

HOUSE BILL No. 5476

December 1, 2005, Introduced by Reps. Schuitmaker, Wojno, Mortimer, Gaffney and Hune
and referred to the Committee on Health Policy.

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 2b (MCL 722.112b), as added by 2004 PA 531.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2b. (1) As used in this section and sections 2c, 2d, and
2 2e, unless the context requires otherwise:

3 (a) "Adaptive device" means a mechanical device incorporated
4 in the individual plan of services that is intended to provide
5 anatomical support or to assist the minor child with adaptive
6 skills.

7 (b) "Chemical restraint" means a drug that meets all of the

1 following criteria:

2 (i) Is administered to manage a minor child's behavior in a way
3 that reduces the safety risk to the minor child or others.

4 (ii) Has the temporary effect of restricting the minor child's
5 freedom of movement.

6 (iii) Is not a standard treatment for the minor child's medical
7 or psychiatric condition.

8 (c) "Emergency safety intervention" means use of personal
9 restraint or seclusion as an immediate response to an emergency
10 safety situation.

11 (d) "Emergency safety situation" means the onset of an
12 unanticipated, severely aggressive, or destructive behavior that
13 places the minor child or others at serious threat of violence or
14 injury if no intervention occurs and that calls for an emergency
15 safety intervention.

16 (e) "Individual plan of services" means that term as defined
17 in section 100b of the mental health code, 1974 PA 258, MCL
18 330.1100b.

19 (f) "Licensed practitioner" means an individual who has been
20 trained in the use of personal restraint and seclusion, who is
21 knowledgeable of the risks inherent in the implementation of
22 personal restraint and seclusion, and who is 1 of the following:

23 (i) A physician licensed under article 15 of the public health
24 code, 1978 PA 368, MCL 333.16101 to 333.18838.

25 (ii) An individual who has been issued a specialty
26 certification as a nurse practitioner under article 15 of the
27 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

1 (iii) A physician's assistant licensed under article 15 of the
2 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

3 (iv) A registered nurse licensed under article 15 of the public
4 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

5 (v) A psychologist ~~and a limited licensed psychologist~~
6 licensed under article 15 of the public health code, 1978 PA 368,
7 MCL 333.16101 to 333.18838.

8 (vi) A counselor and a limited licensed counselor licensed
9 under article 15 of the public health code, 1978 PA 368, MCL
10 333.16101 to 333.18838.

11 (vii) Until July 1, 2005, a certified social worker registered
12 under article 15 of the public health code, 1978 PA 368, MCL
13 333.16101 to 333.18838. Beginning July 1, 2005, a licensed master's
14 social worker licensed under article 15 of the public health code,
15 1978 PA 368, MCL 333.16101 to 333.18838.

16 (g) "Mechanical restraint" means a device attached or adjacent
17 to the minor child's body that he or she cannot easily remove and
18 that restricts freedom of movement or normal access to his or her
19 body. Mechanical restraint does not include the use of a protective
20 or adaptive device or a device primarily intended to provide
21 anatomical support. Mechanical restraint does not include use of a
22 mechanical device to ensure security precautions appropriate to the
23 condition and circumstances of a minor child placed in the child
24 caring institution as a result of an order of the family division
25 of circuit court under section 2(a) of chapter XIIA of the probate
26 code of 1939, 1939 PA 288, MCL 712A.2.

27 (h) "Personal restraint" means the application of physical

1 force without the use of a device, for the purpose of restraining
2 the free movement of a minor child's body. Personal restraint does
3 not include:

4 (i) The use of a protective or adaptive device.

5 (ii) Briefly holding a minor child without undue force in order
6 to calm or comfort him or her.

7 (iii) Holding a minor child's hand, wrist, shoulder, or arm to
8 safely escort him or her from 1 area to another.

9 (iv) The use of a protective or adaptive device or a device
10 primarily intended to provide anatomical support.

11 (i) "Protective device" means an individually fabricated
12 mechanical device or physical barrier, the use of which is
13 incorporated in the individualized written plan of service. The use
14 of a protective device is intended to prevent the minor child from
15 causing serious self-injury associated with documented, frequent,
16 and unavoidable hazardous events.

17 (j) "Seclusion" means the involuntary placement of a minor
18 child in a room alone, where the minor child is prevented from
19 exiting by any means, including the physical presence of a staff
20 person if the sole purpose of that staff person's presence is to
21 prevent the minor child from exiting the room. Seclusion does not
22 include the use of a sleeping room during regular sleeping hours to
23 ensure security precautions appropriate to the condition and
24 circumstances of a minor child placed in the child caring
25 institution as a result of an order of the family division of
26 circuit court under section 2(a) and (b) of chapter XIIA of the
27 probate code of 1939, 1939 PA 288, MCL 712A.2, if the minor child's

1 individual case treatment plan indicates that the security
2 precautions would be in the minor child's best interest.

3 (k) "Serious injury" means any significant impairment of the
4 physical condition of the minor child as determined by qualified
5 medical personnel that results from an emergency safety
6 intervention. This includes, but is not limited to, burns,
7 lacerations, bone fractures, substantial hematoma, and injuries to
8 internal organs, whether self-inflicted or inflicted by someone
9 else.

10 (2) The provisions of this section and sections 2c, 2d, and 2e
11 only apply to a child caring institution that contracts with or
12 receives payment from a community mental health services program or
13 prepaid inpatient health plan for the care, treatment, maintenance,
14 and supervision of a minor child in that child caring institution.

15 Enacting section 1. This amendatory act does not take effect
16 unless Senate Bill No.____ or House Bill No. 5473(request no.
17 04692'05) of the 93rd Legislature is enacted into law.