

**SUBSTITUTE FOR
HOUSE BILL NO. 5110**

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 1 (MCL 722.111), as amended by 2002 PA 696.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) As used in this act:

2 (a) "Child care organization" means a governmental or
3 nongovernmental organization having as its principal function the
4 receiving of minor children for care, maintenance, training, and
5 supervision, notwithstanding that educational instruction may be
6 given. Child care organization includes organizations commonly

1 described as child caring institutions, child placing agencies,
2 children's camps, child care centers, day care centers, nursery
3 schools, parent cooperative preschools, foster homes, group homes,
4 or day care homes. Child care organization does not include a
5 governmental or nongovernmental organization that does either of
6 the following:

7 (i) Provides care exclusively to minors who have been
8 emancipated by court order ~~pursuant to~~ **UNDER** section 4(3) of 1968
9 PA 293, MCL 722.4.

10 (ii) Provides care exclusively to persons who are 18 years of
11 age or older and to minors who have been emancipated by court order
12 ~~pursuant to~~ **UNDER** section 4(3) of 1968 PA 293, MCL 722.4, at the
13 same location.

14 (b) "Child caring institution" means a child care facility
15 that is organized for the purpose of receiving minor children for
16 care, maintenance, and supervision, usually on a 24-hour basis, in
17 buildings maintained by the child caring institution for that
18 purpose, and operates throughout the year. An educational program
19 may be provided, but the educational program shall not be the
20 primary purpose of the facility. Child caring institution includes
21 a maternity home for the care of unmarried mothers who are minors
22 and an agency group home, that is described as a small child caring
23 institution owned, leased, or rented by a licensed agency providing
24 care for more than 4 but less than 13 minor children. Child caring
25 institution also includes institutions for mentally retarded or
26 emotionally disturbed minor children. Child caring institution does
27 not include a hospital, nursing home, or home for the aged licensed

House Bill No. 5110 as amended October 20, 2005

1 under article 17 of the public health code, 1978 PA 368, MCL
2 333.20101 to 333.22260, a boarding school licensed under section
3 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a
4 hospital or facility operated by the state or licensed under the
5 mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an
6 adult foster care family home or an adult foster care small group
7 home licensed under the adult foster care facility licensing act,
8 1979 PA 218, MCL 400.701 to 400.737, in which a child has been
9 placed ~~pursuant to~~ **UNDER** section 5(6).

10 (c) "Child placing agency" means a governmental organization
11 or an agency organized ~~pursuant to~~ **UNDER** the nonprofit
12 corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, for the
13 purpose of receiving children for placement in private family homes
14 for foster care or for adoption. The function of a child placing
15 agency may include investigating applicants for adoption and
16 investigating and certifying foster family homes and foster family
17 group homes as provided in this act. The function of a child
18 placing agency may also include supervising children who are 16 or
19 17 years of age and who are living in unlicensed residences as
20 provided in section 5(4).

21 (d) "Children's camp" means a residential, ~~<<day,>>~~ troop, or
22 travel camp **THAT PROVIDES CARE AND SUPERVISION AND IS** conducted in
23 a natural environment for more than 4 ~~school-age~~ children, apart
24 from the children's parents, relatives, or legal guardians, for 5
25 or more days in a 14-day period. ~~<<- A children's camp provides care
26 and supervision for the same group of children for usually not more
27 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, **BEFORE- OR AFTER-SCHOOL PROGRAM**, 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).~~ **A PROGRAM THAT IS PRIMARILY SUPERVISED, SCHOOL-AGE-CHILD-FOCUSED TRAINING IN A**

1 SPECIFIC SUBJECT, INCLUDING, BUT NOT LIMITED TO, DANCING, DRAMA,
2 MUSIC, OR RELIGION. THIS EXCLUSION APPLIES ONLY TO THE TIME A CHILD
3 IS INVOLVED IN SUPERVISED, SCHOOL-AGE-CHILD-FOCUSED TRAINING.

4 (iv) A PROGRAM THAT IS PRIMARILY AN INCIDENT OF GROUP ATHLETIC
5 OR SOCIAL ACTIVITIES FOR SCHOOL-AGE CHILDREN SPONSORED BY OR UNDER
6 THE SUPERVISION OF AN ORGANIZED CLUB OR HOBBY GROUP, INCLUDING, BUT
7 NOT LIMITED TO, YOUTH CLUBS, SCOUTING, AND SCHOOL-AGE RECREATIONAL
8 OR SUPPLEMENTARY EDUCATION PROGRAMS. THIS EXCLUSION APPLIES ONLY TO
9 THE TIME THE SCHOOL-AGE CHILD IS ENGAGED IN THE GROUP ATHLETIC OR
10 SOCIAL ACTIVITIES AND IF THE SCHOOL-AGE CHILD CAN COME AND GO AT
11 WILL.

12 (f) "Private home" means a private residence in which the
13 licensee or registrant permanently resides as a member of the
14 household, which residency is not contingent upon caring for
15 children or employment by a licensed or approved child placing
16 agency. Private home includes a full-time foster family home, a
17 full-time foster family group home, a group day care home, or a
18 family day care home, as follows:

19 (i) "Foster family home" is a private home in which 1 but not
20 more than 4 minor children, who are not related to an adult member
21 of the household by blood or marriage, or who are not placed in the
22 household ~~pursuant to~~ **UNDER** the Michigan adoption code, chapter X
23 of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are
24 given care and supervision for 24 hours a day, for 4 or more days a
25 week, for 2 or more consecutive weeks, unattended by a parent or
26 legal guardian.

27 (ii) "Foster family group home" means a private home in which

1 more than 4 but fewer than 7 minor children, who are not related to
2 an adult member of the household by blood or marriage, or who are
3 not placed in the household ~~pursuant to~~ **UNDER** the Michigan
4 adoption code, chapter X of the probate code of 1939, 1939 PA 288,
5 MCL 710.21 to 710.70, are provided care for 24 hours a day, for 4
6 or more days a week, for 2 or more consecutive weeks, unattended by
7 a parent or legal guardian.

8 (iii) "Family day care home" means a private home in which 1 but
9 fewer than 7 minor children are received for care and supervision
10 for periods of less than 24 hours a day, unattended by a parent or
11 legal guardian, except children related to an adult member of the
12 family by blood, marriage, or adoption. Family day care home
13 includes a home in which care is given to an unrelated minor child
14 for more than 4 weeks during a calendar year.

15 (iv) "Group day care home" means a private home in which more
16 than 6 but not more than 12 minor children are given care and
17 supervision for periods of less than 24 hours a day unattended by a
18 parent or legal guardian, except children related to an adult
19 member of the family by blood, marriage, or adoption. Group day
20 care home includes a home in which care is given to an unrelated
21 minor child for more than 4 weeks during a calendar year.

22 (g) "Licensee" means a person, partnership, firm, corporation,
23 association, nongovernmental organization, or local or state
24 government child care organization that has been issued a license
25 under this act to operate a child care organization.

26 (h) "Provisional license" means a license issued to a child
27 care organization that is temporarily unable to conform to all of

1 the rules promulgated under this act.

2 (i) "Regular license" means a license issued to a child care
3 organization indicating that the organization is in compliance with
4 all rules promulgated under this act.

5 (j) "Guardian" means the guardian of the person.

6 (k) "Minor child" means any of the following:

7 (i) A person less than 18 years of age.

8 (ii) A person who is a resident in a child caring institution,
9 children's camp, foster family home, or foster family group home;
10 who becomes 18 years of age while residing in the child caring
11 institution, children's camp, foster family home, or foster family
12 group home; and who continues residing in the child caring
13 institution, children's camp, foster family home, or foster family
14 group home to receive care, maintenance, training, and supervision.
15 However, a minor child under this subparagraph does not include a
16 person 18 years of age or older who is placed in a child caring
17 institution, foster family home, or foster family group home
18 pursuant to an adjudication under section 2(a) of chapter XIIB of
19 the probate code of 1939, 1939 PA 288, MCL 712A.2, or section 1 of
20 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
21 769.1. This subparagraph applies only if the number of those
22 residents who become 18 years of age does not exceed the following:

23 (A) Two, if the total number of residents is 10 or fewer.

24 (B) Three, if the total number of residents is not less than
25 11 and not more than 14.

26 (C) Four, if the total number of residents is not less than 15
27 and not more than 20.

1 (D) Five, if the total number of residents is 21 or more.

2 (iii) A person 18 years of age or older who is placed in a
3 foster family home under section 5(7).

4 (l) "Registrant" means a person who has been issued a
5 certificate of registration under this act to operate a family day
6 care home.

7 (m) "Registration" means the process by which the department
8 of ~~consumer and industry~~ **HUMAN** services regulates family day care
9 homes, and includes the requirement that a family day care home
10 certify to the department **OF HUMAN SERVICES** that the family day
11 care home has complied with and will continue to comply with the
12 rules promulgated under this act.

13 (n) "Certificate of registration" means a written document
14 issued under this act to a family day care home through
15 registration.

16 (o) "Related" means a parent, grandparent, brother, sister,
17 stepparent, stepsister, stepbrother, uncle, aunt, cousin, great
18 aunt, great uncle, or stepgrandparent related by marriage, blood,
19 or adoption.

20 (p) "Religious organization" means church, ecclesiastical
21 corporation, or group, not organized for pecuniary profit, that
22 gathers for mutual support and edification in piety or worship of a
23 supreme deity.

24 (Q) **"SCHOOL-AGE CHILD" MEANS A CHILD WHO IS ELIGIBLE TO BE**
25 **ENROLLED IN A GRADE OF KINDERGARTEN OR ABOVE, BUT IS LESS THAN 13**
26 **YEARS OF AGE.**

27 (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~~

currently operated and has been in operation and **LICENSED OR**
approved **AS PROVIDED IN THIS ACT** for a minimum of ~~4~~ 2 years may
apply to the department of ~~consumer and industry~~ **HUMAN** services
to be exempt from ~~this act~~ **INSPECTIONS AND ON-SITE VISITS**

REQUIRED UNDER SECTION 5. The department of ~~consumer and industry~~
HUMAN services shall respond to a facility or program requesting
exemption **FROM INSPECTIONS AND ON-SITE VISITS REQUIRED UNDER**
SECTION 5 AS PROVIDED under this subsection within 45 days from the
date the completed application is received. The department of
~~consumer and industry~~ **HUMAN** services may ~~exempt from this act~~
GRANT EXEMPTION FROM INSPECTIONS AND ON-SITE VISITS REQUIRED UNDER
SECTION 5 TO a facility or program that meets all of the following
criteria:

(a) The facility or program has been in operation and **LICENSED**
OR approved **UNDER THIS ACT** for a minimum of ~~4~~ 2 years before the
application date.

(b) During the ~~4~~ 2 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 **A LICENSURE**
OR an approval under this act.

(c) The school board, ~~or~~ board of directors, **OR GOVERNING**
BODY adopts a resolution supporting the application for exemption
~~described~~ **FROM INSPECTIONS AND ON-SITE VISITS REQUIRED UNDER**
SECTION 5 AS PROVIDED FOR in this subsection.

(3) A FACILITY OR PROGRAM GRANTED EXEMPTION FROM INSPECTIONS

1 AND ON-SITE VISITS REQUIRED UNDER SECTION 5 AS PROVIDED FOR UNDER
2 SUBSECTION (2) IS REQUIRED TO MAINTAIN STATUS AS A LICENSED OR
3 APPROVED PROGRAM UNDER THIS ACT AND MUST CONTINUE TO MEET THE
4 REQUIREMENTS OF THIS ACT, THE RULES PROMULGATED UNDER THIS ACT, OR
5 THE TERMS OF A LICENSE OR APPROVAL UNDER THIS ACT. A FACILITY OR
6 PROGRAM GRANTED EXEMPTION FROM INSPECTIONS AND ON-SITE VISITS
7 REQUIRED UNDER SECTION 5 AS PROVIDED FOR UNDER SUBSECTION (2) IS
8 SUBJECT TO AN INVESTIGATION BY THE DEPARTMENT OF HUMAN SERVICES
9 WHEN A VIOLATION OF THIS ACT OR A VIOLATION OF A RULE PROMULGATED
10 UNDER THIS ACT IS ALLEGED.

11 (4) A FACILITY OR PROGRAM GRANTED EXEMPTION FROM INSPECTIONS
12 AND ON-SITE VISITS REQUIRED UNDER SECTION 5 AS PROVIDED FOR UNDER
13 SUBSECTION (2) IS NOT SUBJECT TO INTERIM OR ANNUAL LICENSING
14 REVIEWS. A FACILITY OR PROGRAM GRANTED EXEMPTION FROM INSPECTIONS
15 AND ON-SITE VISITS REQUIRED UNDER SECTION 5 AS PROVIDED FOR UNDER
16 SUBSECTION (2) IS REQUIRED TO SUBMIT DOCUMENTATION ANNUALLY
17 DEMONSTRATING COMPLIANCE WITH THE REQUIREMENTS OF THIS ACT, THE
18 RULES PROMULGATED UNDER THIS ACT, OR THE TERMS OF A LICENSE OR
19 APPROVAL UNDER THIS ACT.

20 (5) AN EXEMPTION PROVIDED UNDER SUBSECTION (2) MAY BE
21 RESCINDED BY THE DEPARTMENT OF HUMAN SERVICES IF THE FACILITY OR
22 PROGRAM WILLFULLY AND SUBSTANTIALLY VIOLATES THIS ACT, THE RULES
23 PROMULGATED UNDER THIS ACT, OR THE TERMS OF A LICENSE OR APPROVAL
24 GRANTED UNDER THIS ACT.