

# SENATE BILL No. 504

May 17, 2005, Introduced by Senators OLSHOVE, CHERRY, BRATER, BERNERO, GOSCHKA, JACOBS, BARCIA, SCOTT, SWITALSKI, SCHAUER and TOY and referred to the Committee on Families and Human 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 5 (MCL 722.115), as amended by 2004 PA 315.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5. (1) A person, partnership, firm, corporation,  
2       association, or nongovernmental organization shall not establish or  
3       maintain a child care organization unless licensed or registered by  
4       the department. Application for a license or certificate of  
5       registration shall be made on forms provided, and in the manner  
6       prescribed, by the department. Before issuing or renewing a  
7       license, the department shall investigate the applicant's  
8       activities and proposed standards of care and shall make an on-site

1 visit of the proposed or established organization. ~~If~~ **EXCEPT AS**  
2 **OTHERWISE PROVIDED IN THIS SUBSECTION, IF** the department is  
3 satisfied as to the need for a child care organization, **AS TO** its  
4 financial stability, **AS TO** the applicant's good moral character,  
5 and that the services and facilities are conducive to the welfare  
6 of the children, the department shall issue or renew the license.  
7 ~~As used in this subsection, "good moral character" means that term~~  
8 ~~as defined in and determined under 1974 PA 381, MCL 338.41 to~~  
9 ~~338.47.~~ If a county juvenile agency as defined in section 2 of the  
10 county juvenile agency act, 1998 PA 518, MCL 45.622, certifies to  
11 the department that it intends to contract with an applicant for a  
12 new license, the department shall issue or deny the license within  
13 60 days after it receives a complete application as provided in  
14 section 5b. **THE DEPARTMENT SHALL NOT ISSUE OR RENEW A LICENSE TO AN**  
15 **APPLICANT IF ANY OF THE FOLLOWING PERSONS HAVE BEEN CONVICTED OF**  
16 **CHILD ABUSE OR CHILD NEGLECT OR, WITHIN THE 10 YEARS IMMEDIATELY**  
17 **PRECEDING THE APPLICATION, A FELONY INVOLVING HARM OR THREATENED**  
18 **HARM TO AN INDIVIDUAL:**

19 (A) **THE INDIVIDUAL APPLICANT.**

20 (B) **THE OWNER, PARTNER, OR DIRECTOR OF THE APPLICANT, IF OTHER**  
21 **THAN AN INDIVIDUAL.**

22 (2) The department shall issue a certificate of registration  
23 to a person who has successfully completed an orientation session  
24 offered by the department and who certifies to the department that  
25 the family day care home has complied with and will continue to  
26 comply with the rules promulgated under this act and will provide  
27 services and facilities, as determined by the department, conducive

1 to the welfare of children. The department shall make available to  
2 applicants for registration an orientation session to applicants  
3 for registration regarding this act, the rules promulgated under  
4 this act, and the needs of children in family day care before  
5 issuing a certificate of registration. The department shall issue a  
6 certificate of registration to a specific person at a specific  
7 location. A certificate of registration is nontransferable and  
8 remains the property of the department. Within 90 days after  
9 initial registration, the department shall make an on-site visit of  
10 the family day care home.

11 (3) The department may authorize a licensed child placing  
12 agency or an approved governmental unit to investigate a foster  
13 family home or a foster family group home according to subsection  
14 (1) and to certify that the foster family home or foster family  
15 group home meets the licensing requirements prescribed by this act.  
16 A foster family home or a foster family group home shall be  
17 certified for licensing by the department by only 1 child placing  
18 agency or approved governmental unit. Other child placing agencies  
19 may place children in a foster family home or foster family group  
20 home only upon the approval of the certifying agency or  
21 governmental unit.

22 (4) The department may authorize a licensed child placing  
23 agency or an approved governmental unit to place a child who is 16  
24 or 17 years of age in his or her own unlicensed residence, or in  
25 the unlicensed residence of an adult who has no supervisory  
26 responsibility for the child, if a child placing agency or  
27 governmental unit retains supervisory responsibility for the child.

1           (5) A licensed child placing agency, child caring institution,  
2 and an approved governmental unit shall provide the state court  
3 administrative office and a local foster care review board  
4 established under 1984 PA 422, MCL 722.131 to 722.139a, those  
5 records requested pertaining to children in foster care placement  
6 for more than 6 months.

7           (6) The department may authorize a licensed child placing  
8 agency or an approved governmental unit to place a child who is 16  
9 or 17 years old in an adult foster care family home or an adult  
10 foster care small group home licensed under the adult foster care  
11 facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if a  
12 licensed child placing agency or approved governmental unit retains  
13 supervisory responsibility for the child and certifies to the  
14 department all of the following:

15           (a) The placement is in the best interests of the child.

16           (b) The child's needs can be adequately met by the adult  
17 foster care family home or small group home.

18           (c) The child will be compatible with other residents of the  
19 adult foster care family home or small group home.

20           (d) The child placing agency or approved governmental unit  
21 will periodically reevaluate the placement of a child under this  
22 subsection to determine that the criteria for placement in  
23 subdivisions (a) through (c) continue to be met.

24           (7) On an exception basis, the director of the department, or  
25 his or her designee, may authorize a licensed child placing agency  
26 or an approved governmental unit to place an adult in a foster  
27 family home if a licensed child placing agency or approved

1 governmental unit certifies to the department all of the following:

2 (a) The adult is a person with a developmental disability as  
3 defined by section 100a of the mental health code, 1974 PA 258, MCL  
4 330.1100a, or a person who is otherwise neurologically disabled and  
5 is also physically limited to a degree that requires complete  
6 physical assistance with mobility and activities of daily living.

7 (b) The placement is in the best interests of the adult and  
8 will not adversely affect the interests of the foster child or  
9 children residing in the foster family home.

10 (c) The identified needs of the adult can be met by the foster  
11 family home.

12 (d) The adult will be compatible with other residents of the  
13 foster family home.

14 (e) The child placing agency or approved governmental unit  
15 will periodically reevaluate the placement of an adult under this  
16 subsection to determine that the criteria for placement in  
17 subdivisions (a) through (d) continue to be met and document that  
18 the adult is receiving care consistent with the administrative  
19 rules for a child placing agency.

20 (8) On an exception basis, the director of the department, or  
21 his or her designee, may authorize a licensed child placing agency  
22 or an approved governmental unit to place a child in an adult  
23 foster care family home or an adult foster care small group home  
24 licensed under the adult foster care **FACILITY** licensing act, 1979  
25 PA 218, MCL 400.701 to 400.737, if the licensed child placing  
26 agency or approved governmental unit certifies to the department  
27 all of the following:

1 (a) The placement is in the best interests of the child.

2 (b) The placement has the concurrence of the parent or  
3 guardian of the child.

4 (c) The identified needs of the child can be met adequately by  
5 the adult foster care family home or small group home.

6 (d) The child's psychosocial and clinical needs are compatible  
7 with those of other residents of the adult foster care family home  
8 or small group home.

9 (e) The clinical treatment of the child's condition is similar  
10 to that of the other residents of the adult foster care family home  
11 or small group home.

12 (f) The child's cognitive level is consistent with the  
13 cognitive level of the other residents of the adult foster care  
14 family home or small group home.

15 (g) The child is neurologically disabled and is also  
16 physically limited to ~~such~~ a degree ~~as to require~~ **THAT REQUIRES**  
17 complete physical assistance with mobility and activities of daily  
18 living.

19 (h) The child placing agency or approved governmental unit  
20 will periodically reevaluate the placement of a child under this  
21 subsection to determine that the criteria for placement in  
22 subdivisions (a) to (g) continue to be met.

23 (9) Beginning ~~the effective date of the amendatory act that~~  
24 ~~added this subsection~~ **OCTOBER 1, 2007**, except as provided in  
25 subsection (1) and section 5b, the department shall issue an  
26 initial or renewal license or registration under this act for child  
27 care centers, group day care homes, and family day care homes not

1 later than 6 months after the applicant files a completed  
2 application. Receipt of the application is considered the date the  
3 application is received by any agency or department of this state.  
4 If the application is considered incomplete by the department, the  
5 department shall notify the applicant in writing or make notice  
6 electronically available within 30 days after receipt of the  
7 incomplete application, describing the deficiency and requesting  
8 additional information. This subsection does not affect the time  
9 period within which an on-site visit to a family day care home  
10 shall be made. If the department identifies a deficiency or  
11 requires the fulfillment of a corrective action plan, the 6-month  
12 period is tolled until either of the following occurs:

13 (a) Upon notification by the department of a deficiency, until  
14 the date the requested information is received by the department.

15 (b) Upon notification by the department that a corrective  
16 action plan is required, until the date the department determines  
17 the requirements of the corrective action plan have been met.

18 (10) ~~The~~ **BEGINNING OCTOBER 1, 2007, THE** determination of the  
19 completeness of an application is not an approval of the  
20 application for the license and does not confer eligibility on an  
21 applicant determined otherwise ineligible for issuance of a  
22 license.

23 (11) ~~Except~~ **BEGINNING OCTOBER 1, 2007, EXCEPT** as provided in  
24 subsection (1) and section 5b, if the department fails to issue or  
25 deny a license or registration to a child care center, group day  
26 care home, or family day care home within the time required by this  
27 section, the department shall return the license or registration

1 fee and shall reduce the license or registration fee for the  
2 applicant's next renewal application, if any, by 15%. Failure to  
3 issue or deny a license to a child care center, group day care  
4 home, or family day care home within the time period required under  
5 this section does not allow the department to otherwise delay the  
6 processing of the application. A completed application shall be  
7 placed in sequence with other completed applications received at  
8 that same time. The department shall not discriminate against an  
9 applicant in the processing of an application based on the fact  
10 that the application fee was refunded or discounted under this  
11 subsection.

12 (12) ~~—If—~~ **BEGINNING OCTOBER 1, 2007, IF**, on a continual basis,  
13 inspections performed by a local health department delay the  
14 department in issuing or denying licenses or registrations for  
15 child care centers, group day care homes, and family day care homes  
16 under this act within the 6-month period, the department may use  
17 department staff to complete the inspections instead of the local  
18 health department causing the delays.

19 (13) Beginning October 1, 2008, the director of the department  
20 shall submit a report by December 1 of each year to the standing  
21 committees and appropriations subcommittees of the senate and house  
22 of representatives concerned with human services and children's  
23 issues. The director shall include all of the following information  
24 regarding applications for licenses and registrations only for  
25 child care centers, group day care homes, and family day care homes  
26 filed under this act in the report concerning the preceding fiscal  
27 year:



1 (a) The number of initial and renewal applications the  
2 department received and completed within the 6-month time period  
3 described in subsection (9).

4 (b) The number of applications requiring a request for  
5 additional information.

6 (c) The number of applications rejected.

7 (d) The number of licenses and registrations not issued within  
8 the 6-month period.

9 (e) The average processing time for initial and renewal  
10 licenses and registrations granted after the 6-month period.

11 (14) As used in this section: ~~—, "completed~~

12 (A) "CHILD ABUSE" AND "CHILD NEGLECT" MEAN THOSE TERMS AS  
13 DEFINED IN SECTION 2 OF THE CHILD PROTECTION LAW, 1975 PA 238, MCL  
14 722.622.

15 (B) "COMPLETED application" means an application complete on  
16 its face and submitted with any applicable licensing or  
17 registration fees as well as any other information, records,  
18 approval, security, or similar item required by law or rule from a  
19 local unit of government, a federal agency, or a private entity but  
20 not from another department or agency of this state. A completed  
21 application does not include a health inspection performed by a  
22 local health department.

23 (C) "GOOD MORAL CHARACTER" MEANS THAT TERM AS DEFINED IN AND  
24 DETERMINED UNDER 1974 PA 381, MCL 338.41 TO 338.47.