

Act No. 205
Public Acts of 1994
Approved by the Governor
June 20, 1994
Filed with the Secretary of State
June 21, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

**Introduced by Senators Welborn Dingell Geake Cisky Dillingham Gougeon McManus Wartner
DeGrow Pridnia Honigman Gast Hoffman Arthurhultz and Hart**

ENROLLED SENATE BILL No. 724

AN ACT to amend sections 1 and 10 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. 162 of the Public Acts of 1991 and section 10 as amended by Act No. 498 of the Public Acts of 1980 being sections 722 111 and 722 120 of the Michigan Compiled Laws and to add section 5a

The People of the State of Michigan enact

Section 1 Sections 1 and 10 of Act No. 116 of the Public Acts of 1973 section 1 as amended by Act No. 162 of the Public Acts of 1991 and section 10 as amended by Act No. 498 of the Public Acts of 1980 being sections 722 111 and 722 120 of the Michigan Compiled Laws are amended and section 5a is added 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 a governmental organization or an agency organized pursuant to the nonprofit corporation act Act No 162 of the Public Acts of 1982 being sections 450 2101 to 450 3192 of the Michigan Compiled Laws 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 of applicants for adoption and 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 is not 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 or marriage or who are not placed in the household pursuant to the adoption code chapter X of Act No 288 of the Public Acts of 1939 being sections 710 21 to 710 70 of the Michigan Compiled Laws 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 fewer than 7 minor children who are not related to an adult member of the household by blood or marriage or who are not placed in the household pursuant to chapter X of Act No 288 of the Public Acts of 1939 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 fewer 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 organization 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 a parent grandparent brother sister stepparent stepsister stepbrother uncle aunt cousin great aunt great uncle or stepgrandparent related by marriage blood or adoption

(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 5a A child placing agency shall provide the children's ombudsman created in section 3 of the children's ombudsman act with those records requested by the ombudsman pertaining to a matter under investigation by the ombudsman

Sec 10 (1) The department may investigate and examine conditions of a child care organization in which a licensee receives maintains or places out children and may investigate and examine the books and records of the licensee The licensee shall admit members of the department and furnish all reasonable facilities for thorough examination of its books records and reports The department of public health the fire marshal division of the department of state police or local authorities in carrying out the provisions of this act may visit a child care organization to advise in matters affecting the health or fire protection of children

(2) A licensee shall keep the records the department prescribes regarding each child in its control and care and shall report to the department when requested the facts the department requires with reference to the children upon forms furnished by the department Except as otherwise provided in this subsection records regarding children and facts compiled about children and their parents and relatives are confidential and disclosure of this information shall 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 both 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 pursuant to section 7 of the child protection law Act No 238 of the Public Acts of 1975 being section 722 627 of the Michigan Compiled Laws

(b) The children's ombudsman created in section 3 of the children's ombudsman act

Section 2 This amendatory act shall take effect January 1 1995

Section 3 This amendatory 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 722

(d) Senate Bill No 723

(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

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor