

HOUSE BILL No. 5328

October 30, 1997, Introduced by Reps. Leland, Hale, Law and Kelly and referred to the Committee on Appropriations.

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 the department of social services and adoption facilitators; to provide penalties; and to repeal certain acts and parts of acts,"

by amending section 5 (MCL 722.115), as amended by 1995 PA 81, 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

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 Act No. 381 of the Public Acts of 1974, being sections 338.41 to
11 338.47 of the Michigan Compiled Laws UNDER 1974 PA 381, MCL
12 338.41 TO 338.47.

13 (2) IF A COUNTY JUVENILE AGENCY AS DEFINED IN SECTION 2 OF
14 THE COUNTY JUVENILE AGENCY ACT CERTIFIES TO THE DEPARTMENT THAT
15 IT INTENDS TO CONTRACT WITH AN APPLICANT FOR A NEW LICENSE, THE
16 DEPARTMENT SHALL ISSUE OR DENY THE LICENSE WITHIN 60 DAYS AFTER
17 IT RECEIVES A COMPLETE APPLICATION AS PROVIDED IN SECTION 5B. IF
18 THE DEPARTMENT FAILS TO DO SO AND THE COUNTY JUVENILE AGENCY
19 APPROVES THE APPLICANT AS PROVIDED IN SECTION 5B, THE APPLICANT
20 IS GRANTED A LICENSE ON THE SAME TERMS AS IF THE DEPARTMENT HAD
21 ISSUED A LICENSE UNDER THIS SECTION.

22 (3) ~~(2)~~ The department shall issue a certificate of regis-
23 tration to a person who has successfully completed an orientation
24 session offered by the department ~~,~~ and who certifies to the
25 department that the family day care home has complied with and
26 will continue to comply with the rules promulgated under this act
27 ~~,~~ and will provide services and facilities, as determined by

1 the department, conducive to the welfare of children. The
2 department shall make available TO APPLICANTS FOR REGISTRATION an
3 orientation session ~~to applicants for registration~~ regarding
4 this act, the rules promulgated under this act, and the needs of
5 children in family day care before issuing a certificate of
6 registration. The department shall issue a certificate of regis-
7 tration to a specific person at a specific location. A certifi-
8 cate of registration is nontransferable and remains the property
9 of the department. Within 90 days after initial registration,
10 the department shall make an on-site visit of the family day care
11 home.

12 (4) ~~(3)~~ The department may authorize a licensed child
13 placing agency or an approved governmental unit to investigate a
14 foster family home or a foster family group home pursuant to sub-
15 section (1) and to certify that the foster family home or foster
16 family group home meets the licensing requirements prescribed by
17 this act. A foster family home or a foster family group home
18 shall be certified for licensing by the department by only 1
19 child placing agency or approved governmental unit. Other child
20 placing agencies may place children in a foster family home or
21 foster family group home only upon the approval of the certifying
22 agency or governmental unit.

23 (5) ~~(4)~~ The department may authorize a licensed child
24 placing agency or an approved governmental unit to place a child
25 who is 16 or 17 years of age in his or her own unlicensed resi-
26 dence, or in the unlicensed residence of an adult who has no
27 supervisory responsibility for the child, if a child placing

1 agency or governmental unit retains supervisory responsibility
2 for the child.

3 (6) ~~-(5)-~~ A licensed child placing agency, child caring
4 institution, ~~and an~~ OR approved governmental unit shall provide
5 the state court administrative office and a local foster care
6 review board established under ~~Act No. 422 of the Public Acts of~~
7 ~~1984, being sections 722.131 to 722.139a of the Michigan Compiled~~
8 ~~Laws, such~~ 1984 PA 422, MCL 722.131 TO 722.139A, THOSE records
9 ~~as may be~~ requested pertaining to children in foster care
10 placement for more than 6 months.

11 (7) ~~-(6)-~~ The department may authorize a licensed child
12 placing agency or an approved governmental unit to place a child
13 who is 16 or 17 years old in an adult foster care family home or
14 an adult foster care small group home licensed under the adult
15 foster care facility licensing act, ~~Act No. 218 of the Public~~
16 ~~Acts of 1979, being sections 400.701 to 400.737 of the Michigan~~
17 ~~Compiled Laws~~ 1979 PA 218, MCL 400.701 TO 400.737, if a licensed
18 child placing agency or approved governmental unit retains super-
19 visory responsibility for the child and certifies to the depart-
20 ment all of the following:

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

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

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

26 (d) The child placing agency or approved governmental unit
27 will periodically reevaluate the placement of ~~an individual~~ A

1 CHILD under this subsection to determine that the criteria for
2 placement in subdivisions (a) through (c) continue to be met.

3 (8) ~~-(7) The~~ ON AN EXCEPTION BASIS, THE director of the
4 department, or his or her designee, may authorize ~~, on an excep-~~
5 ~~tion basis,~~ a licensed child placing agency or an approved gov-
6 ernmental unit to place an adult in a foster family home ~~,~~ if a
7 licensed child placing agency or approved governmental unit cer-
8 tifies to the department all of the following:

9 (a) The adult is a person with a developmental disability as
10 defined by section 600 of the mental health code, ~~Act No. 258 of~~
11 ~~the Public Acts of 1974, being section 330.1600 of the Michigan~~
12 ~~Compiled Laws~~ 1974 PA 258, MCL 330.1600, or a person who is oth-
13 erwise neurologically handicapped ~~,~~ and ~~the person~~ is also
14 physically limited to such a degree as to require complete physi-
15 cal assistance with mobility and activities of daily living.

16 (b) The placement is in the ADULT'S best ~~interest of the~~
17 ~~adult~~ INTERESTS and will not adversely affect the ~~interest~~
18 INTERESTS of the foster child or children residing in the foster
19 family home.

20 (c) The ADULT'S identified needs ~~of the adult~~ can be met
21 by the foster family home.

22 (d) The adult will be compatible with other residents of the
23 foster family home.

24 (e) The child placing agency or approved governmental unit
25 will periodically reevaluate the placement of an adult under this
26 subsection to determine that the criteria for placement in
27 subdivisions (a) through (d) continue to be met and document that

1 the adult is receiving care consistent with the administrative
2 rules for a child placing agency.

3 (9) ~~-(8) The~~ ON AN EXCEPTION BASIS, THE director of the
4 department, or his or her designee, may authorize ~~, on an excep-~~
5 ~~tion basis,~~ a licensed child placing agency or an approved gov-
6 ernmental unit to place a child in an adult foster care family
7 home or an adult foster care small group home licensed under ~~Act~~
8 ~~No. 218 of the Public Acts of 1979~~ THE ADULT FOSTER CARE LICENS-
9 ING FACILITY ACT, 1979 PA 218, MCL 400.701 TO 400.737, if the
10 licensed child placing agency or approved governmental unit cer-
11 tifies to the department all of the following:

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

13 (b) The placement has the concurrence of the parent or
14 guardian of the child.

15 (c) The CHILD'S identified needs ~~of the child~~ can be met
16 adequately by the adult foster care family home or small group
17 home.

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

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

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

1 (g) The child is neurologically handicapped and is also
2 physically limited to such a degree as to require complete
3 physical assistance with mobility and activities of daily
4 living.

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

9 SEC. 5B. (1) IF A COUNTY JUVENILE AGENCY AS DEFINED IN
10 SECTION 2 OF THE COUNTY JUVENILE AGENCY ACT CERTIFIES THAT IT
11 INTENDS TO CONTRACT WITH A LICENSE APPLICANT AS PROVIDED IN
12 SECTION 5(2), THE DEPARTMENT SHALL REVIEW THE APPLICATION AND
13 ADVISE THE APPLICANT AND THE COUNTY JUVENILE AGENCY WITHIN 10
14 DAYS AFTER RECEIVING THE APPLICATION WHAT FURTHER INFORMATION OR
15 MATERIAL IS NECESSARY TO COMPLETE THE APPLICATION.

16 (2) IF THE DEPARTMENT FAILS TO ISSUE OR DENY THE LICENSE
17 WITHIN 60 DAYS AFTER RECEIVING THE INFORMATION IT DETERMINED WAS
18 NECESSARY TO COMPLETE THE APPLICATION, THE COUNTY JUVENILE AGENCY
19 MAY REVIEW THE APPLICATION USING THE SAME CRITERIA THIS ACT
20 REQUIRES THE DEPARTMENT TO USE. IF THE COUNTY JUVENILE AGENCY
21 APPROVES THE APPLICANT, IT SHALL NOTIFY THE DEPARTMENT.

22 (3) THE COUNTY JUVENILE AGENCY IS A PARTY FOR PURPOSES OF
23 ANY HEARING, REVIEW, OR OTHER PROCEEDING ON A LICENSE APPLICATION
24 DESCRIBED IN THIS SECTION OR SECTION 5(2). THE COUNTY JUVENILE
25 AGENCY OR APPLICANT MAY CHALLENGE THE DEPARTMENT'S DETERMINATION
26 CONCERNING WHAT FURTHER INFORMATION OR MATERIAL IS NECESSARY TO
27 COMPLETE THE APPLICATION.

1 Enacting section 1. This amendatory act does not take
2 effect unless the United States department of health and human
3 services grants part 3 of the family independence agency's waiver
4 filed under the child welfare demonstration project to permit a
5 transfer of title IV-E funding from the state to 1 or more coun-
6 ties and the family independence agency files with the secretary
7 of state a certification that the necessary waiver was granted.

8 Enacting section 2. This amendatory act does not take
9 effect unless all of the following bills of the 89th Legislature
10 are enacted into law:

11 (a) Senate Bill No. _____ or House Bill No. _____ (request
12 no. 03597'97 *).

13 (b) Senate Bill No. _____ or House Bill No. _____ (request
14 no. 03598'97 *).

15 (c) Senate Bill No. _____ or House Bill No. _____ (request
16 no. 03598'97 a *).

17 (d) Senate Bill No. _____ or House Bill No. _____ (request
18 no. 03599'97 *).

19 (e) Senate Bill No. _____ or House Bill No. _____ (request
20 no. 03644'97 *).

21 (f) Senate Bill No. _____ or House Bill No. _____ (request
22 no. 03917'97 *).