

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 1186**

(As Passed the Senate June 11, 1998)

A bill to amend 1973 PA 116, 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 prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,"

by amending section 5 (MCL 722.115), as amended by 1998 PA 34, and by adding section 5b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) A person, partnership, firm, corporation, asso-
2 ciation, or nongovernmental organization shall not establish or
3 maintain a child care organization unless licensed or registered
4 by the department. Application for a license or certificate of
5 registration shall be made on forms provided, and in the manner
6 prescribed, by the department. Before issuing or renewing a
7 license, the department shall investigate the APPLICANT'S

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1 activities and proposed standards of care ~~of the applicant~~ and
2 shall make an on-site visit of the proposed or established
3 organization. If the department is satisfied as to the need for
4 a child care organization, its financial stability, the
5 APPLICANT'S good moral character, ~~of the applicant,~~ and that
6 the services and facilities are conducive to the welfare of the
7 children, the department shall issue or renew the license. As
8 used in this subsection, "good moral character" means ~~good moral~~
9 ~~character~~ THAT TERM as defined IN and determined ~~pursuant to~~
10 UNDER 1974 PA 381, MCL 338.41 to 338.47. IF A COUNTY JUVENILE
11 AGENCY AS DEFINED IN SECTION 2 OF THE COUNTY JUVENILE AGENCY ACT
12 CERTIFIES TO THE DEPARTMENT THAT IT INTENDS TO CONTRACT WITH AN
13 APPLICANT FOR A NEW LICENSE, THE DEPARTMENT SHALL ISSUE OR DENY
14 THE LICENSE WITHIN 60 DAYS AFTER IT RECEIVES A COMPLETE APPLICA-
15 TION AS PROVIDED IN SECTION 5B.

16 (2) The department shall issue a certificate of registration
17 to a person who has successfully completed an orientation session
18 offered by the department ~~—,~~ and who certifies to the department
19 that the family day care home has complied with and will continue
20 to comply with the rules promulgated under this act ~~—,~~ and will
21 provide services and facilities, as determined by the department,
22 conducive to the welfare of children. The department shall make
23 available TO APPLICANTS FOR REGISTRATION an orientation session
24 to applicants for registration regarding this act, the rules
25 promulgated under this act, and the needs of children in family
26 day care before issuing a certificate of registration. The
27 department shall issue a certificate of registration to a

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1 specific person at a specific location. A certificate of
2 registration is nontransferable and remains the property of the
3 department. Within 90 days after initial registration, the
4 department shall make an on-site visit of the family day care
5 home.

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

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

23 (5) A licensed child placing agency, child caring institu-
24 tion, and an approved governmental unit shall provide the state
25 court administrative office and a local foster care review board
26 established under 1984 PA 422, MCL 722.131 to 722.139a, ~~such~~

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1 THOSE records ~~as may be~~ requested pertaining to children in
2 foster care placement for more than 6 months.

3 (6) The department may authorize a licensed child placing
4 agency or an approved governmental unit to place a child who is
5 16 or 17 years old in an adult foster care family home or an
6 adult foster care small group home licensed under the adult
7 foster care facility licensing act, 1979 PA 218, MCL 400.701 to
8 400.737, if a licensed child placing agency or approved govern-
9 mental unit retains supervisory responsibility for the child and
10 certifies to the department all of the following:

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

12 (b) The CHILD'S needs ~~of the child~~ can be adequately met
13 by the adult foster care family home or small group home.

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

16 (d) The child placing agency or approved governmental unit
17 will periodically reevaluate the placement of ~~an individual~~ A
18 CHILD under this subsection to determine that the criteria for
19 placement in subdivisions (a) through (c) continue to be met.

20 (7) ~~The~~ ON AN EXCEPTION BASIS, THE director of the depart-
21 ment, or his or her designee, may authorize ~~—, on an exception~~
22 ~~basis,~~ a licensed child placing agency or an approved governmen-
23 tal unit to place an adult in a foster family home ~~—~~ if a
24 licensed child placing agency or approved governmental unit cer-
25 tifies to the department all of the following:

26 (a) The adult is a person with a developmental disability as
27 defined by section 100a of the mental health code, 1974 PA 258,

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1 MCL 330.1100a, or a person who is otherwise neurologically
2 disabled ~~—, and the person~~ is also physically limited to such
3 a degree as to require complete physical assistance with mobility
4 and activities of daily living.

5 (b) The placement is in the best ~~interest~~ INTERESTS of the
6 adult and will not adversely affect the ~~interest~~ INTERESTS of
7 the foster child or 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 (8) ~~The~~ ON AN EXCEPTION BASIS, THE director of the depart-
19 ment, or his or her designee, may authorize ~~—, on an exception~~
20 ~~basis,~~ a licensed child placing agency or an approved governmen-
21 tal unit to place a child in an adult foster care family home or
22 an adult foster care small group home licensed under the adult
23 foster care licensing act, 1979 PA 218, MCL 400.701 to 400.737,
24 if the licensed child placing agency or approved governmental
25 unit certifies to the department all of the following:

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

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1 (b) The placement has the concurrence of the parent or
2 guardian of the child.

3 (c) The identified needs of the child can be met adequately
4 by the adult foster care family home or small group home.

5 (d) The CHILD'S psychosocial and clinical needs ~~of the~~
6 ~~child~~ are compatible with those of other residents of the adult
7 foster care family home or small group home.

8 (e) The clinical treatment of the child's condition is simi-
9 lar to that of the other residents of the adult foster care
10 family home or small group home.

11 (f) The child's cognitive level is consistent with the cog-
12 nitive level of the other residents of the adult foster care
13 family home or small group home.

14 (g) The child is neurologically disabled and is also physi-
15 cally limited to such a degree as to require complete physical
16 assistance with mobility and activities of daily living.

17 (h) The child placing agency or approved governmental unit
18 will periodically reevaluate the placement of a child under this
19 subsection to determine that the criteria for placement in subdi-
20 visions (a) to (g) continue to be met.

21 SEC. 5B. (1) IF A COUNTY JUVENILE AGENCY AS DEFINED IN
22 SECTION 2 OF THE COUNTY JUVENILE AGENCY ACT CERTIFIES THAT IT
23 INTENDS TO CONTRACT WITH A LICENSE APPLICANT AS PROVIDED IN
24 SECTION 5(1), THE DEPARTMENT SHALL REVIEW THE APPLICATION AND
25 ADVISE THE APPLICANT AND THE COUNTY JUVENILE AGENCY WITHIN 10
26 DAYS AFTER RECEIVING THE APPLICATION WHAT FURTHER INFORMATION OR
27 MATERIAL IS NECESSARY TO COMPLETE THE APPLICATION.

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1 (2) IF THE DEPARTMENT FAILS TO ISSUE OR DENY THE LICENSE
2 WITHIN 60 DAYS AFTER RECEIVING THE INFORMATION IT DETERMINED WAS
3 NECESSARY TO COMPLETE THE APPLICATION, THE COUNTY JUVENILE AGENCY
4 OR THE APPLICANT MAY BRING AN ACTION FOR MANDAMUS TO REQUIRE THE
5 DEPARTMENT TO ISSUE OR DENY THE LICENSE.

6 (3) THE COUNTY JUVENILE AGENCY IS A PARTY FOR PURPOSES OF
7 ANY HEARING, REVIEW, OR OTHER PROCEEDING ON A LICENSE APPLICATION
8 DESCRIBED IN THIS SECTION OR SECTION 5(1) FOR WHICH THE COUNTY
9 JUVENILE AGENCY CERTIFIES TO THE DEPARTMENT THAT IT INTENDS TO
10 CONTRACT WITH THE APPLICANT. THE COUNTY JUVENILE AGENCY OR
11 APPLICANT MAY CHALLENGE THE DEPARTMENT'S DETERMINATION CONCERNING
12 WHAT FURTHER INFORMATION OR MATERIAL IS NECESSARY TO COMPLETE THE
13 APPLICATION.

14 Enacting section 1. This amendatory act does not take
15 effect unless all of the following bills of the 89th Legislature
16 are enacted into law:

- 17 (a) Senate Bill No. 1183.
18 (b) Senate Bill No. 1184.
19 (c) Senate Bill No. 1185.
20 (d) Senate Bill No. 1187.
21 (e) Senate Bill No. 1196.
22 (f) Senate Bill No. 1197.