

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 615

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,"

(MCL 722.111 to 722.128) by adding sections 5f and 5g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 5F. (1) WHEN A PERSON APPLIES FOR OR TO RENEW A  
2   CERTIFICATE OF REGISTRATION TO OPERATE A FAMILY DAY CARE HOME OR A  
3   LICENSE TO OPERATE A GROUP DAY CARE HOME UNDER SECTION 5, THE  
4   DEPARTMENT SHALL REQUEST THE DEPARTMENT OF STATE POLICE TO PERFORM  
5   BOTH OF THE FOLLOWING ON THAT PERSON:

1 (A) CONDUCT A CRIMINAL HISTORY CHECK ON THE PERSON.

2 (B) CONDUCT A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL  
3 BUREAU OF INVESTIGATION ON THE PERSON.

4 (2) EACH PERSON APPLYING FOR A CERTIFICATE OF REGISTRATION TO  
5 OPERATE A FAMILY DAY CARE HOME OR A LICENSE TO OPERATE A GROUP DAY  
6 CARE HOME SHALL GIVE WRITTEN CONSENT AT THE TIME OF APPLICATION FOR  
7 THE DEPARTMENT OF STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK  
8 AND A CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION. THE  
9 DEPARTMENT SHALL REQUIRE THE PERSON TO SUBMIT HIS OR HER  
10 FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE FOR THE CRIMINAL  
11 HISTORY CHECK AND CRIMINAL RECORDS CHECK DESCRIBED IN SUBSECTION  
12 (1).

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

16 (4) WITHIN A REASONABLE TIME AFTER RECEIVING A COMPLETE  
17 REQUEST BY THE DEPARTMENT FOR A CRIMINAL HISTORY CHECK ON A PERSON  
18 UNDER THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT  
19 THE CRIMINAL HISTORY CHECK AND PROVIDE A REPORT OF THE RESULTS TO  
20 THE DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY  
21 RECORD INFORMATION ON THE PERSON MAINTAINED BY THE DEPARTMENT OF  
22 STATE POLICE.

23 (5) WITHIN A REASONABLE TIME AFTER RECEIVING A PROPER REQUEST  
24 BY THE DEPARTMENT FOR A CRIMINAL RECORDS CHECK ON A PERSON UNDER  
25 THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL INITIATE THE  
26 CRIMINAL RECORDS CHECK. AFTER RECEIVING THE RESULTS OF THE CRIMINAL  
27 RECORDS CHECK FROM THE FEDERAL BUREAU OF INVESTIGATION, THE

1 DEPARTMENT OF STATE POLICE SHALL PROVIDE A REPORT OF THE RESULTS TO  
2 THE DEPARTMENT.

3 (6) THE DEPARTMENT OF STATE POLICE MAY CHARGE THE DEPARTMENT A  
4 FEE FOR A CRIMINAL HISTORY CHECK OR A CRIMINAL RECORDS CHECK  
5 REQUIRED UNDER THIS SECTION THAT DOES NOT EXCEED THE ACTUAL AND  
6 REASONABLE COST OF CONDUCTING THE CHECK. THE DEPARTMENT MAY PASS  
7 ALONG TO THE REGISTRANT, LICENSEE, OR APPLICANT THE ACTUAL COST OR  
8 FEE CHARGED BY THE DEPARTMENT OF STATE POLICE FOR PERFORMING A  
9 CRIMINAL HISTORY CHECK OR A CRIMINAL RECORDS CHECK REQUIRED UNDER  
10 THIS SECTION.

11 (7) A PERSON TO WHOM A CERTIFICATE OF REGISTRATION OR LICENSE  
12 HAS BEEN ISSUED UNDER THIS ACT SHALL REPORT TO THE DEPARTMENT  
13 WITHIN 3 BUSINESS DAYS AFTER HE OR SHE HAS BEEN ARRAIGNED FOR 1 OR  
14 MORE OF THE FOLLOWING CRIMES AND WITHIN 3 BUSINESS DAYS AFTER HE OR  
15 SHE KNOWS OR SHOULD REASONABLY KNOW THAT AN EMPLOYEE OR A PERSON  
16 OVER 18 YEARS OF AGE RESIDING IN THE HOME HAS BEEN ARRAIGNED FOR 1  
17 OR MORE OF THE FOLLOWING CRIMES:

18 (A) ANY FELONY.

19 (B) ANY OF THE FOLLOWING MISDEMEANORS:

20 (i) CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE OR AN ATTEMPT  
21 TO COMMIT CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.

22 (ii) CHILD ABUSE IN THE THIRD OR FOURTH DEGREE OR AN ATTEMPT TO  
23 COMMIT CHILD ABUSE IN THE THIRD OR FOURTH DEGREE.

24 (iii) A MISDEMEANOR INVOLVING CRUELTY, TORTURE, OR INDECENT  
25 EXPOSURE INVOLVING A CHILD.

26 (iv) A MISDEMEANOR VIOLATION OF SECTION 7410 OF THE PUBLIC  
27 HEALTH CODE, 1978 PA 368, MCL 333.7410.

1 (v) A VIOLATION OF SECTION 115, 141A, 145A, 335A, OR 359 OF  
2 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.115, 750.141A,  
3 750.145A, 750.335A, AND 750.359, OR A MISDEMEANOR VIOLATION OF  
4 SECTION 81, 81A, OR 145D OF THE MICHIGAN PENAL CODE, 1931 PA 328,  
5 MCL 750.81, 750.81A, AND 750.145D.

6 (vi) A MISDEMEANOR VIOLATION OF SECTION 701 OF THE MICHIGAN  
7 LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL 436.1701.

8 (vii) ANY MISDEMEANOR THAT IS A LISTED OFFENSE.

9 (C) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER  
10 STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,  
11 OR OF THE UNITED STATES.

12 (8) A PERSON WHO VIOLATES SUBSECTION (7) IS GUILTY OF A CRIME  
13 AS FOLLOWS:

14 (A) IF THE PERSON VIOLATES SUBSECTION (7) AND THE CRIME  
15 INVOLVED IN THE VIOLATION IS A MISDEMEANOR THAT IS A LISTED OFFENSE  
16 OR IS A FELONY, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY  
17 IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN  
18 \$2,000.00, OR BOTH.

19 (B) IF THE PERSON VIOLATES SUBSECTION (7) AND THE CRIME  
20 INVOLVED IN THE VIOLATION IS A MISDEMEANOR THAT IS NOT A LISTED  
21 OFFENSE, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
22 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN  
23 \$1,000.00, OR BOTH.

24 (9) THE DEPARTMENT SHALL DELETE FROM THE REGISTRANT'S OR  
25 LICENSEE'S RECORDS ALL INFORMATION RELATING TO AN ARRAIGNMENT  
26 REQUIRED TO BE REPORTED UNDER THIS SECTION IF THE DEPARTMENT  
27 RECEIVES DOCUMENTATION THAT THE PERSON ARRAIGNED FOR THE CRIME IS

1 SUBSEQUENTLY NOT CONVICTED OF ANY CRIME AFTER THE COMPLETION OF  
2 JUDICIAL PROCEEDINGS RESULTING FROM THAT ARRAIGNMENT.

3 (10) NOT LATER THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THE  
4 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL INFORM  
5 ALL PERSONS CURRENTLY ISSUED A CERTIFICATE OF REGISTRATION OR  
6 LICENSE AND ALL APPLICANTS FOR A CERTIFICATE OF REGISTRATION OR  
7 LICENSE OF THE REQUIREMENT TO REPORT CERTAIN ARRAIGNMENTS AS  
8 REQUIRED IN THIS SECTION AND THE PENALTY FOR NOT REPORTING THOSE  
9 ARRAIGNMENTS.

10 (11) AT THE TIME THE DEPARTMENT ISSUES A CERTIFICATE OF  
11 REGISTRATION TO OPERATE A FAMILY DAY CARE HOME OR A LICENSE TO  
12 OPERATE A GROUP DAY CARE HOME UNDER THIS ACT, THE DEPARTMENT SHALL  
13 NOTIFY THE REGISTRANT OR LICENSEE OF THE REQUIREMENT TO REPORT  
14 CERTAIN ARRAIGNMENTS AS REQUIRED IN THIS SECTION AND THE PENALTY  
15 FOR NOT REPORTING THOSE ARRAIGNMENTS.

16 (12) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE  
17 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL  
18 CONDUCT A CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK ON ALL  
19 PERSONS CURRENTLY ISSUED A CERTIFICATE OF REGISTRATION UNDER THIS  
20 ACT TO OPERATE A FAMILY DAY CARE HOME OR A LICENSE UNDER THIS ACT  
21 TO OPERATE A GROUP DAY CARE HOME.

22 SEC. 5G. (1) WHEN A PERSON APPLIES FOR A CERTIFICATE OF  
23 REGISTRATION TO OPERATE A FAMILY DAY CARE HOME OR A LICENSE TO  
24 OPERATE A GROUP DAY CARE HOME UNDER SECTION 5, THE DEPARTMENT SHALL  
25 PERFORM A CRIMINAL HISTORY CHECK USING THE DEPARTMENT OF STATE  
26 POLICE'S INTERNET CRIMINAL HISTORY ACCESS TOOL (ICHAT) ON ALL  
27 PERSONS OVER 18 YEARS OF AGE RESIDING IN THE HOME IN WHICH THE

1 FAMILY DAY CARE HOME OR GROUP DAY CARE HOME IS OPERATED. THIS  
2 SECTION DOES NOT APPLY TO A PERSON RESIDING IN THE HOME FOR A  
3 PERIOD OF NOT MORE THAN 14 DAYS.

4 (2) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE  
5 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL  
6 PERFORM AN ICHAT CHECK ON ALL PERSONS OVER 18 YEARS OF AGE RESIDING  
7 IN THE HOME IN WHICH A FAMILY DAY CARE HOME OR GROUP DAY CARE HOME  
8 IS CURRENTLY OPERATED.

9 (3) IF A SEARCH OF ICHAT REVEALS THAT A PERSON OVER 18 YEARS  
10 OF AGE RESIDING IN THE HOME HAS BEEN CONVICTED OF A LISTED OFFENSE,  
11 THE DEPARTMENT SHALL NOT ISSUE A CERTIFICATE OF REGISTRATION OR  
12 LICENSE TO THE APPLICANT, SHALL NOT RENEW A CERTIFICATE OF  
13 REGISTRATION TO THE REGISTRANT OR LICENSE TO THE LICENSEE APPLYING  
14 FOR RENEWAL, OR SHALL REVOKE A CURRENT REGISTRANT'S CERTIFICATE OF  
15 REGISTRATION OR CURRENT LICENSEE'S LICENSE.

16 Enacting section 1. This amendatory act takes effect January  
17 1, 2006.

18 Enacting section 2. This amendatory act does not take effect  
19 unless House Bill No. 4936 of the 93rd Legislature is enacted into  
20 law.