

Act No. 162
Public Acts of 1991
Approved by the Governor
December 6, 1991
Filed with the Secretary of State
December 9, 1991

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Reps. Joe Young, Sr., DeMars, Perry Bullard, Hunter, Clack, Stallworth, Harrison, Dobronski and Joe Young, Jr.

ENROLLED HOUSE BILL No. 4329

AN ACT to amend sections 1 and 5 of Act No. 116 of the Public Acts of 1973, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to provide penalties; and to repeal certain acts and parts of acts," section 1 as amended by Act No. 139 of the Public Acts of 1984 and section 5 as amended by Act No. 72 of the Public Acts of 1989, being sections 722.111 and 722.115 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 1 and 5 of Act No. 116 of the Public Acts of 1973, section 1 as amended by Act No. 139 of the Public Acts of 1984 and section 5 as amended by Act No. 72 of the Public Acts of 1989, being sections 722.111 and 722.115 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 1. As used in this act:

(a) "Child care organization" means a governmental or nongovernmental organization having as its principal function the receiving of 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, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes, or day 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 pursuant to section 4(3) of Act No. 293 of the Public Acts of 1968, being section 722.4 of the Michigan Compiled Laws.

(ii) Provides care exclusively to persons who are 18 years of age or older and to minors who have been emancipated by court order pursuant to section 4(3) of Act No. 293 of the Public Acts of 1968 at the same location.

(b) "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 institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall 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, which 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 institutions for mentally retarded 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, Act No. 368 of the Public Acts of 1978, as amended, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws, a boarding school licensed under section 1335 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1335 of the Michigan Compiled Laws, a hospital or facility operated by the state or licensed under the mental health code, Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, or an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws, in which a child has been placed pursuant to section 5(6).

(c) "Child placing agency" means an agency organized for the purpose of receiving children for their placement in private family homes for foster care or for adoption. The function of a child placing agency may include the investigation and certification of foster family homes and foster family group homes as provided in this act. The function of a child placing agency may also include the supervision of children who are 16 or 17 years of age and who are living in unlicensed residences as provided in section 5(4).

(d) "Children's camp" means a residential, day, troop, or travel camp conducted in a natural environment for more than 4 school age children, apart from their parents, relatives, or legal guardians, for 5 or more days in a 14-day period. A children's camp provides care and supervision for the same group of children for usually not more than 12 weeks.

(e) "Child care center" or "day care center" means a facility, other than a private residence, receiving 1 or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day 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, or drop-in center. Child care center or day 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 in attendance for not more than 3 hours per day for an indefinite period, or 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 cared for not more than 3 hours while persons responsible for the children are attending religious services.

(f) "Private home" means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency shall not be contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group day care home, or a family day care home, as follows:

(i) "Foster family home" is a private home in which 1 but not more than 4 minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

(ii) "Foster family group home" means a private home in which more than 4 but less than 7 minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

(iii) "Family day care home" means a private home in which 1 but less than 7 minor children are received for 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 family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

(iv) "Group day 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 family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

(g) "Licensee" means a person, partnership, firm, corporation, association, nongovernmental, or local or state government child care organization that has been issued a license to operate a child care organization.

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

(i) "Regular license" means a license issued to a child care organization indicating that the organization is in compliance with all rules promulgated under this act.

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

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

(i) A person less than 18 years of age.

(ii) A person 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 the child caring institution, camp, or home; and who continues residing in the institution, camp, or home to receive care, maintenance, training, and supervision. 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.

(iii) A person 18 years of age or older who is placed in a foster family home under section 5(7).

(l) "Registrant" means a person who has been issued a certificate of registration to operate a family day care home.

(m) "Registration" means the process by which the department of social services regulates family day care homes, which process requires that a family day care home certify to the department that the family day care home has complied with and will continue to comply with the rules promulgated under this act.

(n) "Certificate of registration" means a written document issued to a family day care home through registration.

(o) "Related" means any of the following relationships, by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin, great aunt, great uncle, or stepgrandparent.

(p) "Religious organization" means 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.

Sec. 5. (1) A person, partnership, firm, corporation, association, or nongovernmental organization shall not establish or maintain a child care organization unless licensed or registered by the department. Application for a license or certificate of registration shall be made on forms provided, and in the manner prescribed, by the department. Before issuing or renewing a license, the department shall investigate the activities and proposed standards of care of the applicant and shall make an on-site visit of the proposed or established organization. If the department is satisfied as to the need for a child care organization, its financial stability, the good moral character of the applicant, and that the services and facilities are conducive to the welfare of the children, the department shall issue or renew the license. As used in this subsection, "good moral character" means good moral character as defined and determined pursuant to Act No. 381 of the Public Acts of 1974, as amended, being sections 338.41 to 338.47 of the Michigan Compiled Laws.

(2) The department shall issue a certificate of registration to a person who has successfully completed an orientation session offered by the department, and who certifies to the department that the family day care home has complied with and will continue to comply with the rules promulgated under this act, and will provide services and facilities, as determined by the department, conducive to the welfare of children. The department shall make available an orientation session to applicants for registration regarding this act, the rules promulgated under this act, and the needs of children in family day care before issuing a certificate of registration. The department shall issue a certificate of registration to a specific person at a specific location. A certificate of registration is nontransferable and remains the property of the department. Within 90 days after initial registration, the department shall make an on-site visit of the family day care home.

(3) The department may authorize a licensed child placing agency or an approved governmental unit to investigate a foster family home or a foster family group home pursuant to subsection (1) and to certify that the foster family home or foster family group home meets the licensing requirements prescribed by this act. A foster family home or a foster family group home shall be certified for licensing by the department by only 1 child placing agency or approved 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 licensed child placing agency or an approved governmental unit to place a child who is 16 or 17 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.

(5) A licensed child placing agency, child caring institution, and an approved governmental unit shall provide the state court administrative office and a local foster care review board established under Act No. 422 of the Public Acts of 1984, being sections 722.131 to 722.139a of the Michigan Compiled Laws, such records as may be requested pertaining to children in foster care placement for more than 6 months.

(6) The department may authorize a licensed child placing agency or an approved 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, Act No. 218 of the Public Acts of 1979, as amended, being sections 400.701 to 400.737 of the Michigan Compiled Laws, if a licensed child placing agency or approved 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 needs of the child 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) That the child placing agency or approved governmental unit will periodically reevaluate the placement of an individual under this subsection to determine that the criteria for placement in subdivisions (a) through (c) continue to be met.

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

(a) The adult is a person with a developmental disability as defined by section 600 of the mental health code, Act No. 258 of the Public Acts of 1974, being section 330.1600 of the Michigan Compiled Laws, or a person who is otherwise neurologically handicapped and the person is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.

(b) The placement is in the best interest of the adult and will not adversely affect the interest 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 approved 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.

Section 2. This amendatory act shall not take effect unless House Bill No. 4335 of the 86th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.