

SENATE BILL No. 1547

September 25, 2008, Introduced by Senators OLSHOVE, BARCIA, CHERRY, ANDERSON, BASHAM and SCHAUER 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 2007 PA 218.

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

18 (A) THE INDIVIDUAL APPLICANT.

19 (B) THE OWNER, PARTNER, OR DIRECTOR OF THE APPLICANT, IF OTHER
20 THAN AN INDIVISUAL.

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

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

10 (3) The department may authorize a licensed child placing
11 agency or an approved governmental unit to investigate a foster
12 family home or a foster family group home according to subsection
13 (1) and to certify that the foster family home or foster family
14 group home meets the licensing requirements prescribed by this act.
15 Before certifying to the department that a foster family home or
16 foster family group home meets the licensing requirements
17 prescribed by this act, the licensed child placing agency or
18 approved governmental unit shall receive and review a medical
19 statement for each member of the household indicating that he or
20 she does not have a known condition that would affect the care of a
21 foster child. The medical statement required under this section
22 shall be signed and dated by a physician licensed under article 15
23 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
24 a physician's assistant licensed under article 15 of the public
25 health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a
26 certified nurse practitioner licensed as a registered professional
27 nurse under part 172 of the public health code, 1978 PA 368, MCL

1 333.17201 to 333.17242, who has been issued a specialty
2 certification as a nurse practitioner by the board of nursing under
3 section 17210 of the public health code, 1978 PA 368, MCL
4 333.17210, within the 12 months immediately preceding the date of
5 the initial evaluation. This subsection does not require new or
6 additional third party reimbursement or worker's compensation
7 benefits for services rendered. A foster family home or a foster
8 family group home shall be certified for licensing by the
9 department by only 1 child placing agency or approved governmental
10 unit. Other child placing agencies may place children in a foster
11 family home or foster family group home only upon the approval of
12 the certifying agency or governmental unit.

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

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

25 (6) The department may authorize a licensed child placing
26 agency or an approved governmental unit to place a child who is 16
27 or 17 years old in an adult foster care family home or an adult

1 foster care small group home licensed under the adult foster care
2 facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if a
3 licensed child placing agency or approved governmental unit retains
4 supervisory responsibility for the child and certifies to the
5 department all of the following:

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

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

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

11 (d) 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) through (c) continue to be met.

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

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

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

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

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

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

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

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

20 (b) The placement has the concurrence of the parent or
21 guardian of the child.

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

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

27 (e) The clinical treatment of the child's condition is similar

1 to that of the other residents of the adult foster care family home
2 or small group home.

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

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

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

14 (9) Except as provided in subsection (1) and section 5b, the
15 department shall issue an initial or renewal license or
16 registration under this act for child care centers, group child
17 care homes, and family child care homes not later than 6 months
18 after the applicant files a completed application. Receipt of the
19 application is considered the date the application is received by
20 any agency or department of this state. If the application is
21 considered incomplete by the department, the department shall
22 notify the applicant in writing or make notice electronically
23 available within 30 days after receipt of the incomplete
24 application, describing the deficiency and requesting additional
25 information. This subsection does not affect the time period within
26 which an on-site visit to a family child care home shall be made.
27 If the department identifies a deficiency or requires the

1 fulfillment of a corrective action plan, the 6-month period is
2 tolled until either of the following occurs:

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

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

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

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

27 (12) If, on a continual basis, inspections performed by a

1 local health department delay the department in issuing or denying
2 licenses or registrations for child care centers, group day care
3 homes, and family child care homes under this act within the 6-
4 month period, the department may use department staff to complete
5 the inspections instead of the local health department causing the
6 delays.

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

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

19 (b) The number of applications requiring a request for
20 additional information.

21 (c) The number of applications rejected.

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

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

26 (14) Except as provided in section 5c(8), the department shall
27 not issue to or renew the license of a child care center or day

1 care center under this act without requesting a criminal history
2 check and criminal records check as required by section 5c. If a
3 criminal history check or criminal records check performed under
4 section 5c or information obtained as a result of notification from
5 the department of state police under section 5k reveals that an
6 applicant for a license under this act has been convicted of a
7 listed offense, the department shall not issue a license to that
8 applicant. If a criminal history check or criminal records check
9 performed under section 5c or information obtained as a result of
10 notification from the department of state police under section 5k
11 reveals that an applicant for renewal of a license under this act
12 has been convicted of a listed offense, the department shall not
13 renew that license. If a criminal history check or criminal records
14 check performed under section 5c or information obtained as a
15 result of notification from the department of state police under
16 section 5k reveals that a current licensee has been convicted of a
17 listed offense, the department shall revoke the license of that
18 licensee.

19 (15) Except as provided in section 5f(13), the department
20 shall not issue or renew a certificate of registration to a family
21 child care home or a license to a group child care home under this
22 act without requesting a criminal history check and criminal
23 records check as required by sections 5f and 5g. If a criminal
24 history check or criminal records check performed under section 5f
25 or 5g or information obtained as a result of notification from the
26 department of state police under section 5k reveals that an
27 applicant for a certificate of registration or license under this

1 act or a person over 18 years of age residing in that applicant's
2 home has been convicted of a listed offense, the department shall
3 not issue a certificate of registration or license to that
4 applicant. If a criminal history check or criminal records check
5 performed under section 5f or 5g or information obtained as a
6 result of notification from the department of state police under
7 section 5k reveals that an applicant for renewal of a certificate
8 of registration or license under this act or a person over 18 years
9 of age residing in that applicant's home has been convicted of a
10 listed offense, the department shall not renew a certificate of
11 registration or license to that applicant. If a criminal history
12 check or criminal records check performed under section 5f or 5g or
13 information obtained as a result of notification from the
14 department of state police under section 5k reveals that a current
15 registrant or licensee under this act or a person over 18 years of
16 age residing in that registrant's or licensee's home has been
17 convicted of a listed offense, the department shall revoke that
18 registrant's certificate of registration or licensee's license.

19 (16) Except as provided in section 5h(7), the department shall
20 not issue or renew a license to operate a foster family home or
21 foster family group home under this act without requesting a
22 criminal history check and criminal records check as required by
23 sections 5h and 5j. If a criminal history check or criminal records
24 check performed under section 5h or 5j or information obtained as a
25 result of notification from the department of state police under
26 section 5k reveals that an applicant for a license to operate a
27 foster family home or foster family group home under this act or a

1 person over 18 years of age residing in that applicant's home has
2 been convicted of a listed offense, the department shall not issue
3 a license to that applicant. If a criminal history check or
4 criminal records check performed under section 5h or 5j or
5 information obtained as a result of notification from the
6 department of state police under section 5k reveals that an
7 applicant for renewal of a license to operate a foster family home
8 or foster family group home under this act or a person over 18
9 years of age residing in that applicant's home has been convicted
10 of a listed offense, the department shall not renew a license to
11 that applicant. If a criminal history check or criminal records
12 check performed under section 5h or 5j or information obtained as a
13 result of notification from the department of state police under
14 section 5k reveals that a current licensee under this act of a
15 foster family home or foster family group home or a person over 18
16 years of age residing in that licensee's foster family home or
17 foster family group home has been convicted of a listed offense,
18 the department shall revoke that licensee's license.

19 (17) As used in this section:

20 (A) "CHILD ABUSE" AND "CHILD NEGLECT" MEAN THOSE TERMS AS
21 DEFINED IN SECTION 2 OF THE CHILD PROTECTION LAW, 1975 PA 238, MCL
22 722.622.

23 (B) ~~(a)~~—"Completed application" means an application complete
24 on its face and submitted with any applicable licensing or
25 registration fees as well as any other information, records,
26 approval, security, or similar item required by law or rule from a
27 local unit of government, a federal agency, or a private entity but

1 not from another department or agency of this state. A completed
2 application does not include a health inspection performed by a
3 local health department.

4 (C) ~~(b)~~—"Good moral character" means that term as defined in
5 and determined under 1974 PA 381, MCL 338.41 to 338.47.

6 (D) ~~(e)~~—"Member of the household" means any individual, other
7 than a foster child, who resides in a foster family home or foster
8 family group home on an ongoing or recurrent basis.