

**SUBSTITUTE FOR
SENATE BILL NO. 466**

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 2018 PA 431.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (a) "Child care staff member" means an individual who is 18
- 3 years of age or older to whom 1 or more of the following applies:
- 4 (i) The individual is employed by a child care center, group
- 5 child care home, or family child care home for compensation,

1 including a contract employee or a self-employed individual.

2 (ii) An individual whose activities involve the unsupervised
3 care or supervision of children for a child care center, group
4 child care home, or family child care home.

5 (iii) An individual who has unsupervised access to children who
6 are cared for or supervised by a child care center, group child
7 care home, or family child care home.

8 (iv) An individual who acts in the role of a licensee designee
9 or program director.

10 (b) "Child care organization" means a governmental or
11 nongovernmental organization having as its principal function
12 receiving minor children for care, maintenance, training, and
13 supervision, notwithstanding that educational instruction may be
14 given. Child care organization includes organizations commonly
15 described as child caring institutions, child placing agencies,
16 children's camps, children's campsites, children's therapeutic
17 group homes, child care centers, day care centers, nursery schools,
18 parent cooperative preschools, foster homes, group homes, or child
19 care homes. Child care organization does not include a governmental
20 or nongovernmental organization that does either of the following:

21 (i) Provides care exclusively to minors who have been
22 emancipated by court order under section 4(3) of 1968 PA 293, MCL
23 722.4.

24 (ii) Provides care exclusively to persons who are 18 years of
25 age or older and to minors who have been emancipated by court order
26 under section 4(3) of 1968 PA 293, MCL 722.4, at the same location.

27 (c) "Child caring institution" means a child care facility
28 that is organized for the purpose of receiving minor children for
29 care, maintenance, and supervision, usually on a 24-hour basis, in

1 buildings maintained by the child caring institution for that
2 purpose, and operates throughout the year. An educational program
3 may be provided, but the educational program shall not be the
4 primary purpose of the facility. Child caring institution includes
5 a maternity home for the care of unmarried mothers who are minors
6 and an agency group home, that is described as a small child caring
7 institution, owned, leased, or rented by a licensed agency
8 providing care for more than 4 but less than 13 minor children.
9 Child caring institution also includes ~~institutions~~ **an institution**
10 for developmentally disabled or emotionally disturbed minor
11 children. Child caring institution does not include a hospital,
12 nursing home, or home for the aged licensed under article 17 of the
13 public health code, 1978 PA 368, MCL 333.20101 to 333.22260, a
14 boarding school licensed under section 1335 of the revised school
15 code, 1976 PA 451, MCL 380.1335, a hospital or facility operated by
16 the state or licensed under the mental health code, 1974 PA 258,
17 MCL 330.1001 to 330.2106, or an adult foster care family home or an
18 adult foster care small group home licensed under the adult foster
19 care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737,
20 in which a child has been placed under section 5(6).

21 **(d) "Child caring institution staff member" means an**
22 **individual who is 18 years of age or older to whom 1 or more of the**
23 **following applies:**

24 **(i) The individual is employed by a child caring institution**
25 **for compensation, including an adult who does not work directly**
26 **with children.**

27 **(ii) The individual is a contract employee or self-employed**
28 **individual with a child caring institution.**

29 **(iii) The individual is an intern or other individual who**

1 provides specific services under the rules promulgated under this
2 act.

3 (e) ~~(d)~~—"Child placing agency" means a governmental
4 organization or an agency organized under the nonprofit corporation
5 act, 1982 PA 162, MCL 450.2101 to 450.3192, for the purpose of
6 receiving children for placement in private family homes for foster
7 care or for adoption. The function of a child placing agency may
8 include investigating applicants for adoption and investigating and
9 certifying foster family homes and foster family group homes as
10 provided in this act. The function of a child placing agency may
11 also include supervising children who are at least 16 but less than
12 21 years of age and who are living in unlicensed residences as
13 provided in section 5(4).

14 (f) ~~(e)~~—"Children's camp" means a residential, day, troop, or
15 travel camp that provides care and supervision and is conducted in
16 a natural environment for more than 4 children, apart from the
17 children's parents, relatives, or legal guardians, for 5 or more
18 days in a 14-day period.

19 (g) ~~(f)~~—"Children's campsite" means the outdoor setting where
20 a children's residential or day camp is located.

21 (h) ~~(g)~~—"Children's therapeutic group home" means a child
22 caring institution receiving not more than 6 minor children who are
23 diagnosed with a developmental disability as defined in section
24 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a
25 serious emotional disturbance as defined in section 100d of the
26 mental health code, 1974 PA 258, MCL 330.1100d, and that meets all
27 of the following requirements:

28 (i) Provides care, maintenance, and supervision, usually on a
29 24-hour basis.

1 (ii) Complies with the rules for child caring institutions,
2 except that behavior management rooms, personal restraint,
3 mechanical restraint, or seclusion, which is allowed in certain
4 circumstances under licensing rules, are prohibited in a children's
5 therapeutic group home.

6 (iii) Is not a private home.

7 (iv) Is not located on a campus with other licensed facilities.

8 (i) ~~(h)~~ "Child care center" means a facility, other than a
9 private residence, receiving 1 or more children under 13 years of
10 age for care for periods of less than 24 hours a day, where the
11 parents or guardians are not immediately available to the child.
12 Child care center includes a facility that provides care for not
13 less than 2 consecutive weeks, regardless of the number of hours of
14 care per day. The facility is generally described as a child care
15 center, day care center, day nursery, nursery school, parent
16 cooperative preschool, play group, before- or after-school program,
17 or drop-in center. Child care center does not include any of the
18 following:

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

24 (ii) A facility operated by a religious organization where
25 children are in the religious organization's care for not more than
26 3 hours while persons responsible for the children are attending
27 religious services.

28 (iii) A program that is primarily supervised, school-age-child-
29 focused training in a specific subject, including, but not limited

1 to, dancing, drama, music, or religion. This exclusion applies only
2 to the time a child is involved in supervised, school-age-child-
3 focused training.

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 school-age child is engaged in the group athletic or
10 social activities and if the school-age child can come and go at
11 will.

12 (v) A program that primarily provides therapeutic services to
13 a child.

14 (j) ~~(i)~~—"Conviction" means a final conviction, the payment of
15 a fine, a plea of guilty or nolo contendere if accepted by the
16 court, a finding of guilt for a criminal law violation or a
17 juvenile adjudication or disposition by the juvenile division of
18 probate court or family division of circuit court for a violation
19 that if committed by an adult would be a crime, or a conviction in
20 a tribal court or a military court.

21 (k) ~~(j)~~—"Criminal history check" means a fingerprint-based
22 criminal history record information background check through the
23 department of state police and the Federal Bureau of Investigation.

24 (l) ~~(k)~~—"Criminal history record information" means that term
25 as defined in section 1a of 1925 PA 289, MCL 28.241a.

26 (m) ~~(l)~~—"Department" means the department of health and human
27 services and the department of licensing and regulatory affairs or
28 a successor agency or department responsible for licensure under
29 this act. The department of licensing and regulatory affairs is

1 responsible for licensing and regulatory matters for child care
 2 centers, group child care homes, family child care homes,
 3 children's camps, and children's campsites. The department of
 4 health and human services is responsible for licensing and
 5 regulatory matters for child caring institutions, child placing
 6 agencies, children's therapeutic group homes, foster family homes,
 7 and foster family group homes.

8 (n) ~~(m)~~—"Eligible" means that the individual obtained the
 9 checks and clearances described in sections 5n and 5q and is
 10 considered appropriate to obtain a license, to be a member of the
 11 household of a group child care home or family child care home, or
 12 to be a child care staff member.

13 (o) ~~(n)~~—"Ineligible" means that the individual obtained the
 14 checks and clearances as described in sections 5n and 5q and is not
 15 considered appropriate to obtain a license, to be a member of the
 16 household of a group child care home or family child care home, or
 17 to be a child care staff member due to violation of section 5n, 5q,
 18 or 5r.

19 (p) ~~(o)~~—"Private home" means a private residence in which the
 20 licensee permanently resides, which residency is not contingent
 21 upon caring for children or employment by a child placing agency.
 22 Private home includes a full-time foster family home, a full-time
 23 foster family group home, a group child care home, or a family
 24 child care home, as follows:

25 (i) "Foster family home" means ~~a the private home in which of~~
 26 **an individual who is licensed to provide 24-hour care for** 1 but not
 27 more than 4 minor children ~~, who are not related to an adult member~~
 28 ~~of the household by blood or marriage, who are not placed in the~~
 29 ~~household under the Michigan adoption code, chapter X of the~~

1 ~~probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, or who are~~
 2 ~~not hosted in the private home as provided in the safe families for~~
 3 ~~children act, are given care and supervision for 24 hours a day,~~
 4 ~~for 4 or more days a week, for 2 or more consecutive weeks,~~
 5 ~~unattended by a parent, legal guardian, or legal custodian.~~**who are**
 6 **placed away from their parent, legal guardian, or legal custodian**
 7 **in foster care. The licensed individual providing care is required**
 8 **to comply with the reasonable and prudent parenting standard as**
 9 **defined in section 1 of chapter XIIIA of the probate code of 1939,**
 10 **1939 PA 288, MCL 712A.1.**

11 (ii) "Foster family group home" means ~~a~~**the** private home ~~in~~
 12 ~~which~~**of an individual who has been licensed by the department to**
 13 **provide 24-hour care for** more than 4 but fewer than 7 minor
 14 children ~~, who are not related to an adult member of the household~~
 15 ~~by blood or marriage, who are not placed in the household under the~~
 16 ~~Michigan adoption code, chapter X of the probate code of 1939, 1939~~
 17 ~~PA 288, MCL 710.21 to 710.70, or who are not hosted in the private~~
 18 ~~home as provided in the safe families for children act, are~~
 19 ~~provided care for 24 hours a day, for 4 or more days a week, for 2~~
 20 ~~or more consecutive weeks, unattended by a parent, legal guardian,~~
 21 ~~or legal custodian.~~**who are placed away from their parent, legal**
 22 **guardian, or legal custodian in foster care. The licensed**
 23 **individual providing care is required to comply with the reasonable**
 24 **and prudent parenting standard as defined in section 1 of chapter**
 25 **XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.**

26 (iii) "Family child care home" means a private home in which 1
 27 but fewer than 7 minor children are received for care and
 28 supervision for compensation for periods of less than 24 hours a
 29 day, unattended by a parent or legal guardian, except children

1 related to an adult member of the household by blood, marriage, or
 2 adoption. Family child care home includes a home in which care is
 3 given to an unrelated minor child for more than 4 weeks during a
 4 calendar year. A family child care home does not include an
 5 individual providing babysitting services for another individual.
 6 As used in this subparagraph, "providing babysitting services"
 7 means caring for a child on behalf of the child's parent or
 8 guardian ~~when~~ **if** the annual compensation for providing those
 9 services does not equal or exceed \$600.00 or an amount that would
 10 according to the internal revenue code of 1986 obligate the child's
 11 parent or guardian to provide a form 1099-MISC to the individual
 12 for compensation paid during the calendar year for those services.

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

20 **(q)** ~~(p)~~ "Legal custodian" means an individual who is at least
 21 18 years of age in whose care a minor child remains or is placed
 22 after a court makes a finding under section 13a(5) of chapter XIIIA
 23 of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

24 **(r)** ~~(q)~~ "Licensee" means a person, partnership, firm,
 25 corporation, association, nongovernmental organization, or local or
 26 state government organization that has been issued a license under
 27 this act to operate a child care organization.

28 **(s)** ~~(r)~~ "Listed offense" means that term as defined in section
 29 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

1 **(t)** ~~(s)~~—"Member of the household" means any individual who
2 resides in a family child care home, group child care home, foster
3 family home, or foster family group home on an ongoing basis, or
4 who has a recurrent presence in the home, including, but not
5 limited to, overnight stays. For foster family homes and foster
6 family group homes, a member of the household does not include a
7 foster child. For group child care homes and family child care
8 homes, a member of the household does not include a child to whom
9 child care is being provided.

10 **(u)** ~~(t)~~—"Original license" means a license issued to a child
11 care organization during the first 6 months of operation indicating
12 that the organization is in compliance with all rules promulgated
13 by the department under this act.

14 **(v)** ~~(u)~~—"Provisional license" means a license issued to a
15 child care organization that is temporarily unable to conform to
16 the rules promulgated under this act.

17 **(w)** **"Qualified residential treatment program" or "Q RTP" means**
18 **a program within a child caring institution to which all of the**
19 **following apply:**

20 **(i)** **The program has a trauma-informed treatment model,**
21 **evidenced by the inclusion of trauma awareness, knowledge, and**
22 **skills into the program's culture, practices, and policies.**

23 **(ii)** **The program has registered or licensed nursing and other**
24 **licensed clinical staff on-site or available 24 hours a day, 7 days**
25 **a week, who provide care in the scope of their practice as provided**
26 **in parts 170, 172, 181, 182, 182A, and 185 of the public health**
27 **code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to**
28 **333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237,**
29 **333.18251 to 333.18267, and 333.18501 to 333.18518.**

1 (iii) The program integrates families into treatment, including
2 maintaining sibling connections.

3 (iv) The program provides aftercare services for at least 6
4 months post discharge.

5 (v) The program is accredited by an independent not-for-profit
6 organization as described in 42 USC 672(k)(4)(G).

7 (vi) The program does not include a detention facility,
8 forestry camp, training school, or other facility operated
9 primarily for detaining minor children who are determined to be
10 delinquent.

11 (x) ~~(v)~~ "Regular license" means a license issued to a child
12 care organization indicating that the organization is in
13 substantial compliance with all rules promulgated under this act
14 and, if there is a deficiency, has entered into a corrective action
15 plan.

16 (y) ~~(w)~~ "Guardian" means the guardian of the person.

17 (z) ~~(x)~~ "Minor child" means any of the following:

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

19 (ii) A person who is a resident in a child caring institution,
20 foster family home, or foster family group home, who is at least 18
21 but less than 21 years of age, and who meets the requirements of
22 the young adult voluntary foster care act, 2011 PA 225, MCL 400.641
23 to 400.671.

24 (iii) A person who is a resident in a child caring institution,
25 children's camp, foster family home, or foster family group home;
26 who becomes 18 years of age while residing in a child caring
27 institution, children's camp, foster family home, or foster family
28 group home; and who continues residing in a child caring
29 institution, children's camp, foster family home, or foster family

group home to receive care, maintenance, training, and supervision. A minor child under this subparagraph does not include a person 18 years of age or older who is placed in a child caring institution, foster family home, or foster family group home under an adjudication under section 2(a) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or under section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1. This subparagraph applies only if the number of those residents who become 18 years of age does not exceed the following:

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

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

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

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

(iv) A person 18 years of age or older who is placed in an unlicensed residence under section 5(4) or a foster family home under section 5(7).

(aa) ~~(y)~~—"Related" means in the relationship by blood, marriage, or adoption, as parent, grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the individuals described in this definition, even after the marriage has ended by death or divorce.

(bb) ~~(z)~~—"Religious organization" means a church, ecclesiastical corporation, or group, not organized for pecuniary profit, that gathers for mutual support and edification in piety or worship of a supreme deity.

1 **(cc)** ~~(aa)~~ "School-age child" means a child who is eligible to
 2 attend a grade of kindergarten or higher, but is less than 13 years
 3 of age. A child is considered to be a school-age child on the first
 4 day of the school year in which he or she is eligible to attend
 5 school.

6 **(dd)** ~~(bb)~~ "Severe physical injury" means that term as defined
 7 in section 8 of the child protection law, 1975 PA 238, MCL 722.628.

8 **(ee)** ~~(cc)~~ "Licensee designee" means the individual designated
 9 in writing by the board of directors of the corporation or by the
 10 owner or person with legal authority to act on behalf of the
 11 company or organization on licensing matters. The individual must
 12 agree in writing to be designated as the licensee designee. All
 13 license applications must be signed by the licensee in the case of
 14 the individual or by a member of the corporation, company, or
 15 organization.

16 Enacting section 1. This amendatory act does not take effect
 17 unless all of the following bills of the 100th Legislature are
 18 enacted into law:

19 (a) Senate Bill No. 467.

20 (b) Senate Bill No. 468.

21 (c) Senate Bill No. 469.

22 (d) Senate Bill No. _____ or House Bill No. _____ (request no.
 23 04529'19).