

SENATE BILL No. 615

June 16, 2005, Introduced by Senators HARDIMAN, BIRKHOLZ, CROPSEY, GOSCHKA and BROWN 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, and by adding section 5c.

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

1 activities and proposed standards of care and shall make an on-site
2 visit of the proposed or established organization. If the
3 department is satisfied as to the need for a child care
4 organization, its financial stability, the applicant's good moral
5 character, and that the services and facilities are conducive to
6 the welfare of the children, the department shall issue or renew
7 the license. As used in this subsection, "good moral character"
8 means that term as defined in and determined under 1974 PA 381, MCL
9 338.41 to 338.47. If a county juvenile agency as defined in section
10 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622,
11 certifies to the department that it intends to contract with an
12 applicant for a new license, the department shall issue or deny the
13 license within 60 days after it receives a complete application as
14 provided in section 5b.

15 (2) The department shall issue a certificate of registration
16 to a person who has successfully completed an orientation session
17 offered by the department and who certifies to the department that
18 the family day care home has complied with and will continue to
19 comply with the rules promulgated under this act and will provide
20 services and facilities, as determined by the department, conducive
21 to the welfare of children. The department shall make available to
22 applicants for registration an orientation session to applicants
23 for registration regarding this act, the rules promulgated under
24 this act, and the needs of children in family day care before
25 issuing a certificate of registration. The department shall issue a
26 certificate of registration to a specific person at a specific
27 location. A certificate of registration is nontransferable and

1 remains the property of the department. Within 90 days after
2 initial registration, the department shall make an on-site visit of
3 the family day care home.

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

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

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

27 (6) The department may authorize a licensed child placing

1 agency or an approved governmental unit to place a child who is 16
2 or 17 years old in an adult foster care family home or an adult
3 foster care small group home licensed under the adult foster care
4 facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if a
5 licensed child placing agency or approved governmental unit retains
6 supervisory responsibility for the child and certifies to the
7 department all of the following:

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

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

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

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

17 (7) On an exception basis, the director of the department, or
18 his or her designee, may authorize a licensed child placing agency
19 or an approved governmental unit to place an adult in a foster
20 family home if a licensed child placing agency or approved
21 governmental unit certifies to the department all of the following:

22 (a) The adult is a person with a developmental disability as
23 defined by section 100a of the mental health code, 1974 PA 258, MCL
24 330.1100a, or a person who is otherwise neurologically disabled and
25 is also physically limited to a degree that requires complete
26 physical assistance with mobility and activities of daily living.

27 (b) The placement is in the best interests of the adult and

1 will not adversely affect the interests of the foster child or
2 children residing in the foster family home.

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

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

7 (e) The child placing agency or approved governmental unit
8 will periodically reevaluate the placement of an adult under this
9 subsection to determine that the criteria for placement in
10 subdivisions (a) through (d) continue to be met and document that
11 the adult is receiving care consistent with the administrative
12 rules for a child placing agency.

13 (8) On an exception basis, the director of the department, or
14 his or her designee, may authorize a licensed child placing agency
15 or an approved governmental unit to place a child in an adult
16 foster care family home or an adult foster care small group home
17 licensed under the adult foster care licensing act, 1979 PA 218,
18 MCL 400.701 to 400.737, if the licensed child placing agency or
19 approved governmental unit certifies to the department all of the
20 following:

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

22 (b) The placement has the concurrence of the parent or
23 guardian of the child.

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

26 (d) The child's psychosocial and clinical needs are compatible
27 with those of other residents of the adult foster care family home

1 or small group home.

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

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

8 (g) The child is neurologically disabled and is also
9 physically limited to such a degree as to require complete physical
10 assistance with mobility and activities of daily living.

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

15 (9) Beginning ~~the effective date of the amendatory act that~~
16 ~~added this subsection~~ **OCTOBER 1, 2007**, except as provided in
17 subsection (1) and section 5b, the department shall issue an
18 initial or renewal license or registration under this act for child
19 care centers, group day care homes, and family day care homes not
20 later than 6 months after the applicant files a completed
21 application. Receipt of the application is considered the date the
22 application is received by any agency or department of this state.
23 If the application is considered incomplete by the department, the
24 department shall notify the applicant in writing or make notice
25 electronically available within 30 days after receipt of the
26 incomplete application, describing the deficiency and requesting
27 additional information. This subsection does not affect the time

1 period within which an on-site visit to a family day care home
2 shall be made. If the department identifies a deficiency or
3 requires the fulfillment of a corrective action plan, the 6-month
4 period is tolled until either of the following occurs:

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

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

10 (10) The determination of the completeness of an application
11 is not an approval of the application for the license and does not
12 confer eligibility on an applicant determined otherwise ineligible
13 for issuance of a license.

14 (11) Except as provided in subsection (1) and section 5b, if
15 the department fails to issue or deny a license or registration to
16 a child care center, group day care home, or family day care home
17 within the time required by this section, the department shall
18 return the license or registration fee and shall reduce the license
19 or registration fee for the applicant's next renewal application,
20 if any, by 15%. Failure to issue or deny a license to a child care
21 center, group day care home, or family day care home within the
22 time period required under this section does not allow the
23 department to otherwise delay the processing of the application. A
24 completed application shall be placed in sequence with other
25 completed applications received at that same time. The department
26 shall not discriminate against an applicant in the processing of an
27 application based on the fact that the application fee was refunded

1 or discounted under this subsection.

2 (12) If, on a continual basis, inspections performed by a
3 local health department delay the department in issuing or denying
4 licenses or registrations for child care centers, group day care
5 homes, and family day care homes under this act within the 6-month
6 period, the department may use department staff to complete the
7 inspections instead of the local health department causing the
8 delays.

9 (13) Beginning October 1, 2008, the director of the department
10 shall submit a report by December 1 of each year to the standing
11 committees and appropriations subcommittees of the senate and house
12 of representatives concerned with human services and children's
13 issues. The director shall include all of the following information
14 regarding applications for licenses and registrations only for
15 child care centers, group day care homes, and family day care homes
16 filed under this act in the report concerning the preceding fiscal
17 year:

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

21 (b) The number of applications requiring a request for
22 additional information.

23 (c) The number of applications rejected.

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

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

1 (14) As used in this section, "completed application" means an
2 application complete on its face and submitted with any applicable
3 licensing or registration fees as well as any other information,
4 records, approval, security, or similar item required by law or
5 rule from a local unit of government, a federal agency, or a
6 private entity but not from another department or agency of this
7 state. A completed application does not include a health inspection
8 performed by a local health department.

9 (15) THE DEPARTMENT SHALL NOT ISSUE TO OR RENEW THE LICENSE OF
10 A CHILD CARE CENTER OR DAY CARE CENTER UNDER THIS ACT WITHOUT
11 REQUESTING A CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK AS
12 REQUIRED BY SECTION 5C.

13 SEC. 5C. (1) WHEN A PERSON, PARTNERSHIP, FIRM, CORPORATION,
14 ASSOCIATION, OR NONGOVERNMENTAL ORGANIZATION APPLIES FOR OR TO
15 RENEW A LICENSE FOR A CHILD CARE CENTER OR DAY CARE CENTER UNDER
16 SECTION 5, THE DEPARTMENT SHALL REQUEST THE DEPARTMENT OF STATE
17 POLICE TO PERFORM BOTH OF THE FOLLOWING ON THE PERSON OR EACH
18 PARTNER, OFFICER, OR MANAGER OF THE CHILD CARE CENTER OR DAY CARE
19 CENTER APPLYING FOR THE LICENSE:

20 (A) CONDUCT A CRIMINAL HISTORY CHECK ON THE PERSON.

21 (B) CONDUCT A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL
22 BUREAU OF INVESTIGATION ON THE PERSON.

23 (2) EACH PERSON APPLYING FOR A LICENSE TO OPERATE A CHILD CARE
24 CENTER OR DAY CARE CENTER SHALL GIVE WRITTEN CONSENT AT THE TIME OF
25 THE LICENSE APPLICATION FOR THE DEPARTMENT OF STATE POLICE TO
26 CONDUCT THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK
27 REQUIRED UNDER THIS SECTION. THE DEPARTMENT SHALL REQUIRE THE

1 PERSON TO SUBMIT HIS OR HER FINGERPRINTS TO THE DEPARTMENT OF STATE
2 POLICE FOR THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK
3 DESCRIBED IN SUBSECTION (1).

4 (3) THE DEPARTMENT SHALL REQUEST A CRIMINAL HISTORY CHECK AND
5 CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION ON A FORM AND IN
6 THE MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE.

7 (4) WITHIN 30 DAYS AFTER RECEIVING A COMPLETE REQUEST BY THE
8 DEPARTMENT FOR A CRIMINAL HISTORY CHECK ON A PERSON UNDER THIS
9 SECTION, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT THE CRIMINAL
10 HISTORY CHECK AND PROVIDE A REPORT OF THE RESULTS TO THE
11 DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY RECORD
12 INFORMATION ON THE PERSON MAINTAINED BY THE DEPARTMENT OF STATE
13 POLICE.

14 (5) WITHIN 7 DAYS AFTER RECEIVING A PROPER REQUEST BY THE
15 DEPARTMENT FOR A CRIMINAL RECORDS CHECK ON A PERSON UNDER THIS
16 SECTION, THE DEPARTMENT OF STATE POLICE SHALL INITIATE THE CRIMINAL
17 RECORDS CHECK. AFTER RECEIVING THE RESULTS OF THE CRIMINAL RECORDS
18 CHECK FROM THE FEDERAL BUREAU OF INVESTIGATION, THE DEPARTMENT OF
19 STATE POLICE SHALL PROVIDE A REPORT OF THE RESULTS TO THE
20 DEPARTMENT.

21 (6) AS USED IN THIS SECTION AND SECTIONS 5D AND 5E:

22 (A) "CRIMINAL HISTORY RECORD INFORMATION" MEANS THAT TERM AS
23 DEFINED IN SECTION 1A OF 1925 PA 289, MCL 28.241A.

24 (B) "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2
25 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.

26 (7) CRIMINAL HISTORY RECORD INFORMATION OR THE RESULTS OF A
27 CRIMINAL RECORDS CHECK UNDER THIS SECTION SHALL BE USED BY A CHILD

1 CARE CENTER OR DAY CARE CENTER ONLY FOR THE PURPOSE OF EVALUATING
2 AN APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT IN THE POSITION FOR
3 WHICH HE OR SHE HAS APPLIED OR WHETHER TO RETAIN AN EMPLOYEE. A
4 LICENSEE OR ITS OFFICERS, AGENTS, OR EMPLOYEES SHALL NOT DISCLOSE
5 THE REPORT OR ITS CONTENTS EXCEPT A FELONY CONVICTION OR A
6 MISDEMEANOR CONVICTION INVOLVING SEXUAL OR PHYSICAL ABUSE TO A
7 PERSON NOT DIRECTLY INVOLVED IN EVALUATING THE APPLICANT'S
8 QUALIFICATIONS FOR EMPLOYMENT OR THE ISSUE OF THE EMPLOYEE'S
9 CONTINUED EMPLOYMENT.

10 (8) THE DEPARTMENT OF STATE POLICE MAY CHARGE A FEE FOR A
11 CRIMINAL HISTORY CHECK OR A CRIMINAL RECORDS CHECK REQUIRED UNDER
12 THIS SECTION THAT DOES NOT EXCEED THE ACTUAL AND REASONABLE COST OF
13 CONDUCTING THE CHECK.