

HOUSE BILL No. 5869

March 14, 2006, Introduced by Reps. Hood, Farhat, Kolb, Taub, Brown, Marleau, Hansen, Caswell, Gaffney, Hildenbrand, LaJoy, Schuitmaker, Kahn, Polidori, Nofs, Sheltroun, Caul, Baxter, Whitmer, Proos, Farrah, Byrnes, Huizenga, Stahl, Rocca, Sak, Gleason, Pastor, Angerer, Stewart, Jones, Booher, Gillard, McDowell, Byrum, Zelenko, Vagnozzi, Alma Smith, Lipsey, Nitz, Mortimer, Ball, Amos, Brandenburg, Bieda, Moolenaar, Stakoe, Wenke, David Law, Mayes, Garfield, Pavlov, Palsrok and Cheeks 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 certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,"

by amending sections 2, 3, and 10 (MCL 722.112, 722.113, and 722.120), section 2 as amended by 1983 PA 150, section 3 as amended by 1980 PA 232, and section 10 as amended by 1994 PA 205.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) The department of ~~social~~ **HUMAN** services,
2 ~~hereinafter~~ referred to **IN THIS ACT** as the "department", is
3 responsible for the development of rules for the care and
4 protection of children in organizations covered by this act and for
5 the promulgation of these rules pursuant to the administrative

1 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969, as~~
 2 ~~amended, being sections 24.201 to 24.315 of the Michigan Compiled~~
 3 ~~Laws~~ **1969 PA 306, MCL 24.201 TO 24.328.**

4 (2) The department shall establish an ad hoc committee for
 5 each type of child care organization as defined in this act when it
 6 is formulating or amending rules under this act. The committee
 7 shall consist of not less than 12 members, and shall include
 8 representatives of the following groups and agencies:

9 (a) Department of ~~public~~ **COMMUNITY** health.

10 (b) Department of ~~state police, fire marshal division~~ **LABOR**
 11 **AND ECONOMIC GROWTH, BUREAU OF FIRE SERVICES,** and state fire safety
 12 board.

13 (c) Department of education.

14 ~~—(d) Department of mental health.~~

15 **(D)** ~~—(e)~~ Representatives of organizations affected by this
 16 act.

17 **(E)** ~~—(f)~~ Parents of children affected by this act.

18 **(3)** ~~The~~ **A MAJORITY OF THE MEMBERS APPOINTED TO THE COMMITTEE**
 19 **ESTABLISHED BY SUBSECTION (2) SHALL BE** representatives of
 20 organizations affected by this act and parents of children affected
 21 by this act. ~~shall constitute a majority of the committee~~
 22 ~~membership.~~ The committee shall serve during the period of the
 23 formulation of rules, shall have responsibility for making
 24 recommendations on the content of rules, and shall recommend to the
 25 department revisions in proposed rules at any time before their
 26 promulgation.

27 **(4)** ~~—(3)~~ The rules promulgated under this act shall be

1 restricted to **THE FOLLOWING:**

2 (a) The operation and conduct of child care organizations and
3 the responsibility the organizations assume for child care.

4 (b) The character, suitability, training, and qualifications
5 of applicants and other persons directly responsible for the care
6 and welfare of children served.

7 (c) The general financial ability and competence of applicants
8 to provide necessary care for children and to maintain prescribed
9 standards.

10 (d) The number of individuals or staff required to insure
11 adequate supervision and care of the children received.

12 (e) The appropriateness, safety, cleanliness, and general
13 adequacy of the premises, including maintenance of adequate fire
14 prevention and health standards to provide for the physical
15 comfort, care, and well being of the children received. However,
16 the rules with respect to fire prevention and fire safety shall not
17 apply to a child care center established and operated by an
18 intermediate school board, the board of a local school district, or
19 by the board or governing body of a state approved nonpublic
20 school, if the child care center is located in a school building
21 that is approved by the ~~state fire marshal~~ **BUREAU OF FIRE**

22 **SERVICES CREATED IN SECTION 1B OF THE FIRE PREVENTION CODE, 1941 PA**
23 **207, MCL 29.1B,** or other similar authority as provided in section 3
24 of ~~Act No. 306 of the Public Acts of 1937, being section 388.853~~
25 ~~of the Michigan Compiled Laws~~ **1937 PA 306, MCL 388.853,** for school
26 purposes and is in compliance with the school fire safety rules, ~~R~~
27 ~~29.1 to R 29.298~~ **R 29.1901 TO R 29.1934** of the Michigan

administrative code, as determined by the ~~state fire marshal~~
BUREAU OF FIRE SERVICES or a fire inspector certified pursuant to
 section 2b of the fire prevention code, ~~Act No. 207 of the Public~~
~~Acts of 1941, being section 29.2b of the Michigan Compiled Laws~~
1941 PA 207, MCL 29.2B.

(f) Provisions for food, clothing, educational opportunities,
 programs, equipment, and individual supplies to assure the healthy
 physical, emotional, and mental development of children served.

(g) Provisions to safeguard the legal rights of children
 served.

(h) Maintenance of records pertaining to admission, progress,
 health, and discharge of children.

(i) Filing of reports with the department.

(j) Discipline of children.

(k) Transportation safety.

(5) ~~(4)~~ Rules once promulgated are subject to major review
 by an ad hoc committee not less than once every 5 years and shall
 be reviewed biennially by the department. The ad hoc committee
 shall be established by the department, shall consist of not less
 than 12 members, and shall include representatives of the groups
 and agencies indicated in subsection (2). The ad hoc committee
 shall hold at least 2 public hearings regarding the review of rules
 and shall report its recommendations regarding rules to the
 appropriate committees of the legislature.

Sec. 3. (1) The rules promulgated by the department **UNDER THIS**
ACT shall be used by the department of ~~public~~ **COMMUNITY** health,
 the ~~fire marshal division of the department of state police,~~

1 **BUREAU OF FIRE SERVICES**, and local authorities in the inspection of
2 and reporting on child care organizations covered by this act. The
3 inspection of the health and fire safety of child care
4 organizations shall be completed by department staff or by the
5 department of ~~public~~ **COMMUNITY** health, the ~~fire marshal division~~
6 ~~of the department of state police,~~ **BUREAU OF FIRE SERVICES, OR**
7 local authorities upon request of the department, or pursuant to
8 subsection (2).

9 (2) If an inspection is not conducted pursuant to subsection
10 (1), a person owning or operating or who proposes to own or operate
11 a child care organization may enter a contract with a local
12 authority or other person qualified to conduct an inspection
13 pursuant to subsection (1) and pay for that inspection after an
14 inspection is completed pursuant to this subsection. A person may
15 receive a provisional license if the proposed child care
16 organization passes the inspection, and the other requirements of
17 this act are met.

18 (3) The rules promulgated by the department for foster family
19 homes and foster family group homes shall be used by a licensed
20 child placing agency or an approved governmental unit when
21 investigating and certifying a foster family home or a foster
22 family group home.

23 (4) Inspection reports completed by state agencies, local
24 authorities, and child placing agencies ~~—~~ shall be furnished to
25 the department and shall become a part of its evaluation for
26 licensing of organizations covered by this act. After careful
27 consideration of the reports and consultation where necessary, the

1 department shall assume responsibility for the final determination
2 of the issuance, denial, revocation, or provisional nature of
3 licenses issued to nongovernmental organizations. A report of
4 findings shall be furnished to the licensee. A license shall be
5 issued to a specific person or organization at a specific location,
6 shall be nontransferable, and shall remain the property of the
7 department.

8 Sec. 10. (1) The department may investigate and examine
9 conditions of a child care organization in which a licensee
10 receives, maintains, or places out children, and may investigate
11 and examine the books and records of the licensee. The licensee
12 shall admit members of the department and furnish all reasonable
13 facilities for thorough examination of its books, records, and
14 reports. The department of ~~public~~ **COMMUNITY** health, the ~~fire~~
15 ~~marshal division of the department of state police,~~ **BUREAU OF FIRE**
16 **SERVICES**, or local authorities, in carrying out the provisions of
17 this act, may visit a child care organization to advise in matters
18 affecting the health or fire protection of children.

19 (2) A licensee shall keep the records the department
20 prescribes regarding each child in its control and care — and
21 shall report to the department, when requested, the facts the
22 department requires with reference to the children upon forms
23 furnished by the department. Except as otherwise provided in this
24 subsection, records regarding children and facts compiled about
25 children and their parents and relatives are confidential and
26 disclosure of this information shall be properly safeguarded by the
27 child care organization, the department, and any other entity in

1 possession of the information. Records that are confidential under
2 this section are available to both of the following:

3 (a) A standing or select committee or appropriations
4 subcommittee of either house of the legislature having jurisdiction
5 over protective services matters for children, pursuant to section
6 7 of the child protection law, ~~Act No. 238 of the Public Acts of~~
7 ~~1975, being section 722.627 of the Michigan Compiled Laws~~ **1975 PA**
8 **238, MCL 722.627.**

9 (b) The children's ombudsman ~~created~~ **ESTABLISHED** in section
10 3 of the children's ombudsman act, **1994 PA 204, MCL 722.923.**

11 Enacting section 1. This amendatory act does not take effect
12 unless Senate Bill No. 1133 or House Bill No.____ (request no.
13 03197'05 ***) of the 93rd Legislature is enacted into law.