

HOUSE BILL No. 4329

February 19, 1991, Introduced by Reps. Joe Young, Sr., DeMars, Perry Bullard, Hunter, Clack, Stallworth, Harrison, Dobronski and Joe Young, Jr. and referred to the Committee on Social Services and Youth.

A bill 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:

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

1 Sec. 1. As used in this act:

2 (a) "Child care organization" means a governmental or non-
3 governmental organization having as its principal function the
4 receiving of minor children for care, maintenance, training, and
5 supervision, notwithstanding that educational instruction may be
6 given. Child care organization includes organizations commonly
7 described as child caring institutions, child placing agencies,
8 children's camps, child care centers, day care centers, nursery
9 schools, parent cooperative preschools, foster homes, group
10 homes, or day care homes.

11 (b) "Child caring institution" means a child care facility
12 ~~which~~ THAT is organized for the purpose of receiving minor
13 children for care, maintenance, and supervision, usually on a
14 24-hour basis, in buildings maintained by the institution for
15 that purpose, and operates throughout the year. An educational
16 program may be provided, but the educational program shall not be
17 the primary purpose of the facility. Child caring institution
18 includes a maternity home for the care of unmarried mothers who
19 are minors and an agency group home, which is described as a
20 small child caring institution owned, leased, or rented by a
21 licensed agency providing care for more than 4 but less than 13
22 minor children. Child caring institution also includes institu-
23 tions for mentally retarded or emotionally disturbed minor
24 children. Child caring institution does not include a hospital,
25 nursing home, or home for the aged licensed under article 17 of
26 the public health code, Act No. 368 of the Public Acts of 1978,
27 as amended, being sections 333.20101 to ~~333.22101~~ 333.22260 of

1 the Michigan Compiled Laws, a boarding school licensed under
2 section 1335 of the school code of 1976, Act No. 451 of the
3 Public Acts of 1976, being section 380.1335 of the Michigan
4 Compiled Laws, a hospital or facility operated by the state or
5 licensed under the mental health code, Act No. 258 of the Public
6 Acts of 1974, as amended, being sections 330.1001 to 330.2106 of
7 the Michigan Compiled Laws, or an adult foster care family home
8 or an adult foster care small group home licensed under the adult
9 foster care facility licensing act, Act No. 218 of the Public
10 Acts of 1979, being sections 400.701 to ~~400.735~~ 400.737 of the
11 Michigan Compiled Laws, in which a child has been placed pursuant
12 to section 5(6).

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

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

1 (e) "Child care center" or "day care center" means a
2 facility, other than a private residence, receiving 1 or more
3 preschool or school age children for care for periods of less
4 than 24 hours a day, and where the parents or guardians are not
5 immediately available to the child. Child care center or day
6 care center includes a facility which provides care for not less
7 than 2 consecutive weeks, regardless of the number of hours of
8 care per day. The facility is generally described as a child
9 care center, day care center, day nursery, nursery school, parent
10 cooperative preschool, play group, or drop-in center. Child care
11 center or day care center does not include any of the following:

12 (i) A Sunday school, a vacation bible school, or a religious
13 instructional class that is conducted by a religious organization
14 where children are in attendance for not ~~greater~~ MORE than 3
15 hours per day for an indefinite period, or not ~~greater~~ MORE
16 than 8 hours per day for a period not to exceed 4 weeks during a
17 12-month period.

18 (ii) A facility operated by a religious organization where
19 children are cared for not ~~greater~~ MORE than 3 hours while per-
20 sons responsible for the children are attending religious
21 services.

22 (f) "Private home" means a private residence in which the
23 licensee or registrant permanently resides as a member of the
24 household, which residency shall not be contingent upon caring
25 for children or employment by a licensed or approved child plac-
26 ing agency. Private home includes a full-time foster family

1 home, a full-time foster family group home, a group day care
2 home, or a family day care home, as follows:

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

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

15 (iii) "Family day care home" means a private home in which 1
16 but less than 7 minor children are received for care and supervi-
17 sion for periods of less than 24 hours a day, unattended by a
18 parent or legal guardian, except children related to an adult
19 member of the family by blood, marriage, or adoption. Family day
20 care home includes a home that gives care to an unrelated minor
21 child for more than 4 weeks during a calendar year.

22 (iv) "Group day care home" means a private home in which
23 more than 6 but not more than 12 minor children are given care
24 and supervision for periods of less than 24 hours a day unat-
25 tended by a parent or legal guardian, except children related to
26 an adult member of the family by blood, marriage, or adoption.
27 Group day care home includes a home that gives care to an

1 unrelated minor child for more than 4 weeks during a calendar
2 year.

3 (g) "Licensee" means a person, partnership, firm, corpora-
4 tion, association, nongovernmental, or local or state government
5 child care organization which has been issued a license to oper-
6 ate a child care organization.

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

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

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

14 (k) "Minor child" means ~~either~~ ANY of the following:

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

16 (ii) A person who is a resident in a child caring institu-
17 tion, children's camp, foster family home, or foster family group
18 home; who becomes 18 years of age while residing in the child
19 caring institution, camp, or home; and who continues residing in
20 the institution, camp, or home to receive care, maintenance,
21 training, and supervision. This subparagraph ~~shall apply~~
22 APPLIES only if the number of those residents who become 18 years
23 of age does not exceed the following:

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

25 (B) Three, if the total number of residents is not less than
26 11 and not more than 14.

1 (C) Four, if the total number of residents is not less than
2 15 and not more than 20.

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

4 (iii) A PERSON 18 YEARS OF AGE OR OLDER WHO IS PLACED IN A
5 FOSTER FAMILY HOME UNDER SECTION 5(7).

6 (l) "Registrant" means a person who has been issued a cer-
7 tificate of registration to operate a family day care home.

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

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

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

19 (p) "Religious organization" as used in this act, means
20 church, ecclesiastical corporation, or group, not organized for
21 pecuniary profit, that gathers for mutual support and edification
22 in piety or worship of a supreme deity.

23 Sec. 5. (1) A person, partnership, firm, corporation, asso-
24 ciation, or nongovernmental organization shall not establish or
25 maintain a child care organization unless licensed or registered
26 by the department. Application for a license or certificate of
27 registration shall be made on forms provided, and in the manner

1 prescribed, by the department. Before issuing or renewing a
2 license, the department shall investigate the activities and pro-
3 posed standards of care of the applicant and shall make an
4 on-site visit of the proposed or established organization. If
5 the department is satisfied as to the need for a child care orga-
6 nization, its financial stability, the good moral character of
7 the applicant, and that the services and facilities are conducive
8 to the welfare of the children, the ~~license~~ DEPARTMENT shall
9 ~~be issued or renewed~~ ISSUE OR RENEW THE LICENSE. As used in
10 this subsection, "good moral character" means good moral charac-
11 ter as defined and determined pursuant to Act No. 381 of the
12 Public Acts of 1974, as amended, being sections 338.41 to 338.47
13 of the Michigan Compiled Laws.

14 (2) The department shall issue a certificate of registration
15 to a person who has successfully completed an orientation session
16 offered by the department, and who certifies to the department
17 that the family day care home has complied with and will continue
18 to comply with the rules promulgated under this act, and will
19 provide services and facilities, as determined by the department,
20 conducive to the welfare of children. The department shall make
21 available an orientation session to applicants for registration
22 regarding this act, the rules promulgated under this act, and the
23 needs of children in family day care before issuing a certificate
24 of registration. ~~A certificate of registration shall be issued~~
25 THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF REGISTRATION to a
26 specific person at a specific location. ~~, shall be~~ A
27 CERTIFICATE OF REGISTRATION IS nontransferable ~~,~~ and ~~shall~~

1 ~~remain~~ REMAINS the property of the department. Within 90 days
2 after initial registration, the department shall make an on-site
3 visit of the family day care home.

4 (3) The department may authorize a licensed child placing
5 agency or an approved governmental unit to investigate a foster
6 family home or a foster family group home pursuant to subsection
7 (1) and to certify that the foster family home or foster family
8 group home meets the licensing requirements prescribed by this
9 act. A foster family home or a foster family group home shall be
10 certified for licensing by the department by only 1 child placing
11 agency or approved governmental unit. Other child placing agen-
12 cies may place children in a foster family home or foster family
13 group home only upon the approval of the certifying agency or
14 governmental unit.

15 (4) The department may authorize a licensed child placing
16 agency or an approved governmental unit to place a child who is
17 16 or 17 years of age in his or her own unlicensed residence, or
18 in the unlicensed residence of an adult who has no supervisory
19 responsibility for the child, if a child placing agency or gov-
20 ernmental unit retains supervisory responsibility for the child.

21 (5) A licensed child placing agency, child caring institu-
22 tion, and an approved governmental unit shall provide the state
23 court administrative office and a local foster care review board
24 established under Act No. 422 of the Public Acts of 1984, being
25 sections 722.131 to ~~722.140~~ 722.139A of the Michigan Compiled
26 Laws, such records as may be requested pertaining to children in
27 foster care placement for more than 6 months.

1 (6) The department may authorize a licensed child placing
2 agency or an approved governmental unit to place a child who is
3 16 or 17 years old in an adult foster care family home or an
4 adult foster care small group home licensed under the adult
5 foster care facility licensing act, Act No. 218 of the Public
6 Acts of 1979, as amended, being sections 400.701 to 400.737 of
7 the Michigan Compiled Laws, if a licensed child placing agency or
8 approved governmental unit retains supervisory responsibility for
9 the child and certifies to the department all of the following:

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

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

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

15 (d) That the child placing agency or approved governmental
16 unit will periodically reevaluate the placement of an individual
17 under this subsection to determine that the criteria for place-
18 ment in subdivisions (a) through (c) continue to be met.

19 (7) THE DIRECTOR OF THE DEPARTMENT, OR HIS OR HER DESIGNEE,
20 MAY AUTHORIZE, ON AN EXCEPTION BASIS, A LICENSED CHILD PLACING
21 AGENCY OR AN APPROVED GOVERNMENTAL UNIT TO PLACE AN ADULT IN A
22 FOSTER FAMILY HOME, IF A LICENSED CHILD PLACING AGENCY OR
23 APPROVED GOVERNMENTAL UNIT CERTIFIES TO THE DEPARTMENT ALL OF THE
24 FOLLOWING:

25 (A) THE ADULT IS A PERSON WITH A DEVELOPMENTAL DISABILITY AS
26 DEFINED BY SECTION 600 OF THE MENTAL HEALTH CODE, ACT NO. 258 OF
27 THE PUBLIC ACTS OF 1974, BEING SECTION 330.1600 OF THE MICHIGAN

1 COMPILED LAWS, OR A PERSON WHO IS OTHERWISE NEUROLOGICALLY
2 HANDICAPPED AND THE PERSON IS ALSO PHYSICALLY LIMITED TO SUCH A
3 DEGREE AS TO REQUIRE COMPLETE PHYSICAL ASSISTANCE WITH MOBILITY
4 AND ACTIVITIES OF DAILY LIVING.

5 (B) THE PLACEMENT IS IN THE BEST INTEREST OF THE ADULT AND
6 WILL NOT ADVERSELY AFFECT THE INTEREST OF THE FOSTER CHILD OR
7 CHILDREN RESIDING IN THE FOSTER FAMILY HOME.

8 (C) THE IDENTIFIED NEEDS OF THE ADULT CAN BE MET BY THE
9 FOSTER FAMILY HOME.

10 (D) THE ADULT WILL BE COMPATIBLE WITH OTHER RESIDENTS OF THE
11 FOSTER FAMILY HOME.

12 (E) THE CHILD PLACING AGENCY OR APPROVED GOVERNMENTAL UNIT
13 WILL PERIODICALLY REEVALUATE THE PLACEMENT OF AN ADULT UNDER THIS
14 SUBSECTION TO DETERMINE THAT THE CRITERIA FOR PLACEMENT IN SUBDI-
15 VISIONS (A) THROUGH (D) CONTINUE TO BE MET AND DOCUMENT THAT THE
16 ADULT IS RECEIVING CARE CONSISTENT WITH THE ADMINISTRATIVE RULES
17 FOR A CHILD PLACING AGENCY.

18 Section 2. This amendatory act shall not take effect unless
19 Senate Bill No. _____ or House Bill No. 4335 (request
20 no. 01828'91) of the 86th Legislature is enacted into law.