

Act No. 696
Public Acts of 2002
Approved by the Governor
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Reps. Jacobs and Kuipers

ENROLLED HOUSE BILL No. 5584

AN ACT 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 1 (MCL 722.111), as amended by 1994 PA 205.

The People of the State of Michigan enact:

Sec. 1. (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 1968 PA 293, MCL 722.4.

(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 1968 PA 293, MCL 722.4, 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 child caring 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, that 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, 1978 PA 368, MCL 333.20101 to 333.22260, a boarding school licensed under section 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a hospital or facility operated by the state or licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, 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, 1982 PA 162, MCL 450.2101 to 450.3192, for the purpose of receiving children for placement in private family homes for foster care or for adoption. The function of a child placing agency may include investigating applicants

for adoption and investigating and certifying foster family homes and foster family group homes as provided in this act. The function of a child placing agency may also include supervising 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 the children's 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 attending for not more than 3 hours per day for an indefinite period or for 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.

(iii) Beginning July 1, 2003, a facility or program for school-age children that is operated at a school by a public school or by a person or entity with whom a public school contracts for services, in accordance with section 1285a(2) of the revised school code, 1976 PA 451, MCL 380.1285a, if that facility or program has been granted an exemption under subsection (2).

(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 Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, 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 the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, 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 in which care is given 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 in which care is given 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 under this act 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, children's camp, foster family home, or foster family group home; and who continues residing in the child caring institution, children's camp, foster family home, or foster family group home to receive care, maintenance, training, and supervision. However, a minor

child under this subparagraph does not include a person 18 years of age or older who is placed in a child caring institution, foster family home, or foster family group home pursuant to an adjudication under section 2(a) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1. 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 under this act to operate a family day care home.

(m) "Registration" means the process by which the department of consumer and industry services regulates family day care homes, and includes the requirement 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 under this act 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.

(2) A facility or program for school-age children that is operated at a school by a public school or by a person or entity with whom a public school contracts for services and that has been in operation and approved for a minimum of 4 years may apply to the department of consumer and industry services to be exempt from this act. The department of consumer and industry services shall respond to a facility or program requesting exemption under this subsection within 45 days from the date the completed application is received. The department of consumer and industry services may exempt from this act a facility or program that meets all of the following criteria:

- (a) The facility or program has been in operation and approved for a minimum of 4 years before the application date.
- (b) During the 4 years before the application date, the facility or program has not had a substantial violation of this act, rules promulgated under this act, or the terms of an approval under this act.
- (c) The school board or board of directors adopts a resolution supporting the application for exemption described in this subsection.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5583 of the 91st Legislature is enacted into law.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.