

# HOUSE BILL No. 5110

August 31, 2005, Introduced by Rep. Kooiman 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 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  
7 described as child caring institutions, child placing agencies,  
8 children's camps, child care centers, day care centers, nursery

1 schools, parent cooperative preschools, foster homes, group homes,  
2 or day care homes. Child care organization does not include a  
3 governmental or nongovernmental organization that does either of  
4 the following:

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

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

12 (b) "Child caring institution" means a child care facility  
13 that is organized for the purpose of receiving minor children for  
14 care, maintenance, and supervision, usually on a 24-hour basis, in  
15 buildings maintained by the child caring institution for that  
16 purpose, and operates throughout the year. An educational program  
17 may be provided, but the educational program shall not be the  
18 primary purpose of the facility. Child caring institution includes  
19 a maternity home for the care of unmarried mothers who are minors  
20 and an agency group home, that is described as a small child caring  
21 institution owned, leased, or rented by a licensed agency providing  
22 care for more than 4 but less than 13 minor children. Child caring  
23 institution also includes institutions for mentally retarded or  
24 emotionally disturbed minor children. Child caring institution does  
25 not include a hospital, nursing home, or home for the aged licensed  
26 under article 17 of the public health code, 1978 PA 368, MCL  
27 333.20101 to 333.22260, a boarding school licensed under section

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

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

19 (d) "Children's camp" means a residential, ~~day,~~ troop, or  
20 travel camp conducted in a natural environment for more than 4  
21 ~~school-age~~ children, apart from the children's parents, relatives,  
22 or legal guardians, for 5 or more days in a 14-day period. A  
23 children's camp provides care and supervision for the same group of  
24 children for usually not more than 12 weeks.

25 (e) "Child care center" or "day care center" means a facility,  
26 other than a private residence, receiving 1 or more preschool or  
27 school-age children for care for periods of less than 24 hours a

1 day, and where the parents or guardians are not immediately  
2 available to the child. Child care center or day care center  
3 includes a facility that provides care for not less than 2  
4 consecutive weeks, regardless of the number of hours of care per  
5 day. The facility is generally described as a child care center,  
6 day care center, day nursery, nursery school, parent cooperative  
7 preschool, play group, **BEFORE- OR AFTER-SCHOOL PROGRAM**, or drop-in  
8 center. Child care center or day care center does not include any  
9 of the following:

10 (i) A Sunday school, a vacation bible school, or a religious  
11 instructional class that is conducted by a religious organization  
12 where children are attending for not more than 3 hours per day for  
13 an indefinite period or for not more than 8 hours per day for a  
14 period not to exceed 4 weeks during a 12-month period.

15 (ii) A facility operated by a religious organization where  
16 children are cared for not more than 3 hours while persons  
17 responsible for the children are attending religious services.

18 ~~(iii) Beginning July 1, 2003, a facility or program for school-~~  
19 ~~age children that is operated at a school by a public school or by~~  
20 ~~a person or entity with whom a public school contracts for~~  
21 ~~services, in accordance with section 1285a(2) of the revised school~~  
22 ~~code, 1976 PA 451, MCL 380.1285a, if that facility or program has~~  
23 ~~been granted an exemption under subsection (2).~~ **A PROGRAM THAT IS**  
24 **PRIMARILY SUPERVISED, SCHOOL-AGE-CHILD-FOCUSED TRAINING IN A**  
25 **SPECIFIC SUBJECT, INCLUDING, BUT NOT LIMITED TO, DANCING, DRAMA,**  
26 **MUSIC, OR RELIGION. THIS EXCLUSION APPLIES ONLY TO THE TIME A CHILD**  
27 **IS INVOLVED IN TRAINING. FOR THE PURPOSES OF THIS SUBPARAGRAPH,**

1 SUBPARAGRAPH (iv), AND SUBSECTION (2), "SCHOOL-AGE CHILD" MEANS A  
2 CHILD WHO IS ELIGIBLE TO BE ENROLLED IN A GRADE OF KINDERGARTEN OR  
3 ABOVE, BUT IS LESS THAN 13 YEARS OF AGE.

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 CHILD IS ENGAGED IN THE GROUP ATHLETIC OR SOCIAL  
10 ACTIVITIES AND IF THE CHILD CAN COME AND GO AS HE OR SHE PLEASES.

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

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

26 (ii) "Foster family group home" means a private home in which  
27 more than 4 but fewer than 7 minor children, who are not related to

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

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

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

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

25 (h) "Provisional license" means a license issued to a child  
26 care organization that is temporarily unable to conform to all of  
27 the rules promulgated under this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (2) A facility or program for school-age children that is  
24 ~~operated at a school by a public school or by a person or entity~~  
25 ~~with whom a public school contracts for services and that~~  
26 **CURRENTLY OPERATED AND** has been in operation and **LICENSED OR**  
27 approved for a minimum of ~~4~~ 2 years may apply to the department



1 of ~~consumer and industry~~ **HUMAN** services ~~to be exempt from this~~  
2 ~~act~~ **FOR DEEMED STATUS**. The department of ~~consumer and industry~~  
3 **HUMAN** services shall respond to a facility or program requesting  
4 ~~exemption~~ **DEEMED STATUS** under this subsection within 45 days from  
5 the date the completed application is received. The department of  
6 ~~consumer and industry~~ **HUMAN** services may ~~exempt from this act~~  
7 **GRANT DEEMED STATUS TO** a facility or program that meets all of the  
8 following criteria:

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

12 (b) During the ~~4~~ **2** years before the application date, the  
13 facility or program has not had a substantial violation of this  
14 act, rules promulgated under this act, or the terms of **A LICENSURE**  
15 **OR** an approval under this act.

16 (c) The school board, ~~or~~ board of directors, **OR GOVERNING**  
17 **BODY** adopts a resolution supporting the application for ~~exemption~~  
18 **DEEMED STATUS** described in this subsection.

19 **(3) A FACILITY OR PROGRAM GRANTED DEEMED STATUS UNDER**  
20 **SUBSECTION (2) IS REQUIRED TO MAINTAIN STATUS AS A LICENSED OR**  
21 **APPROVED PROGRAM AND MUST CONTINUE TO MEET THE REQUIREMENTS OF THIS**  
22 **ACT, THE RULES PROMULGATED UNDER THIS ACT, OR THE TERMS OF A**  
23 **LICENSE OR APPROVAL UNDER THIS ACT. A FACILITY OR PROGRAM GRANTED**  
24 **DEEMED STATUS UNDER SUBSECTION (2) IS SUBJECT TO SPECIAL**  
25 **INVESTIGATION BY THE DEPARTMENT OF HUMAN SERVICES WHEN A RULE OR**  
26 **ACT VIOLATION IS ALLEGED.**

27 **(4) A FACILITY OR PROGRAM GRANTED DEEMED STATUS UNDER**

1 SUBSECTION (2) IS NOT SUBJECT TO INTERIM OR ANNUAL LICENSING  
2 REVIEWS. A FACILITY OR PROGRAM GRANTED DEEMED STATUS UNDER  
3 SUBSECTION (2) IS REQUIRED TO SUBMIT DOCUMENTATION ANNUALLY  
4 DEMONSTRATING COMPLIANCE WITH THE REQUIREMENTS OF THIS ACT, THE  
5 RULES PROMULGATED UNDER THIS ACT, OR THE TERMS OF A LICENSE OR  
6 APPROVAL UNDER THIS ACT.

7 (5) DEEMED STATUS MAY BE RESCINDED BY THE DEPARTMENT OF HUMAN  
8 SERVICES IF SUBSTANTIAL VIOLATIONS OF THIS ACT, THE RULES  
9 PROMULGATED UNDER THIS ACT, OR THE TERMS OF A LICENSE OR APPROVAL  
10 ARE SUBSTANTIATED.