



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5041 (Substitute H-1 as passed by the House)
Sponsor: Representative Jack O'Malley
House Committee: Families, Children, and Seniors
Senate Committee: Economic and Small Business Development

Date Completed: 6-13-22

CONTENT

The bill would amend the child care licensing Act to do the following:

- **Specify that a family child care home or a group child care home would be automatically eligible for increased capacity (i.e., one additional child in a family child care home and two additional children in a group child care home) if the home satisfied certain criteria, such as being licensed to operate for at least 29 consecutive months.**
- **Allow the Department of Licensing and Regulatory Affairs (LARA) to rescind increased capacity because of corrective action, licensing action, or a determination from LARA that increased capacity was not conducive to the welfare of children.**
- **Allow a family child care home or group child care home to become eligible again for increased capacity after 22 months if LARA rescinded its increased capacity.**
- **Modify requirements concerning LARA's inspection of child care homes and its denial of, revocation of, or refusal to renew a child care organization's license.**

Increased Capacity

Under the bill, a family child care home or group child care home would be automatically eligible for increased capacity after satisfying all the following criteria:

- The home held a current license.
- The home had been licensed to operate for at least 29 consecutive months.
- The home had received one or more unrelated minor children for care and supervision during those 29 consecutive months.
- The home had received one or more unrelated minor children for care and supervision during those 29 consecutive months.

"Increased capacity" would mean one additional child added to the total number of minor children received for care and supervision in a family child care home or two additional children added to the total number of minor children received for care and supervision in a group child care home.

The bill would allow LARA to rescind increased capacity because of one or more of the following:

- Corrective action.

- Licensing action.
- Determination by LARA that increased capacity was not conducive to the welfare of children as that term was defined in Section 5m of the Act.

(Section 5m of the Act defines "conducive to the welfare of the children" as a service and facility that comply with the Act and its promulgated rules and in which the disposition, temperament, condition, and action of the applicant, licensee designee, program director, child care staff member, and member of the household promote the safety and well-being of the children served.)

If LARA rescinded increased capacity, the family child care home or group child care home could be considered for increased capacity after 22 months following the rescindment, in a form and manner determined by LARA. The bill would allow a family child care home or group child care home to appeal LARA's rescission of increased capacity under a hearing held in the manner provided by Section 11(2). (Section 11(2) requires the Director of LARA or his or her designee to conduct a hearing at which the licensee may present testimony and confront witnesses. Notice of the hearing must be given to the licensee at least two weeks before the date of the hearing and the Director must make a decision concerning the appeal as soon as practicable.)

The Act defines "family child care home" as a private home in which one but fewer than seven minor children are received for care and supervision for compensation for periods of less than 24 hours a day, attended by a parent or legal guardian, except children related to the adult member of the household by blood, marriage, or adoption. The bill specifies that the term would include a private home with increased capacity.

"Group child care home" means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. The bill specifies that the term would include a private home with increased capacity.

Inspection and Licensure Requirements

The Act requires LARA to inspect a child care organization annually without announcement, unless LARA considers an announcement of the inspection necessary. Under the bill, LARA would have to inspect a child care organization according to the approved State child care plan without announcement, unless LARA considered an announcement of the inspection necessary.

The Act allows LARA to deny, revoke, or refuse to renew a license of a child care organization when the licensee or applicant falsifies information on the application or willfully and substantially violates the Act, the rules promulgated under the Act, or terms of the license.

The Act defines "substantially violates" as repeated violations or noncompliance of the Act, a rule promulgated under the act, or the terms of a license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services. Under the bill, "substantially violates" would mean repeated violations of the act or repeated instances of noncompliance or a single instance of noncompliance with the Act, a rule promulgated by the Act, or the terms of a license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.