juvenile justice issues regarding the department's handling of a case under the child protection law that is obtained or generated during an investigation conducted by the office.

(3) Unless otherwise part of the public record, the office must not release any of the following confidential information to the general public:

(a) Records relating to mental health evaluation or treatment of a parent or child.

(b) Records relating to the evaluation or treatment of a substance use disorder of a parent or child.

(c) Records relating to medical diagnosis or treatment of a parent or child.

(d) Records relating to domestic violence-related services and sexual assault services provided to a parent



or child.

(e) Records relating to educational services provided to a parent or child.

(4) Notwithstanding subsection (3), if the child advocate determines that disclosure of confidential information is necessary to identify, prevent, or respond to the child abuse or child neglect of a child, the child advocate may disclose information in his or her possession to the department, a court, a law enforcement agency, or a prosecuting attorney investigating a report of known or suspected child abuse or child neglect. The child advocate shall not release the address, telephone number, or other information regarding the whereabouts of a victim or suspected victim of domestic violence unless ordered to by a court.

(5) Except as provided in subsection (4), the child advocate must not disclose information relating to an ongoing law enforcement investigation or an ongoing children's protective services investigation. The child advocate may release the results of its investigation to a complainant, or an individual not meeting the definition of complainant, if the child advocate receives notification that releasing the results of its investigation is not related to and will not interfere with an ongoing law enforcement investigation or ongoing child protective services investigation.

(6) The child advocate must not disclose the identity of an individual making a child abuse or child neglect complaint under the child protection law unless that individual's written permission is obtained first or a court has ordered the child advocate to release that information.

(7) The child advocate may release an individual's identity who makes an intentionally false report of child abuse or child neglect under the child protection law.

(8) Not more than 30 days after the case closure date of a case investigated by the office under this act, the child advocate must release his or her findings, recommendations, and the child placing agency or residential facility responses, if any, to the public. The child advocate must redact confidential information consistent with state and federal law.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2013, Act 38, Imd. Eff. June 4, 2013;—Am. 2020, Act 185, Imd. Eff. Oct. 8, 2020;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

## **722.930 Report of findings; recommendations; consultation with individual, department, child placing agency, or residential facility; publication of adverse opinion; notice of actions; information provided to complainant; child fatality investigation; report.**

Sec. 10. (1) The child advocate must prepare a report of the factual findings of an investigation and make recommendations to the department, the child placing agency, or the residential facility if the child advocate finds 1 or more of the following:

(a) A matter should be further considered by the department, the child placing agency, or the residential facility.

(b) An administrative act or omission should be modified, canceled, or corrected.

(c) Reasons should be given for an administrative act or omission.

(d) Other action should be taken by the department, the child placing agency, or the residential facility.

(2) Before announcing a conclusion or recommendation that expressly or by implication criticizes an individual, the department, a child placing agency, or a residential facility, the child advocate must consult with that individual, the department, the child placing agency, or the residential facility. When publishing an opinion adverse to the department, child placing agency, or residential facility, the child advocate must include in the publication any statement of reasonable length made to the child advocate by the department, child placing agency, or residential facility in defense or mitigation of the action. The child advocate may request to be notified by the department, child placing agency, or residential facility, within a specified time, of any action taken on any recommendation presented.

(3) The child advocate must notify the complainant of the actions taken by the child advocate and by the department, child placing agency, or residential facility.

(4) The child advocate may provide to the complainant the following information:

(a) A copy of the child advocate's report regarding the investigation's findings, recommendations to the department made according to the investigation, the department's response to the child advocate's findings and recommendations, and any epilogue to the child advocate's report and the department's response.

(b) Information that has otherwise been made public.

(5) The child advocate shall not release information to the individual making the complaint that will endanger the health or welfare of a child or another individual.

(6) With respect to a child fatality case investigated under section 6(2) and upon review of records or other information received under section 6(1)(c) or (d), in the course of a child fatality investigation, if there is no ongoing child protection proceeding involving a sibling of the child who died, the child advocate must provide any necessary recommendations for improving systemic issues that are discovered during the

investigation of the child fatality. The recommendations may be provided to the court of jurisdiction, the state court administrative office, the county child fatality review team, medical professionals, law enforcement, or attorneys or other legal professionals involved with the particular child who died. The recommendations must also be summarized and included in the annual report referenced in subsection (7).

(7) The child advocate must submit to the governor, the director of the department, and the legislature an annual report on the child advocate's conduct, including any recommendations regarding the need for legislation or for change in rules or policies.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2014, Act 243, Eff. Sept. 25, 2014;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

#### **722.931 Penalty for filing complaint or cooperating in investigation prohibited; intentional false complaint.**

Sec. 11. (1) Subject to subsection (4), an official, the department, a child placing agency, or a residential facility must not penalize any person for filing a complaint or cooperating with the child advocate in investigating a complaint.

(2) An individual, the department, an adoption attorney, a child placing agency, or a residential facility must not hinder the lawful actions of the child advocate or his or her employees.

(3) A report by the child advocate is not subject to prior approval by a person outside of the office.

(4) An individual who intentionally makes a false complaint of child abuse or child neglect under this act is subject to the penalties contained in section 13(5) of the child protection law, MCL 722.633.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

#### **722.932 Authority granted under other acts or rules.**

Sec. 12. The authority granted the child advocate under this act is in addition to the authority granted under the provisions of any other act or rule under which the remedy or right of appeal or objection is provided for a person, or any procedure provided for the inquiry into or investigation of any matter. The authority granted the child advocate does not limit or affect the remedy or right of appeal or objection and is not an exclusive remedy or procedure.

**History:** 1994, Act 204, Eff. Jan. 1, 1995;—Am. 2023, Act 303, Eff. Feb. 13, 2024.

#### **722.933-722.935 Repealed. 2004, Act 560, Imd. Eff. Jan. 3, 2005.**

**Compiler's note:** The repealed sections pertained to a registry of adoption attorneys and the effective date and conditional effective date of the act.

## **FOSTER CARE AND ADOPTION SERVICES ACT**

### **Act 203 of 1994**

AN ACT to establish certain standards for foster care and adoption services for children and their families; and to prescribe powers and duties of certain state agencies and departments and adoption facilitators.

**History:** 1994, Act 203, Eff. Jan. 1, 1995.

*The People of the State of Michigan enact:*

#### **722.951 Short title.**

Sec. 1. This act shall be known and may be cited as the "foster care and adoption services act".

**History:** 1994, Act 203, Eff. Jan. 1, 1995.

#### **722.952 Definitions.**

Sec. 2. As used in this act:

- (a) "Adoptee" means a child who is to be adopted or who is adopted.
- (b) "Adoption attorney" means that term as defined in section 22 of the adoption code, MCL 710.22.
- (c) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.
- (d) "Adoption facilitator" means a child placing agency or an adoption attorney.
- (e) "Adoptive parent" means the parent or parents who adopt a child in accordance with the adoption code.
- (f) "Agency placement" means that term as defined in section 22 of the adoption code, MCL 710.22.
- (g) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
- (h) "Department" means the department of health and human services.
- (i) "Direct placement" means that term as defined in section 22 of the adoption code, MCL 710.22.
- (j) "Foster care" means a child's placement outside the child's parental home by and under the supervision of a child placing agency, the court, or the department. Foster care does not include the delegation of a parent's or guardian's powers regarding care, custody, or property of a child or ward under a properly executed power of attorney under the safe families for children act.
- (k) "Preplacement assessment" means an assessment of a prospective adoptive parent as described in section 23f of the adoption code, MCL 710.23f.
- (l) "Sibling" means a child who is related through birth or adoption by at least 1 common parent. Sibling includes that term as defined by the American Indian or Alaskan native child's tribal code or custom.
- (m) "Supervising agency" means the department if a child is placed in the department's care for foster care, or a child placing agency in whose care a child is placed for foster care.

**History:** 1994, Act 203, Eff. Jan. 1, 1995;—Am. 1997, Act 172, Eff. Mar. 31, 1998;—Am. 2016, Act 190, Eff. Sept. 19, 2016;—Am. 2018, Act 432, Eff. Mar. 20, 2019.

#### **722.953 Purpose of act.**

Sec. 3. The purposes of this act are all of the following:

- (a) To assist foster parents to provide a stable, loving family environment for children who are placed outside of their homes on a temporary basis.
- (b) To help eliminate barriers to the adoption of children and to promote the provision of a stable and loving family environment to children who are without permanent families.
- (c) To promote the well-being and safety of all children who receive foster care or are adopted under the laws of this state.
- (d) To protect and assist prospective adoptive families as they negotiate the adoption process.
- (e) To regulate child placing agencies who certify foster parents and serve adoptees and adoptive families in this state.
- (f) To regulate adoption attorneys who facilitate direct placement adoptions.
- (g) To ensure foster parents and prospective adoptive parents receive all applicable resources as described in section 8a.
- (h) To ensure that the department develops and maintains a specific policy of the provisions described in sections 8b, 8c, and 8d to provide to children placed in foster care. The specific policy described in sections 8b, 8c, and 8d shall be known as the children's assurance of quality foster care policy.

**History:** 1994, Act 203, Eff. Jan. 1, 1995;—Am. 2014, Act 524, Eff. Apr. 1, 2015;—Am. 2018, Act 489, Eff. Mar. 27, 2019.

#### **722.953a Annual report; reduction cost savings.**

Sec. 3a. (1) Beginning January 1, 2023, and annually each January 1 after that, the department must submit an annual report to the legislature and the house of representatives and senate appropriation committees on the department budget, that identifies the cost savings that occur due to reductions in foster youth in the foster care program and compares that number with the cost when the highest number of foster youth have been in the foster care system for the immediately preceding 10 years. The report must also include details of the department's efforts to reinvest the cost savings identified in the report.

(2) The details of the department's efforts required under subsection (1) must include, but are not limited to, information on all of the following reinvestment efforts:

- (a) Prevention services.
- (b) Permanency services.
- (c) Adoption assistance.
- (d) Safety assessments.
- (e) Adoptive and foster family recruitment.
- (f) Training.
- (g) Caseworker bonuses.
- (h) Wage increases.

**History:** Add. 2022, Act 202, Imd. Eff. Oct. 7, 2022.

#### **722.953b Family finding engagement services.**

Sec. 3b. (1) Upon appropriation and by not later than October 1, 2022, the department must work in conjunction with entities that perform family finding and engagement services to help foster youth who are separated from their family to connect to family and friends who may assist in the foster youth's care.

(2) By December 31, 2022, the department must make efforts in family finding and engagement services on behalf of all foster youth currently in the foster care program. The department must incorporate family finding and engagement services in all current and future child abuse and child neglect investigations.

**History:** Add. 2022, Act 204, Imd. Eff. Oct. 7, 2022.

#### **722.954 Licensure as foster parent; orientation as condition to certification; written information to be provided foster parents before placement; confidentiality.**

Sec. 4. (1) Before certifying an individual for licensure as a foster parent, a child placing agency shall conduct an orientation designed to ensure the individual's understanding of the purposes of foster care, including the temporary nature of foster care and the ultimate goal of returning the child to his or her permanent family or preparing the child for adoption.

(2) Before placing a child with foster parents, a child placing agency shall provide the foster parents with written information including all of the following:

- (a) Any history of abuse or neglect of the child.
- (b) All known emotional and psychological problems of the child.
- (c) All behavior problems of the child that might present any risk to the foster family.
- (d) Any other information necessary to enable the foster family to provide a stable, safe, and healthy environment for the foster child and for other members of the foster family.

(3) The child placing agency shall explain to the foster parents that the information provided under subsection (2) about the child and the child's family is confidential.

**History:** 1994, Act 203, Eff. Jan. 1, 1995.

#### **722.954a Placement of child in supervising agency's care; determination of placement with relative; good cause exception; notification; special consideration and preference to child's relative; placement of siblings; documentation of decision; review hearing.**

Sec. 4a. (1) If a child has been placed in a supervising agency's care under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, the supervising agency must comply with this section and sections 4b and 4c.

(2) Upon removal, as part of a child's initial case service plan as required by rules promulgated under 1973 PA 116, MCL 722.111 to 722.128, and by section 18f of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18f, the supervising agency must, within 30 days, identify, locate, notify, and consult with relatives to determine placement with a fit and appropriate relative who would meet the child's developmental, emotional, and physical needs. Preference shall be given to an adult related to the child within the fifth degree by blood, marriage, or adoption provided the relative meets all relevant state child protection standards. The department may make an exception to this preference only if good cause is shown. As used in this section, "good cause" means any of the following:

- (a) A request by 1 or both of the child's parents to deviate from this preference.
  - (b) The child's request, if the child is of sufficient age and capacity to understand the decision that is being made.
  - (c) The presence of a sibling attachment that can be maintained through a particular placement.
  - (d) The child's physical, mental, or emotional needs, such as specialized treatment services that may be unavailable in the community where families who meet the placement preferences live.
  - (e) The distance between the child's home and the proposed family placement would frustrate the reunification goal or otherwise impede permanency.
- (3) The notification of relatives required in subsection (2) must do all of the following:
- (a) Specify that the child has been removed from the custody of the child's parent.
  - (b) Explain the options the relative has to participate in the child's care and placement, including any option that may be lost by failing to respond to the notification.
  - (c) Describe the requirements and benefits, including the amount of monetary benefits, of becoming a licensed foster family home.
  - (d) Describe how the relative may subsequently enter into an agreement with the department for guardianship assistance.
- (4) Not more than 90 days after the child's removal from his or her home, the supervising agency must do all of the following:
- (a) Make a placement decision and document in writing the reason for the decision.
  - (b) Provide written notice of the decision and the reasons for the placement decision to the child's attorney, guardian, guardian ad litem, mother, and father; the attorneys for the child's mother and father; each relative who expresses an interest in caring for the child; the child if the child is old enough to be able to express an opinion regarding placement; and the prosecutor.
- (5) Before determining placement of a child in its care, a supervising agency must give special consideration and preference to a child's relative or relatives who are willing to care for the child, are fit to do so, and would meet the child's developmental, emotional, and physical needs. The supervising agency's placement decision must be made in the child's best interests.
- (6) Reasonable efforts must be made to do the following:
- (a) Place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the supervising agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings.
  - (b) In the case of siblings removed from their home who are not jointly placed, provide for at least monthly visitation or other ongoing contact between the siblings, unless the supervising agency documents that at least monthly visitation or other ongoing contact would be contrary to the safety or well-being of any of the siblings.
- (7) If siblings cannot be placed together or not all the siblings are being placed in foster care, the supervising agency must make reasonable efforts to facilitate at least monthly visitation or other ongoing contact with siblings unless a court has determined that at least monthly visitation or other ongoing contact with siblings would not be beneficial under section 13a(16) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.
- (8) If the supervising agency discontinues visitation or other ongoing contact with siblings because the supervising agency determines that visitation or other ongoing contact is contrary to the safety or well-being of any of the siblings, the supervising agency must report its determination to the court for consideration at the next review hearing.
- (9) A person who receives a written decision described in subsection (4) may request in writing, within 5 days, documentation of the reasons for the decision, and if the person does not agree with the placement decision, he or she may request that the child's attorney review the decision to determine if the decision is in the child's best interest. If the child's attorney determines the decision is not in the child's best interest, within 14 days after the date of the written decision the attorney must petition the court that placed the child out of the child's home for a review hearing. The court must commence the review hearing not more than 7 days after the date of the attorney's petition and must hold the hearing on the record.
- (10) This section does not supersede the placement preferences in the Michigan Indian family preservation act.
- (11) As used in this section, "Michigan Indian family preservation act" means chapter XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.1 to 712B.41.

**History:** Add. 1997, Act 172, Eff. Mar. 31, 1998;—Am. 2010, Act 265, Imd. Eff. Dec. 14, 2010;—Am. 2016, Act 190, Eff. Sept. 19, 2016;—Am. 2022, Act 211, Imd. Eff. Oct. 7, 2022.



**722.954b Permanent placement; 12-month goal; inclusion in directory of children; in-home visits.**

Sec. 4b. (1) A supervising agency shall strive to achieve a permanent placement for each child in its care, including either a safe return to the child's home or implementation of a permanency plan, no more than 12 months after the child is removed from his or her home. This 12-month goal shall not be extended or delayed for reasons such as a change or transfer of staff or worker at the supervising agency.

(2) If an adoptive family for a child has not been identified within 90 days after entry of an order of termination of parental rights, the supervising agency shall submit the necessary information for inclusion of the child in the directory of children described in section 8.

(3) The supervising agency shall require that its worker make monthly visits to the home or facility in which each child is placed. The supervising agency shall also require its worker to monitor and assess in-home visitation between the child and his or her parents. To ensure the occurrence of in-home visits required under this subsection, the supervising agency shall institute a flexible schedule to provide a number of hours outside of the traditional workday to accommodate the schedules of the individuals involved.

**History:** Add. 1997, Act 172, Eff. Mar. 31, 1998.

**722.954c Release of child's medical records; medical passport; contents; transfer; performance of assessment or psychological evaluation; medical examination; indication that child may have been victim of human trafficking; counseling.**

Sec. 4c. (1) The supervising agency shall obtain from the parent, guardian, or custodian of each child who is placed in its care the name and address of the child's medical provider and a signed document for the release of the child's medical records. The supervising agency shall require that a child's medical provider remain constant while the child is in foster care, unless the child's current primary medical provider is a managed care health plan or unless doing so would create an unreasonable burden for the relative, foster parent, or other custodian.

(2) The supervising agency shall develop a medical passport for each child who comes under its care. The medical passport must contain all of the following:

- (a) All medical information required by policy or law to be provided to foster parents.
- (b) Basic medical history.
- (c) A record of all immunizations.

(d) Any other information concerning the child's physical and mental health, including information that the child may be a victim of human trafficking.

(3) Each foster care worker who transfers a child's medical passport to another foster care worker shall sign and date the passport, verifying that he or she has sought and obtained the necessary information required under subsection (2) and any additional information required under department policy. The supervising agency shall provide a copy of each medical passport and updates as required by the department for maintenance in a central location.

(4) If a child under the care of a supervising agency has suffered sexual abuse, serious physical abuse, mental illness, or is alleged to be the victim of human trafficking, the supervising agency shall have an experienced and licensed mental health professional as defined under section 100b(18)(a), (b), or (d) of the mental health code, 1974 PA 258, MCL 330.1100b, who is trained in children's psychological assessments perform an assessment or psychological evaluation of the child. The costs of the assessment or evaluation must be borne by the supervising agency.

(5) A child's supervising agency shall ensure that the child receives a medical examination when the child is first placed in foster care. One objective of this examination is to provide a record of the child's medical and physical status upon entry into foster care.

(6) If an assessment or psychological evaluation required under subsection (4) indicates that a child may have been a victim of human trafficking, the supervising agency shall provide, in addition to any reunification, adoption, or other services provided to a child under the supervising agency's care, counseling services appropriate for minor victims of human trafficking.

**History:** Add. 1997, Act 172, Eff. Mar. 31, 1998;—Am. 2014, Act 337, Eff. Jan. 14, 2015;—Am. 2020, Act 56, Imd. Eff. Mar. 3, 2020.

**722.954d Annual report card.**

Sec. 4d. The department shall publish an annual report card for each supervising agency that evaluates the achievements of that agency in obtaining permanency for children and making recommendations for the removal of barriers to permanency.

**History:** Add. 1997, Act 172, Eff. Mar. 31, 1998.

**722.954e Child as victim of human trafficking; placement in setting providing mental health services, counseling, or other specialized services.**

Sec. 4e. Before determining placement of a child in its care, a supervising agency shall give special consideration to information that a child may be the victim of human trafficking. If a supervising agency finds that a child is or may be a victim of human trafficking, the supervising agency shall place the child in a setting that provides mental health services, counseling, or other specialized services that are necessary or appropriate for a victim of human trafficking.

**History:** Add. 2014, Act 338, Eff. Jan. 14, 2015.

**722.955 Registration of attorney with child advocate; filing of compliance; reregistration; request for removal.**

Sec. 5. Before providing services in a direct placement adoption as provided under the adoption code, an attorney shall register with the child advocate by filing with the child advocate a verified statement that the attorney is in compliance with all the requirements for an adoption attorney prescribed by section 22 of the adoption code, MCL 710.22. An attorney who wishes to continue providing adoption services shall reregister with the child advocate as provided in this section at least once every 5 years. An adoption attorney may request to be removed from the registry at any time.

**History:** 1994, Act 203, Eff. Jan. 1, 1995;—Am. 2023, Act 296, Eff. Feb. 13, 2024.

**722.956 Adoption facilitator; duties; cost.**

Sec. 6. (1) An adoption facilitator shall do all of the following:

(a) Provide a client with needed services related to adoption, including postadoption services, or make referrals to available resources in the community. The adoption facilitator shall emphasize the importance and availability of counseling for all parties to an adoption and explain that the prospective adoptive parent is required to pay for counseling for the birth parent or guardian unless the birth parent or guardian waives the counseling.

(b) Provide each individual who inquires about services with the pamphlet describing the adoption process prepared by the department under section 115m of the social welfare act, 1939 PA 280, MCL 400.115m. When providing services to an adoption client, the adoption facilitator shall review the pamphlet with the client and make sure the client understands the various alternatives that are available in the adoption process and how to get access to all of the following:

(i) The directory of children produced by the department under section 8.

(ii) The information contained in the registry of adoptive homes maintained by the department under section 8.

(iii) The public information forms on adoption facilitators maintained by the department pursuant to section 14d of 1973 PA 116, MCL 722.124d.

(c) Prepare and provide to each individual who inquires about services a written document that includes all of the following information:

(i) Types of adoptions the adoption facilitator handles.

(ii) A description of the services that the adoption facilitator provides.

(iii) A description of services that are available by referral.

(iv) Eligibility requirements the adoption facilitator has for adoptive families, if any.

(v) If the adoption facilitator is a child placing agency, the procedure used, or range of options the agency offers, for selecting a prospective adoptive parent for a child, including the role of the child's parent or guardian in the selection process.

(vi) The extent to which the adoption facilitator permits or encourages the exchange of identifying information or contact between biological and adoptive parents.

(vii) A description of postfinalization services that the adoption facilitator provides, if any.

(viii) A schedule of all fees that the adoption facilitator charges for adoption services.

(ix) A statement that each party to an adoption has a right to independent representation by an attorney and that 1 attorney may not represent both the biological parents or guardian and the prospective adoptive parents.

(d) Insure that each prospective adoptive parent completes an orientation program consistent with requirements for orientation programs developed under administrative rules by the department.

(e) Provide a prospective adoptive parent with written copies, other than those portions made confidential by state or federal law, of all of the following regarding the prospective adoptee:

(i) If not already provided under section 27 of chapter 10 of 1939 PA 288, MCL 710.27, the adoptee's

nonidentifying information as listed and described by section 27(1) and (2) of chapter X of 1939 PA 288, MCL 710.27.

(ii) The petition or petitions that resulted in each placement of the child.

(iii) Initial and all updated case service plans concerning the child that were compiled during each foster care placement, whether in foster care, adoption, or otherwise.

(f) No later than the time of the preadoptive or adoptive placement, prepare and provide to the prospective adoptive parent written verification that all of the information described in subdivision (e) has been provided to the prospective adoptive parent.

(g) Not later than the time of the adoptee's preadoptive placement with the prospective adoptive parent, hold a conference with the prospective adoptive parent and do all of the following during that conference:

(i) Review and discuss the information provided to the prospective adoptive parent under subdivision (e).

(ii) Disclose to the prospective adoptive parent all other information known by or available to the adoption facilitator regarding the adoptee's medical and psychological needs.

(iii) Prepare and provide to the prospective adoptive parent a list of the adoptee's medical and psychological needs that are identified and discussed during the conference.

(iv) Prepare written verification for the signatures of the adoption facilitator and the prospective adoptive parent that the conference was held as required by this subdivision, and provide a copy of this written verification to the prospective adoptive parent.

(2) The information required under subsection (1) shall be provided without cost to the biological parent or guardian or prospective adoptive parent.

**History:** 1994, Act 203, Eff. Jan. 1, 1995;—Am. 1998, Act 495, Eff. Mar. 1, 1999.

#### **722.957 Adoption facilitator; placement based on age, race, religious affiliation, disability, or income level; participation of parent or guardian in selection of adoptive parent.**

Sec. 7. (1) Except as provided in subsection (2), an adoption facilitator shall not refuse to provide services to a potential adoptive parent based solely on age, race, religious affiliation, disability, or income level. A child placing agency shall not make placement decisions based solely on age, race, religious affiliation, disability, or income level.

(2) Subsection (1), as related to religious affiliation, does not apply to a private child placing agency operated, supervised, or controlled by a religious institution or organization that limits services or gives preference to an applicant of the same religion.

(3) In an adoption in which a parent or guardian selects or participates in the selection of the adoptive parent, an adoption facilitator shall allow the parent or guardian the option of selecting from the adoption facilitator's entire pool of potential adoptive parents who have been determined suitable to be adoptive parents of adoptees.

**History:** 1994, Act 203, Eff. Jan. 1, 1995.

#### **722.958 Rules; training; directory of children available for adoption; registry of adoptive homes; foster parent resource centers; pilot project.**

Sec. 8. (1) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to ensure the comprehensive, high-quality training of foster care and adoption workers. The department shall consult and may contract with colleges and universities, child placing agencies, and professional organizations for the design and implementation of the training. The training shall stress cultural sensitivity, interagency cooperation, and respect for individuals and families.

(2) The department shall maintain a directory of children under the jurisdiction of the department who are available for adoption. The department shall ensure that interested individuals have reasonable access to the directory.

(3) The department shall maintain a registry of adoptive homes to be used as a central clearinghouse for information about prospective adoptive parents. The department shall accept information from a prospective adoptive parent who has received a preplacement assessment with a finding that the individual is suitable to be the parent of an adoptee. The information shall be filed in a form and manner that will permit it to be readily accessible to biological parents or child placing agencies seeking adoptive homes for children. The department shall provide information in the registry without charge to biological parents or child placing agencies who request it.

(4) The department may establish as pilot projects foster parent resource centers. Each resource center shall provide at least support for and coordination of respite care and assistance to foster parents in obtaining child care. Resource center staff shall pursue other activities designed to promote permanency for children, particularly children with special needs, such as support aimed at retaining foster parents. The department

may fund the pilot foster parent resource centers using money appropriated to the department for the current fiscal year. After the pilot project has been in operation for 2 years, the department shall evaluate the pilot project on its organization, effectiveness, and success.

**History:** 1994, Act 203, Eff. Jan. 1, 1995;—Am. 2002, Act 646, Imd. Eff. Dec. 23, 2002;—Am. 2015, Act 106, Eff. Sept. 28, 2015;—Am. 2018, Act 287, Eff. Sept. 27, 2018.

**722.958a Section to be cited as "foster parent's bill of rights law"; rights; grievance procedure; hearing; remedy; complaint; report; investigations subject to appropriation of funds.**

Sec. 8a. (1) This section may be known as the "foster parent's bill of rights law".

(2) To ensure that each foster parent is treated with dignity, respect, trust, and consideration, the supervising agency shall ensure that each foster parent has access to or receives the following:

(a) Explanation and clarification regarding the supervising agency's role and expectations, information concerning the supervising agency's policies and procedures, and changes to those policies or procedures relative to the role as a foster parent or the children in the foster parent's care within 30 days after those changes are made.

(b) Treatment by the supervising agency that does not violate the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to 37.2804.

(c) Evaluation and feedback regarding the foster parent's provision of care role. As used in this subdivision, "feedback" means providing a copy of the written annual assessment of rule compliance and the written special evaluation report upon completion of the report to the foster parent.

(d) Necessary training to enable the foster parent to provide quality services to children who are or will be in his or her care that includes information on the policies developed by the supervising agency designed to support and aid foster, kinship, and adoptive families relative to foster care and prospective adoptive placement.

(e) Necessary support for the foster parent that includes all of the following:

(i) Reasonable relief and respite as allowed by the supervising agency's resources. As used in this subparagraph, "respite" means substitute care that is provided to a foster child when the foster parent is not present or not available as defined in the supervising agency's substitute care policy or as facilitated by the supervising agency.

(ii) Access to the supervising agency staff for assistance dealing with family loss and separation when a child leaves the foster parent's home.

(iii) Access to information about local and statewide support groups that includes local and statewide foster, kinship, and adoptive parent associations.

(f) Access to the appropriate supervising agency 24 hours a day, 7 days a week, for emergency information and assistance for children in the foster parent's care.

(g) Timely financial reimbursement for foster children in the foster parent's care. As used in this subdivision, "timely financial reimbursement" means payment issued within 30 days after submission of accurate and complete documentation.

(h) Timely investigation of complaints concerning the foster parent's licensure, the right to have a person of the foster parent's choosing present during a licensing investigation, and the right to file a grievance when the foster parent disagrees with a finding in a licensing investigation. As used in this subdivision, "timely investigation" means an investigation is completed within 45 calendar days after receipt of the information. If additional time is required, the supervising agency shall inform the foster parent, in writing, of the basis for the extension. Any extensions under this subdivision shall not exceed a cumulative total of 90 days.

(i) A hearing regarding licensing as provided in section 11(2) of 1973 PA 116, MCL 722.121.

(j) Decisions concerning a licensing corrective action plan that are specifically tied to the applicable licensing rules regarding the licensing violation.

(k) To the extent permitted by state and federal law, copies of information relative to the foster family and services contained in the personal foster home or foster parent records.

(l) Information before placement of the child regarding the child's behavior, individual or special needs, background, health history, or other issues relative to the child that may jeopardize the health and safety of the foster family or alter the manner in which foster care should be provided. In an emergency situation, the supervising agency shall provide information as soon as the information is available.

(m) The option to refuse placement of a child into the foster home or to request, upon reasonable notice, the removal of a child from the foster home, without adverse effect on assignments of future foster children or prospective adoptive placements.

(n) Information through the supervising agency regarding the number of times a child has been moved, the

reason for the move, and names and telephone numbers of previous foster parents, if the previous foster parent has authorized release of that information.

(o) Advance notice of a child's move from a foster home in order to prepare the child and foster family members. The advance notice required in this subdivision does not apply in a case of an emergency situation when there is evidence of mistreatment as provided in section 13b(7) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13b, or when the court orders a child to be moved from a foster home but does not allow for advance notice.

(p) Notification and the option to participate in writing or in person, depending on the case, in meetings concerning the child, to be informed of decisions made by the court or the supervising agency concerning the child, and to provide input concerning the case service plan for the child and to have that input considered by the supervising agency.

(q) The option to receive a copy of the supervising agency's placement and case service plan concerning the child's care in the foster parent's home and to participate in and receive case service plan revisions as well as any other information relevant to the child's care, including subsequent revisions to the case service plan as allowed by state and federal law in a timely manner. Foster parents are to be meaningful participants in the development or revision, or both, of the case service plan for the child in that foster parent's home. Case service plans must be provided within 10 days after a foster parent's written request.

(r) Timely and complete written notice from the supervising agency of all court proceedings, including notice of the hearing date, time, location, the name of the judge or hearing officer assigned, the court docket number, and the option to submit factual written statements to the court as provided by state or federal law. As used in this subdivision, "timely notice" means notification of a hearing within 7 days after the supervising agency receives notice from the court.

(s) The option to be considered as a foster parent when a child formerly placed with the foster parent is reentering foster care and the option to be considered when a child previously placed in the foster parent's home becomes available for adoption, if relative placement is not available and the placement is consistent with the best interest of the child and other children in the foster parent's home.

(3) The supervising agency shall maintain a written policy describing the grievance procedure for foster parents and prospective adoptive parents to address any noncompliance with the items listed in subsection (2). The procedure shall include information on how and where to file a grievance.

(4) A foster parent may file a grievance with the supervising agency regarding any of the items listed in subsection (2) as outlined in the supervising agency's written policy described in subsection (3). Within 30 days after receiving the grievance, the supervising agency shall respond with a written statement of how the foster parent's grievance will be addressed. If the supervising agency does not provide a written response within 30 days after the grievance is filed with the supervising agency, the foster parent may file a complaint with the department's bureau of children and adult licensing.

(5) If the grievance is not resolved by filing a complaint with the department's bureau of children and adult licensing, the foster parent may request that a hearing be conducted under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

(6) The sole remedy that may be provided under this section is limited to injunctive relief.

(7) In accordance with section 5 of the office of the child advocate act, 1994 PA 204, MCL 722.925, a foster parent may file a complaint with the office of the child advocate to investigate the supervising agency's alleged violation of law, rule, or policy.

(8) The supervising agencies shall provide the information regarding the grievances and administrative hearings received under this section to the department for compilation and submission of a report to the appropriations subcommittees for the department's budget and the senate and house of representatives standing committees having jurisdiction over issues involving human services. The department shall provide the report described in this section beginning October 1, 2015, and each October 1 after that. The report shall include, at a minimum, all of the following:

(a) The total number of grievances filed for the reporting period.

(b) The total number of grievances resolved within 30 days.

(c) The total number of grievances that were not resolved within 30 days.

(d) The total number of complaints filed with the department's bureau of children and adult licensing, including the number of licensing actions that resulted from those complaints.

(e) A summary of any policy changes that were initiated in response to the grievances filed.

(f) The total number of grievances that resulted in an administrative hearing process, including the number of actions where the administrative law judge denied or dismissed the action, agreed with the supervising agency, or agreed with the foster parent.

(9) The child advocate's investigations of the violations under this section are subject to an appropriation of



funds for those investigations.

**History:** Add. 2014, Act 524, Eff. Apr. 1, 2015;—Am. 2023, Act 296, Eff. Feb. 13, 2024.

\*\*\*\*\* 722.958b *THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.958b.amended* \*\*\*\*\*

**722.958b Children's assurance of quality foster care policy; requirements; written grievance procedure policy; grievance procedures; remedy; implementation.**

Sec. 8b. (1) The department shall ensure that the children's assurance of quality foster care policy is developed, implemented by the supervising agency, and made available to the public.

(2) The department shall promote the participation of current and former children in foster care in developing the children's assurance of quality foster care policy.

(3) The children's assurance of quality foster care policy shall ensure that children placed in foster care are provided with the following:

(a) Fair, equal, and respectful treatment, including treatment that does not violate state and federal law.

(b) Placement with relatives and siblings, when appropriate, as provided in section 4a(5).

(c) Transition planning, including housing, workforce preparation, financial education, access to personal documents, information regarding secondary education and postsecondary education, and independent living preparation, as age-appropriate.

(d) Ongoing contact and visits with parents, relatives, and friends, if permitted by the court.

(e) Access to advocacy services for children in foster care with disabilities.

(f) Timely enrollment in school with consistent placement in the same school, when possible.

(g) Participation in extracurricular activities consistent with the child in foster care's age and developmental level, as allowed by the supervising agency's resources, taking into consideration the foster parent's schedule and resources.

(h) Placement in the least restrictive setting, appropriate to the child in foster care's needs in accordance with R 400.12313 of the Michigan Administrative Code. If discipline is required, and physical restraint has been used by a child caring institution as that term is defined in section 1 of 1973 PA 116, MCL 722.111, the child caring institution shall provide a detailed report of the incident to the department.

(i) Access to and receipt of information and services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identifying the need for services by the screening and assessment process.

(j) Access to and participation in religious activities, cultural activities, or both, taking into consideration the foster parent's schedule and resources.

(k) Adequate food, necessities, and shelter, including special dietary needs, school supplies, clothing, and hygiene products.

(l) Information regarding proposed placement, as age-appropriate.

(m) A permanency plan, as required by state and federal law, that is designed to facilitate the permanent placement or return home of a child in foster care in a timely manner.

(4) The department shall maintain a written policy describing the grievance procedure for a child in foster care to address any perceived noncompliance with the items listed in the children's assurance of quality foster care policy. The grievance procedure shall include information on how and where to file a grievance, including contact information for the office of the child advocate and the department's office of family advocate, on a form approved by the department.

(5) A child in foster care may file a grievance with the supervising agency regarding the perceived noncompliance with any of the items listed in the children's assurance of quality foster care policy as outlined in the supervising agency's grievance policy described in subsection (4). Within 30 days after receiving the grievance, the supervising agency shall respond with a written statement of how the child in foster care's grievance will be addressed. If the supervising agency does not provide a written response within 30 days after the grievance is filed with the supervising agency or if the child in foster care does not agree with the findings in the written response, the child in foster care may contact the department's office of family advocate.

(6) If the grievance is not resolved with the assistance of the department's office of family advocate, the child in foster care may request that his or her lawyer-guardian ad litem petition the court for the appropriate relief.

(7) The sole remedy that may be provided under this section is limited to injunctive relief.

(8) The department shall implement the children's assurance of quality foster care policy no later than June 25, 2019.

**History:** Add. 2018, Act 489, Eff. Mar. 27, 2019;—Am. 2023, Act 296, Eff. Feb. 13, 2024.

\*\*\*\*\* 722.958b.amended *THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

**722.958b.amended Children's assurance of quality foster care policy; requirements; written grievance procedure policy; grievance procedures; remedy; implementation.**

Sec. 8b. (1) The department shall ensure that the children's assurance of quality foster care policy is developed, implemented by the supervising agency, and made available to the public.

(2) The department shall promote the participation of current and former children in foster care in developing the children's assurance of quality foster care policy.

(3) The children's assurance of quality foster care policy must ensure that children placed in foster care are provided with the following:

(a) Fair, equal, and respectful treatment, including treatment that does not violate state and federal law.

(b) Placement with relatives and siblings, when appropriate, as provided in section 4a(5).

(c) Transition planning, including housing, workforce preparation, financial education, access to personal documents, information regarding secondary education and postsecondary education, and independent living preparation, as age-appropriate.

(d) Ongoing contact and visits with parents, relatives, and friends, if permitted by the court.

(e) Access to advocacy services for children in foster care with disabilities.

(f) Enrollment in school within 5 school days after an initial placement or any placement change, unless extenuating circumstances exist, with consistent placement in the same school, when possible.

(g) Participation in extracurricular activities consistent with the child in foster care's age and developmental level, as allowed by the supervising agency's resources, taking into consideration the foster parent's schedule and resources.

(h) Placement in the least restrictive setting, appropriate to the child in foster care's needs in accordance with R 400.12313 of the Michigan Administrative Code. If discipline is required, and physical restraint has been used by a child caring institution as that term is defined in section 1 of 1973 PA 116, MCL 722.111, the child caring institution must provide a detailed report of the incident to the department.

(i) Access to and receipt of information and services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identifying the need for services by the screening and assessment process.

(j) Access to and participation in religious activities, cultural activities, or both, taking into consideration the foster parent's schedule and resources.

(k) Adequate food, necessities, and shelter, including special dietary needs, school supplies, clothing, and hygiene products.

(l) Information regarding proposed placement, as age-appropriate.

(m) A permanency plan, as required by state and federal law, that is designed to facilitate the permanent placement or return home of a child in foster care in a timely manner.

(n) An education that prioritizes meeting the graduation requirements of the Michigan merit curriculum content standards and the ability to receive educational records to the same extent as all students who are not in foster care. As used in this subdivision, "Michigan merit curriculum" means the requirements for a high school diploma identified in sections 1278a and 1278b of the revised school code, 1976 PA 451, MCL 380.1278a and 380.1278b.

(4) The department must maintain a written policy describing the grievance procedure for a child in foster care to address any perceived noncompliance with the items listed in the children's assurance of quality foster care policy. The grievance procedure must include information on how and where to file a grievance, including contact information for the office of the child advocate and the department's office of family advocate, on a form approved by the department.

(5) A child in foster care may file a grievance with the supervising agency regarding the perceived noncompliance with any of the items listed in the children's assurance of quality foster care policy as outlined in the supervising agency's grievance policy described in subsection (4). Within 30 days after receiving the grievance, the supervising agency must respond with a written statement of how the child in foster care's grievance will be addressed. If the supervising agency does not provide a written response within 30 days after the grievance is filed with the supervising agency or if the child in foster care does not agree with the findings in the written response, the child in foster care may contact the department's office of family advocate.

(6) If the grievance is not resolved with the assistance of the department's office of family advocate, the

child in foster care may request that the child in foster care's lawyer-guardian ad litem petition the court for the appropriate relief.

(7) The sole remedy that may be provided under this section is limited to injunctive relief.

(8) The department shall implement the children's assurance of quality foster care policy no later than June 25, 2019.

**History:** Add. 2018, Act 489, Eff. Mar. 27, 2019;—Am. 2023, Act 296, Eff. Feb. 13, 2024;—Am. 2024, Act 23, Eff. (sine die).

#### **722.958c Children's assurance of quality foster care; specific policy regarding access to certain services and information.**

Sec. 8c. In addition to the specific policy described in sections 8b and 8d, the department shall draft and maintain a specific policy for children in foster care as provided in this section. This specific policy shall be implemented by no later than 90 days after the effective date of the amendatory act that added this section and shall, in addition to the provisions of sections 8b and 8d, address the child in foster care's access to the following as age-appropriate and as mandated by the court:

(a) Regular contact with all of the child in foster care's caseworkers, attorneys, and advocates.

(b) Relevant information regarding a change in the child in foster care's caseworker or attorney.

(c) Reasonable notification of hearings.

(d) At 14 years of age or older, involvement in the child in foster care's own case plan development and development of a plan for his or her future and aging out of the foster care system.

(e) Help with understanding the services available to children in foster care and how to access those services.

(f) A permanent plan for placement and the child in foster care's participation in the development of that plan.

(g) Protection of the child in foster care's privacy and confidentiality regarding his or her case.

**History:** Add. 2018, Act 490, Eff. Mar. 27, 2019.

#### **722.958d Children's assurance of quality foster care policy; prepare and distribute information.**

Sec. 8d. (1) The department shall prepare and distribute to each child placed in foster care, as age-appropriate, information describing the children's assurance of quality foster care policy and the process to follow if the child in foster care has concerns regarding a violation of the children's assurance of quality foster care policy. This information shall include information regarding the child in foster care's caseworker, lawyer guardian ad litem, the office of the child advocate, the department's office of family advocate, and the foster care review board.

(2) The department shall implement this section by no later than June 26, 2019.

**History:** Add. 2018, Act 632, Eff. Mar. 28, 2019;—Am. 2023, Act 296, Eff. Feb. 13, 2024.

\*\*\*\*\* 722.958e.added THIS ADDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

#### **722.958e.added Annual report on foster children in the education system.**

Sec. 8e. (1) Beginning September 30, 2024, and annually each September 30 after that, the department, in collaboration with the department of education and the center for educational performance and information, must provide a report to the house and senate appropriation committees for the department budget, the house and senate standing committees on human services, and the house and senate fiscal agencies that must include all of the following:

(a) The total number of children in foster care identified by grade of instruction.

(b) The number of children in foster care transferred to a different school district during the academic school year.

(c) The number of children in foster care who were suspended or expelled from school during the academic school year.

(d) The number of children in foster care who are identified by chronic absenteeism, truancy, or as drop-outs.

(e) The following broken down by public schools, public school academies, private schools, and schools at child caring institutions:

(i) Percentage of children in foster care who meet academic standards on state standardized assessments.

(ii) Percentage of children in foster care who are enrolled in an alternative education school receiving special education services.

(iii) Percentage of children in foster care who are assigned to advanced placement, early middle college, or dual enrollment.

(iv) Percentage of children in foster care who are assigned to career and technical education.

(v) Percentage of children in foster care, or who engaged in foster care in the last 5 years, who graduated or obtained a high school equivalency diploma.

(2) As used in this section, "child caring institution" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

**History:** Add. 2024, Act 10, Eff. (sine die).

#### **722.959 Effective date.**

Sec. 9. This act shall take effect January 1, 1995.

**History:** 1994, Act 203, Eff. Jan. 1, 1995.

#### **722.960 Conditional effective date.**

Sec. 10. This act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

(a) Senate Bill No. 299.

(b) Senate Bill No. 721.

(c) Senate Bill No. 723.

(d) Senate Bill No. 724.

(e) Senate Bill No. 725.

(f) House Bill No. 4201.

(g) House Bill No. 4428.

(h) House Bill No. 4614.

(i) House Bill No. 4638.

**History:** 1994, Act 203, Eff. Jan. 1, 1995.

**FOSTER CARE INDEPENDENCE ACT**  
**Act 215 of 2008**

AN ACT to establish the foster care independence program; to provide certain services for certain youth in foster care due to child abuse or child neglect; and to prescribe the duties of certain state departments.

**History:** 2008, Act 215, Imd. Eff. July 16, 2008.

*The People of the State of Michigan enact:*

**722.981 Short title; definitions.**

Sec. 1. (1) This act shall be known and may be cited as the "foster care independence act".

(2) As used in this act:

(a) "Adjudicated delinquent" means an individual found to have committed an offense that, if committed by an adult, would be a criminal offense.

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

(c) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(d) "Department" means the department of human services.

(e) "Foster care" means 24-hour substitute care for children placed away from their parents or guardians for whom the state agency or child placing agency has placement and care responsibility. Foster care placement includes, but is not limited to, placement in foster family homes, child care institutions, and preadoptive placements.

(f) "Young adult" means an individual 14 years of age or older but less than 21 years of age.

**History:** 2008, Act 215, Imd. Eff. July 16, 2008.

**722.982 Foster care independence program; establishment; conditions; services.**

Sec. 2. (1) If this state receives federal money for the purposes described in this act and the federal money is not reduced below the level this state received on the effective date of this act and if public and private partners continue to provide the services they provided on the effective date of this act, the department shall establish the foster care independence program to offer education, training, employment, and financial support for eligible young adults leaving foster care.

(2) Subject to the availability of federal, state, and local funds, the program may include the following services:

(a) Identify young adults who are likely to remain in foster care until 18 years of age and help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and preventive health activities, including smoking avoidance, nutrition education, and pregnancy prevention.

(b) Help young adults who are likely to remain in foster care until 18 years of age receive education, training, and services necessary to obtain employment.

(c) Help young adults who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions.

(d) Provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults.

(e) Provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood.

**History:** 2008, Act 215, Imd. Eff. July 16, 2008.

**722.983 Services; eligibility; exceptions; services provided to young adults 14 years of age and older; availability of services through 20 years of age; services provided on as-needed basis.**

Sec. 3. (1) A young adult is eligible for services under this act if he or she is or has been in a foster care placement through the state or a child placing agency based on child abuse or child neglect on or after his or her fourteenth birthday.

(2) A young adult is not eligible for services under this act if 1 or more of the following apply:

(a) The young adult is in an out-of-home placement solely as an adjudicated delinquent. If the young adult



is currently an adjudicated delinquent but met the eligibility criteria before his or her adjudication, services may be provided under this act.

(b) The young adult was never in an out-of-home placement based on child abuse or child neglect.

(c) The young adult is in a detention facility or other state-operated facility.

(3) Services under this act may be provided to eligible young adults 14 years of age and older regardless of the permanency planning goal. Services under this act may be available to all eligible young adults after case closure through 20 years of age. Services under this act may be provided on an "as-needed" basis.

**History:** 2008, Act 215, Imd. Eff. July 16, 2008.

#### **722.984 Goods and services.**

Sec. 4. (1) The department may provide at least all of the following goods and services to eligible young adults in the foster care independence program:

(a) Services that are not available from other funding sources or agencies for eligible young adults currently in the foster care system and for young adults released from foster care before reaching 21 years of age.

(b) Educational support.

(c) Classes or groups on interpersonal communication and building and maintaining relationships and classes or groups on independent living skills.

(d) Stipends to cover the cost of utility deposits, security deposits, and first month's rent to eligible young adults who are leaving foster care or have left foster care because they have reached 18 years of age but have not reached 21 years of age. The first month's rent and damage deposit may only be provided to young adults 18 to 21 years of age who are leaving foster care or who have left foster care because they attained 18 or 19 years of age and have not reached 21 years of age.

(2) The department shall make known a list of goods and services provided under the program established in this act.

**History:** 2008, Act 215, Imd. Eff. July 16, 2008.

#### **722.985 Other goods and services.**

Sec. 5. The department may provide goods and services allowed under federal law and any other goods and services the department considers appropriate.

**History:** 2008, Act 215, Imd. Eff. July 16, 2008.

**EXECUTIVE REORGANIZATION ORDER**  
**E.R.O. No. 2010-9**

**722.991 Transfer of powers and duties of foster care trust fund board to state child abuse and neglect prevention board; abolishment of foster care trust fund board.**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, merging the functions of the Foster Care Trust Fund Board and the State Child Abuse and Neglect Prevention Board will eliminate duplication and contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

**I. DEFINITIONS**

As used in this Order:

A. "Foster Care Trust Fund Board" means the board created in the Department of Human Services under Section 4 of the Foster Care Trust Fund Act, 2008 PA 525, MCL 722.1024.

B. "Department of Human Services" or "Department" means the principal department of state government created as the Department of Social Services under Section 450 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.550, renamed the Family Independence Agency under 1995 PA 223, MCL 400.1, and renamed the Department of Human Services under Executive Order 2004-38, MCL 400.226.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

D. "State Child Abuse and Neglect Prevention Board" means the board created in the Department of Technology, Management, and Budget under Section 3 of the Child Abuse and Neglect Prevention Act, 1982 PA 250, MCL 722.603, and subsequently transferred to the Department of Human Services by Executive Order 1992-5, MCL 722.620.

**II. TRANSFERS**

A. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Foster Care Trust Fund Board are transferred to the State Child Abuse and Neglect Prevention Board.

B. The Foster Care Trust Fund Board is abolished.

**III. IMPLEMENTATION OF TRANSFERS**

A. The Director of the Department shall provide executive direction and supervision for the implementation of all transfers under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. All records, personnel, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Foster Care Trust Fund Board for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the State Child Abuse and Neglect Prevention Board.

C. Notwithstanding the activities, powers, duties, functions, and responsibilities transferred under this Order, the State Child Abuse and Neglect Prevention Board shall give first priority to fulfilling its duties and responsibilities under Section 6 of the Child Abuse and Neglect Prevention Act, 1982 PA 250, MCL 722.606.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

**IV. MISCELLANEOUS**

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by,

against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective October 18, 2010 at 12:01 a.m.

**History:** 2010, E.R.O. No. 2010-9, Eff. Oct. 18, 2010.

## ACKNOWLEDGMENT OF PARENTAGE ACT Act 305 of 1996

AN ACT to prescribe procedures for and the contents of acknowledgments of parentage; to state the effects of those acknowledgments; to provide procedures and criteria for revoking acknowledgments; and to prescribe powers and duties of certain state officers and employees.

**History:** 1996, Act 305, Eff. June 1, 1997.

*The People of the State of Michigan enact:*

### **722.1001 Short title.**

Sec. 1. This act shall be known and may be cited as the "acknowledgment of parentage act".

**History:** 1996, Act 305, Eff. June 1, 1997.

\*\*\*\*\* 722.1002 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1002.amended \*\*\*\*\*

### **722.1002 Definitions.**

Sec. 2. As used in this act:

- (a) "Acknowledgment" means an acknowledgment of parentage executed as provided in this act.
- (b) "Child" means a child conceived and born to a woman who was not married at the time of conception or the date of birth of the child, or a child that the circuit court determines was born or conceived during a marriage but is not the issue of that marriage.
- (c) "Court" means the circuit court.
- (d) "Father" means the man who signs an acknowledgment of parentage of a child.
- (e) "State registrar" means that term as defined in section 2805 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.2805 of the Michigan Compiled Laws.

**History:** 1996, Act 305, Eff. June 1, 1997.

\*\*\*\*\* 722.1002.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

### **722.1002.amended Definitions.**

Sec. 2. As used in this act:

- (a) "Acknowledged parent" means an individual who has established a parent-child relationship under this act.
- (b) "Acknowledgment" means an acknowledgment of parentage executed as provided in this act.
- (c) "Child" means a child conceived and born to a woman who was not married at the time of conception or the date of birth of the child, a child that the circuit court determines was born or conceived during a marriage but is not the issue of that marriage, or a child that is born to an individual who gave birth to a child conceived through assisted reproduction.
- (d) "Court" means the circuit court.
- (e) "State registrar" means that term as defined in section 2805 of the public health code, 1978 PA 368, MCL 333.2805.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2024, Act 31, Eff. (sine die).

\*\*\*\*\* 722.1003 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1003.amended \*\*\*\*\*

### **722.1003 Acknowledgment of parentage; form; validity; signatures; witness; copy.**

Sec. 3. (1) If a child is born out of wedlock, a man is considered to be the natural father of that child if the man joins with the mother of the child and acknowledges that child as his child by completing a form that is an acknowledgment of parentage.

(2) An acknowledgment of parentage form is valid and effective if signed by the mother and father and those signatures are each notarized by a notary public authorized by the state in which the acknowledgment is signed or witnessed by 1 disinterested, legally competent adult. The witness must be an employee of 1 of the following: a hospital, publicly funded or licensed health clinic, pediatric office, friend of the court, prosecuting attorney, court, department of human services, department of community health, county health agency, county records department, head start program, local social services provider, county jail, or state

prison. The witness must sign and date the acknowledgment of parentage form and provide his or her printed name, address, and place of employment. An acknowledgment may be signed any time during the child's lifetime.

(3) The mother and father shall be provided a copy of the completed acknowledgment at the time of signing.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2014, Act 409, Eff. Mar. 30, 2015.

\*\*\*\*\* 722.1003.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

#### **722.1003.amended Acknowledgment of parentage; form; validity; signatures; witness; copy.**

Sec. 3. (1) If a child is born out of wedlock, a man is considered to be the natural father of that child if the man joins with the mother of the child and acknowledges that child as his child by completing a form that is an acknowledgment of parentage.

(2) If a child born out of wedlock is conceived by assisted reproduction as defined in the assisted reproduction and surrogacy parentage act, an individual is considered to be the natural parent of that child if the individual joins with the individual who gave birth to the child and acknowledges that child as their child by completing a form that is an acknowledgment of parentage.

(3) If a child is born to a married individual who gave birth to a child conceived by assisted reproduction as defined in the assisted reproduction and surrogacy parentage act, their spouse is considered to be an acknowledged parent by completing a form that is an acknowledgment of parentage.

(4) An acknowledgment of parentage form is valid and effective and establishes the parentage of a child if signed by individuals eligible to acknowledge parentage as set forth in subsections (1), (2), and (3) and those signatures are each notarized by a notary public authorized by the state in which the acknowledgment is signed or witnessed by 1 disinterested, legally competent adult. The witness must be an employee of 1 of the following: a hospital, publicly funded or licensed health clinic, pediatric office, friend of the court, prosecuting attorney, court, department of health and human services, county health agency, county records department, head start program, local social services provider, county jail, or state prison. The witness must sign and date the acknowledgment of parentage form and provide his or her printed name, address, and place of employment. An acknowledgment may be signed any time during the child's lifetime.

(5) The birth parent and the acknowledged parent must be provided a copy of the completed acknowledgment at the time of signing.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2014, Act 409, Eff. Mar. 30, 2015;—Am. 2024, Act 31, Eff. (sine die).

\*\*\*\*\* 722.1004 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1004.amended \*\*\*\*\*

#### **722.1004 Acknowledgment as basis for court ordered child support, custody, or parenting time; relationship and status of child.**

Sec. 4. An acknowledgment signed under this act establishes paternity, and the acknowledgment may be the basis for court ordered child support, custody, or parenting time without further adjudication under the paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws. The child who is the subject of the acknowledgment shall bear the same relationship to the mother and the man signing as the father as a child born or conceived during a marriage and shall have the identical status, rights, and duties of a child born in lawful wedlock effective from birth.

**History:** 1996, Act 305, Eff. June 1, 1997.

\*\*\*\*\* 722.1004.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

#### **722.1004.amended Acknowledgment as basis for court ordered child support, custody, or parenting time; relationship and status of child.**

Sec. 4. An acknowledgment that complies with this act and is filed with the state registrar establishes parentage and is the equivalent to an adjudication of parentage of the child and confers on the acknowledged parent all rights and duties of a parent, and the acknowledgment may be the basis for court ordered child support, custody, or parenting time without further adjudication under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or under the assisted reproduction and surrogacy parentage act. The child who is the subject of the acknowledgment bears the same relationship to the birth parent and the acknowledged parent as a child born or conceived during a marriage and has the identical status, rights, and duties of a child born in



lawful wedlock effective from birth.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2024, Act 31, Eff. (sine die).

**722.1005 Acknowledgment of parentage; filing with state registrar; review; maintenance as permanent record; procedures and payment for issuance; basis for preparation of new birth certificate.**

Sec. 5. (1) A completed original acknowledgment of parentage shall be filed with the state registrar. Upon receipt of an acknowledgment, the state registrar shall review the form. If it appears to be properly completed and notarized or each signature is witnessed as provided under section 3, the state registrar shall file the acknowledgment in a parentage registry in the office of the state registrar. An acknowledgment filed with the state registrar shall be maintained as a permanent record in a manner consistent with section 2876 of the public health code, 1978 PA 368, MCL 333.2876.

(2) The state registrar shall issue a copy of an acknowledgment filed in the parentage registry under the procedures and upon payment of the fee prescribed by section 2891 of the public health code, 1978 PA 368, MCL 333.2891.

(3) Upon filing, the completed acknowledgment form may serve as a basis for preparation of a new certificate of birth as provided in section 2831 of the public health code, 1978 PA 368, MCL 333.2831.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2014, Act 409, Eff. Mar. 30, 2015.

\*\*\*\*\* 722.1006 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1006.amended \*\*\*\*\*

**722.1006 Grant of initial custody.**

Sec. 6. After a mother and father sign an acknowledgment of parentage, the mother has initial custody of the minor child, without prejudice to the determination of either parent's custodial rights, until otherwise determined by the court or otherwise agreed upon by the parties in writing and acknowledged by the court. This grant of initial custody to the mother shall not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2006, Act 105, Imd. Eff. Apr. 7, 2006.

\*\*\*\*\* 722.1006.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1006.amended Grant of initial custody.**

Sec. 6. After completion of an acknowledgement of parentage signed according to section 3(1) that complies with this act is filed with the state registrar, the mother has initial custody of the minor child, without prejudice to the determination of either parent's custodial rights, until otherwise determined by the court or otherwise agreed upon by the parties in writing and acknowledged by the court. This grant of initial custody to the mother does not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2006, Act 105, Imd. Eff. Apr. 7, 2006;—Am. 2024, Act 31, Eff. (sine die).

\*\*\*\*\* 722.1007 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1007.amended \*\*\*\*\*

**722.1007 Notices.**

Sec. 7. The acknowledgment of parentage form shall include at least all of the following written notices to the parties:

- (a) The acknowledgment of parentage is a legal document.
- (b) Completion of the acknowledgment is voluntary.
- (c) The mother has initial custody of the child, without prejudice to the determination of either parent's custodial rights, until otherwise determined by the court or agreed by the parties in writing and acknowledged by the court. This grant of initial custody to the mother shall not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.
- (d) Either parent may assert a claim in court for parenting time or custody.
- (e) The parents have a right to notice and a hearing regarding the adoption of the child.
- (f) Both parents have the responsibility to support the child and to comply with a court or administrative order for the child's support.

(g) Notice that signing the acknowledgment waives the following:

- (i) Blood or genetic tests to determine if the man is the biological father of the child.
- (ii) Any right to an attorney, including the prosecuting attorney or an attorney appointed by the court in the case of indigency, to represent either party in a court action to determine if the man is the biological father of the child.
- (iii) A trial to determine if the man is the biological father of the child.
- (h) That in order to revoke an acknowledgment of parentage, an individual must file a claim as provided under the revocation of paternity act.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2006, Act 105, Imd. Eff. Apr. 7, 2006;—Am. 2012, Act 161, Imd. Eff. June 12, 2012.

\*\*\*\*\* 722.1007.amended *THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1007.amended Notices.**

Sec. 7. The acknowledgment of parentage form must include at least all of the following written notices to the parties:

- (a) The acknowledgment of parentage is a legal document.
- (b) Completion of the acknowledgment is voluntary.
- (c) For acknowledgments of parentage signed according to section 3(1), the mother has initial custody of the child, without prejudice to the determination of either parent's custodial rights, until otherwise determined by the court or agreed by the parties in writing and acknowledged by the court. This grant of initial custody to the mother does not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.
- (d) Either parent may assert a claim in court for parenting time or custody.
- (e) The parents have a right to notice and a hearing regarding the adoption of the child.
- (f) Both parents have the responsibility to support the child and to comply with a court or administrative order for the child's support.
- (g) Notice that signing the acknowledgment waives the following:
  - (i) Blood or genetic tests to determine if the man is the biological father of the child.
  - (ii) Any right to an attorney, including the prosecuting attorney or an attorney appointed by the court in the case of indigency, to represent either party in a court action to determine if the man is the biological father of the child.
  - (iii) A trial to determine if the man is the biological father of the child.
- (h) That in order to revoke an acknowledgment of parentage, an individual must file a claim as provided under the revocation of parentage act.

**History:** 1996, Act 305, Eff. June 1, 1997;—Am. 2006, Act 105, Imd. Eff. Apr. 7, 2006;—Am. 2012, Act 161, Imd. Eff. June 12, 2012;—Am. 2024, Act 31, Eff. (sine die).

#### **722.1008 Acknowledgment of parentage; preparation or approval of form; availability to public.**

Sec. 8. The state registrar shall prepare or approve the form used for acknowledgment of parentage. The form shall conform as closely as possible to section 7, federal requirements, and the needs of other appropriate state agencies. The state registrar shall make the form available to the public through the family independence agency, prosecuting attorneys, and hospitals as provided in section 21532 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.21532 of the Michigan Compiled Laws.

**History:** 1996, Act 305, Eff. June 1, 1997.

#### **722.1009 Appointment of next friend or guardian ad litem; effect of signing by minor parent.**

Sec. 9. In proceedings under this act, the court may appoint a next friend or guardian ad litem to represent a minor parent at the court's discretion. A minor parent may sign an acknowledgment of parentage with the same effect as if he or she were of legal age.

**History:** 1996, Act 305, Eff. June 1, 1997.

#### **722.1010 Consent to court jurisdiction.**

Sec. 10. Except as otherwise provided by law, a mother and father who sign an acknowledgment that is filed as prescribed by section 5 are consenting to the general, personal jurisdiction of the courts of record of this state regarding the issues of the support, custody, and parenting time of the child.

**History:** 1996, Act 305, Eff. June 1, 1997.

**722.1011 Repealed. 2012, Act 161, Imd. Eff. June 12, 2012.**

**Compiler's note:** The repealed section pertained to notices included in acknowledgment of parentage form.

**722.1012 Validity of prior acknowledgment.**

Sec. 12. This act does not affect the validity of an acknowledgment signed before the effective date of this act. The procedures for determination of a claim for revocation apply to all acknowledgments, including those signed before the effective date of this act.

**History:** 1996, Act 305, Eff. June 1, 1997.

**722.1013 Effective date.**

Sec. 13. This act shall take effect June 1, 1997.

**History:** 1996, Act 305, Eff. June 1, 1997.

**FOSTERING FUTURES SCHOLARSHIP TRUST FUND ACT**  
**Act 525 of 2008**

AN ACT to establish the fostering futures scholarship trust fund in the department of treasury; to provide for the distribution of the money from the fund; to prescribe the powers and duties of certain agencies and officials; and to provide for appropriations.

**History:** 2008, Act 525, Imd. Eff. Jan. 13, 2009;—Am. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

*The People of the State of Michigan enact:*

**722.1021 Short title.**

Sec. 1. This act shall be known and may be cited as the "fostering futures scholarship trust fund act".

**History:** 2008, Act 525, Imd. Eff. Jan. 13, 2009;—Am. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

**722.1022 Definitions.**

Sec. 2. As used in this act:

(a) "Department" means the department of treasury.

(b) "Trust fund" means the fostering futures scholarship trust fund created in section 3.

**History:** 2008, Act 525, Imd. Eff. Jan. 13, 2009;—Am. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

**722.1023 Fostering futures scholarship trust fund; creation; administration; crediting amounts; interest and earnings; investment; availability of money for disbursement; expenditures; appropriation; money remaining at close of year; administrative costs; limitation.**

Sec. 3. (1) The fostering futures scholarship trust fund is created in the state treasury as a charitable and educational endowment fund. Money in the trust fund shall be expended only as provided in this section. The department shall be the administrator of the trust fund for auditing purposes and all powers, purposes, and duties of the trust fund shall be exercised by the department.

(2) The state treasurer shall credit to the trust fund any amounts received under section 9 and interest and earnings accrued from the saving and investment of that money.

(3) The state treasurer shall direct the investment of the trust fund. The state treasurer has the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141. The state treasurer shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this act.

(4) Except as provided in subsections (6) and (7), all money contributed to the fund annually, plus 5% of the 12-quarter rolling average of the fund, including unrealized gains and losses, shall be available for disbursement upon the authorization of the department as provided in section 10.

(5) Money in the trust fund shall be available for disbursement upon appropriation.

(6) No money shall be expended from the trust fund until the date that the deposits credited into the trust fund from all sources as provided under this section equal or exceed \$500,000.00. No money shall be expended from the trust fund if the amount in the trust fund is less than \$500,000.00 or if the expenditure will cause the amount remaining in the trust fund to be less than \$500,000.00.

(7) No appropriations shall be made from the trust fund until the date that the deposits credited into the trust fund from all sources equal or exceed \$500,000.00. No money shall be appropriated from the trust fund if the amount in the trust fund is less than \$500,000.00 or if the appropriation will cause the amount remaining in the trust fund to be less than \$500,000.00.

(8) All expenses authorized under this act or necessary to implement this act shall only be funded by the trust fund created in this section.

(9) Money in the trust fund at the close of the year shall remain in the trust fund and shall not lapse to the general fund.

(10) The trust fund administrative costs shall not exceed 15% of the amount in the trust fund over \$500,000.00.

**History:** 2008, Act 525, Imd. Eff. Jan. 13, 2009;—Am. 2014, Act 530, Imd. Eff. Jan. 14, 2015;—Am. 2016, Act 139, Eff. Aug. 24, 2016.

**722.1024 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.**

**Compiler's note:** The repealed section pertained to creation of state foster care trust fund board.

#### **722.1025 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.**

**Compiler's note:** The repealed section pertained to qualifications and terms of state foster care trust fund board.

#### **722.1026 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.**

**Compiler's note:** The repealed section pertained to business conducted under open meetings act and availability of writings under freedom of information act.

#### **722.1027 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.**

**Compiler's note:** The repealed section pertained to duties of state foster care trust fund board.

#### **722.1027a Opportunities to make contributions; collaboration with higher education institution to assist foster care students with unmet financial education needs; use of money; contracts.**

Sec. 7a. (1) The department shall work with the department of human services to serve to provide an opportunity for individuals and organizations to make contributions to go toward providing scholarships to eligible current and former foster care students.

(2) The department shall collaborate with any institution of higher education in this state as determined by the department to assist current and former foster care students who have unmet financial education needs and assist in the effort to create sustainable futures for those foster care students.

(3) Any money provided by the department under this act shall only be used for tuition, fees, room, board, books, supplies, and equipment required for enrollment.

(4) The department may enter into contracts with public or private agencies to fulfill the requirements of this act.

**History:** Add. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

#### **722.1027b Fostering futures scholarship; eligibility.**

Sec. 7b. A foster care student is eligible for a fostering futures scholarship if all of the following apply:

(a) Due to child abuse or child neglect, the foster care student was in foster care after his or her thirteenth birthday.

(b) The foster care student is attending an institution of higher education in this state as determined by the department.

(c) The foster care student has an unmet financial education need.

(d) The foster care student has completed the application and provided the department with the required documentation.

(e) The foster care student maintains satisfactory academic progress as determined by the department.

**History:** Add. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

#### **722.1028 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.**

**Compiler's note:** The repealed section pertained to recommendations made by state foster care trust fund board.

#### **722.1029 Department; powers; deposit of money in fund.**

Sec. 9. (1) The department may do any of the following:

(a) Accept federal money granted by congress or executive order for the purposes of this act as well as gifts, grants, bequests, and donations from individuals, private organizations, or foundations. The acceptance and use of federal money does not commit state money and does not place an obligation upon the legislature to continue the purposes for which the federal money is made available.

(b) Plan, manage, or conduct a campaign to solicit gifts, bequests, grants, or donations of money or property, or pledges of gifts, bequests, grants, or donations.

(2) The department shall credit to the trust fund all amounts appropriated for the trust fund under section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435.

(3) Money received in the manner described in subsections (1) and (2) shall be transmitted to the state treasurer for deposit in the trust fund.

**History:** 2008, Act 525, Imd. Eff. Jan. 13, 2009;—Am. 2014, Act 530, Imd. Eff. Jan. 14, 2015;—Am. 2018, Act 253, Imd. Eff. June 28, 2018.

#### **722.1030 Disbursement; limitation.**

Sec. 10. (1) The department may authorize the disbursement of available money from the trust fund, upon legislative appropriations, as provided in section 3, to fund actual and necessary operating expenses that the department incurs in performing its duties under this act. Authorizations for disbursement of trust fund money  
Rendered Thursday, May 30, 2024



under this section shall be kept at a minimum in furtherance of the primary purpose of the trust fund.

(2) Trust fund money shall not be disbursed to a foster care student until after that foster care student has exhausted all other known available restricted grants for qualified educational expenses for postsecondary education provided by a federal, state, or local governmental entity, as determined by the department, except for funds provided under the Michigan promise zone authority act, 2008 PA 549, MCL 390.1661 to 390.1679.

(3) Money provided by the department on behalf of a foster care student under this act shall not exceed the cost of that foster care student's tuition, fees, room, board, books, supplies, and equipment required for enrollment at the institution of higher education as determined by the department.

**History:** 2008, Act 525, Imd. Eff. Jan. 13, 2009;—Am. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

## **722.1031 Annual accounting of revenues and expenditures; report.**

Sec. 11. (1) The department shall annually prepare an accounting of revenues and expenditures from the trust fund. This accounting shall be prepared using generally accepted accounting principles and in a manner that will provide detailed and itemized information regarding the revenues and expenditures of the trust fund. This accounting shall be provided to the senate and house of representatives appropriations committees.

(2) To the extent practical, the department shall annually prepare an accounting of revenues and expenditures from the trust fund for persons who have donated to the fund. This accounting does not need to be as detailed as the accounting required under subsection (1), but shall include general information about the amount of revenue raised, the types of expenditures made, and what the expenditures were made for.

(3) The department shall annually provide to the house and senate appropriations committee chairs a report that includes all of the following information:

(a) The number of foster children who utilized the fostering futures scholarship program in the year the report is prepared.

(b) The number of foster children who received money from the fostering futures scholarship program and completed a college education in the year the report is prepared.

(c) The amount of money provided annually from the fostering futures scholarship program to each foster child in the year that the report is prepared.

(d) The administrative costs for the fostering futures scholarship program for the year that the report is prepared.

**History:** 2008, Act 525, Imd. Eff. Jan. 13, 2009;—Am. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

**CHILDREN'S ADVOCACY CENTER ACT**  
**Act 544 of 2008**

AN ACT to create the children's advocacy center act; to create the children's advocacy center fund; to provide for distributions from the fund; to prescribe the powers and duties of the fund administrator; and to prescribe the powers and duties of certain state officials.

**History:** 2008, Act 544, Eff. Apr. 1, 2009.

*The People of the State of Michigan enact:*

**722.1041 Short title.**

Sec. 1. This act shall be known and may be cited as the "children's advocacy center act".

**History:** 2008, Act 544, Eff. Apr. 1, 2009.

**722.1042 Definitions.**

Sec. 2. As used in this act:

(a) "Board" means the domestic violence prevention and treatment board created in section 2 of 1978 PA 389, MCL 400.1502.

(b) "Children's advocacy center" means an entity accredited as a child advocacy center by the national children's alliance or its successor agency.

(c) "Fund" means the children's advocacy center fund created in section 3.

**History:** 2008, Act 544, Eff. Apr. 1, 2009.

**722.1043 Children's advocacy center fund; creation; deposit of money into fund; investment; money remaining in fund at close of fiscal year; department of human services as administrator.**

Sec. 3. (1) The children's advocacy center fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of human services shall be the administrator of the fund for auditing purposes.

**History:** 2008, Act 544, Eff. Apr. 1, 2009.

**722.1044 Expenditures; limitation; annual audit and report.**

Sec. 4. (1) Money shall not be expended from the fund for the first year after the effective date of this act. Beginning 2 years after the effective date of this act, the board may expend money from the fund as appropriated. Money in the fund shall be expended only as follows:

(a) To provide investigative, assessment, counseling, support, and educational services to victims of child sexual abuse and their families through children's advocacy centers.

(b) To pay the actual and reasonable operating costs of children's advocacy centers.

(c) To provide training related to child sexual abuse for personnel employed or otherwise retained by children's advocacy centers.

(d) To improve the detection, investigation, treatment, and prevention of child sexual abuse through the coordinated activities of children's advocacy centers, medical care providers, crime victim organizations, and local, state, and federal law enforcement officials.

(e) To improve public awareness of child sexual abuse through the use of children's advocacy centers.

(f) To pay the actual and reasonable costs of administering the fund. Not more than 10% of distributions made in any fiscal year shall be used to pay administrative costs under this subdivision.

(2) The board shall require an annual audit of income and expenditures under this section and shall provide an annual report of incomes and expenditures to the secretary of the senate and the clerk of the house of representatives by February 1 of each year.

**History:** 2008, Act 544, Eff. Apr. 1, 2009.

## **CHILDREN'S PRODUCT SAFETY ACT**

### **Act 219 of 2000**

AN ACT to prohibit the use of certain unsafe children's products; to prohibit child care facilities from using or having on the facility premises certain unsafe children's products; to prescribe powers and duties of certain departments, officers, and agencies; to provide for the promulgation of rules to carry out the provisions of this act; and to prescribe penalties for violation of the provisions of this act.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

*The People of the State of Michigan enact:*

#### **722.1051 Short title.**

Sec. 1. This act shall be known and may be cited as the "children's product safety act".

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

#### **722.1052 Definitions.**

Sec. 2. As used in this act:

- (a) "Child" means an individual less than 18 years old.
- (b) "Child care facility" means a child care center, child care organization, or child caring institution as defined in section 1 of 1973 PA 116, MCL 722.111.
- (c) "Children's product" means a product, including, but not limited to, a full-size crib, non-full-size crib, toddler bed, bed, car seat, chair, high chair, booster chair, hook-on chair, bath seat, gate or other enclosure for confining a child, play yard, stationary activity center, carrier, stroller, walker, or infant swing that is designed or intended to come into contact with the child while the product is used. Notwithstanding any other provision of this section, a product is not a "children's product" for purposes of this act if either of the following applies:
  - (i) It may be used by or for the care of a child under 6 years old, but it is designed or intended for use by the general population or segments of the general population and not solely or primarily for use by a child or for the care of a child.
  - (ii) It is a medication, drug, or food or is intended to be ingested.
- (d) "CPSC" means the consumer product safety commission created by the consumer product safety act, Public Law 92-573, 86 Stat. 1207.
- (e) "Commercial user" means a person who deals in children's products or who holds himself or herself out as having knowledge or skill relating to children's products, or a person who is in the business of remanufacturing, retrofitting, selling, leasing, subletting, or otherwise placing in the stream of commerce children's products.
- (f) "Crib" means a bed or containment designed to accommodate an infant.
- (g) "Department" means the department of consumer and industry services.
- (h) "Full-size crib" means a full-size crib as defined in section 1508.3 of title 16 of the code of federal regulations regarding the requirements for full-size cribs.
- (i) "Non-full-size crib" means a non-full-size crib as defined in section 1509.2 of title 16 of the code of federal regulations regarding the requirements for non-full-size cribs.
- (j) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

#### **722.1055 Unsafe children's product; placement in stream of commerce prohibited.**

Sec. 5. A commercial user shall not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet, or otherwise place in the stream of commerce, on or after January 1, 2001, an unsafe children's product.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

#### **722.1056 Unsafe children's product; criteria; crib; retrofit; notice; compliance.**

Sec. 6. (1) A children's product is unsafe for purposes of this act if it meets 1 or more of the following criteria:

- (a) The children's product does not conform to all federal laws and regulations setting forth standards for the children's product.
- (b) The children's product has been recalled for any reason by a federal agency, the product's manufacturer, distributor, or importer; the recall has not been rescinded; and the children's product has been listed by the CPSC as a recalled product.

(c) A federal agency has issued a warning that a specific children's product's intended use constitutes a safety hazard and the warning has not been rescinded.

(2) For the purposes of this act, a crib is unsafe if it does not conform to the standards endorsed or established by the CPSC.

(3) An unsafe children's product, as determined under subsection (2), may be retrofitted if the retrofit has been approved by the federal agency issuing the recall or warning or the federal agency responsible for approving the retrofit if it is different from the federal agency issuing the recall or warning. A retrofitted children's product may be sold if it is accompanied at the time of sale by a notice declaring that it is safe to use. The notice shall include all of the following:

(a) A description of the original problem that made the recalled children's product unsafe.

(b) A description of the retrofit that explains how the original problem was eliminated and declaring that it is now safe to use.

(c) The name and address of the commercial user who accomplished the retrofit certifying that the work was done along with the name and model number of the product retrofitted. The commercial user is responsible for ensuring that the notice is present with the retrofitted product at the time of sale.

(4) A retrofit does not need to comply with this act if either of the following applies:

(a) The retrofit is for a children's product that requires assembly by the consumer, the approved retrofit is provided with the product by the commercial user, and the retrofit is accompanied at the time of sale by instructions explaining how to apply the retrofit.

(b) The seller of a previously unsold children's product accomplishes the repair prior to sale and the repair is approved or recommended by a federal agency.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

#### **722.1060 List of unsafe children's products; maintenance; availability; providing list to inspectors of child care facility and persons providing child care.**

Sec. 10. (1) The department shall maintain a comprehensive list of children's products that have been identified as meeting any of the criteria set forth in sections 5 and 6. The department shall make the comprehensive list available to the public at no cost and shall post it on the internet and encourage links.

(2) The department shall provide a copy of the list of unsafe children's products to any individual required by the department to inspect a child care facility for the purpose of issuing or renewing a license or certificate of registration.

(3) The department may work with the family independence agency to provide a copy of the list of unsafe children's products to each person providing child care.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

#### **722.1061 Commercial user; sale of recalled product; exception.**

Sec. 11. A commercial user is not in violation of this act if the specific recalled product sold was not on the department's list 30 days before the sale.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

#### **722.1065 Child care facility; prohibition; exception; notice; posting list; determination by operator of facility.**

Sec. 15. (1) A child care facility may not use or have on the premises, on or after July 1, 2001, an unsafe children's product. This section does not apply to an antique or collectible children's product if it is not used by, or accessible to, a child in the child care facility.

(2) The department shall notify child care facilities, on an ongoing basis, of the provisions of this act and of unsafe children's products in plain, nontechnical language that enables each child care facility to effectively inspect children's products and identify unsafe children's products.

(3) The operator of a child care facility shall conspicuously post on the premises an updated copy of the list of recalled children's products provided by the department.

(4) The operator of a child care facility may use information provided by the CPSC to determine if a children's product is a recalled product for the purposes of this act.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

#### **722.1070 Revocation or refusal to renew or issue facility license or registration.**

Sec. 20. The department may revoke or refuse to renew the license or certificate of registration of a child care facility or refuse to issue a license or certificate of registration if the licensee, registrant, or applicant does not comply with a section of this act.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

**722.1075 Violation by commercial user as misdemeanor; penalty.**

Sec. 25. A commercial user who willfully and knowingly violates section 5 is guilty of a misdemeanor punishable by a fine of not more than \$100.00 or by imprisonment for not more than 90 days, or both.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

**722.1080 Enforcement action; jurisdiction.**

Sec. 30. The attorney general or prosecuting attorney in the county in which a violation of this act occurred may bring an action in a court of competent jurisdiction to enforce the provisions of this act.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

**722.1085 Additional remedies.**

Sec. 35. Remedies available under this act are in addition to any other remedies or procedures under any other provision of law that may be available to an aggrieved party.

**History:** 2000, Act 219, Imd. Eff. June 27, 2000.

**UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT**  
**Act 195 of 2001**

AN ACT to adopt the uniform child-custody jurisdiction and enforcement act prescribing the powers and duties of the court in a child-custody proceeding involving this state and a proceeding or party outside of this state; and to repeal acts and parts of acts.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

*The People of the State of Michigan enact:*

**ARTICLE 1**  
**GENERAL PROVISIONS**

**722.1101 Short title.**

Sec. 101. This act shall be known and may be cited as the "uniform child-custody jurisdiction and enforcement act".

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

**722.1102 Definitions.**

Sec. 102. As used in this act:

- (a) "Abandoned" means left without provision for reasonable and necessary care or supervision.
- (b) "Child" means an individual who is younger than 18 years of age.
- (c) "Child-custody determination" means a judgment, decree, or other court order providing for legal custody, physical custody, or parenting time with respect to a child. Child-custody determination includes a permanent, temporary, initial, and modification order. Child-custody determination does not include an order relating to child support or other monetary obligation of an individual.
- (d) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or parenting time with respect to a child is an issue. Child-custody proceeding includes a proceeding for divorce, separate maintenance, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. Child-custody proceeding does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under article 3.
- (e) "Commencement" means the filing of the first pleading in a proceeding.
- (f) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.
- (g) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than 6 months of age, the term means the state in which the child lived from birth with a parent or person acting as a parent. A period of temporary absence of a parent or person acting as a parent is included as part of the period.
- (h) "Initial determination" means the first child-custody determination concerning a particular child.
- (i) "Issuing court" means the court that makes a child-custody determination for which enforcement is sought under this act.
- (j) "Issuing state" means the state in which a child-custody determination is made.
- (k) "Modification" means a child-custody determination that changes, replaces, supersedes, or is otherwise made after a previous child-custody determination concerning the same child, whether or not it is made by the court that made the previous child-custody determination.
- (l) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.
- (m) "Person acting as a parent" means a person, other than a parent, who meets both of the following criteria:
  - (i) Has physical custody of the child or has had physical custody for a period of 6 consecutive months, including a temporary absence, within 1 year immediately before the commencement of a child-custody proceeding.
  - (ii) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state.
- (n) "Physical custody" means the physical care and supervision of a child.
- (o) "Register" means to comply with the procedures of section 304 to make a child-custody determination



enforceable in this state.

(p) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular possession subject to the jurisdiction of the United States.

(q) "Tribe" means an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by a state.

(r) "Warrant" means a court order authorizing a law enforcement officer to take physical custody of a child.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1103 Scope of act; limitation.**

Sec. 103. This act does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1104 Proceeding pertaining to Indian child.**

Sec. 104. (1) A child-custody proceeding that pertains to an Indian child as defined in the Indian child welfare act of 1978, Public Law 95-608, 25 U.S.C. 1901 to 1903, 1911 to 1923, 1931 to 1934, 1951 to 1952, and 1961 to 1963, is not subject to this act to the extent that the proceeding is governed by the Indian child welfare act of 1978, Public Law 95-608, 25 U.S.C. 1901 to 1903, 1911 to 1923, 1931 to 1934, 1951 to 1952, and 1961 to 1963.

(2) A court of this state shall treat a tribe as a state of the United States for the purposes of articles 1 and 2.

(3) A child-custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this act must be recognized and enforced under article 3.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1105 Child-custody law or determination of foreign country.**

Sec. 105. (1) A court of this state shall treat a foreign country as a state of the United States for the purposes of applying articles 1 and 2.

(2) Except as otherwise provided in subsection (3), a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this act must be recognized and enforced under article 3.

(3) A court of this state need not apply this act if the child-custody law of a foreign country violates fundamental principles of human rights.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1106 Child-custody determination of this state.**

Sec. 106. A child-custody determination made by a court of this state that had jurisdiction under this act binds all persons who have been served in accordance with the laws of this state or notified in accordance with section 108 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the child-custody determination is conclusive as to all decided issues of law and fact except to the extent the child-custody determination is modified.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1107 Jurisdiction; question; priority.**

Sec. 107. If a question of existence or exercise of jurisdiction under this act is raised in a child-custody proceeding, upon request of a party, the question must be given priority on the court calendar and handled expeditiously.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1108 Notice; manner; proof of service; notice not required.**

Sec. 108. (1) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.

(2) Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1109 Personal jurisdiction.**

Sec. 109. (1) A party to a child-custody proceeding who is not subject to personal jurisdiction in this state and is a responding party under article 2, a party in a proceeding to modify a child-custody determination under article 2, or a petitioner in a proceeding to enforce or register a child-custody determination under article 3 may appear and participate in the proceeding without submitting to personal jurisdiction over the party for another proceeding or purpose.

(2) A party is not subject to personal jurisdiction in this state solely by being physically present for the purpose of participating in a proceeding under this act. If a party is subject to personal jurisdiction in this state on a basis other than physical presence, the party may be served with process in this state. If a party present in this state is subject to the jurisdiction of another state, service of process allowable under the law of that state may be accomplished in this state.

(3) The immunity granted by subsection (1) does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this act committed by an individual while present in this state.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1110 Communication between states; participation of parties; "record" defined.**

Sec. 110. (1) A court of this state may communicate with a court in another state concerning a proceeding arising under this act.

(2) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) A communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of that communication.

(4) Except as provided in subsection (3), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. Record includes each of the following:

(a) Notes or transcripts of a court reporter who listened to a conference call between the courts.

(b) An electronic recording of a telephone call.

(c) A memorandum or electronic record of a communication between the courts.

(d) A memorandum or electronic record of a communication between the courts that a court makes after the communication.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1111 Testimony.**

Sec. 111. (1) In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for a deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1112 Request to out-of-state court; expenses; preserving and forwarding records.**

Sec. 112. (1) A court of this state may request the appropriate court of another state to do any of the following:

(a) Hold an evidentiary hearing.

(b) Order a person to produce or give evidence under procedures of that state.

(c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.

(d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the

evidence otherwise presented, and an evaluation prepared in compliance with the request.

(e) Order a party to a child-custody proceeding or a person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1).

(3) Travel and other necessary and reasonable expenses incurred under subsection (1) or (2) may be assessed against the parties according to the law of this state.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of these records.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

## ARTICLE 2 JURISDICTION

### **722.1201 Initial child-custody determination; jurisdiction.**

Sec. 201. (1) Except as otherwise provided in section 204, a court of this state has jurisdiction to make an initial child-custody determination only in the following situations:

(a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.

(b) A court of another state does not have jurisdiction under subdivision (a), or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under section 207 or 208, and the court finds both of the following:

(i) The child and the child's parents, or the child and at least 1 parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

(ii) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.

(c) All courts having jurisdiction under subdivision (a) or (b) have declined to exercise jurisdiction on the grounds that a court of this state is the more appropriate forum to determine the custody of the child under section 207 or 208.

(d) No court of another state would have jurisdiction under subdivision (a), (b), or (c).

(2) Subsection (1) is the exclusive jurisdictional basis for making a child-custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is neither necessary nor sufficient to make a child-custody determination.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1202 Exclusive, continuing jurisdiction; condition; determination to decline jurisdiction; modification of child-custody determination.**

Sec. 202. (1) Except as otherwise provided in section 204, a court of this state that has made a child-custody determination consistent with section 201 or 203 has exclusive, continuing jurisdiction over the child-custody determination until either of the following occurs:

(a) A court of this state determines that neither the child, nor the child and 1 parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships.

(b) A court of this state or a court of another state determines that neither the child, nor a parent of the child, nor a person acting as the child's parent presently resides in this state.

(2) A court of this state that has exclusive, continuing jurisdiction under this section may decline to exercise its jurisdiction if the court determines that it is an inconvenient forum under section 207.

(3) A court of this state that has made a child-custody determination and that does not have exclusive, continuing jurisdiction under this section may modify that child-custody determination only if it has jurisdiction to make an initial child-custody determination under section 201.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1203 Modification of out-of-state child-custody determination; requirements.**

Sec. 203. Except as otherwise provided in section 204, a court of this state shall not modify a child-custody

determination made by a court of another state unless a court of this state has jurisdiction to make an initial child-custody determination under section 201(1)(a) or (b) and either of the following applies:

(a) The court of the other state determines it no longer has exclusive, continuing jurisdiction under section 202 or that a court of this state would be a more convenient forum under section 207.

(b) A court of this state or a court of the other state determines that neither the child, nor a parent of the child, nor a person acting as a parent presently resides in the other state.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1204 Temporary emergency jurisdiction; communication with out-of-state court; duration of order.**

Sec. 204. (1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(2) If there is no previous child-custody determination that is entitled to be enforced under this act and if a child-custody proceeding has not been commenced in a court of a state having jurisdiction under sections 201 to 203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 201 to 203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 201 to 203, a child-custody determination made under this section becomes a final child-custody determination, if that is what the determination provides and this state becomes the home state of the child.

(3) If there is a previous child-custody determination that is entitled to be enforced under this act or if a child-custody proceeding has been commenced in a court of a state having jurisdiction under sections 201 to 203, an order issued by a court of this state under this section must specify in the order a period of time that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 201 to 203. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) If a court of this state that has been asked to make a child-custody determination under this section is informed that a child-custody proceeding has been commenced in, or that a child-custody determination has been made by, a court of a state having jurisdiction under sections 201 to 203, the court of this state shall immediately communicate with the other court. If a court of this state that is exercising jurisdiction under sections 201 to 203 is informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of another state under a statute similar to this section, the court of this state shall immediately communicate with the court of the other state. The purpose of a communication under this subsection is to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1205 Notice and hearing.**

Sec. 205. (1) Before a child-custody determination is made under this act, notice and an opportunity to be heard in accordance with the standards of section 108 must be given to each person entitled to notice under the law of this state as in child-custody proceedings between residents of this state, a parent whose parental rights have not been previously terminated, and a person having physical custody of the child.

(2) This act does not govern the enforceability of a child-custody determination made without notice and an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this act are governed by the law of this state as in child-custody proceedings between residents of this state.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1206 Commencement of out-of-state proceeding; jurisdiction; communication; dismissal of proceeding by in-state court; modification.**

Sec. 206. (1) Except as otherwise provided in section 204, a court of this state may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a child-custody proceeding has been commenced in a court of another state having jurisdiction substantially in conformity with this act, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under section 207.

(2) Except as otherwise provided in section 204, before hearing a child-custody proceeding, a court of this state shall examine the court documents and other information supplied by the parties as required by section 209. If the court determines that, at the time of the commencement of the proceeding, a child-custody

proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this act, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this act does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the child-custody proceeding.

(3) In a proceeding to modify a child-custody determination, a court of this state shall determine whether a proceeding to enforce the child-custody determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court may do any of the following:

(a) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement.

(b) Enjoin the parties from continuing with the proceeding for enforcement.

(c) Proceed with the modification under conditions it considers appropriate.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

## **722.1207 Determination of inconvenient forum.**

Sec. 207. (1) A court of this state that has jurisdiction under this act to make a child-custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon the motion of a party, the court's own motion, or the request of another court.

(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including all of the following:

(a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.

(b) The length of time the child has resided outside this state.

(c) The distance between the court in this state and the court in the state that would assume jurisdiction.

(d) The parties' relative financial circumstances.

(e) An agreement by the parties as to which state should assume jurisdiction.

(f) The nature and location of the evidence required to resolve the pending litigation, including the child's testimony.

(g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

(h) The familiarity of the court of each state with the facts and issues of the pending litigation.

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise jurisdiction under this act if a child-custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

## **722.1208 Unjustifiable conduct of parties; decision to decline exercise of jurisdiction; dismissal or stay; expenses.**

Sec. 208. (1) Except as otherwise provided in section 204 or by other law of this state, if a court of this state has jurisdiction under this act because a person invoking the court's jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless the court finds 1 or more of the following:

(a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction.

(b) A court of the state otherwise having jurisdiction under sections 201 to 203 determines that this state is a more appropriate forum under section 207.

(c) No court of another state would have jurisdiction under sections 201 to 203.

(2) If a court of this state declines to exercise its jurisdiction under subsection (1), the court may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under sections 201 to 203.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise jurisdiction under



subsection (1), it shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, witness expenses, travel expenses, and child care expenses during the course of the proceedings, unless the party from whom expenses and fees are sought establishes that the award would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this act.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1209 Pleading or sworn statement; information.**

Sec. 209. (1) Subject to the law of this state providing for confidentiality of procedures, addresses, and other identifying information, in a child-custody proceeding, each party, in its first pleading or in an attached sworn statement, shall give information, if reasonably ascertainable, under oath as to the child's present address, the places where the child has lived during the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or sworn statement must state all of the following:

(a) Whether the party has participated, as a party or witness or in another capacity, in another child-custody proceeding with the child and, if so, identify the court, the case number of the child-custody proceeding, and the date of the child-custody determination, if any.

(b) Whether the party knows of a proceeding that could affect the current child-custody proceeding, including a proceeding for enforcement or a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption, and, if so, identify the court, the case number, and the nature of the proceeding.

(c) The name and address of each person that the party knows who is not a party to the child-custody proceeding and who has physical custody of the child or claims rights of legal custody or physical custody of, or parenting time with, the child.

(2) If the information required by subsection (1) is not furnished, upon motion of a party or its own motion, the court may stay the proceeding until the information is furnished.

(3) If the declaration as to an item described in subsection (1) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of a proceeding in this or another state that could affect the current child-custody proceeding.

(5) If a party alleges in a sworn statement or a pleading under oath that a party's or child's health, safety, or liberty would be put at risk by the disclosure of identifying information, the court shall seal and not disclose that information to the other party or the public unless the court orders the disclosure after a hearing in which the court considers the party's or child's health, safety, and liberty and determines that the disclosure is in the interest of justice.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1210 Order to appear with or without child.**

Sec. 210. (1) A court of this state may order a party to a child-custody proceeding who is in this state to appear before the court personally with or without the child. The court may order a person who is in this state and who has physical custody or control of the child to appear physically with the child.

(2) If a party to a child-custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given in accordance with section 108 include a statement directing the party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to the party.

(3) The court may enter any orders necessary to ensure the safety of the child or of a person ordered to appear under this section.

(4) If a party to a child-custody proceeding who is outside this state is directed to appear under subsection (2) or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party directed or desiring to appear and of the child.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **ARTICLE 3 ENFORCEMENT**



### **722.1301 “Petitioner” and “respondent” defined.**

Sec. 301. As used in this article:

(a) "Petitioner" means a person who seeks enforcement of a child-custody determination or enforcement of an order for return of a child under the Hague convention on the civil aspects of international child abduction.

(b) "Respondent" means a person against whom a proceeding has been commenced for enforcement of a child-custody determination or enforcement of an order for the return of a child under the Hague convention on the civil aspects of international child abduction.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1302 Enforcement; temporary order.**

Sec. 302. (1) This article may be invoked to enforce 1 or both of the following:

(a) A child-custody determination.

(b) An order for the return of a child made under the Hague convention on the civil aspects of international child abduction.

(2) A court of this state that does not have jurisdiction to modify a child-custody determination may issue a temporary order enforcing either of the following:

(a) A parenting time schedule made by a court of another state.

(b) The parenting time provisions of a child-custody determination of another state that does not provide for a specific parenting time schedule.

(3) If a court of this state makes an order under subsection (2)(b), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in article 2. The order remains in effect until an order is obtained from the other court or the period expires.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1303 Child custody determination by out-of-state court; enforcement; remedy.**

Sec. 303. (1) A court of this state shall recognize and enforce a child-custody determination of a court of another state if the latter court exercised jurisdiction that was in substantial conformity with this act or the child-custody determination was made under factual circumstances meeting the jurisdictional standards of this act and the child-custody determination has not been modified in accordance with this act.

(2) A court of this state may utilize a remedy available under another law of this state to enforce a child-custody determination made by a court of another state. The procedure provided by this article does not affect the availability of other remedies to enforce a child-custody determination.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

### **722.1304 Registered child-custody determination; requirements.**

Sec. 304. (1) A child-custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending all of the following to the circuit court in this state:

(a) A letter or other document requesting registration.

(b) Two copies, including 1 certified copy, of the child-custody determination sought to be registered, and a statement under penalty of perjury that, to the best of the knowledge and belief of the person seeking registration, the child-custody determination has not been modified.

(c) Except as otherwise provided in section 209, the name and address of the person seeking registration and of each parent or person acting as a parent who has been awarded custody or parenting time in the child-custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1), the registering court shall do both of the following:

(a) Cause the child-custody determination to be filed as a foreign judgment, together with 1 copy of any accompanying documents and information, regardless of form.

(b) Serve notice upon the persons named under subsection (1)(c) and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by subsection (2)(b) must state all of the following:

(a) A registered child-custody determination is enforceable as of the date of the registration in the same manner as a child-custody determination issued by a court of this state.

(b) A hearing to contest the validity of the registered child-custody determination must be requested within 21 days after service of notice.

(c) Failure to contest the registration will result in confirmation of the child-custody determination and

preclude further contest of that child-custody determination with respect to a matter that could have been asserted.

(4) A person seeking to contest the validity of a registered child-custody determination must request a hearing within 21 days after service of the notice under subsection (2). At that hearing, the court shall confirm the registered child-custody determination unless the person contesting registration establishes 1 of the following:

(a) The issuing court did not have jurisdiction under article 2.

(b) The child-custody determination sought to be registered has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2.

(c) The person contesting registration was entitled to notice in the proceedings before the court that issued the child-custody determination for which registration is sought, but notice of those proceedings was not given in accordance with the standards of section 108.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law, and the person requesting registration and each person served must be notified of the confirmation.

(6) Confirmation of a registered child-custody determination, whether by operation of law or after notice and hearing, precludes further contest of the child-custody determination with respect to a matter that could have been asserted at the time of registration.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1305 Registered child-custody determination; enforcement.**

Sec. 305. (1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child-custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but shall not modify except in accordance with article 2, a registered child-custody determination of another state.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1306 Commencement of in-state enforcement proceeding; out-of-state modification proceeding; communication of enforcing court with modifying court.**

Sec. 306. If a proceeding for enforcement under this article is commenced in this state and a court of this state determines that a proceeding to modify the child-custody determination has been commenced in another state having jurisdiction to modify the child-custody determination under article 2, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1307 Petition for enforcement of child-custody determination; contents; filing; hearing.**

Sec. 307. (1) A petition under this article must be verified. A certified copy of a child-custody determination sought to be enforced and of the order confirming registration, if any, must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child-custody determination must state all of the following:

(a) Whether the court that issued the child-custody determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

(b) Whether the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this act or federal law and, if so, identify the court, the case number of the proceeding, and the action taken.

(c) Whether a proceeding has been commenced that could affect the current proceeding, including a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption and, if so, identify the court and the case number and nature of the proceeding.

(d) The present physical address of the child and the respondent, if known.

(e) Whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(f) If the child-custody determination has been registered and confirmed under section 304, the date and place of registration.

(3) Upon the filing of a petition under this article, the court shall issue an order directing the respondent to appear with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The court shall hold the hearing on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The

court may extend the date of hearing at the request of the petitioner.

(4) An order issued under subsection (3) must state the time and place of the hearing and must advise the respondent that at the hearing the court will order the delivery of the child and the payment of fees, costs, and expenses under section 311, and may schedule an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either of the following:

(a) The child-custody determination has not been registered and confirmed under section 304 and 1 or more of the following:

(i) The issuing court did not have jurisdiction under article 2.

(ii) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2 or federal law.

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 108 in the proceedings before the court that issued the order for which enforcement is sought.

(b) The child-custody determination for which enforcement is sought was registered and confirmed under section 304, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2 or federal law.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1308 Petition and order; service.**

Sec. 308. Except as otherwise provided in section 310, the petition and order must be served, by a method authorized by the law of this state, upon respondent and any person who has physical custody of the child.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1309 Delivery of child to petitioner; grounds for exception; expenses; additional relief; refusal to testify; inference; privilege against disclosure.**

Sec. 309. (1) Unless the court issues a temporary emergency order as provided in section 204, upon a finding that a petitioner is immediately entitled to the physical custody of the child, the court shall order the child delivered to the petitioner unless the respondent establishes either of the following:

(a) The child-custody determination has not been registered and confirmed under section 304 and 1 or more of the following:

(i) The issuing court did not have jurisdiction under article 2.

(ii) The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2 or federal law.

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 108 in the proceedings before the court that issued the order for which enforcement is sought.

(b) The child-custody determination for which enforcement is sought was registered and confirmed under section 304, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under article 2 or federal law.

(2) The court shall award the fees, costs, and expenses authorized under section 311 and may grant additional relief, including a request for the assistance of law enforcement officials, and schedule a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the grounds that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child cannot be invoked in a proceeding under this article.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1310 Warrant to take physical custody of child.**

Sec. 310. (1) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is likely to suffer serious imminent physical harm or be removed from this state.

(2) If the court, upon the testimony of the petitioner or other witness, finds that the child is likely to suffer serious imminent physical harm or be imminently removed from this state, the court may issue a warrant to take physical custody of the child. The court shall hold a hearing on the petition on the next judicial day after the warrant is executed. A warrant issued under this section must include the statements required in an enforcement petition by section 307.

(3) A warrant to take physical custody of a child must include at least the following:

(a) A recitation of the facts upon which a conclusion of serious imminent physical harm or imminent removal from the jurisdiction is based.

(b) An order directing law enforcement officers to take physical custody of the child immediately.  
(c) Provisions for the placement of the child pending final relief.  
(4) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(5) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or another witness that a less intrusive remedy is not effective, the court may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1311 Assessment of expenses.**

Sec. 311. (1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, witness expenses, travel expenses, and child care expenses during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court shall not assess fees, costs, or expenses against a state except as otherwise provided by law other than this act.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1312 Full faith and credit.**

Sec. 312. A court of this state shall accord full faith and credit to an order issued by another state and consistent with this act that enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under article 2.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1313 Appeal.**

Sec. 313. An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 204, the enforcing court may not stay an order enforcing a child-custody determination pending appeal.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1314 International child abduction; actions by prosecutor or attorney general.**

Sec. 314. (1) In a case arising under this act or involving the Hague convention on the civil aspects of international child abduction, a prosecutor or the attorney general may take any lawful action, including resort to a proceeding under this article or another available civil proceeding, to locate a child, obtain the return of a child, or enforce a child-custody determination if there is 1 or more of the following:

- (a) An existing child-custody determination.
- (b) A request from a court in a pending child-custody proceeding.
- (c) A reasonable belief that a criminal statute has been violated.
- (d) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague convention on the civil aspects of international child abduction.

(2) A prosecutor or the attorney general acting under this section acts on behalf of the court and shall not represent a party to a child-custody determination.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1315 Actions by law enforcement officer.**

Sec. 315. At the request of a prosecutor or the attorney general acting under section 314, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and to assist the prosecutor or attorney general with responsibilities under section 314.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### **722.1316 Expenses of prosecutor or attorney general and law enforcement officers; assessment against respondent.**

Sec. 316. If the respondent is not the prevailing party, the court may assess against the respondent all direct

expenses and costs incurred by the prosecutor or attorney general and law enforcement officers under section 314 or 315.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

#### ARTICLE 4 MISCELLANEOUS

##### **722.1401 Application and construction of act; promotion of uniformity.**

Sec. 401. In applying and construing this uniform act, the court shall give consideration to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

##### **722.1405 Proceedings commenced before effective date of act.**

Sec. 405. A motion or other request for relief made in a child-custody or enforcement proceeding that was commenced before the effective date of this act is governed by the law in effect at the time the motion or other request was made.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

##### **722.1406 Repeal of MCL 600.651 to 600.673; effective date of act.**

Sec. 406. (1) Sections 651 to 673 of the revised judicature act of 1961, 1961 PA 236, MCL 600.651 to 600.673, are repealed.

(2) This act takes effect April 1, 2002.

**History:** 2001, Act 195, Eff. Apr. 1, 2002.

\*\*\*\*\* *Act 159 of 2012 THIS TITLE, BEGINNING WITH THE FIRST INSTANCE OF "AN ACT", IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: THIS AMENDED TITLE, BEGINNING WITH THE SECOND INSTANCE OF "AN ACT", IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

**REVOCATION OF PATERNITY ACT**  
**Act 159 of 2012**

AN ACT to provide procedures to determine the paternity of children in certain circumstances; to allow acknowledgments, determinations, and judgments relating to paternity to be set aside in certain circumstances; to provide for the powers and duties of certain state and local governmental officers and entities; and to provide remedies. AN ACT to provide procedures to determine the parentage of children in certain circumstances; to allow acknowledgments, determinations, and judgments relating to parentage to be set aside in certain circumstances; to provide for the powers and duties of certain state and local governmental officers and entities; and to provide remedies.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2024, Act 29, Eff. (sine die).

*The People of the State of Michigan enact:*

\*\*\*\*\* *722.1431 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1431.amended* \*\*\*\*\*

**722.1431 Short title.**

Sec. 1. This act shall be known and may be cited as the "revocation of paternity act".

**History:** 2012, Act 159, Imd. Eff. June 12, 2012.

\*\*\*\*\* *722.1431.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

**722.1431.amended Short title.**

Sec. 1. This act may be cited as the "revocation of parentage act".

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2024, Act 29, Eff. (sine die).

\*\*\*\*\* *722.1433 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1433.amended* \*\*\*\*\*

**722.1433 Definitions.**

Sec. 3. As used in this act:

(a) "Acknowledged father" means a man who has affirmatively held himself out to be the child's father by executing an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013.

(b) "Affiliated father" means a man who has been determined in a court to be the child's father.

(c) "Alleged father" means a man who by his actions could have fathered the child.

(d) "Genetic father" means a man whose paternity has been determined solely through genetic testing under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, the summary support and paternity act, or the genetic parentage act.

(e) "Presumed father" means a man who is presumed to be the child's father by virtue of his marriage to the child's mother at the time of the child's conception or birth.

(f) "Order of filiation" means a judicial order establishing an affiliated father.

(g) "Title IV-D case" means an action in which services are provided under part D of title IV of the social security act, 42 USC 651 to 669b.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2014, Act 376, Eff. Mar. 17, 2015.

\*\*\*\*\* *722.1433.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

**722.1433.amended Definitions.**

Sec. 3. As used in this act:

(a) "Acknowledged parent" means an individual who has affirmatively held themselves out to be the child's



parent by executing an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013.

(b) "Affiliated father" means a man who has been determined in a court to be the child's father.

(c) "Alleged father" means a man who by his actions could have fathered the child.

(d) "Donor" means that term as defined in section 3 of the assisted reproduction and surrogacy parentage act.

(e) "Genetic father" means a man whose paternity has been determined solely through genetic testing under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, the summary support and paternity act, or the genetic parentage act.

(f) "Presumed parent" means an individual who is presumed to be the child's parent by virtue of marriage to the child's mother at the time of the child's conception or birth.

(g) "Order of filiation" means a judicial order establishing an affiliated father.

(h) "Title IV-D case" means an action in which services are provided under part D of title IV of the social security act, 42 USC 651 to 669b.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2014, Act 376, Eff. Mar. 17, 2015;—Am. 2024, Act 29, Eff. (sine die).

\*\*\*\*\* 722.1435 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1435.amended \*\*\*\*\*

#### **722.1435 Applicability of sections to certain actions.**

Sec. 5. (1) Section 7 governs an action to set aside an acknowledgment of parentage.

(2) Section 8 governs an action to determine that a genetic father is not a child's father.

(3) Section 9 governs an action to set aside an order of filiation.

(4) Section 11 governs an action to determine that a presumed father is not a child's father.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2014, Act 376, Eff. Mar. 17, 2015.

\*\*\*\*\* 722.1435.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

#### **722.1435.amended Applicability of sections to certain actions.**

Sec. 5. (1) Section 7 governs an action to set aside an acknowledgment of parentage.

(2) Section 8 governs an action to determine that a genetic father is not a child's father.

(3) Section 9 governs an action to set aside an order of filiation.

(4) Section 11 governs an action to determine that a presumed parent is not a child's parent.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2014, Act 376, Eff. Mar. 17, 2015;—Am. 2024, Act 29, Eff. (sine die).

\*\*\*\*\* 722.1437 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1437.amended \*\*\*\*\*

#### **722.1437 Action for revocation of acknowledgment of paternity; filing; agreement to transfer prosecutor's responsibilities; proceeding on behalf of state; affidavit; order for blood or tissue typing or DNA identification profiling; forwarding copy of order to state registrar; vacating acknowledgment of parentage; amending birth certificate; representation.**

Sec. 7. (1) The mother, the acknowledged father, an alleged father, or a prosecuting attorney may file an action for revocation of an acknowledgment of parentage. An action under this section shall be filed within 3 years after the child's birth or within 1 year after the date that the acknowledgment of parentage was signed, whichever is later. The requirement that an action be filed within 3 years after the child's birth or within 1 year after the date the acknowledgment is signed does not apply to an action filed on or before June 12, 2013.

(2) The prosecuting attorney and the department of human services may enter into an agreement to transfer the prosecutor's responsibilities under this act to 1 of the following:

(a) The friend of the court, with the approval of the chief judge of the circuit court.

(b) An attorney employed or contracted by the county under section 1 of 1941 PA 15, MCL 49.71.

(c) An attorney employed by, or under contract with, the department of human services.

(3) A proceeding under this section is conducted on behalf of the state and not as the attorney for any other party.

(4) An action for revocation under this section shall be supported by an affidavit signed by the person filing the action that states facts that constitute 1 of the following:

(a) Mistake of fact.

(b) Newly discovered evidence that by due diligence could not have been found before the acknowledgment was signed.

(c) Fraud.

(d) Misrepresentation or misconduct.

(e) Duress in signing the acknowledgment.

(5) If the court in an action for revocation under this section finds that an affidavit under subsection (4) is sufficient, the court shall order blood or tissue typing or DNA identification profiling as required under section 13(5). The person filing the action has the burden of proving, by clear and convincing evidence, that the acknowledged father is not the father of the child.

(6) The clerk of the court shall forward a copy of an order of revocation entered under this section to the state registrar. The state registrar shall vacate the acknowledgment of parentage and may amend the birth certificate as prescribed by the order of revocation.

(7) Whether an action for revocation under this section is brought by a complaint in an original action or by a motion in an existing action, the prosecuting attorney, an attorney appointed by the county, the friend of the court, or an attorney appointed by the court is not required to represent any party regarding the action for revocation.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2014, Act 368, Eff. Mar. 17, 2015.

\*\*\*\*\* 722.1437.amended *THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

**722.1437.amended Action for revocation of acknowledgment of parentage; filing; agreement to transfer prosecutor's responsibilities; proceeding on behalf of state; affidavit; order for blood or tissue typing or DNA identification profiling; forwarding copy of order to state registrar; vacating acknowledgment of parentage; amending birth certificate; representation.**

Sec. 7. (1) The mother, the acknowledged parent, an alleged father, or a prosecuting attorney may file an action for revocation of an acknowledgment of parentage. An action under this section must be filed within 3 years after the child's birth or within 1 year after the date that the acknowledgment of parentage was signed, whichever is later. The requirement that an action be filed within 3 years after the child's birth or within 1 year after the date the acknowledgment is signed does not apply to an action filed on or before June 12, 2013.

(2) The prosecuting attorney and the department may enter into an agreement to transfer the prosecutor's responsibilities under this act to 1 of the following:

(a) The friend of the court, with the approval of the chief judge of the circuit court.

(b) An attorney employed or contracted by the county under section 1 of 1941 PA 15, MCL 49.71.

(c) An attorney employed by, or under contract with, the department.

(3) A proceeding under this section is conducted on behalf of the state and not as the attorney for any other party.

(4) An action for revocation under this section must be supported by an affidavit signed by the person filing the action that states facts that constitute 1 of the following:

(a) Mistake of fact.

(b) Newly discovered evidence that by due diligence could not have been found before the acknowledgment was signed.

(c) Fraud.

(d) Misrepresentation or misconduct.

(e) Duress in signing the acknowledgment.

(5) If the court in an action for revocation under this section finds that an affidavit under subsection (4) is sufficient, the court must order blood or tissue typing or DNA identification profiling as required under section 13(5). The person filing the action has the burden of proving, by clear and convincing evidence, that the acknowledged parent is not the father of the child.

(6) The clerk of the court must forward a copy of an order of revocation entered under this section to the state registrar. The state registrar must vacate the acknowledgment of parentage and may amend the birth certificate as prescribed by the order of revocation.

(7) Whether an action for revocation under this section is brought by a complaint in an original action or by a motion in an existing action, the prosecuting attorney, an attorney appointed by the county, the friend of the court, or an attorney appointed by the court is not required to represent any party regarding the action for revocation.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2014, Act 368, Eff. Mar. 17, 2015;—Am. 2024, Act 29, Eff. (sine die).

#### **722.1438 Action for order determining genetic father not child's father.**

Sec. 8. (1) The mother, the genetic father, an alleged father, or a prosecuting attorney may file an action for an order determining that a genetic father is not a child's father. An action under this section shall be filed within 3 years after the child's birth or within 1 year after the date that the genetic father was established as a child's father, whichever is later.

(2) An action under this section shall be supported by an affidavit signed by the person filing the action that states facts constituting 1 of the following:

- (a) The genetic tests that established the man as a child's father were inaccurate.
- (b) The man's genetic material was not available to the child's mother.
- (c) A man who has DNA identical to the genetic father is the child's father.

(3) If the court in an action under this section finds that an affidavit under subsection (2) is sufficient, the court shall order blood or tissue typing or DNA identification profiling as required under section 13(5). The person filing the action has the burden of proving, by clear and convincing evidence, that the genetic father is not the father of the child. The court may order the person filing the action to repay the cost of the genetic test to the state.

(4) If a genetic father has been reported to the state registrar as a child's father, the clerk of the court shall forward a copy of an order determining that the genetic father is not a child's father to the state registrar. The state registrar shall remove the genetic father as the child's father and may amend the birth certificate as prescribed by the order.

(5) Whether an action filed under this section is brought by a complaint in an original action or by a motion in an existing action, the prosecuting attorney, an attorney appointed by the county, or an attorney appointed by the court is not required to represent any party regarding the action.

**History:** Add. 2014, Act 376, Eff. Mar. 17, 2015.

\*\*\*\*\* 722.1439 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1439.amended \*\*\*\*\*

#### **722.1439 Motion to set aside determination.**

Sec. 9. (1) If a child has an affiliated father and paternity was determined based on the affiliated father's failure to participate in the court proceedings, the mother, an alleged father, or the affiliated father may file a motion with the court that made the determination to set aside the determination.

(2) A motion under this section shall be filed within 3 years after the child's birth or within 1 year after the date of the order of filiation, whichever is later. The requirement that an action be filed within 3 years after the child's birth or within 1 year after the date of the order of filiation does not apply to an action filed on or before 1 year after the effective date of this act.

(3) If the court determines that a motion under this section should be denied and the order of filiation not be set aside, the court shall order the person who filed the motion to pay the reasonable attorney fees and costs incurred by any other party because of the motion.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012.

\*\*\*\*\* 722.1439.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

#### **722.1439.amended Motion to set aside determination.**

Sec. 9. (1) If a child has an affiliated father and paternity was determined based on the affiliated father's failure to participate in the court proceedings, the mother, an alleged father, or the affiliated father may file a motion with the court that made the determination to set aside the determination.

(2) A motion under this section must be filed within 3 years after the child's birth or within 1 year after the date of the order of filiation, whichever is later. The requirement that an action be filed within 3 years after the child's birth or within 1 year after the date of the order of filiation does not apply to an action filed on or before 1 year after the effective date of this act.

(3) If the court determines that a motion under this section should be denied and the order of filiation not be set aside, the court shall order the person who filed the motion to pay the reasonable attorney fees and costs incurred by any other party because of the motion.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2024, Act 29, Eff. (sine die).

\*\*\*\*\* 722.1441 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE

**722.1441 Determination that child born out of wedlock.**

Sec. 11. (1) If a child has a presumed father, a court may determine that the child is born out of wedlock for the purpose of establishing the child's paternity if an action is filed by the child's mother and either of the following applies:

(a) All of the following apply:

(i) The mother identifies the alleged father by name in the complaint or motion commencing the action.

(ii) The presumed father, the alleged father, and the child's mother at some time mutually and openly acknowledged a biological relationship between the alleged father and the child.

(iii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.

(iv) Either the court determines the child's paternity or the child's paternity will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(b) All of the following apply:

(i) The mother identifies the alleged father by name in the complaint or motion commencing the action.

(ii) Either of the following applies:

(A) The presumed father, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.

(B) The child is less than 3 years of age and the presumed father lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.

(iii) Either the court determines the child's paternity or the child's paternity will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(2) If a child has a presumed father, a court may determine that the child is born out of wedlock for the purpose of establishing the child's paternity if an action is filed by the presumed father within 3 years after the child's birth or if the presumed father raises the issue in an action for divorce or separate maintenance between the presumed father and the mother. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.

(3) If a child has a presumed father, a court may determine that the child is born out of wedlock for the purpose of establishing the child's paternity if an action is filed by an alleged father and any of the following applies:

(a) All of the following apply:

(i) The alleged father did not know or have reason to know that the mother was married at the time of conception.

(ii) The presumed father, the alleged father, and the child's mother at some time mutually and openly acknowledged a biological relationship between the alleged father and the child.

(iii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.

(iv) Either the court determines the child's paternity or the child's paternity will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(b) All of the following apply:

(i) The alleged father did not know or have reason to know that the mother was married at the time of conception.

(ii) Either of the following applies:

(A) The presumed father, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.

(B) The child is less than 3 years of age and the presumed father lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.

(iii) Either the court determines the child's paternity or the child's paternity will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

- (c) Both of the following apply:
- (i) The mother was not married at the time of conception.
  - (ii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.
- (4) If a child has a presumed father and the child is being supported in whole or in part by public assistance, a court may determine that the child is born out of wedlock for the purpose of establishing the child's paternity if an action is filed by the department of human services and both of the following apply:
- (a) Either of the following applies:
    - (i) The presumed father, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.
    - (ii) The child is less than 3 years of age and the presumed father lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.
  - (b) Either the court determines the child's paternity or the child's paternity will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.
- (5) An action under this section may be brought by a complaint filed in an original action or by a motion filed in an existing action, as appropriate under this act and rules adopted by the supreme court.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012.

\*\*\*\*\* 722.1441.amended *THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1441.amended Determination that child born out of wedlock.**

Sec. 11. (1) If a child has a presumed parent, a court may determine that the child is born out of wedlock for the purpose of establishing the child's parentage if an action is filed by the child's mother and either of the following applies:

- (a) All of the following apply:
  - (i) The mother identifies the alleged father by name in the complaint or motion commencing the action.
  - (ii) The presumed parent, the alleged father, and the child's mother at some time mutually and openly acknowledged a biological relationship between the alleged father and the child.
  - (iii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.
  - (iv) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.
- (b) All of the following apply:
  - (i) The mother identifies the alleged father by name in the complaint or motion commencing the action.
  - (ii) Either of the following applies:
    - (A) The presumed parent, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.
    - (B) The child is less than 3 years of age and the presumed parent lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.
  - (iii) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.

(2) If a child has a presumed parent, a court may determine that the child is born out of wedlock for the purpose of establishing the child's parentage if an action is filed by the presumed parent within 3 years after the child's birth or if the presumed parent raises the issue in an action for divorce or separate maintenance between the presumed parent and the mother. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.

(3) If a child has a presumed parent, a court may determine that the child is born out of wedlock for the purpose of establishing the child's parentage if an action is filed by an alleged father and any of the following applies:



- (a) All of the following apply:
  - (i) The alleged father did not know or have reason to know that the mother was married at the time of conception.
  - (ii) The presumed parent, the alleged father, and the child's mother at some time mutually and openly acknowledged a biological relationship between the alleged father and the child.
  - (iii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.
  - (iv) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.
- (b) All of the following apply:
  - (i) The alleged father did not know or have reason to know that the mother was married at the time of conception.
  - (ii) Either of the following applies:
    - (A) The presumed parent, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.
    - (B) The child is less than 3 years of age and the presumed parent lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.
  - (iii) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.
- (c) Both of the following apply:
  - (i) The mother was not married at the time of conception.
  - (ii) The action is filed within 3 years after the child's birth. The requirement that an action be filed within 3 years after the child's birth does not apply to an action filed on or before 1 year after the effective date of this act.
- (4) If a child has a presumed parent and the child is being supported in whole or in part by public assistance, a court may determine that the child is born out of wedlock for the purpose of establishing the child's parentage if an action is filed by the department of human services and both of the following apply:
  - (a) Either of the following applies:
    - (i) The presumed parent, having the ability to support or assist in supporting the child, has failed or neglected, without good cause, to provide regular and substantial support for the child for a period of 2 years or more before the filing of the action or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the action.
    - (ii) The child is less than 3 years of age and the presumed parent lives separately and apart from the child. The requirement that the child is less than 3 years of age at the time an action is filed does not apply to an action filed on or before 1 year after the effective date of this act.
  - (b) Either the court determines the child's parentage or the child's parentage will be established under the law of this state or another jurisdiction if the child is determined to be born out of wedlock.
- (5) An action under this section may be brought by a complaint filed in an original action or by a motion filed in an existing action, as appropriate under this act and rules adopted by the supreme court.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2024, Act 29, Eff. (sine die).

\*\*\*\*\* 722.1443 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1443.amended \*\*\*\*\*

## **722.1443 Court action.**

Sec. 13. (1) An original action under this act shall be filed in the circuit court for the county in which the mother or the child resides or, if neither the mother nor the child reside in this state, in the circuit court for the county in which the child was born. If an action for the support, custody, or parenting time of the child exists at any stage of the proceedings in a circuit court of this state or if an action under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is pending in a circuit court of this state, an action under this act shall be brought by motion in the existing case under rules adopted by the supreme court.

- (2) In an action filed under this act, the court may do any of the following:
  - (a) Revoke an acknowledgment of parentage.
  - (b) Determine that a genetic father is not a child's father.



- (c) Set aside an order of filiation or a paternity order.
- (d) Determine that a child was born out of wedlock.
- (e) Make a determination of paternity and enter an order of filiation as provided for under section 7 of the paternity act, 1956 PA 205, MCL 722.717.

(3) A judgment entered under this act does not relieve a man from a support obligation for the child or the child's mother that was incurred before the action was filed or prevent a person from seeking relief under applicable court rules to vacate or set aside a judgment.

(4) A court may refuse to enter an order setting aside a paternity determination, revoking an acknowledgment of parentage, determining that a genetic father is not a child's father, or determining that a child is born out of wedlock if the court finds evidence that the order would not be in the best interests of the child. The court shall state its reasons for refusing to enter an order on the record. The court may consider the following factors:

- (a) Whether the presumed father is estopped from denying parentage because of his conduct.
- (b) The length of time the presumed father was on notice that he might not be the child's father.
- (c) The facts surrounding the presumed father's discovery that he might not be the child's father.
- (d) The nature of the relationship between the child and the presumed or alleged father.
- (e) The age of the child.
- (f) The harm that may result to the child.
- (g) Other factors that may affect the equities arising from the disruption of the father-child relationship.
- (h) Any other factor that the court determines appropriate to consider.

(5) The court shall order the parties to an action or motion under this act to participate in and pay for blood or tissue typing or DNA identification profiling to assist the court in making a determination under this act. Blood or tissue typing or DNA identification profiling shall be conducted in accordance with section 6 of the paternity act, 1956 PA 205, MCL 722.716. The results of blood or tissue typing or DNA identification profiling are not binding on a court in making a determination under this act.

(6) If the case is a title IV-D case, the court may appoint an attorney approved by the office of child support to represent this state's interests with respect to an action or a motion under this act. The court may appoint a guardian ad litem to represent the child's interests with respect to the action or motion.

(7) A court shall not issue an order under this act that sets aside a judgment or determination of a court or administrative agency of another state, even if the judgment or determination is being enforced in this state, or that is inconsistent with 28 USC 1738A or 28 USC 1738B.

(8) This act does not establish a basis for termination of an adoption and does not affect any obligation of an adoptive parent to an adoptive child.

(9) This act does not establish a basis for vacating a judgment establishing paternity of a child conceived under a surrogate parentage contract as that term is defined in section 3 of the surrogate parenting act, 1988 PA 199, MCL 722.853.

(10) A common law action that was available before June 12, 2012 to set aside a paternity determination or to determine that a child is born out of wedlock remains available until June 12, 2014, but is not available after June 12, 2014.

(11) Except for an action filed under section 15(2), a court, in its discretion, may order a person who files an action or motion under this act to post an amount of money with the court, obtain a surety, or provide other assurances that in the court's determination will secure the costs of the action and attorney fees if the person does not prevail. The court, in its discretion, may order a nonprevailing party, including a mother who is a nonprevailing party under section 15(2), to pay the reasonable attorney fees and costs of a prevailing party.

(12) A court may extend the time for filing an action or motion under this act. A request for extension shall be supported by an affidavit signed by the person requesting the extension stating facts that the person satisfied all the requirements for filing an action or motion under this act but did not file the action or motion within the time allowed under this act because of 1 of the following:

- (a) Mistake of fact.
- (b) Newly discovered evidence that by due diligence could not have been found earlier.
- (c) Fraud.
- (d) Misrepresentation or misconduct.
- (e) Duress.

(13) If the court finds that an affidavit under subsection (12) is sufficient, the court may allow the action or motion to be filed and take other action the court considers appropriate. The party filing the request to extend the time for filing has the burden of proving, by clear and convincing evidence, that granting relief under this act will not be against the best interests of the child considering the equities of the case.

(14) An alleged father may not bring an action under this act if the child is conceived as the result of acts

for which the alleged father was convicted of criminal sexual conduct under sections 520b to 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520e.

(15) An action may not be brought under this act if the child is under court jurisdiction under chapter XIAA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, and a petition has been filed to terminate the parental rights to the child, unless the court having jurisdiction under chapter XIAA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, first finds that allowing an action under this act would be in the best interests of the child.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2014, Act 374, Eff. Mar. 17, 2015;—Am. 2016, Act 178, Eff. Sept. 12, 2016.

\*\*\*\*\* 722.1443.amended *THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

### **722.1443.amended Court action.**

Sec. 13. (1) An original action under this act must be filed in the circuit court for the county in which the mother or the child resides or, if neither the mother nor the child reside in this state, in the circuit court for the county in which the child was born. If an action for the support, custody, or parenting time of the child exists at any stage of the proceedings in a circuit court of this state or if an action under section 2(b) of chapter XIAA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is pending in a circuit court of this state, an action under this act must be brought by motion in the existing case under rules adopted by the supreme court.

(2) In an action filed under this act, the court may do any of the following:

- (a) Revoke an acknowledgment of parentage.
- (b) Determine that a genetic father is not a child's father.
- (c) Set aside an order of filiation or a paternity order.
- (d) Determine that a child was born out of wedlock.
- (e) Make a determination of parentage and enter an order of filiation as provided for under section 7 of the paternity act, 1956 PA 205, MCL 722.717, or a parentage order.

(3) A judgment entered under this act does not relieve an individual from a support obligation for the child or the child's parent that was incurred before the action was filed or prevent a person from seeking relief under applicable court rules to vacate or set aside a judgment.

(4) A court may refuse to enter an order setting aside a parentage determination, revoking an acknowledgment of parentage, determining that a genetic father is not a child's father, or determining that a child is born out of wedlock if the court finds evidence that the order would not be in the best interests of the child. The court must state its reasons for refusing to enter an order on the record. The court may consider the following factors:

- (a) Whether the presumed parent is estopped from denying parentage because of the individual's conduct.
  - (b) The nature of the relationship between the child and the presumed parent or alleged father.
  - (c) The child's age.
  - (d) The harm that may result to the child.
  - (e) Other factors that may affect the equities arising from the disruption of the parent-child relationship.
  - (f) Any other factor that the court determines appropriate to consider.
- (5) If the challenge to parentage is based on genetic testing, in addition to the factors listed in subsection (4), the court must consider the following:

(a) The length of time the presumed parent was on notice that the individual might not be the child's genetic father.

(b) The facts surrounding the presumed parent's discovery that the individual might not be the child's genetic father.

(6) Except as otherwise provided in this act, the court shall order the parties to an action or motion under this act to participate in and pay for blood or tissue typing or DNA identification profiling to assist the court in making a determination under this act. Blood or tissue typing or DNA identification profiling must be conducted in accordance with section 6 of the paternity act, 1956 PA 205, MCL 722.716. The results of blood or tissue typing or DNA identification profiling are not binding on a court in making a determination under this act.

(7) Genetic testing shall not be used for either of the following purposes:

(a) To challenge the parentage of an individual who is a parent under part 2 or 3 of the assisted reproduction and surrogacy parentage act.

(b) To establish the parentage of an individual who is a donor.

(8) If the case is a title IV-D case, the court may appoint an attorney approved by the office of child support to represent this state's interests with respect to an action or a motion under this act. The court may

appoint a guardian ad litem to represent the child's interests with respect to the action or motion.

(9) A court shall not issue an order under this act that sets aside a judgment or determination of a court or administrative agency of another state, even if the judgment or determination is being enforced in this state, or that is inconsistent with 28 USC 1738A or 28 USC 1738B.

(10) This act does not establish a basis for termination of an adoption and does not affect any obligation of an adoptive parent to an adoptive child.

(11) An action may not be brought under this act concerning the parentage of either of the following:

(a) A child conceived through the use of assisted reproduction that does not involve surrogacy if the parents of the child may be determined under the assisted reproduction and surrogacy parentage act.

(b) A child conceived under a surrogacy agreement that complies with the assisted reproduction and surrogacy parentage act.

(12) A common law action that was available before June 12, 2012 to set aside a paternity determination or to determine that a child is born out of wedlock remains available until June 12, 2014, but is not available after June 12, 2014.

(13) Except for an action filed under section 15(2), a court, in its discretion, may order a party who files an action or motion under this act to post an amount of money with the court, obtain a surety, or provide other assurances that in the court's determination will secure the costs of the action and attorney fees if the party does not prevail. The court, in its discretion, may order a nonprevailing party, including a mother who is a nonprevailing party under section 15(2), to pay the reasonable attorney fees and costs of a prevailing party.

(14) A court may extend the time for filing an action or motion under this act. A request for extension must be supported by an affidavit signed by the party requesting the extension stating facts that the party satisfied all the requirements for filing an action or motion under this act but did not file the action or motion within the time allowed under this act because of 1 of the following:

(a) Mistake of fact.

(b) Newly discovered evidence that by due diligence could not have been found earlier.

(c) Fraud.

(d) Misrepresentation or misconduct.

(e) Duress.

(15) If the court finds that an affidavit under subsection (14) is sufficient, the court may allow the action or motion to be filed and take other action the court considers appropriate. The party filing the request to extend the time for filing has the burden of proving, by clear and convincing evidence, that granting relief under this act will not be against the best interests of the child considering the equities of the case.

(16) An alleged father may not bring an action under this act if the child is conceived as the result of acts for which the alleged father was convicted of criminal sexual conduct under sections 520b to 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520e.

(17) An action may not be brought under this act if the child is under court jurisdiction under chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, and a petition has been filed to terminate the parental rights to the child, unless the court having jurisdiction under chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, first finds that allowing an action under this act would be in the best interests of the child.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2014, Act 374, Eff. Mar. 17, 2015;—Am. 2016, Act 178, Eff. Sept. 12, 2016;—Am. 2024, Act 29, Eff. (sine die).

\*\*\*\*\* 722.1445 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1445.amended \*\*\*\*\*

## **722.1445 Determination of paternity.**

Sec. 15. (1) If an action is brought by an alleged father who proves by clear and convincing evidence that he is the child's father, the court may make a determination of paternity and enter an order of filiation as provided for under section 7 of the paternity act, 1956 PA 205, MCL 722.717.

(2) If an action is brought by a mother who, after a fact-finding hearing, proves by clear and convincing evidence that the child was conceived as a result of nonconsensual sexual penetration, the court shall do 1 of the following:

(a) Revoke an acknowledgment of parentage for an acknowledged father.

(b) Determine that a genetic father is not the child's father.

(c) Set aside an order of filiation for an affiliated father.

(d) Make a determination of paternity regarding an alleged father and enter an order of revocation of paternity for that alleged father.

(3) Subsection (2) does not apply if, after the date of the alleged nonconsensual sexual penetration described in subsection (2), the biological parents cohabit and establish a mutual custodial environment for the child.

(4) As used in this section, "sexual penetration" means that term as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2016, Act 178, Eff. Sept. 12, 2016.

\*\*\*\*\* 722.1445.amended *THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1445.amended Determination of paternity.**

Sec. 15. (1) If an action is brought by an alleged father who proves by clear and convincing evidence that he is the child's father, the court may make a determination of paternity and enter an order of filiation as provided for under section 7 of the paternity act, 1956 PA 205, MCL 722.717.

(2) If an action is brought by a mother who, after a fact-finding hearing, proves by clear and convincing evidence that the child was conceived as a result of nonconsensual sexual penetration, the court shall do 1 of the following:

(a) Revoke an acknowledgment of parentage for an acknowledged father.

(b) Determine that a genetic father is not the child's father.

(c) Set aside an order of filiation for an affiliated father.

(d) Make a determination of paternity regarding an alleged father and enter an order of revocation of parentage for that alleged father.

(3) Subsection (2) does not apply if, after the date of the alleged nonconsensual sexual penetration described in subsection (2), the biological parents cohabit and establish a mutual custodial environment for the child.

(4) As used in this section, "sexual penetration" means that term as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

**History:** 2012, Act 159, Imd. Eff. June 12, 2012;—Am. 2016, Act 178, Eff. Sept. 12, 2016;—Am. 2024, Act 29, Eff. (sine die).

\*\*\*\*\* *Act 365 of 2014 THIS TITLE, BEGINNING WITH THE FIRST INSTANCE OF "AN ACT", IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: THIS AMENDED TITLE, BEGINNING WITH THE SECOND INSTANCE OF "AN ACT", IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

## **GENETIC PARENTAGE ACT**

### **Act 365 of 2014**

AN ACT to provide for genetic testing in certain paternity cases; and to prescribe the duties and responsibilities of certain state departments, agencies, and officers. AN ACT to provide for genetic testing in certain parentage cases; and to prescribe the duties and responsibilities of certain state departments, agencies, and officers.

**History:** 2014, Act 365, Eff. Mar. 17, 2015;—Am. 2024, Act 32, Eff. (sine die).

*The People of the State of Michigan enact:*

#### **722.1461 Short title.**

Sec. 1. This act shall be known and may be cited as the "genetic parentage act".

**History:** 2014, Act 365, Eff. Mar. 17, 2015.

#### **722.1463 Definitions.**

Sec. 3. As used in this act:

- (a) "Alleged father" means a man who by his actions could have fathered the child.
- (b) "Child born out of wedlock" means a child conceived and born to a woman who was not married from the conception to the date of birth of the child or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.
- (c) "DNA identification profiling" and "summary report" mean those terms as defined in section 1 of the paternity act, MCL 722.711.
- (d) "Genetic paternity determination form" means a form issued by the title IV-D agency to provide genetic testing information to the state registrar. A genetic paternity determination form provides identifying information for individuals on the summary report and includes, but is not limited to, the following information:
  - (i) As provided under section 7 or 9, the man is the child's father.
  - (ii) The child's name, date of birth, and the name of the city, county, and state where the child was born.
  - (iii) The mother's name, social security number, and date of birth.
  - (iv) The father's name, social security number, and date of birth.
  - (v) Other information required to carry into effect the provisions of this act.
- (e) "Paternity act" means the paternity act, 1956 PA 205, MCL 722.711 to 722.730.
- (f) "Public health code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
- (g) "State registrar" means that term as defined in section 2805 of the public health code, MCL 333.2805.
- (h) "Title IV-D agency" means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

**History:** 2014, Act 365, Eff. Mar. 17, 2015.

\*\*\*\*\* *722.1465 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1465.amended* \*\*\*\*\*

#### **722.1465 Use of act to determine paternity.**

Sec. 5. This act cannot be used to determine paternity if either of the following is true:

- (a) The child's father has previously acknowledged paternity under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, or if the child's paternity has been established under the law of this or another state.
- (b) The child is subject to a pending adoption proceeding under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, or if the child is subject to a pending adoption proceeding in another state.

**History:** 2014, Act 365, Eff. Mar. 17, 2015.

\*\*\*\*\* *722.1465.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

### **722.1465.amended Use of act to determine parentage.**

Sec. 5. This act cannot be used to determine parentage if 1 or more of the following is true:

(a) The child's parent has previously acknowledged parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, or if the child's parentage has been established under the law of this or another state.

(b) The child is subject to a pending adoption proceeding under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, or if the child is subject to a pending adoption proceeding in another state.

(c) The child is either of the following:

(i) A child conceived through the use of assisted reproduction that does not involve surrogacy if the parents of the child may be determined under the assisted reproduction and surrogacy parentage act.

(ii) A child conceived under a surrogacy agreement that complies with the assisted reproduction and surrogacy parentage act.

**History:** 2014, Act 365, Eff. Mar. 17, 2015;—Am. 2024, Act 32, Eff. (sine die).

### **722.1467 Consideration as biological father; conditions; additional genetic paternity testing.**

Sec. 7. (1) If a child is born out of wedlock, a man is considered to be the biological father of that child if all of the following are true:

(a) The alleged father or mother is receiving services from a title IV-D agency.

(b) The mother, child, and alleged father submitted to blood or tissue typing determinations that may include, but are not limited to, determinations of red cell antigens, red cell isoenzymes, human leukocyte antigens, serum proteins, or DNA identification profiling, to determine whether the alleged father is likely to be, or is not, the father of the child.

(c) A blood or tissue typing or DNA identification profiling was conducted by a person accredited for paternity determinations by a nationally recognized scientific organization, including, but not limited to, the American association of blood banks and approved by the department of human services.

(d) The probability of paternity determined by the qualified person described in subdivision (c) conducting the blood or tissue typing or DNA identification profiling is 99% or higher.

(e) The mother and alleged father sign a form created by the department of human services agreeing to submit to the test. The form created under this subdivision shall include, but not be limited to, the following information:

(i) A summary of how the tests will be conducted.

(ii) A summary of how the test results will establish or exclude the alleged father as the child's father.

(iii) That if genetic testing establishes paternity, the mother shall be granted initial custody of the child, without prejudice to the determination of either parent's custodial rights, until otherwise determined by the court or otherwise agreed upon by the parties in writing and acknowledged by the court.

(iv) That the parties consent to the general personal jurisdiction of the court of record of this state regarding the issues of the support, custody, and parenting time of the child.

(2) If the results of the analysis of genetic testing material from 2 or more persons indicate a probability of paternity greater than 99%, the accredited person described in subsection (1)(c) shall conduct additional genetic paternity testing until all but 1 of the alleged fathers is eliminated, unless the dispute involves 2 or more alleged fathers who have identical DNA.

**History:** 2014, Act 365, Eff. Mar. 17, 2015.

### **722.1469 Establishment of paternity by genetic testing; initial custody of child to mother; basis for court-ordered child support, custody, or parenting time; status, rights, and duties of child.**

Sec. 9. (1) Genetic testing that determines a man is the biological father of a child under this act establishes paternity. If genetic testing establishes paternity as described in this subsection, the mother is granted initial custody of the child, without prejudice to the determination of either parent's custodial rights, until otherwise determined by the court or otherwise agreed upon by the parties in writing and acknowledged by the court. This grant of initial custody to the mother does not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.

(2) Genetic testing that determines the man is the biological father of a child under this act may be the basis for court-ordered child support, custody, or parenting time without further adjudication under the paternity act. The child who is the subject of the genetic testing has the same relationship to the mother and the man determined to be the biological father under this act as a child born or conceived during a marriage



and has identical status, rights, and duties of a child born in lawful wedlock effective from birth.

**History:** 2014, Act 365, Eff. Mar. 17, 2015.

**722.1471 Genetic paternity determination form and summary report; filing with state registrar; copy to be provided to mother and father; inclusion of child's father on birth certificate; fee to amend birth certificate; issuance of copy of genetic paternity determination form and summary report.**

Sec. 11. (1) The title IV-D agency shall file a genetic paternity determination form and a summary report with the state registrar. The state registrar shall review the genetic paternity determination form and the summary report upon receipt. If the genetic paternity determination form and summary report comply with the provisions of this act, the state registrar shall file the genetic paternity determination form and the summary report in a parentage registry in the office of the state registrar. The genetic paternity determination form and the summary report filed with the state registrar shall be maintained as a permanent record in a manner consistent with section 2876 of the public health code, MCL 333.2876.

(2) The title IV-D agency shall provide a copy of the genetic paternity determination form and the summary report to the mother and father.

(3) When the genetic paternity determination form and the summary report are filed with the state registrar on a child born in this state, the father of the child may be included on the birth certificate unless another man is recorded as the child's father on the birth certificate. The state registrar shall collect the fee to amend the birth certificate as identified in section 2891 of the public health code, MCL 333.2891. For a birth certificate amended under this subsection and upon written request of both parents, the child's surname shall be recorded on the birth certificate as designated by the child's parents.

(4) Upon request, the state registrar shall issue a copy of the genetic paternity determination form and summary report filed in the parentage registry under the procedures and upon payment of the fee prescribed by section 2891 of the public health code, MCL 333.2891.

**History:** 2014, Act 365, Eff. Mar. 17, 2015.

**722.1473 Consent to court jurisdiction.**

Sec. 13. Except as otherwise provided by law, a mother and father who have genetic tests that are filed as a genetic paternity determination form as prescribed by section 11 are consenting to the general personal jurisdiction of the courts of record of this state regarding the issues of the support, custody, and parenting time of the child.

**History:** 2014, Act 365, Eff. Mar. 17, 2015.

**722.1475 Genetic paternity determination form; creation.**

Sec. 15. The department of human services in consultation with the department of community health shall create the genetic paternity determination form.

**History:** 2014, Act 365, Eff. Mar. 17, 2015.

**SUMMARY SUPPORT AND PATERNITY ACT**  
**Act 366 of 2014**

AN ACT to create the summary support and paternity act; to establish a procedure for determining paternity and support; and to prescribe the duties and responsibilities of certain state departments and agencies.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

*The People of the State of Michigan enact:*

**722.1491 Short title.**

Sec. 1. This act shall be known and may be cited as the "summary support and paternity act".

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

**722.1492 Definitions.**

Sec. 2. As used in this act:

(a) "Alleged father" means a man who is alleged to have fathered the child who is the subject of an action to establish the father's paternity under this act.

(b) "Child born out of wedlock" means a child conceived and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.

(c) "Child custody act of 1970" means the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(d) "Court" means the circuit court.

(e) "Department" means the department of human services.

(f) "Friend of the court act" means the friend of the court act, 1982 PA 294, MCL 552.501 to 552.535.

(g) "Party" means a child's mother or a child's alleged or legally established father under this act.

(h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(i) "Support" means that term as defined in section 2a of the friend of the court act, MCL 552.502a.

(j) "Support and parenting time enforcement act" means the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(k) "Support formula" means the support formula developed by the state friend of the court bureau under section 19 of the friend of the court act, MCL 552.519.

(l) "Title IV-D" and "title IV-D agency" mean those terms as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

\*\*\*\*\* 722.1493 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 722.1493.amended \*\*\*\*\*

**722.1493 Use of act by title IV-D agency.**

Sec. 3. Only a title IV-D agency shall use the provisions of this act to establish paternity and support.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

\*\*\*\*\* 722.1493.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1493.amended Use of act by title IV-D agency; prohibitions.**

Sec. 3. (1) Only a title IV-D agency may use this act to establish paternity and support.

(2) This act may not be used to establish the parentage of either of the following:

(a) A child conceived through the use of assisted reproduction that does not involve surrogacy if the parents of the child may be determined under the assisted reproduction and surrogacy parentage act.

(b) A child conceived under a surrogacy agreement that complies with the assisted reproduction and surrogacy parentage act.

**History:** 2014, Act 366, Eff. Mar. 17, 2015;—Am. 2024, Act 30, Eff. (sine die).

**722.1494 Determination of father of child born out of wedlock.**

Sec. 4. A man is the father of a child born out of wedlock if the man has been determined to be the child's father under section 5, other law of this state, or the law of another state.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

### **722.1495 Filing of statement and notice by title IV-D agency.**

Sec. 5. (1) If the paternity of a child born out of wedlock has not otherwise been established and the child is either supported in whole or in part by public assistance or if either party has signed an application for services under title IV-D, the department may request a title IV-D agency to file a statement with the court in the county in which the mother, the child, or the alleged father lives. The statement shall be in a form approved by the state court administrative office under the supervision and direction of the supreme court. The statement shall include the names of the parties, the date of the child's birth, and the time and place as near as possible of the child's conception. If the mother or alleged father signs the statement, the statement must be verified as required by supreme court rules. A statement filed by the title IV-D agency on behalf of the mother, child, or alleged father does not have to be verified. The person on whose behalf the statement is filed is the filing party under this act.

(2) The title IV-D agency filing the statement in subsection (1) shall serve a copy of the statement and a notice of intent to establish paternity on the parties. The notice shall be in a form established by the state court administrative office under the supervision and direction of the supreme court and shall include all of the following information:

- (a) That the man has been named as the child's father.
- (b) That the nonfiling party must respond to the title IV-D agency within 21 days by doing 1 of the following:
  - (i) Admitting paternity in writing.
  - (ii) Submitting a written request for genetic testing.
  - (iii) Producing proof that the alleged father has been excluded as the father under the laws of this or another state.
- (c) That, if a party requests genetic testing, the mother, child, and alleged father must submit to genetic testing at the date, time, and place determined by the title IV-D agency.
- (d) That, if neither party requests genetic testing within 21 days or produces proof that the alleged father has been excluded as the father under the laws of this or another state, the alleged father is established as the child's legal father.

(3) Upon filing of the statement and notice with the court and subject to service under subsection (4), the court may do 1 or more of the following:

- (a) Establish a child's paternity.
- (b) Issue a support order under this act.
- (c) Establish a child's custody or parenting time under the child custody act of 1970.
- (d) Grant any other relief available under the child custody act of 1970, the friend of the court act, or the support and parenting time enforcement act.
- (4) The statement and notice under subsection (2) may be sent by regular mail, but if the nonfiling party does not respond in writing admitting paternity or requesting genetic testing, the statement and notice shall be served in the same manner as provided by court rules for the service of process in civil matters.

(5) Unless the court enters an order declaring that the alleged father is not the child's father, both parents must provide information as requested by the title IV-D agency sufficient to allow the title IV-D agency to calculate support under the support formula.

(6) If the court enters an order under this act and there is no dispute regarding custody, the court shall include in the order specific provisions for the custody and parenting time of the child as provided in the child custody act of 1970. If there is a dispute between the parties concerning custody or parenting time, the court shall immediately enter an order that establishes support and temporarily establishes custody of and parenting time with the child. Pending a hearing on or other resolution of the dispute, the court may also refer the matter to the friend of the court for a report and recommendation as provided in section 5 of the friend of the court act, MCL 552.505. In a dispute regarding custody or parenting time, the title IV-D agency or its successor as provided in section 11(2) is not required to represent either party regarding that dispute.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

### **722.1496 Genetic testing.**

Sec. 6. (1) If a party requests genetic testing in a timely manner under section 5, the title IV-D agency shall notify the parties of the date, time, and place for the collection of the genetic sample for genetic testing of the mother, alleged father, and child. The date for taking the genetic samples for testing shall be not later than 60 days after the request for genetic testing.

(2) Genetic testing under this section shall be conducted by a person accredited for paternity

determinations by a nationally recognized scientific organization and approved by the department.

(3) Within 28 days of receiving genetic test results, the title IV-D agency shall notify the parties and the court of the test results. The title IV-D agency shall submit a proposed order to the court. The court shall enter the order if the court is satisfied that the procedures established in this act have been followed. The proposed order shall do either of the following:

(a) If the genetic testing concludes a probability of paternity of 99% or higher, declare the alleged father as the child's father and may order the payment of support and the repayment of the cost of the genetic test to the state.

(b) If the genetic testing excludes the alleged father as the child's father, declare that the alleged father is not the child's father.

(4) If the nonfiling party requests genetic testing and the alleged father is not excluded as the child's father, the court may order the nonfiling party to repay the cost of the genetic test to the state in an order entered under this section.

(5) If the nonfiling party provides proof that the alleged father has been excluded as the child's father in a separate action under the laws of this state or another state, the proof submitted in support of the exclusion shall be filed with the court. The court shall provide notice and an opportunity for the parties to be heard and shall do either of the following:

(a) If the court finds that the alleged father has been excluded as the child's father under the laws of this state or another state, dismiss the action filed under this act.

(b) If the court finds that the alleged father has not been excluded as the child's father under the laws of this state or another state, order the parties and the child to have genetic testing as set forth in this act.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

#### **722.1497 Order declaring alleged father to be child's father; failure to submit to genetic testing; contempt; actions by court.**

Sec. 7. (1) Except as provided in subsection (2), if neither party to whom notice is given under section 5 requests genetic testing, or if the alleged father admits paternity, the title IV-D agency shall submit a proposed order to the court that establishes the alleged father to be the child's father and orders the payment of support. If the court is satisfied that the procedures in this act have been followed, the court shall enter the order.

(2) If the action is being filed on behalf of the alleged father and the child's mother does not admit the alleged father's paternity, the court shall not enter an order under this act declaring the alleged father to be the child's father unless genetic testing determines that the alleged father has a probability of paternity of 99% or higher.

(3) If a party who has participated in the proceeding or who has been served with the statement and notice as provided in section 5 fails to submit to genetic testing, and the court is made aware of that fact by affidavit or otherwise, the court may find the party in contempt, issue a warrant for the party's arrest to compel the party to appear for genetic testing, order other actions as the court considers appropriate to compel the party to appear for genetic testing, and order the person to pay the costs of the proceeding. The court may order the child's mother to produce the child and to submit to genetic testing. A court may dismiss the proceeding if the filing party fails to appear or produce the child for genetic testing, but the dismissal does not bar future action to establish the child's paternity.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

#### **722.1498 Duty to pay child support; liability for medical expenses.**

Sec. 8. (1) The child's mother and father have a duty to pay support for the child, which duty may be enforced by either party, the child, the child's guardian, the child's foster parent, or the state through the title IV-D agency.

(2) The parents of a child born out of wedlock are also liable for the medical expenses connected to the mother's pregnancy and the child's birth to the same extent and in the same manner as those expenses are allowed under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

#### **722.1499 Provisions applicable to established paternity but no action filed.**

Sec. 9. (1) If the paternity of a child has been established and no action has been filed in a court of this state in which the support of the child can be determined, the provisions of this section apply.

(2) If support has not been established for a child who is being supported in whole or in part by public assistance or if an application for title IV-D services has been received by the title IV-D agency, the department may request a title IV-D agency to file with the court in the county in which the mother, the child,

or the father files a statement of support obligation on a form established by the state court administrative office under the supervision and direction of the supreme court stating facts that include the following:

(a) That the child's mother or father has been determined to be the parent of the child under the law of this state or another state.

(b) That support is being sought and that the child is not living full-time with the individual from whom support is being sought.

(c) That the individual against whom the duty of support is being enforced has 21 days to contest the notice by requesting a hearing for either of the following reasons:

(i) The individual against whom the duty of support is being enforced is not the individual named as the child's parent.

(ii) The facts in the notice are not correct.

(3) Upon filing of the notice with the court and subject to service under subsection (4), the court may do 1 or more of the following:

(a) Establish a child's paternity.

(b) Issue a support order under this act.

(c) Establish a child's custody or parenting time under the child custody act of 1970.

(d) Grant any other relief available under the child custody act of 1970, the friend of the court act, or the support and parenting time enforcement act.

(4) After the notice is filed under subsection (2), the title IV-D agency shall send a copy of the notice to the individual against whom the title IV-D agency seeks to enforce a duty of support. The notice may be sent by regular mail, but if the individual does not respond in writing, the notice shall be served in the same manner as is provided by court rules for the service of process in civil actions.

(5) After the notice is filed under subsection (2), or concurrently with the filing, the individual against whom the duty of support is being enforced may, within 21 days after the filing, agree in writing on a form established by the state court administrative office under the supervision and direction of the supreme court to support as established by the support formula. The custodial parent or party may also sign this agreement. The title IV-D agency shall file the agreement with the court that has jurisdiction under subsection (2).

(6) If the individual does not respond to the notice within 21 days after service, the title IV-D agency shall submit a proposed order to the court establishing the individual's duty to pay support. The court shall enter the order if the court is satisfied that the procedures established in this act have been followed.

(7) If the individual against whom a duty of support is being enforced proves to the court that the facts in the form are not correct, the court shall enter an order that is appropriate, including, but not limited to, dismissing the proceeding or ordering genetic testing. The court may not enter an order under this act that does not recognize an individual's paternity established under another law of this state or another state.

(8) If the court enters an order under this act and there is no dispute regarding custody, the court shall include in the order specific provisions for the custody and parenting time of the child as provided in the child custody act of 1970. If there is a dispute between the parties concerning custody or parenting time, the court shall immediately enter an order that establishes support and temporarily establishes custody of and parenting time with the child. Pending a hearing on or other resolution of the dispute, the court may also refer the matter to the friend of the court for a report and recommendation as provided in section 5 of the friend of the court act, MCL 552.505. In a dispute regarding custody or parenting time, the title IV-D agency or its successor as provided in section 11(2) is not required to represent either party regarding that dispute.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

## **722.1500 Establishment of support obligation.**

Sec. 10. (1) The title IV-D agency shall use the procedures set forth in section 17b of the friend of the court act, MCL 552.517b, to establish the support obligation of a parent who is ordered to pay support under this act even if the title IV-D agency using the procedures is not the friend of the court. The procedures described in this section may be used at the same time as the procedures provided in sections 1 to 8.

(2) A person who is subject to this act must provide information requested by the title IV-D agency to establish the person's support obligation.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

## **722.1501 Support and paternity establishment services.**

Sec. 11. (1) Subject to subsection (2), the title IV-D agency providing support and paternity establishment services in a county on the effective date of this act shall provide the support and paternity establishment services under this act.

(2) A county, with the consent of the office of child support, may agree that another agency within the

county, an attorney employed or contracted by the county under section 1 of 1941 PA 15, MCL 49.71, or an attorney employed or under contract with the department may provide the services under this act. An agreement to remove the services from an agency that is providing support and paternity establishment services on the effective date of this act also requires the consent of that agency. If a judicial branch agency is not providing support and establishment services within the county on the effective date of this act, an agreement to require a judicial branch agency to provide the services under this act also requires the consent of the chief judge of the court. If the prosecuting attorney is not providing support and establishment services within the county on the effective date of this act, an agreement to require the prosecuting attorney to provide the services under this act also requires the consent of the prosecutor.

(3) Counties, with the consent of all interested agencies, may enter into agreements to provide services regionally under this act provided that the services are made available in each county at least monthly.

(4) This act does not restrict the title IV-D agency from carrying out the provisions of this act in any manner that uses technology, assent, consolidation of services, or coordination of services with other agencies. The title IV-D agency with the consent of the department and the state court administrative office under the supervision and direction of the supreme court may carry out the provisions of this act in any manner that is not inconsistent with this act to improve efficiency and encourage cooperation between the parents, agencies, and units of government that are affected by this act, including, but not limited to, the following:

(a) Notices and other documents required to be sent or served under this act may be combined.

(b) Service and mailing of notices may be completed using any technology or method permitted by court rule.

(c) Consent agreements and waivers may be substituted for notices.

(d) Information or other data may be transmitted or downloaded using any technology that can serve the same purpose as physical files.

(e) One agency may transmit or download information or other data on behalf of another agency.

(5) A support order entered under this section is enforceable as provided in the support and parenting time enforcement act. If this act contains a specific provision regarding the contents or enforcement of a child support order that conflicts with a provision in the support and parenting time enforcement act, this act controls in regard to that provision.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

#### **722.1502 Motion to set aside order.**

Sec. 12. In a proceeding under this act, a party may file a motion to set aside the order entered under section 6(3) or contesting a child's paternity as provided in the revocation of paternity act, 2012 PA 159, MCL 722.1431 to 722.1445.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.

#### **722.1503 Fees.**

Sec. 13. No filing, order, or court reporter's fees are required for an action or proceeding under this act, but the court may assess any costs, service costs, and attorney fees against the nonfiling party in an order under this act.

**History:** 2014, Act 366, Eff. Mar. 17, 2015.



## UNIFORM CHILD ABDUCTION PREVENTION ACT Act 460 of 2014

AN ACT to adopt the uniform child abduction prevention act; to allow courts in this state to impose measures to prevent the abduction of children; to establish standards for determining whether a child is subject to a significant risk of abduction; and to provide remedies.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

*The People of the State of Michigan enact:*

### 722.1521 Short title.

Sec. 1. This act shall be known and may be cited as the "uniform child abduction prevention act".

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

### 722.1522 Definitions.

Sec. 2. As used in this act:

- (a) "Abduction" means the wrongful removal or wrongful retention of a child.
- (b) "Child" means an unemancipated individual who is less than 18 years of age.
- (c) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. Child custody determination includes a permanent, temporary, initial, or modification order.
- (d) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is at issue. Child-custody proceeding includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence.
- (e) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.
- (f) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.
- (g) "Enhanced driver license" and "enhanced official state personal identification card" mean those terms as defined in section 2 of the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.302.
- (h) "Home state" means that term as defined in section 102 of the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1102.
- (i) "Petition" includes a motion or its equivalent.
- (j) "Protection order" means either of the following:
  - (i) An order entered under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, under section 6b of chapter V or section 3(2)(o) of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 765.6b and 771.3, under section 13a of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712a.13a, or under section 36(16) of the corrections code of 1953, 1953 PA 232, MCL 791.236.
  - (ii) A foreign protection order as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.
- (k) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (l) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. State includes a federally recognized Indian tribe or nation.
- (m) "Travel document" means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation, or accommodations. Travel document does not include a passport or visa.
- (n) "Visitation" includes parenting time as that term is used in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.
- (o) "Wrongful removal" means the taking of a child that breaches rights of custody or visitation given or recognized under the law of this state. Wrongful removal does not include actions taken to provide for the safety of a party or the child.
- (p) "Wrongful retention" means the keeping or concealing of a child that breaches rights of custody or visitation given or recognized under the law of this state. Wrongful retention does not include actions taken to provide for the safety of a party or the child.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

**722.1523 Applicability of MCL 722.1110 to 722.1112.**

Sec. 3. Sections 110 to 112 of the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1110 to 722.1112, apply to cooperation and communications among courts in proceedings under this act.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

**722.1524 Abduction prevention measures in child-custody proceeding; court order; petition; warrant to take physical custody of child.**

Sec. 4. (1) A court on its own motion may order abduction prevention measures in a child-custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.

(2) A party to a child-custody determination or another individual or entity having a right under the law of this state or any other state to seek a child-custody determination for the child may file a petition seeking abduction prevention measures to protect the child under this act.

(3) A prosecutor or the attorney general may seek a warrant to take physical custody of a child under section 9 or other appropriate prevention measures.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

**722.1525 Petition; court jurisdiction; emergency jurisdiction.**

Sec. 5. (1) A petition under this act may be filed only in a court that has jurisdiction to make a child-custody determination with respect to the child at issue under the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1101 to 722.1406.

(2) A court of this state has temporary emergency jurisdiction under section 204 of the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1204, if the court finds a credible risk of abduction.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

**722.1526 Petition; verification; specification of risk factors; contents.**

Sec. 6. A petition under this act shall be verified and include a copy of any existing child-custody determination, if available. The petition shall specify the risk factors for abduction, including the relevant factors described in section 7. Subject to section 209(5) of the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1209, if reasonably ascertainable, the petition must contain all of the following:

- (a) The name, date of birth, and gender of the child.
- (b) The customary address and current physical location of the child.
- (c) The identity, customary address, and current physical location of the respondent.
- (d) A statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child, and the date, location, and disposition of the action.
- (e) A statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse or neglect, and the date, location, and disposition of the case.
- (f) Information regarding any protection order previously entered involving either party or the child.
- (g) Any other information required to be submitted to the court for a child-custody determination under section 209 of the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1209.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

**722.1527 Credible risk of child abduction; evidence; hearing; finding that conduct intended to avoid domestic violence or harm.**

Sec. 7. (1) In determining whether there is a credible risk of abduction of a child, the court shall consider any evidence that the petitioner or respondent has done any of the following or that any of the following apply to the petitioner or respondent:

- (a) Previously abducted or attempted to abduct the child.
- (b) Threatened to abduct the child.
- (c) Except for planning activities related to providing for the safety of a party or the child while avoiding or attempting to avoid domestic violence, recently engaged in activities that may indicate a planned abduction, including any of the following:
  - (i) Abandoning employment.
  - (ii) Selling a primary residence.
  - (iii) Terminating a lease.

(iv) Closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities.

(v) Applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child.

(vi) Applying for or obtaining an enhanced driver license or enhanced official state personal identification card for the respondent, a family member, or the child.

(vii) Seeking to obtain the child's birth certificate or school or medical records.

(d) Engaged in domestic violence, stalking, or child abuse or neglect.

(e) Refused to follow a child-custody determination.

(f) Lacks strong familial, financial, emotional, or cultural ties to this state or the United States.

(g) Has strong familial, financial, emotional, or cultural ties to another state or country.

(h) Is likely to take the child to a country to which any of the following apply:

(i) The country is not a party to the Hague convention on the civil aspects of international child abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child.

(ii) The country is a party to the Hague convention on the civil aspects of international child abduction but 1 or more of the following apply:

(A) The Hague convention on the civil aspects of international child abduction is not in force between the United States and the country.

(B) The country is noncompliant according to the most recent compliance report issued by the United States department of state.

(C) The country lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague convention on the civil aspects of international child abduction.

(iii) The country poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children.

(iv) The country has laws or practices that would do 1 or more of the following:

(A) Enable the respondent, without due cause, to prevent the petitioner from contacting the child.

(B) Restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion.

(C) Restrict the child's ability legally to leave the country after the child reaches the age of majority because of the child's gender, nationality, or religion.

(v) The country is included by the United States department of state on a current list of state sponsors of terrorism.

(vi) The country does not have an official United States diplomatic presence in the country.

(vii) The country is engaged in active military action or war, including a civil war, to which the child may be exposed.

(i) Is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally.

(j) Has had an application for United States citizenship denied.

(k) Has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a social security card, a driver license, or other government-issued identification card or has made a misrepresentation to the United States government.

(l) Has used multiple names to attempt to mislead or defraud.

(m) Has engaged in any other conduct the court considers relevant to the risk of abduction.

(2) If the court finds during a hearing on a petition under this act that the respondent's conduct was intended to avoid domestic violence or imminent harm to the child or the respondent, the court shall not issue an abduction prevention order.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

## **722.1528 Filing of petition; court order; review of evidence; finding of credible risk of child abduction; entering abduction prevention order; provisions; contents; conditions; preventing imminent abduction; remedies.**

Sec. 8. (1) If a petition is filed under this act, the court may enter an order. If entered, the order shall include all of the following:

(a) The basis for the court's exercise of jurisdiction.

(b) The manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding.

(c) A detailed description of each party's custody and visitation rights and residential arrangements for the

child.

(d) A provision stating that a violation of the order may subject the party in violation to civil and criminal penalties.

(e) Identification of the child's home state or country of habitual residence at the time of the issuance of the order.

(2) If, at a hearing on a petition under this act or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child, the court shall enter an abduction prevention order. The order shall include the provisions required by subsection (1) and measures and conditions, including those in subsections (3) to (5), that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties and the safety of the parties and the child. The court shall consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted, and the reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.

(3) An abduction prevention order may include 1 or more of the following:

(a) An imposition of travel restrictions that require that a party traveling with the child outside a designated geographical area provide the other party with all of the following:

(i) The travel itinerary of the child.

(ii) A list of physical addresses and telephone numbers at which the child can be reached at specified times.

(iii) Copies of all travel documents.

(b) A prohibition of the respondent directly or indirectly doing any of the following:

(i) Removing the child from this state, the United States, or another geographic area without permission of the court or the petitioner's written consent.

(ii) Removing or retaining the child in violation of a child-custody determination.

(iii) Removing the child from school or a child care or similar facility.

(iv) Approaching the child at any location other than a site designated for supervised visitation.

(c) A requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state.

(d) With regard to the child's passport, any of the following:

(i) A direction that the petitioner place the child's name in the United States department of state's child passport issuance alert program.

(ii) A requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child.

(iii) A requirement that the respondent surrender to the court or the petitioner's attorney his or her enhanced driver license or enhanced official state personal identification card issued in the child's name.

(iv) A prohibition on the respondent applying on behalf of the child for a new or replacement passport or visa.

(e) As a prerequisite to exercising custody or visitation, a requirement that the respondent provide 1 or more of the following:

(i) To the United States department of state office of children's issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child.

(ii) To the court, 1 or both of the following:

(A) Proof that the respondent has provided the information in subparagraph (i).

(B) An acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child.

(iii) To the petitioner, proof of registration with the United States embassy or other United States diplomatic presence in the destination country and with the central authority for the Hague convention on the civil aspects of international child abduction, if that convention is in effect between the United States and the destination country, unless 1 of the parties objects.

(iv) A written waiver under 5 USC 552a, popularly known as the privacy act, with respect to any document, application, or other information pertaining to the child authorizing its disclosure to the court and the petitioner.

(f) On the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child-custody determination issued in the United States.

(4) In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that do 1 or more of the following:

(a) Limit visitation or require that visitation with the child by the respondent be supervised until the court

finds that supervision is no longer necessary and order the respondent to pay the costs of supervision.

(b) Require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorney fees and costs if there is an abduction.

(c) Require the respondent to obtain education on the potentially harmful effects to the child from abduction.

(5) To prevent imminent abduction of a child, a court may do 1 or more of the following:

(a) Issue a warrant to take physical custody of the child under section 9 or other law of this state.

(b) Direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination under this act or other law of this state.

(c) Grant any other relief allowed under the law of this state.

(6) The remedies provided in this act are cumulative and do not affect the availability of other remedies to prevent abduction.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

## **722.1529 Finding of credible risk of imminent wrongful removal of child; ex parte warrant to take physical custody; opportunity for hearing; contents of ex parte warrant; search of databases to determine history of domestic violence, stalking, or child abuse or neglect; service of petition and warrant; enforcement; finding of bad faith; relief under other law of state.**

Sec. 9. (1) If a petition under this act alleges and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.

(2) The respondent to a petition under subsection (1) shall be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. If a hearing on the next judicial day is impossible, the court shall hold the hearing on the first judicial day possible.

(3) An ex parte warrant under subsection (1) to take physical custody of a child shall do all of the following:

(a) Recite the facts on which a determination of a credible risk of imminent wrongful removal of the child is based.

(b) Direct law enforcement officers to take physical custody of the child immediately.

(c) State the date and time for the hearing on the petition.

(d) Provide for the safe interim placement of the child pending further order of the court.

(4) If feasible, before issuing a warrant under this section and before determining the placement of the child after the warrant is executed, the court may order a search of the relevant databases of the national crime information center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.

(5) A petition and warrant under this section shall be served on the respondent when or immediately after the child is taken into physical custody.

(6) A warrant to take physical custody of a child, issued by this state or another state, is enforceable throughout this state. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(7) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under subsection (1) for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney fees, costs, and expenses.

(8) This act does not affect the availability of relief allowed under other law of this state.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

## **722.1530 Abduction prevention order; duration.**

Sec. 10. An abduction prevention order remains in effect until the earliest of the following:

(a) The time stated in the order.

(b) The emancipation of the child.

(c) The child's attaining 18 years of age.

(d) The time the order is modified, revoked, vacated, or superseded by a court with jurisdiction under sections 201 to 203 of the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1201 to 722.1203, or other applicable law of this state.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

**722.1531 Application and construction of uniform act.**

Sec. 11. In applying and construing this uniform act, a court shall consider the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.

**722.1532 Electronic signature or delivery.**

Sec. 12. This act modifies, limits, and supersedes the federal electronic signatures in global and national commerce act, 15 USC 7001 to 7031, but does not modify, limit, or supersede 15 USC 7001(c) or authorize electronic delivery of any of the notices described in 15 USC 7003(b).

**History:** 2014, Act 460, Imd. Eff. Jan. 12, 2015.



**SAFE FAMILIES FOR CHILDREN ACT**  
**Act 434 of 2018**

AN ACT to establish the safe families for children program; to prescribe the powers and duties of certain state departments and public and private agencies; to allow for temporary delegation of a parent's or guardian's powers regarding care, custody, or property of a minor child; and to prescribe procedures for providing host families for the temporary care of children.

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

*The People of the State of Michigan enact:*

**722.1551 Short title.**

Sec. 1. This act shall be known and may be cited as the "safe families for children act".

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

**722.1553 Definitions.**

Sec. 3. As used in this act:

(a) "Automatic notification system" means a system that stores and retains fingerprints and that provides for an automatic notification to a participant when a fingerprint is submitted into the system that matches an individual whose fingerprints are retained in the system or when the criminal history of an individual whose fingerprints are retained in the system is updated.

(b) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(c) "Department" means the department of health and human services.

(d) "Family service agency" means an agency that assists a tax-exempt charitable organization recruiting persons and families under section 7 with obtaining and reviewing criminal history records checks required under section 9 and conducting home safety assessments and training as required under sections 11 and 13. A family service agency must also be licensed as a child placing agency.

(e) "FBI automatic notification system" means the automatic notification system that is maintained by the Federal Bureau of Investigation.

(f) "Minor child" means an individual less than 18 years of age.

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

**722.1555 Temporary delegation of parental power; limitations; revocation or withdrawal.**

Sec. 5. (1) By a properly executed power of attorney, a parent or guardian of a minor child may temporarily delegate to another person his or her powers regarding care, custody, or property of the minor child under this act. This temporary delegation of power may be for up to 180 days, except that if a parent or guardian is serving in the United States Armed Forces and is deployed to a foreign nation, a power of attorney may be effective until the thirty-first day after the end of the deployment. A person to whom the parent or guardian delegates these powers is required to have undergone the criminal history records check, home safety assessment and inspection, and training required under this act. A parent or guardian cannot delegate, under this act, his or her power to consent to adoption of the minor child, consent to an abortion or inducement of an abortion to be performed on or for the minor child, or to terminate parental rights to the minor child. A parent is not authorized to consent to the marriage of a child who is under the legal age of marriage.

(2) The parent or guardian executing a power of attorney may revoke or withdraw the power of attorney at any time.

**History:** 2018, Act 434, Eff. Mar. 20, 2019;—Am. 2023, Act 74, Imd. Eff. July 12, 2023.

**722.1557 Recruitment of persons or families by charitable organizations to serve as resource families.**

Sec. 7. A tax-exempt charitable organization, including, but not limited to, a church or faith-based organization, may recruit persons or families to whom a temporary power of attorney may be executed under section 5. A tax-exempt charitable organization recruiting persons and families under this section must use the services of a family service agency to assist the tax-exempt charitable organization in obtaining and reviewing criminal history records checks required under section 9 and conducting home safety assessments and training as required under sections 11 and 13.

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

## **722.1559 Recruitment of persons or families by charitable organizations to serve as resource families.**

Sec. 9. (1) For each person over 18 years of age residing in a home where a minor child may be temporarily hosted according to a power of attorney under this act, a criminal history records check must be conducted as follows:

(a) A family service agency must request the department of state police to do both of the following:

(i) Conduct a criminal history records check on the person.

(ii) Conduct a criminal history records check through the Federal Bureau of Investigation on the person.

(b) Each person must submit his or her fingerprints to the department of state police for the criminal history records check required under this act. Both of the following apply concerning fingerprints submitted to the department of state police under this subdivision:

(i) The department of state police shall store and retain all fingerprints submitted under this section in an automated fingerprint identification system database that searches against latent fingerprints and provides for an automatic notification when a subsequent fingerprint is submitted into the system that matches a set of fingerprints previously submitted under this section or when the criminal history of an individual whose fingerprints are retained in the system is updated. Upon receiving a notification under this subparagraph, the department of state police shall immediately notify the family service agency that requested the criminal history records check under this section. Information in the database maintained 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 shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(ii) The department of state police shall forward all fingerprints submitted to it under this section to the Federal Bureau of Investigation to be retained in the FBI automatic notification system that provides for automatic notification if subsequent criminal history record information matches fingerprints previously submitted to the Federal Bureau of Investigation under this section. The fingerprints retained under this section may be searched by using future submissions to the FBI automatic notification system, including, but not limited to, latent fingerprint searches. This subparagraph does not apply until the department of state police is a participant in the FBI automatic notification system.

(c) A family service agency requesting a criminal history records check under this section shall notify the department of state police within 5 days after the individual for which the criminal history records check was requested is no longer residing in a home where a minor child may be temporarily hosted or the individual's home is no longer hosting or available to host a minor child under this act. After receiving this notice from a family service agency, the department of state police is no longer required to provide any notice to the family service agency under subdivision (b)(i) for that individual.

(2) When a home is hosting or is available to host a minor child according to a power of attorney, each person residing in that home for whom a criminal history records check has been conducted under subsection (1) must report to a family service agency within 3 business days after he or she has been arraigned for 1 or more of the crimes listed in section 5r of 1973 PA 116, MCL 722.115r, or any disqualifying offense under the national child protection act of 1993, Public Law 103-209.

(3) If a person residing in a home in which a minor child is or is proposed to be hosted according to a power of attorney is not of good moral character as that term is defined in and determined under 1974 PA 381, MCL 338.41 to 338.47, or has been arraigned for 1 or more disqualifying offenses under the national child protection act of 1993, Public Law 103-209, a minor child shall not be hosted in that home.

(4) A family service agency may request the criminal history records checks under this section as allowed under state and federal law, including, but not limited to, being a qualified entity under the national child protection act of 1993, Public Law 103-209.

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

## **722.1561 Home safety assessment.**

Sec. 11. A family service agency shall conduct a home safety assessment and inspection as follows:

(a) A family service agency shall conduct a home safety assessment for each home where a minor child may be temporarily hosted according to a power of attorney. The home safety assessment must include an inspection of the physical dwelling, assessment of the person's or family's financial ability to provide care for the minor child, and assessment of the person's or family's ability and capacity to provide care for the minor child. As part of the home safety assessment, the family service agency shall obtain 3 current references from persons not related to the person or family.

(b) A family service agency shall conduct a home safety assessment every 2 years while a home is hosting or is available to host a minor child according to a power of attorney.

(c) A family service agency shall conduct periodic inspections of a home that is hosting a minor child to monitor the well-being of the minor child and any change impacting the most recent home safety assessment. The family service agency must conduct this inspection within 48 hours after a person or family begins hosting a minor child in a home, 1 day per week for the first month during which a minor child is hosted in the home, and 1 day per month after that for the duration of the period of time that the minor child is being hosted in the home.

(d) A family service agency's home safety assessment and inspection under subdivisions (a), (b), and (c) must result in a determination that a home is safe for a minor child before the home may host or continue to host a minor child under this section.

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

#### **722.1563 Training for preparing, developing, training, and supporting resource families.**

Sec. 13. (1) Before a minor child is hosted in a home according to a power of attorney, a family service agency shall provide training for the persons in that home. The training must be based on a national model for preparing, developing, training, and supporting resource families for the temporary care of minor children and must include training on identifying child maltreatment, understanding grief and loss, behavior management strategies, environmental safety and universal precautions, and unique child-specific needs-based training.

(2) A person to whom power related to a minor child is delegated according to a power of attorney shall not be compensated for serving as the temporary attorney-in-fact. This subsection does not prohibit an individual, private organization, or governmental entity from providing funds to a family service agency for providing services under this act.

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

#### **722.1565 Execution of power attorney does not constitute abuse or neglect; services under this act by resource family not subject to licensing or regulation by the department.**

Sec. 15. (1) A parent or guardian executing a power of attorney does not, by itself, constitute evidence of abandonment, child abuse, child neglect, delinquency, or other maltreatment of a minor child unless the parent or guardian fails to take custody of the minor child when a power of attorney expires. This act does not prevent or delay an investigation of child abuse, child neglect, abandonment, delinquency, or other mistreatment of a minor child.

(2) Executing a power of attorney does not subject a parent, guardian, or person in a home in which a minor child is hosted under this act to any law, rule, or regulation concerning licensing or regulation of foster care or a child care organization. Providing a service under this act does not subject a family service agency to regulation by the department.

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

#### **722.1567 Records; availability; liability; rules prohibited; referral.**

Sec. 17. (1) A family service agency shall maintain records for each criminal history records check, home safety assessment, and training it conducts under this act for a period of not less than 7 years after the minor child attains 18 years of age. The family service agency shall make the records available to any local, state, or federal authority requesting the records as part of an investigation involving the minor child, parent or guardian, or person in a home in which a minor child is or was hosted according to a power of attorney.

(2) The department is not liable for any action arising out of this act.

(3) The department shall not promulgate rules under this act.

(4) The department, a local office of the department, or a law enforcement agency or officer may refer cases or families to a tax-exempt charitable organization that is recruiting persons and families under this act. The services provided under this act are community-based services that may be recommended commensurate with the risk to the child under section 8d(1)(b) and (c) of the child protection law, 1975 PA 238, MCL 722.628d.

**History:** 2018, Act 434, Eff. Mar. 20, 2019.

## INFANT AND TODDLER CHILD CARE CONTRACTS

### Act 109 of 2022

AN ACT to provide for infant and toddler child care contracts; to prescribe the powers and duties of certain state departments and agencies; and to provide resources for certain child care providers.

**History:** 2022, Act 109, Imd. Eff. June 23, 2022.

*The People of the State of Michigan enact:*

#### **722.1581 Definitions.**

Sec. 1. As used in this act:

- (a) "Contract" means the infant and toddler child care contracts established in section 5.
- (b) "Department" means the department of education.
- (c) "Provider" means a child care center, group child care home, or family child care home licensed under 1973 PA 116, MCL 722.111 to 722.128.
- (d) "Region" means 1 of at least 4 areas of the state as determined by the department to provide technical assistance to child care providers.

**History:** 2022, Act 109, Imd. Eff. June 23, 2022.

#### **722.1585 Infant and toddler child care provider contract model; federal block grant; required recipients.**

Sec. 5. (1) The department, in conjunction with an implementation team that includes providers, partners, and parents of children in child care, must develop a contract model for infant and toddler child care providers that can be funded within the federal child care and development block grant requirements.

(2) Contracts created under subsection (1) must be awarded to providers in all regions in this state.

(3) Contracts must be awarded to high-quality providers located in communities where demand for infant and toddler child care exceeds supply as determined by the department.

**History:** 2022, Act 109, Imd. Eff. June 23, 2022.

#### **722.1590 Model contract requirements; annual report.**

Sec. 10. (1) A model contract created under this act must include, at least, all of the following:

- (a) Consistent payments made in advance of providing care.
- (b) Payments aligned with market rate.
- (c) Continued engagement in quality improvement.
- (d) Increased wages for qualified staff.
- (e) Attendance requirements to continue receiving payment.

(2) In each year that infant or toddler contracts are awarded under section 5, the department must submit a report to the house and senate appropriation committees on the department budget and the state budget office regarding those infant and toddler contracts including, but not limited to, the number of participating providers, number of children served, and lessons learned.

**History:** 2022, Act 109, Imd. Eff. June 23, 2022.

## **FAMILY CHILD CARE NETWORKS ACT**

### **Act 108 of 2022**

AN ACT to create family child care networks; to prescribe the powers and duties of state departments and agencies; and to provide resources to child care providers.

**History:** 2022, Act 108, Imd. Eff. June 23, 2022.

*The People of the State of Michigan enact:*

#### **722.1601 Short title.**

Sec. 1. This act may be cited as the "family child care networks act".

**History:** 2022, Act 108, Imd. Eff. June 23, 2022.

#### **722.1603 Definitions.**

Sec. 3. As used in this act:

- (a) "Department" means the department of education.
- (b) "Family child care network" or "network" means the networks created under section 5.
- (c) "Provider" means a home-based group child care home or family child care home licensed under 1973 PA 116, MCL 722.111 to 722.128.
- (d) "Region" means 1 of at least 4 areas of the state as determined by the department to provide technical assistance to child care providers.

**History:** 2022, Act 108, Imd. Eff. June 23, 2022.

#### **722.1605 Family child care networks; framework.**

Sec. 5. (1) Upon appropriation, the department shall establish the family child care networks to support home-based child care providers. Funding must be dispersed equitably in a manner determined by the department with family child care networks in every region in this state.

(2) The department shall convene stakeholders to develop a framework for family child care networks based on the needs of providers. The framework must include, at least, the following:

- (a) Business supports.
- (b) Connections to peers.
- (c) Operational supports.
- (d) Program quality support.
- (e) Training and technical assistance.
- (f) Engaging new providers.

**History:** 2022, Act 108, Imd. Eff. June 23, 2022.

#### **722.1610 Provision or connection of certain services to providers.**

Sec. 10. A family child care network must offer or connect providers to services including, but not limited to, all of the following:

- (a) Individual coaching.
- (b) Training and professional development, including supporting developmental screenings, health and nutrition, program quality, and early childhood mental health consultation.
- (c) Connections to peers.
- (d) Operational supports, including assistance with licensing, subsidy billing, and recruiting families.
- (e) Business services, including tax preparation, policies and procedures, and human resources support.

**History:** 2022, Act 108, Imd. Eff. June 23, 2022.

#### **722.1615 Department duties; annual report.**

Sec. 15. (1) The department shall do, at a minimum, all of the following:

- (a) Upon appropriation, establish a family child care network in every region of this state.
- (b) Require all networks to participate in the following:
  - (i) A statewide community of practice.
  - (ii) Professional development for network staff.
  - (iii) Data collection and evaluation to measure success and improve the networks' responsiveness to providers.
- (c) Require networks to be connected to the state's existing child care infrastructure, including, at least, the state's quality and licensing system.

(2) The department shall submit an annual report on the activities and outcomes of each family child care

network by region and the changes in the number of home-based providers in the state to the house and senate appropriation committees on the department budget and the state budget office.

**History:** 2022, Act 108, Imd. Eff. June 23, 2022.



\*\*\*\*\* Act 24 of 2024 THIS NEW ACT IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**ASSISTED REPRODUCTION AND SURROGACY PARENTAGE ACT**  
**Act 24 of 2024**

AN ACT to establish and allow for the use of assisted reproduction, including surrogacy; to provide for a child conceived, gestated, and born through the use of assisted reproduction, including through surrogacy; to provide for the powers and duties of certain state officers and entities; to provide remedies; and to repeal acts and parts of acts.

**History:** 2024, Act 24, Eff. (sine die).

*The People of the State of Michigan enact:*

PART 1  
GENERAL PROVISIONS

\*\*\*\*\* 722.1701.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1701.new Short title.**

Sec. 101. This act may be cited as the "assisted reproduction and surrogacy parentage act".

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1702.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1702.new Applicability of act.**

Sec. 102. This act does not apply to the birth of a child conceived by sexual intercourse. Part 2 applies to the birth of a child by assisted reproduction not involving surrogacy. Part 3 applies to the birth of a child by assisted reproduction under a surrogacy agreement.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1703.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1703.new Definitions.**

Sec. 103. As used in this act:

(a) "Assisted reproduction" means a method of causing pregnancy through means other than by sexual intercourse including, but not limited to, all of the following:

- (i) Intrauterine, intracervical, or vaginal insemination.
- (ii) Donation of gametes.
- (iii) Donation of embryos.
- (iv) In vitro fertilization and embryo transfer.
- (v) Intracytoplasmic sperm injection.
- (vi) Assisted reproductive technology.

(b) "Child" means an individual born as a result of assisted reproduction or under a surrogacy agreement, whose parentage may be determined under this act.

(c) "Donor" means an individual who provides gametes intended for use in assisted reproduction, whether or not for compensation. Donor does not include an individual who gives birth to a child conceived by assisted reproduction, except in the case of surrogacy, or an individual who is a parent under the rules governing the parentage of children conceived by assisted reproduction or assisted reproduction under a surrogacy agreement under parts 2 and 3.

(d) "Genetic surrogate" means an individual, not an intended parent, who agrees to become pregnant through assisted reproduction using the individual's own gametes.

(e) "Gestational surrogate" means an individual, not an intended parent, who agrees to become pregnant through assisted reproduction using gametes that are not the individual's own.

(f) "Intended parent" means an individual, married or unmarried, who manifests an intent to be legally bound as a parent of a child conceived by assisted reproduction or by assisted reproduction under a surrogacy

agreement.

(g) "Medical evaluation" means a complete consultation with and evaluation by a physician.

(h) "Mental health consultation" means a consultation with and, when required by this act, an assessment by a mental health professional.

(i) "Mental health professional" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(j) "Physician" means an individual licensed under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097 and 333.17501 to 333.17556, to engage in the practice of medicine or osteopathic medicine and surgery.

(k) "Surrogacy agreement" means an agreement between 1 or more intended parents and a surrogate in which the surrogate agrees to become pregnant by assisted reproduction and that provides that each intended parent is a parent of a child conceived under the agreement. Unless otherwise specified, the term refers to both a gestational surrogacy agreement and a genetic surrogacy agreement.

(l) "Surrogate" means an individual who is not an intended parent and who agrees to become pregnant through assisted reproduction under a surrogacy agreement. Surrogate includes a genetic surrogate or gestational surrogate, as applicable.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1704.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1704.new Establishment of parent-child relationship.**

Sec. 104. A parent-child relationship is established between an individual and a child if 1 of the following occurs:

(a) The individual gives birth to the child, except as provided in part 3.

(b) The individual's parentage of a child is established under part 2.

(c) The individual's parentage of a child is established under part 3.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1705.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1705.new Natural parent.**

Sec. 105. Unless parental rights are terminated, a parent-child relationship established under this act applies for all purposes. An individual who establishes a parent-child relationship under this act is considered a natural parent for all purposes, including under the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1706.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1706.new Donor status; assisted reproduction.**

Sec. 106. A donor is not a parent of a child conceived by assisted reproduction.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1707.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1707.new Venue for adjudication of parentage.**

Sec. 107. Venue for a proceeding to adjudicate parentage under this act is in the county of this state in which 1 of the following occurs:

(a) The child resides, is born, or will be born.

(b) A parent or intended parent resides.

(c) A proceeding has been commenced for administration of the estate of an individual who is or may be a parent under this act.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1708.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE*

2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1708.new Limitation on use of genetic testing.**

Sec. 108. Genetic testing may not be used for either of the following purposes:

- (a) To challenge the parentage of an individual who is a parent under part 2 or 3.
- (b) To establish the parentage of an individual who is a donor under this act.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1709.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1709.new Records.**

Sec. 109. On request of a party, the court may order the court records in an action under this act to be sealed to the general public. If the records are ordered sealed, all pleadings, papers, or documents in the court records, including the case history or registry of actions, must not be available for inspection, unless the court, for good cause shown, orders the inspection or unless requested by the child or a party.

**History:** 2024, Act 24, Eff. (sine die).

PART 2

PARENTAGE OF CHILD OF ASSISTED REPRODUCTION NOT INVOLVING SURROGACY

\*\*\*\*\* 722.1801.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1801.new Consent to assisted reproduction; parent status.**

Sec. 201. An individual who consents under section 202 to assisted reproduction with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1802.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1802.new Requirements for consent to assisted reproduction.**

Sec. 202. (1) The consent described in section 201 must be either of the following:

(a) In a record signed before, on, or after the birth of the child by the individual who gave birth to the child and by an individual who intends to be a parent of the child. An acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, is a record within the meaning of this subdivision.

(b) In an agreement entered into before conception that the individual who gave birth to the child and the individual who intends to be a parent of the child intended they both would be parents of the child.

(2) Failure to consent as required by subsection (1) does not preclude a court from finding consent to parent if the individual for the first 2 years of the child's life, including any period of temporary absence, resided in the same household with the child and openly held out the child as the individual's child.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1803.new THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE \*\*\*\*\*

**722.1803.new Adjudication of parentage; proceedings; burden of proof.**

Sec. 203. (1) An individual who is an intended parent or the individual who gave birth to the child may bring a proceeding to adjudicate parentage for a judgment of parentage in the family division of the circuit court. If the court determines the individual is a parent under this act, either because the individual gave birth to the child or the individual is a consenting intended parent under section 202, the court shall adjudicate the individual to be a parent of the child.

(2) The individual who will give or who gave birth or an individual who is or claims to be a parent under this section may commence an action before or after the birth of a child to obtain a judgment to declare that the intended parent or parents are the parent or parents of the resulting child immediately on birth of the child and order that parental rights and responsibilities vest exclusively in the intended parent or parents immediately on birth of the child. A certificate of live birth of a child must comply with this act and must be established as provided under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(3) On request of a party and consistent with law of this state other than this act, the court in an action under this act may order the name of the child changed. If the final judgment is at variance with the child's birth certificate, the court must order the state registrar to issue an amended birth certificate.

(4) A judgment issued before the birth of the resulting child does not take effect until the birth of the resulting child. This subsection must not be construed to limit the court's authority to issue other orders under other laws of this state.

(5) This state, the department, and the hospital where the child is or is expected to be born are not necessary parties to an action under this section.

(6) The burden of proof in an action under this section is by a preponderance of the evidence.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1804.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1804.new Parentage of deceased intended parent.**

Sec. 204. (1) If an individual who intends to be a parent of a child conceived by assisted reproduction dies during the period between the transfer of a gamete or embryo and the birth of the child, the individual's death does not preclude the establishment of the individual's parentage of the child if the individual otherwise would be a parent of the child under this act.

(2) If an individual who consented in a record to assisted reproduction by an individual who agreed to give birth to a child dies before a transfer of gametes or embryos, the deceased individual is a parent of a child conceived by the assisted reproduction only if both of the following occurred:

(a) Either the individual consented in a record that if assisted reproduction were to occur after the death of the individual, the individual would be a parent of the child or the individual's intent to be a parent of a child conceived by assisted reproduction after the individual's death is established by clear and convincing evidence.

(b) Either the transfer occurs not later than 36 months after the individual's death or the child's birth occurs not later than 45 months after the individual's death.

**History:** 2024, Act 24, Eff. (sine die).

### **PART 3**

#### **PARENTAGE OF CHILD BORN THROUGH SURROGACY**

\*\*\*\*\* 722.1901.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1901.new Execution of surrogacy agreements; individual requirements.**

Sec. 301. (1) To execute an agreement to act as a surrogate, an individual must meet all of the following requirements:

(a) Be 21 years of age or older.

(b) Have previously given birth to at least 1 child.

(c) Have completed a medical evaluation concerning the surrogacy arrangement.

(d) Have completed a mental health consultation concerning the surrogacy arrangement.

(e) Have independent legal representation of the individual's choice by an attorney licensed in this state throughout the agreement negotiation process, the execution of the agreement, and the duration of the agreement about the terms of the surrogacy agreement and the potential legal consequences of the surrogacy agreement.

(2) To execute a surrogacy agreement, an intended parent, whether or not genetically related to the child, must meet all of the following requirements:

(a) Be 21 years of age or older.

(b) Have completed a mental health consultation.

(c) Have independent legal representation of the intended parent's or parents' choice by an attorney licensed in this state throughout the agreement negotiation process, the execution of the agreement, and the duration of the agreement about the terms of the surrogacy agreement and the potential legal consequences of the surrogacy agreement.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1902.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

## **722.1902.new Surrogacy agreement; process requirements.**

Sec. 302. A surrogacy agreement must meet all of the following requirements:

(a) One or more of the following must apply:

(i) At least 1 party must be a resident of this state.

(ii) The birth will occur or is anticipated to occur in this state.

(iii) The assisted reproduction performed under the surrogacy agreement will occur in this state.

(b) The surrogate and each intended parent must meet the requirements of section 301.

(c) Each intended parent, the surrogate, and the surrogate's spouse, if any, must be parties to the agreement.

(d) Each party listed in subdivision (c) must sign the agreement.

(e) The signature of each party to the agreement must be attested by a notarial officer.

(f) The intended parent or parents must pay for independent legal representation for the surrogate.

(g) The agreement must be executed before a medical procedure occurs related to the surrogacy agreement, other than the medical evaluation and mental health consultations required by section 301.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1903.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

## **722.1903.new Surrogacy agreement; compliance requirements; permissible provisions.**

Sec. 303. (1) A surrogacy agreement must comply with all of the following requirements:

(a) The surrogate must agree to attempt to become pregnant by means of assisted reproduction.

(b) Except as otherwise provided in sections 306, 308, and 309, the surrogate and the surrogate's spouse or former spouse, if any, must have no claim to parentage of a child conceived by assisted reproduction under the agreement.

(c) The surrogate's spouse, if any, must acknowledge and agree to comply with the obligations imposed on the surrogate by the agreement.

(d) Except as otherwise provided in sections 306, 308, and 309, the agreement must provide that the intended parent, or, if there are 2 intended parents, each intended parent jointly and severally, immediately on birth, will be the exclusive parent or parents of the child, regardless of the number of children born or gender or mental or physical condition of each child.

(e) Except as otherwise provided in sections 306, 308, and 309, the intended parent, or, if there are 2 intended parents, each parent jointly and severally, immediately on birth, will assume responsibility for the financial support of the child, regardless of the number of children born or gender or mental or physical condition of each child.

(f) The agreement must include information disclosing that the intended parent or parents will cover the agreed-on expenses of the surrogate, the assisted reproduction expenses, and the medical expenses for the surrogate and the child.

(g) The agreement must permit the surrogate to make all health and welfare decisions regarding the surrogate and the pregnancy, including, but not limited to, whether to consent to a cesarean section or multiple embryo transfer. Notwithstanding anything in this act, any provision in the agreement to the contrary is void and unenforceable. This act does not diminish the right of the surrogate under section 28 of article I of the state constitution of 1963.

(h) The surrogacy agreement must permit the surrogate to use the services of a health care practitioner of the surrogate's choosing.

(i) The surrogacy agreement must include information about each party's right under section 305 to terminate the surrogacy agreement.

(2) A surrogacy agreement may provide for 1 or both of the following:

(a) Payment of compensation, support, and reasonable expenses.

(b) Reimbursement of specific agreed-on expenses if the agreement is terminated under section 305.

(3) A right created under a surrogacy agreement is not assignable, and there is no third-party beneficiary of the surrogacy agreement other than the child.

(4) If any of the requirements of this part are not met, a court of competent jurisdiction must determine parentage under section 309(1) and (2).

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1904.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*



#### **722.1904.new Effect of subsequent change in marital status.**

Sec. 304. (1) Unless a surrogacy agreement expressly provides otherwise, both of the following apply:

(a) The marriage of a surrogate after the surrogacy agreement is signed by all parties does not affect the validity of the agreement, the spouse's consent to the agreement is not required, and the spouse is not a presumed parent of a child conceived by assisted reproduction under the agreement.

(b) The dissolution, annulment, or declaration of invalidity of the surrogate's marriage, the legal separation of the surrogate, or a judgment of separate maintenance concerning the surrogate after the surrogacy agreement is signed by all parties does not affect the validity of the agreement.

(2) Unless a surrogacy agreement expressly provides otherwise, both of the following apply:

(a) The marriage of an intended parent after the surrogacy agreement is signed by all parties does not affect the validity of a surrogacy agreement, the consent of the spouse is not required, and the spouse is not, based on the agreement, a parent of a child conceived by assisted reproduction under the agreement.

(b) The dissolution, annulment, or declaration of invalidity of an intended parent's marriage, the legal separation of an intended parent, or a judgment of separate maintenance concerning an intended parent after the agreement is signed by all parties does not affect the validity of the agreement and, except as otherwise provided in sections 306, 308, and 309, the intended parent is a parent of the child.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1905.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1905.new Termination of surrogacy agreement.**

Sec. 305. (1) A party to a surrogacy agreement may terminate the agreement at any time before a gamete or an embryo transfer by giving notice of termination in a record to all other parties. If a gamete or an embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent gamete or embryo transfer.

(2) Unless a surrogacy agreement provides otherwise, on termination of the agreement under subsection (1), the parties are released from the agreement, except that each intended parent remains responsible for expenses that are reimbursable under the agreement and incurred by the surrogate through the date of termination of the surrogacy agreement.

(3) Unless there is fraud, a party is not liable to any other party for a penalty or liquidated damages for terminating a surrogacy agreement under this section.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1906.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

#### **722.1906.new Establishment of parent-child relationship under surrogacy agreement.**

Sec. 306. (1) Except as otherwise provided in subsection (3) and sections 307(2), 308, and 309, on birth of a child conceived by assisted reproduction under a surrogacy agreement that complies with this part, each intended parent is, by operation of law, a parent of the child.

(2) Except as otherwise provided in subsection (3) and sections 308 and 309, on birth of a child conceived by assisted reproduction under a surrogacy agreement that complies with this part, neither a surrogate nor the surrogate's spouse or former spouse, if any, is a parent of the child.

(3) If a child is alleged to be a genetic child of the individual who agreed to be a gestational surrogate, the court shall order genetic testing of the child. If the child is a genetic child of the individual who agreed to be a gestational surrogate, parentage must be determined based on law of this state other than this act.

(4) Except as otherwise provided in subsection (3) and sections 307(2), 308, and 309, if, because of a clinical or laboratory error, a child conceived by assisted reproduction under a surrogacy agreement is not genetically related to an intended parent or a donor who donated to the intended parent or parents, each intended parent, and not the surrogate and the surrogate's spouse or former spouse, if any, is a parent of the child, subject to any other claim of parentage.

(5) A donor is not a parent of a child conceived by assisted reproduction under a surrogacy agreement.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1907.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*



## **722.1907.new Parentage of deceased intended parent under surrogacy agreement.**

Sec. 307. (1) Section 306 applies to an intended parent even if the intended parent died during the period between the transfer of a gamete or embryo and the birth of the child.

(2) Except as otherwise provided in sections 308 and 309, an intended parent is not a parent of a child conceived by assisted reproduction under a surrogacy agreement if the intended parent dies before the transfer of a gamete or embryo unless both of the following apply:

(a) The surrogacy agreement provides otherwise.

(b) The transfer of a gamete or embryo occurs not later than 36 months after the death of the intended parent or the birth of the child occurs not later than 45 months after the death of the intended parent.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1908.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

## **722.1908.new Court judgment of parentage under surrogacy agreement.**

Sec. 308. (1) Before, on, or after the birth of a child conceived by assisted reproduction under a surrogacy agreement that complies with this part, a party to the agreement may commence an action in the family division of the circuit court for entry of a parentage judgment. The requested parentage judgment may be issued before or after the child's birth as requested by the parties. The surrogate and all intended parents are necessary parties to the action. The complaint must be accompanied by a certification from the attorney representing the intended parent or parents and from the attorney representing the surrogate that the surrogacy agreement complies with the requirements of this part and a statement from all parties to the surrogacy agreement that they knowingly and voluntarily entered into the surrogacy agreement and that all parties are requesting the judgment of parentage. On receipt of the complaint and accompanying certifications, the court must, without holding a hearing unless the surrogate challenges the accuracy of the attorney certificates, enter a judgment of parentage that does all of the following, without additional proceedings or documentation:

(a) Declares that each intended parent is a parent of the child and orders that parental rights and duties vest immediately on the birth of the child exclusively in each intended parent.

(b) Declares that the surrogate and the surrogate's spouse or former spouse, if any, are not the parents of the child.

(c) To protect the privacy of the child and the parties, orders the court records sealed.

(d) If necessary, orders that the child be surrendered to the intended parent or parents.

(e) Awards other relief the court determines necessary and proper.

(2) The court may issue an order or judgment under subsection (1) before or after the birth of the child. The court must stay enforcement of the order or judgment until the birth of the child.

(3) Neither the state nor the department nor the hospital where the child is or is expected to be born are necessary parties to an action under subsection (1).

(4) A certificate of live birth of a child must comply with this act and must be established as provided under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

**History:** 2024, Act 24, Eff. (sine die).

\*\*\*\*\* 722.1909.new *THIS NEW SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* \*\*\*\*\*

## **722.1909.new Effect and enforceability of surrogacy agreement.**

Sec. 309. (1) A surrogacy agreement that substantially complies with sections 302 and 303 is enforceable.

(2) If a child was conceived by assisted reproduction under a surrogacy agreement that does not substantially meet the material requirements of this part, a court must determine parentage consistent with the intent of the parties, taking into account the best interests of the child. Each party to the surrogacy agreement and any individual who at the time of the execution of the agreement was a spouse of a party to the agreement has standing to maintain an action to adjudicate an issue related to the enforcement of the agreement.

(3) Except as expressly provided in a surrogacy agreement or in subsection (4), if the agreement is breached by the surrogate or 1 or more intended parents, the nonbreaching party is entitled to the remedies available at law or in equity.

(4) The breach of the surrogacy agreement by 1 or more intended parents does not relieve the intended parent of the support obligations imposed by the parent and child relationship under this part.

(5) Specific performance is not a remedy available for breach by a surrogate of a provision in the agreement that the surrogate be impregnated, terminate a pregnancy, or submit to medical procedures.

(6) Except as otherwise provided in subsection (5), if an intended parent is determined to be a parent of the child, specific performance is a remedy available for either of the following:

(a) Breach of the surrogacy agreement by a surrogate that prevents an intended parent from exercising immediately on birth of the child the full rights of parentage.

(b) Breach of the surrogacy agreement by an intended parent that prevents the intended parent's acceptance, immediately on the birth of the child, of the duties of parentage.

**History:** 2024, Act 24, Eff. (sine die).