

# HOUSE BILL No. 4058

January 31, 2001, Introduced by Reps. Bob Brown, Bernero, Plakas, Lockwood, Toy and Caul and referred to the Committee on Family and Children Services.

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 519, and by adding sections 5c, 5d, and 5e.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

HOUSE BILL No. 4058

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 and shall make an  
2 on-site visit of the proposed or established organization. If  
3 the department is satisfied as to the need for a child care  
4 organization, its financial stability, AND the applicant's good  
5 moral character, and that the services and facilities are condu-  
6 cive to the welfare of the children, the department shall issue  
7 or renew the license. As used in this subsection, "good moral  
8 character" means that term as defined in and determined under  
9 1974 PA 381, MCL 338.41 to 338.47. If a county juvenile agency  
10 as defined in section 2 of the county juvenile agency act, 1998  
11 PA 518, MCL 45.622, certifies to the department that it intends  
12 to contract with an applicant for a new license, the department  
13 shall issue or deny the license within 60 days after it receives  
14 a complete application as provided in section 5b.

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

1 registration is nontransferable and remains the property of the  
2 department. Within 90 days after initial registration, the  
3 department shall make an on-site visit of the family day care  
4 home.

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

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

22 (5) A licensed child placing agency, A child caring institu-  
23 tion, and an approved governmental unit shall provide the state  
24 court administrative office and a local foster care review board  
25 established under 1984 PA 422, MCL 722.131 to 722.139a, those  
26 records requested pertaining to children in foster care placement  
27 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, 1979 PA 218, MCL 400.701 to  
6 400.737, if a licensed child placing agency or approved govern-  
7 mental unit retains supervisory responsibility for the child and  
8 certifies to the department all of the following:

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

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

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

14 (d) The child placing agency or approved governmental unit  
15 will periodically reevaluate the placement of a child under this  
16 subsection to determine that the criteria for placement in subdi-  
17 visions (a) through (c) continue to be met.

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

24 (a) The adult is a person with a developmental disability as  
25 defined by section 100a of the mental health code, 1974 PA 258,  
26 MCL 330.1100a, or a person who is otherwise neurologically  
27 disabled and is also physically limited to ~~such~~ a degree ~~as to~~

1 ~~require~~ THAT REQUIRES complete physical assistance with mobility  
2 and activities of daily living.

3 (b) The placement is in the best interests of the adult and  
4 will not adversely affect the interests of the foster child or  
5 children residing in the foster family home.

6 (c) The identified needs of the adult can be met by the  
7 foster family home.

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

10 (e) The child placing agency or approved governmental unit  
11 will periodically reevaluate the placement of an adult under this  
12 subsection to determine that the criteria for placement in subdi-  
13 visions (a) through (d) continue to be met and document that the  
14 adult is receiving care consistent with the administrative rules  
15 for a child placing agency.

16 (8) On an exception basis, the director of the department,  
17 or his or her designee, may authorize a licensed child placing  
18 agency or an approved governmental unit to place a child in an  
19 adult foster care family home or an adult foster care small group  
20 home licensed under the adult foster care FACILITY licensing act,  
21 1979 PA 218, MCL 400.701 to 400.737, if the licensed child plac-  
22 ing agency or approved governmental unit certifies to the depart-  
23 ment all of the following:

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

25 (b) The placement has the concurrence of the parent or  
26 guardian of the child.

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

3 (d) The child's psychosocial and clinical needs are compati-  
4 ble with those of other residents of the adult foster care family  
5 home or small group home.

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

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

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

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

20 (9) THE DEPARTMENT SHALL NOT ISSUE OR RENEW A LICENSE OR  
21 CERTIFICATE OF REGISTRATION UNDER THIS ACT WITHOUT REQUESTING A  
22 CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK AS REQUIRED BY  
23 SECTION 5C.

24 SEC. 5C. (1) WHEN A PERSON, PARTNERSHIP, FIRM, CORPORATION,  
25 ASSOCIATION, OR NONGOVERNMENTAL ORGANIZATION APPLIES FOR OR TO  
26 RENEW A LICENSE OR CERTIFICATE OF REGISTRATION FOR A CHILD CARE  
27 ORGANIZATION UNDER SECTION 5, THE DEPARTMENT SHALL REQUEST THE

1 DEPARTMENT OF STATE POLICE TO DO BOTH OF THE FOLLOWING FOR THE  
2 PERSON OR EACH PARTNER, OFFICER, OR MANAGER OF THE CHILD CARE  
3 ORGANIZATION AND, IF A FACILITY OF THE CHILD CARE ORGANIZATION IS  
4 A PRIVATE RESIDENCE, FOR EACH INDIVIDUAL WHO IS 17 YEARS OF AGE  
5 OR OLDER AND WHO RESIDES OR INTENDS TO RESIDE IN THAT RESIDENCE:

6 (A) CONDUCT A CRIMINAL HISTORY CHECK ON THE INDIVIDUAL.

7 (B) CONDUCT A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL  
8 BUREAU OF INVESTIGATION ON THE INDIVIDUAL.

9 (2) EACH INDIVIDUAL SHALL GIVE WRITTEN CONSENT AT THE TIME  
10 OF THE LICENSE OR CERTIFICATE OF REGISTRATION APPLICATION FOR THE  
11 DEPARTMENT OF STATE POLICE TO CONDUCT THE CRIMINAL HISTORY CHECK  
12 AND CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION. THE  
13 DEPARTMENT SHALL REQUIRE THE INDIVIDUAL TO SUBMIT HIS OR HER FIN-  
14 GERPRINTS TO THE DEPARTMENT OF STATE POLICE FOR THE CRIMINAL HIS-  
15 TORY CHECK AND CRIMINAL RECORDS CHECK DESCRIBED IN SUBSECTION  
16 (1).

17 (3) THE DEPARTMENT SHALL REQUEST A CRIMINAL HISTORY CHECK  
18 AND CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION ON A FORM  
19 AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE.

20 (4) WITHIN 45 DAYS AFTER RECEIVING A PROPER REQUEST BY THE  
21 DEPARTMENT FOR A CRIMINAL HISTORY CHECK ON AN INDIVIDUAL UNDER  
22 THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT THE  
23 CRIMINAL HISTORY CHECK AND PROVIDE A REPORT OF THE RESULTS TO THE  
24 DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY RECORD  
25 INFORMATION ON THE INDIVIDUAL MAINTAINED BY THE DEPARTMENT OF  
26 STATE POLICE.

1 (5) WITHIN 7 DAYS AFTER RECEIVING A PROPER REQUEST BY THE  
2 DEPARTMENT FOR A CRIMINAL RECORDS CHECK ON AN INDIVIDUAL UNDER  
3 THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL INITIATE THE  
4 CRIMINAL RECORDS CHECK. AFTER RECEIVING THE RESULTS OF THE CRIM-  
5 INAL RECORDS CHECK FROM THE FEDERAL BUREAU OF INVESTIGATION, THE  
6 DEPARTMENT OF STATE POLICE SHALL PROVIDE A REPORT OF THE RESULTS  
7 TO THE DEPARTMENT.

8 (6) THE DEPARTMENT SHALL NOT ISSUE OR RENEW THE LICENSE OR  
9 CERTIFICATE OF REGISTRATION UNTIL THE DEPARTMENT RECEIVES THE  
10 REPORTS DESCRIBED IN SUBSECTIONS (4) AND (5).

11 (7) IF A CRIMINAL HISTORY CHECK OR CRIMINAL RECORDS CHECK  
12 PERFORMED UNDER THIS SECTION REVEALS THAT AN APPLICANT OR A PART-  
13 NER, OFFICER, OR MANAGER OF AN APPLICANT HAS A CRIMINAL CONVIC-  
14 TION, 1 OF THE FOLLOWING APPLIES:

15 (A) IF THE CONVICTION IS NOT A LISTED CONVICTION, THE  
16 DEPARTMENT MAY CONSIDER THE INFORMATION IN DETERMINING WHETHER TO  
17 ISSUE OR RENEW THE LICENSE OR CERTIFICATE OF REGISTRATION.

18 (B) IF THE CONVICTION IS A LISTED CONVICTION, 1 OF THE FOL-  
19 LOWING APPLIES:

20 (i) IF THE APPLICATION IS FOR RENEWAL OF A LICENSE OR CER-  
21 TIFICATE OF REGISTRATION ORIGINALLY ISSUED BEFORE THE EFFECTIVE  
22 DATE OF THIS SECTION, THE DEPARTMENT MAY CONSIDER THE INFORMATION  
23 IN DETERMINING WHETHER TO RENEW THE LICENSE OR CERTIFICATE OF  
24 REGISTRATION. UPON RENEWAL, THE CHILD CARE ORGANIZATION MUST  
25 NOTIFY THE PARENT OR GUARDIAN OF EACH CHILD WHO USES THE  
26 ORGANIZATION'S SERVICES OF THE FACT AND NATURE OF THE  
27 INDIVIDUAL'S LISTED CONVICTION.

1           (ii) IF THE APPLICATION IS FOR AN ORIGINAL LICENSE OR  
2 CERTIFICATE OF REGISTRATION, THE DEPARTMENT SHALL DENY THE  
3 APPLICATION.

4           (8) THE DEPARTMENT OF STATE POLICE MAY CHARGE A FEE FOR A  
5 CRIMINAL HISTORY CHECK OR A CRIMINAL RECORDS CHECK REQUIRED UNDER  
6 THIS SECTION THAT DOES NOT EXCEED THE ACTUAL AND REASONABLE COST  
7 OF CONDUCTING THE CHECK.

8           (9) AS USED IN THIS SECTION AND SECTIONS 5D AND 5E:

9           (A) "CRIMINAL HISTORY RECORD INFORMATION" MEANS THAT TERM AS  
10 DEFINED IN SECTION 1A OF 1925 PA 289, MCL 28.241A.

11           (B) "LISTED CONVICTION" MEANS A CONVICTION OF 1 OR MORE OF  
12 THE FOLLOWING:

13           (i) A FELONY VIOLATION OF PART 74 OF THE PUBLIC HEALTH CODE,  
14 1978 PA 368, MCL 333.7401 TO 333.7461, OR A VIOLATION OF SECTION  
15 7455(2) OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7455.

16           (ii) A VIOLATION OF THE YOUTH EMPLOYMENT STANDARDS ACT, 1978  
17 PA 90, MCL 409.101 TO 409.124, INVOLVING THE EMPLOYMENT OF A  
18 MINOR.

19           (iii) A VIOLATION OF SECTION 701 OF THE MICHIGAN LIQUOR CON-  
20 TROL CODE OF 1998, 1998 PA 58, MCL 436.1701, OR A VIOLATION OF  
21 SECTION 703(2) OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998  
22 PA 58, MCL 436.1703, INVOLVING FURNISHING FRAUDULENT  
23 IDENTIFICATION.

24           (iv) A VIOLATION OF THIS ACT.

25           (v) A VIOLATION OF 1968 PA 296, MCL 722.151 TO 722.152.

26           (vi) A VIOLATION OF SECTION 13(2) OR (5) OF THE CHILD  
27 PROTECTION LAW, 1975 PA 238, MCL 722.633.

1           (vii) A VIOLATION OF SECTION 1 OF THE YOUTH TOBACCO ACT,  
2 1915 PA 31, MCL 722.641.

3           (viii) A VIOLATION OF SECTION 5, 7, OR 8 OF 1978 PA 33,  
4 MCL 722.675, 722.677, AND 722.678.

5           (ix) A VIOLATION OF SECTION 3 OF 1960 PA 41, MCL 722.753.

6           (x) A VIOLATION OF SECTION 28, 72, 73, 75, 82, 83, 84, 86,  
7 87, 88, 89, 90, 90A, 90B, 91, 110, 110A, 111, 112, 135, 136B,  
8 137, 138, 140, 141, 141A, 142, 143, 144, 145, 145A, 145C, 145o,  
9 157B(2), 157C, 161, 164, 167(1)(A), (B), (C), (F), OR (I), 204,  
10 204A, 207, 209, 209A, 210, 211A, 212A, 213, 223(2), 224, 224A,  
11 224B, 224C, 226, 227, 227F, 234A, 234B, 234C, 316, 317, 321,  
12 327A, 328, 335A, 349, 349A, 350, 397, 397A, 411H, 411I, 436, 448,  
13 449, 449A, 450, 452, 454, 455, 456, 457, 458, 459, 462, 520B,  
14 520C, 520D, 520E, 520G, 529, 529A, 530, OR 531 OF THE MICHIGAN  
15 PENAL CODE, 1931 PA 328, MCL 750.28, 750.72, 750.73, 750.75,  
16 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.90,  
17 750.90A, 750.90B, 750.91, 750.110, 750.110A, 750.111, 750.112,  
18 750.135, 750.136B, 750.137, 750.138, 750.140, 750.141, 750.141A,  
19 750.142, 750.143, 750.144, 750.145, 750.145A, 750.145C, 750.145o,  
20 750.157B, 750.157C, 750.161, 750.164, 750.167, 750.204, 750.204A,  
21 750.207, 750.209, 750.209A, 750.210, 750.211A, 750.212A, 750.213,  
22 750.223, 750.224, 750.224A, 750.224B, 750.224C, 750.226, 750.227,  
23 750.227F, 750.234A, 750.234B, 750.234C, 750.316, 750.317,  
24 750.321, 750.327A, 750.328, 750.335A, 750.349, 750.349A, 750.350,  
25 750.397, 750.397A, 750.411H, 750.411I, 750.436, 750.448, 750.449,  
26 750.449A, 750.450, 750.452, 750.454, 750.455, 750.456, 750.457,

1 750.458, 750.459, 750.462, 750.520B, 750.520C, 750.520D,  
2 750.520E, 750.520G, 750.529, 750.529A, 750.530, AND 750.531.

3 (xi) A FELONY VIOLATION OF SECTION 74 OR 145N OF THE  
4 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.74 AND 750.145N.

5 (xii) A VIOLATION OF SECTION 81 OR 81A OF THE MICHIGAN PENAL  
6 CODE, 1931 PA 328, MCL 750.81 AND 750.81A, INVOLVING AN ASSAULT  
7 AGAINST A MINOR.

8 (xiii) A VIOLATION OF SECTION 5 OF 1984 PA 343,  
9 MCL 752.365.

10 (xiv) A VIOLATION OF A FORMER LAW OF THIS STATE OR AN ORDI-  
11 NANCE OR FORMER ORDINANCE OF A POLITICAL SUBDIVISION OF THIS  
12 STATE SUBSTANTIALLY CORRESPONDING TO A LAW DESCRIBED IN SUBPARA-  
13 GRAPHS (i) TO (xiii).

14 (xv) A VIOLATION OF A LAW OR FORMER LAW OF THE UNITED STATES  
15 OR ANOTHER STATE OR AN ORDINANCE OR FORMER ORDINANCE OF A POLITI-  
16 CAL SUBDIVISION OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO A  
17 LAW DESCRIBED IN SUBPARAGRAPHS (i) TO (xiii).

18 (xvi) AN ATTEMPT OR CONSPIRACY TO COMMIT AN OFFENSE  
19 DESCRIBED IN SUBPARAGRAPHS (i) TO (xv).

20 SEC. 5D. (1) WHEN A CHILD CARE ORGANIZATION MAKES AN OFFER  
21 OF INITIAL EMPLOYMENT TO AN INDIVIDUAL 16 YEARS OF AGE OR OLDER  
22 FOR A POSITION INVOLVING THE CARE, CUSTODY, OR SUPERVISION OF  
23 CHILDREN, THE CHILD CARE ORGANIZATION SHALL REQUEST THE DEPART-  
24 MENT OF STATE POLICE TO DO BOTH OF THE FOLLOWING:

25 (A) CONDUCT A CRIMINAL HISTORY CHECK ON THE INDIVIDUAL.

26 (B) CONDUCT A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL  
27 BUREAU OF INVESTIGATION ON THE INDIVIDUAL.

1           (2) THE INDIVIDUAL SHALL GIVE WRITTEN CONSENT AT THE TIME OF  
2 HIS OR HER EMPLOYMENT APPLICATION FOR THE DEPARTMENT OF STATE  
3 POLICE TO CONDUCT THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS  
4 CHECK REQUIRED UNDER THIS SECTION. THE CHILD CARE ORGANIZATION  
5 SHALL REQUIRE THE INDIVIDUAL TO SUBMIT HIS OR HER FINGERPRINTS TO  
6 THE DEPARTMENT OF STATE POLICE FOR THE CRIMINAL HISTORY CHECK AND  
7 CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION.

8           (3) A CHILD CARE ORGANIZATION SHALL REQUEST A CRIMINAL HIS-  
9 TORY CHECK AND CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION  
10 ON A FORM AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF STATE  
11 POLICE.

12           (4) WITHIN 45 DAYS AFTER RECEIVING A PROPER REQUEST BY A  
13 CHILD CARE ORGANIZATION FOR A CRIMINAL HISTORY CHECK ON AN INDI-  
14 VIDUAL UNDER THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL  
15 CONDUCT THE CRIMINAL HISTORY CHECK AND PROVIDE A REPORT OF THE  
16 RESULTS TO THE CHILD CARE ORGANIZATION. THE REPORT SHALL CONTAIN  
17 ANY CRIMINAL HISTORY RECORD INFORMATION ON THE INDIVIDUAL MAIN-  
18 TAINED BY THE DEPARTMENT OF STATE POLICE.

19           (5) WITHIN 7 DAYS AFTER RECEIVING A PROPER REQUEST BY A  
20 CHILD CARE ORGANIZATION FOR A CRIMINAL RECORDS CHECK ON AN INDI-  
21 VIDUAL UNDER THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL  
22 INITIATE THE CRIMINAL RECORDS CHECK. AFTER RECEIVING THE RESULTS  
23 OF THE CRIMINAL RECORDS CHECK FROM THE FEDERAL BUREAU OF INVESTI-  
24 GATION FOR A CHILD CARE ORGANIZATION THAT IS A STATE DEPARTMENT  
25 OR AGENCY, THE DEPARTMENT OF STATE POLICE SHALL PROVIDE THE  
26 RESULTS OF THE CRIMINAL RECORDS CHECK TO THAT CHILD CARE  
27 ORGANIZATION. AFTER RECEIVING THE RESULTS OF THE CRIMINAL

1 RECORDS CHECK FROM THE FEDERAL BUREAU OF INVESTIGATION FOR A  
2 CHILD CARE ORGANIZATION THAT IS NOT A STATE DEPARTMENT OR AGENCY,  
3 THE DEPARTMENT OF STATE POLICE SHALL NOTIFY THE CHILD CARE ORGAN-  
4 IZATION WHETHER THE CRIMINAL RECORDS CHECK DISCLOSED ANY CRIMINAL  
5 HISTORY FOR THE INDIVIDUAL THAT IS NOT DISCLOSED IN THE CRIMINAL  
6 HISTORY CHECK UNDER SUBSECTION (4).

7       (6) EXCEPT AS PROVIDED IN THIS SUBSECTION, A CHILD CARE  
8 ORGANIZATION SHALL NOT EMPLOY THE INDIVIDUAL UNTIL IT RECEIVES  
9 THE REPORTS DESCRIBED IN SUBSECTIONS (4) AND (5). IF THE CHILD  
10 CARE ORGANIZATION DETERMINES IT IS NECESSARY TO EMPLOY AN INDI-  
11 VIDUAL AND IT HAS RECEIVED THE RESULTS OF THE CRIMINAL HISTORY  
12 CHECK ON THE INDIVIDUAL, IT MAY EMPLOY THE INDIVIDUAL AS A CONDI-  
13 TIONAL EMPLOYEE BEFORE RECEIVING THE REPORT DESCRIBED IN SUBSEC-  
14 TION (5). IN ADDITION TO ALL OTHER APPLICANTS, SUBSECTION (8)  
15 APPLIES TO THAT CONDITIONAL EMPLOYEE.

16       (7) A CHILD CARE ORGANIZATION SHALL REQUEST AND THE DEPART-  
17 MENT OF STATE POLICE SHALL CONDUCT CRIMINAL HISTORY CHECKS AND  
18 CRIMINAL RECORDS CHECKS OF ALL INDIVIDUALS EMPLOYED BY THE CHILD  
19 CARE ORGANIZATION ON THE EFFECTIVE DATE OF THIS AMENDATORY ACT  
20 WHO ARE 16 YEARS OF AGE OR OLDER IN THE SAME MANNER AS FOR AN  
21 APPLICANT FOR EMPLOYMENT UNDER THIS SECTION ACCORDING TO THE FOL-  
22 LOWING SCHEDULE:

23       (A) FOR THE CALENDAR YEAR IN WHICH THIS ACT TAKES EFFECT,  
24 THE CHILD CARE ORGANIZATION SHALL REQUEST CRIMINAL HISTORY CHECKS  
25 AND CRIMINAL RECORDS CHECKS OF EMPLOYEES WHO BEGAN IN THAT CALEN-  
26 DAR YEAR AND THE 2 PRECEDING CALENDAR YEARS. IF THIS ACT TAKES  
27 EFFECT AUGUST 1, 2001, IN 2001 THE CHILD CARE ORGANIZATION SHALL

1 REQUEST CRIMINAL HISTORY CHECKS AND CRIMINAL RECORDS CHECKS OF  
2 EMPLOYEES WHO BEGAN IN 2001 AND EMPLOYEES WHO BEGAN IN 1999 AND  
3 2000.

4 (B) FOR EACH SUBSEQUENT CALENDAR YEAR, THE CHILD CARE ORGAN-  
5 IZATION SHALL REQUEST CRIMINAL HISTORY CHECKS AND CRIMINAL  
6 RECORDS CHECKS OF EMPLOYEES WHO BEGAN IN THE 2 CALENDAR YEARS  
7 PRECEDING THE EARLIEST CALENDAR YEAR FOR WHICH CRIMINAL HISTORY  
8 CHECKS AND CRIMINAL RECORDS CHECKS WERE CONDUCTED IN THE PRECED-  
9 ING CALENDAR YEAR. IF THIS ACT TAKES EFFECT AUGUST 1, 2001, IN  
10 2002 THE CHILD CARE ORGANIZATION SHALL REQUEST CRIMINAL HISTORY  
11 CHECKS AND CRIMINAL RECORDS CHECKS OF EMPLOYEES WHO BEGAN IN 1997  
12 AND 1998, AND CONTINUE IN THAT MANNER EACH SUBSEQUENT CALENDAR  
13 YEAR UNTIL ALL EXISTING EMPLOYEES ARE CHECKED.

14 (8) IF A CRIMINAL HISTORY CHECK REVEALS A LISTED CONVICTION,  
15 THE CHILD CARE ORGANIZATION SHALL REFUSE TO HIRE THE APPLICANT OR  
16 SHALL DISMISS THE EMPLOYEE. IF A CRIMINAL RECORDS CHECK DIS-  
17 CLOSURES CRIMINAL HISTORY THAT IS NOT DISCLOSED IN THE CRIMINAL  
18 HISTORY CHECK, THE CHILD CARE ORGANIZATION SHALL REFUSE TO HIRE  
19 THE APPLICANT OR SHALL DISMISS THE EMPLOYEE UNLESS THE CHILD CARE  
20 ORGANIZATION DETERMINES THAT THE ADDITIONAL CRIMINAL HISTORY IS  
21 NOT A CONVICTION FOR A LISTED OFFENSE.

22 (9) CRIMINAL HISTORY RECORD INFORMATION OR THE RESULTS OF A  
23 CRIMINAL RECORDS CHECK UNDER THIS SECTION SHALL BE USED BY A  
24 CHILD CARE ORGANIZATION ONLY FOR THE PURPOSE OF EVALUATING AN  
25 APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT IN THE POSITION FOR  
26 WHICH HE OR SHE HAS APPLIED OR WHETHER TO RETAIN AN EMPLOYEE. A  
27 LICENSEE OR REGISTRANT OR ITS OFFICERS, AGENTS, OR EMPLOYEES

1 SHALL NOT DISCLOSE THE REPORT OR ITS CONTENTS EXCEPT A FELONY  
2 CONVICTION OR A MISDEMEANOR CONVICTION INVOLVING SEXUAL OR PHYSI-  
3 CAL ABUSE TO A PERSON NOT DIRECTLY INVOLVED IN EVALUATING THE  
4 APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT OR THE ISSUE OF THE  
5 EMPLOYEE'S CONTINUED EMPLOYMENT. A PERSON WHO VIOLATES THIS SUB-  
6 SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT  
7 MORE THAN \$10,000.00.

8 (10) THE DEPARTMENT OF STATE POLICE MAY CHARGE A FEE FOR A  
9 CRIMINAL HISTORY CHECK OR A CRIMINAL RECORDS CHECK REQUIRED UNDER  
10 THIS SECTION THAT DOES NOT EXCEED THE ACTUAL AND REASONABLE COST  
11 OF CONDUCTING THE CHECK.

12 SEC. 5E. IF A PARENT OR GUARDIAN HIRES OR INTENDS TO HIRE  
13 AN INDIVIDUAL 16 YEARS OF AGE OR OLDER WHO IS NOT REQUIRED TO BE  
14 A LICENSEE OR REGISTRANT OR WHO IS NOT EMPLOYED BY A LICENSEE OR  
15 REGISTRANT BUT WHOSE POSITION INVOLVES OR WILL INVOLVE THE CARE,  
16 CUSTODY, OR SUPERVISION OF A CHILD IN THAT PARENT'S OR GUARDIAN'S  
17 CUSTODY, THE PARENT OR GUARDIAN MAY REQUEST THE DEPARTMENT OF  
18 STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK OR CRIMINAL  
19 RECORDS CHECK, OR BOTH, OF THAT INDIVIDUAL. UPON REQUEST AND  
20 AFTER RECEIVING THE INDIVIDUAL'S CONSENT AND FINGERPRINTS, IF  
21 REQUIRED, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT THE CRIMI-  
22 NAL HISTORY CHECK AND CRIMINAL RECORDS CHECK FOR THE PARENT OR  
23 GUARDIAN ON THE SAME TERMS AS IT WOULD FOR A CHILD CARE ORGANIZA-  
24 TION UNDER SECTION 5D.