

HOUSE BILL NO. 6049

April 26, 2022, Introduced by Rep. O'Malley and referred to the Committee on Families, Children, and Seniors.

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 2020 PA 6.

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:

1 (i) The individual is employed by a child care center, group
2 child care home, or family child care home for compensation,
3 including a contract employee or a self-employed individual.

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

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

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

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

23 (i) Provides care exclusively to minors who have been
24 emancipated by court order under section 4(3) of 1968 PA 293, MCL
25 722.4.

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

29 (c) "Child caring institution" means a child care facility

1 that is organized for the purpose of receiving minor children for
2 care, maintenance, and supervision, usually on a 24-hour basis, in
3 buildings maintained by the child caring institution for that
4 purpose, and operates throughout the year. An educational program
5 may be provided, but the educational program shall not be the
6 primary purpose of the facility. Child caring institution includes
7 a maternity home for the care of unmarried mothers who are minors
8 and an agency group home, that is described as a small child caring
9 institution, owned, leased, or rented by a licensed agency
10 providing care for more than 4 but less than 13 minor children.
11 Child caring institution also includes an institution for
12 developmentally disabled or emotionally disturbed minor children.
13 Child caring institution does not include a hospital, nursing home,
14 or home for the aged licensed under article 17 of the public health
15 code, 1978 PA 368, MCL 333.20101 to 333.22260, a boarding school
16 licensed under section 1335 of the revised school code, 1976 PA
17 451, MCL 380.1335, a hospital or facility operated by the state or
18 licensed under the mental health code, 1974 PA 258, MCL 330.1001 to
19 330.2106, or an adult foster care family home or an adult foster
20 care small group home licensed under the adult foster care facility
21 licensing act, 1979 PA 218, MCL 400.701 to 400.737, in which a
22 child has been placed under section 5(6).

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

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

29 (ii) The individual is a contract employee or self-employed

1 individual with a child caring institution.

2 (iii) The individual is an intern or other individual who
3 provides specific services under the rules promulgated under this
4 act.

5 (e) "Child placing agency" means a governmental organization
6 or an agency organized under the nonprofit corporation act, 1982 PA
7 162, MCL 450.2101 to 450.3192, for the purpose of receiving
8 children for placement in private family homes for foster care or
9 for adoption. The function of a child placing agency may include
10 investigating applicants for adoption and investigating and
11 certifying foster family homes and foster family group homes as
12 provided in this act. The function of a child placing agency may
13 also include supervising children who are at least 16 but less than
14 21 years of age and who are living in unlicensed residences as
15 provided in section 5(4).

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

21 (g) "Children's campsite" means the outdoor setting where a
22 children's residential or day camp is located.

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

1 (i) Provides care, maintenance, and supervision, usually on a
2 24-hour basis.

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

8 (iii) Is not a private home, **a family child care home, or a**
9 **group child care home.**

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

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

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

26 (ii) A facility operated by a religious organization where
27 children are in the religious organization's care for not more than
28 3 hours while persons responsible for the children are attending
29 religious services.

1 (iii) A program that is primarily supervised, school-age-child-
2 focused training in a specific subject, including, but not limited
3 to, dancing, drama, music, or religion. This exclusion applies only
4 to the time a child is involved in supervised, school-age-child-
5 focused training.

6 (iv) A program that is primarily an incident of group athletic
7 or social activities for school-age children sponsored by or under
8 the supervision of an organized club or hobby group, including, but
9 not limited to, youth clubs, scouting, and school-age recreational
10 or supplementary education programs. This exclusion applies only to
11 the time the school-age child is engaged in the group athletic or
12 social activities and if the school-age child can come and go at
13 will.

14 (v) A program that primarily provides therapeutic services to
15 a child.

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

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

26 (l) "Criminal history record information" means that term as
27 defined in section 1a of 1925 PA 289, MCL 28.241a.

28 (m) "Department" means the department of health and human
29 services and the department of licensing and regulatory affairs or

1 a successor agency or department responsible for licensure under
2 this act. The department of licensing and regulatory affairs is
3 responsible for licensing and regulatory matters for child care
4 centers, group child care homes, family child care homes,
5 children's camps, and children's campsites. The department of
6 health and human services is responsible for licensing and
7 regulatory matters for child caring institutions, child placing
8 agencies, children's therapeutic group homes, foster family homes,
9 and foster family group homes.

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

15 (o) **"Family child care home" means a setting in which 1 but**
16 **fewer than 7 minor children are received for care and supervision**
17 **for compensation for periods of less than 24 hours a day,**
18 **unattended by a parent or legal guardian, except children related**
19 **to an adult member of the household by blood, marriage, or**
20 **adoption. Family child care home includes a setting in which care**
21 **is given to an unrelated minor child for more than 4 weeks during a**
22 **calendar year. A family child care home does not include an**
23 **individual providing babysitting services for another individual.**
24 **As used in this subdivision, "providing babysitting services" means**
25 **caring for a child on behalf of the child's parent or guardian if**
26 **the annual compensation for providing those services does not equal**
27 **or exceed \$600.00 or an amount that would according to the internal**
28 **revenue code of 1986 obligate the child's parent or guardian to**
29 **provide a form 1099-MISC to the individual for compensation paid**

1 during the calendar year for those services.

2 (p) "Group child care home" means a setting in which more than
3 6 but not more than 12 minor children are given care and
4 supervision for periods of less than 24 hours a day unattended by a
5 parent or legal guardian, except children related to an adult
6 member of the household by blood, marriage, or adoption. Group
7 child care home includes a setting in which care is given to an
8 unrelated minor child for more than 4 weeks during a calendar year.

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

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

21 (i) "Foster family home" means the private home of an
22 individual who is licensed to provide 24-hour care for 1 but not
23 more than 4 minor children who are placed away from their parent,
24 legal guardian, or legal custodian in foster care. The licensed
25 individual providing care is required to comply with the reasonable
26 and prudent parenting standard as defined in section 1 of chapter
27 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.

28 (ii) "Foster family group home" means the private home of an
29 individual who has been licensed by the department to provide 24-

1 hour care for more than 4 but fewer than 7 minor children who are
2 placed away from their parent, legal guardian, or legal custodian
3 in foster care. The licensed individual providing care is required
4 to comply with the reasonable and prudent parenting standard as
5 defined in section 1 of chapter XIIIA of the probate code of 1939,
6 1939 PA 288, MCL 712A.1.

7 ~~(iii) "Family child care home" means a private home in which 1~~
8 ~~but fewer than 7 minor children are received for care and~~
9 ~~supervision for compensation for periods of less than 24 hours a~~
10 ~~day, unattended by a parent or legal guardian, except children~~
11 ~~related to an adult member of the household by blood, marriage, or~~
12 ~~adoption. Family child care home includes a home in which care is~~
13 ~~given to an unrelated minor child for more than 4 weeks during a~~
14 ~~calendar year. A family child care home does not include an~~
15 ~~individual providing babysitting services for another individual.~~
16 ~~As used in this subparagraph, "providing babysitting services"~~
17 ~~means caring for a child on behalf of the child's parent or~~
18 ~~guardian if the annual compensation for providing those services~~
19 ~~does not equal or exceed \$600.00 or an amount that would according~~
20 ~~to the internal revenue code of 1986 obligate the child's parent or~~
21 ~~guardian to provide a form 1099-MISC to the individual for~~
22 ~~compensation paid during the calendar year for those services.~~

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

1 **(s)** ~~(q)~~—"Legal custodian" means an individual who is at least
 2 18 years of age in whose care a minor child remains or is placed
 3 after a court makes a finding under section 13a(5) of chapter XIIA
 4 of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

5 **(t)** ~~(r)~~—"Licensee" means a person, partnership, firm,
 6 corporation, association, nongovernmental organization, or local or
 7 state government organization that has been issued a license under
 8 this act to operate a child care organization.

9 **(u)** ~~(s)~~—"Listed offense" means that term as defined in section
 10 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

11 **(v)** ~~(t)~~—"Member of the household" means any individual who
 12 resides in a family child care home, group child care home, foster
 13 family home, or foster family group home on an ongoing basis, or
 14 who has a recurrent presence in the home, including, but not
 15 limited to, overnight stays. For foster family homes and foster
 16 family group homes, a member of the household does not include a
 17 foster child. For group child care homes and family child care
 18 homes, a member of the household does not include a child to whom
 19 child care is being provided.

20 **(w)** ~~(u)~~—"Original license" means a license issued to a child
 21 care organization during the first 6 months of operation indicating
 22 that the organization is in compliance with all rules promulgated
 23 by the department under this act.

24 **(x)** ~~(v)~~—"Provisional license" means a license issued to a
 25 child care organization that is temporarily unable to conform to
 26 the rules promulgated under this act.

27 **(y)** ~~(w)~~—"Qualified residential treatment program" or "QRTP"
 28 means a program within a child caring institution to which all of
 29 the following apply:

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

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

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

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

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

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

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

(aa) ~~(y)~~ "Guardian" means the guardian of the ~~person~~ **individual**.

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

(i) ~~A person~~ **An individual** less than 18 years of age.

1 (ii) ~~A person~~ **An individual** who is a resident in a child caring
2 institution, foster family home, or foster family group home, who
3 is at least 18 but less than 21 years of age, and who meets the
4 requirements of the young adult voluntary foster care act, 2011 PA
5 225, MCL 400.641 to 400.671.

6 (iii) ~~A person~~ **An individual** who is a resident in a child caring
7 institution, children's camp, foster family home, or foster family
8 group home; who becomes 18 years of age while residing in a child
9 caring institution, children's camp, foster family home, or foster
10 family group home; and who continues residing in a child caring
11 institution, children's camp, foster family home, or foster family
12 group home to receive care, maintenance, training, and supervision.
13 A minor child under this subparagraph does not include ~~a person~~ **an**
14 **individual** 18 years of age or older who is placed in a child caring
15 institution, foster family home, or foster family group home under
16 an adjudication under section 2(a) of chapter XIIIA of the probate
17 code of 1939, 1939 PA 288, MCL 712A.2, or under section 1 of
18 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
19 769.1. This subparagraph applies only if the number of those
20 residents who become 18 years of age does not exceed the following:

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

22 (B) Three, if the total number of residents is not less than
23 11 and not more than 14.

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

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

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

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

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

12 **(ee)** ~~(cc)~~—"School-age child" means a child who is eligible to
13 attend a grade of kindergarten or higher, but is less than 13 years
14 of age. A child is considered to be a school-age child on the first
15 day of the school year in which he or she is eligible to attend
16 school.

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

19 **(gg)** ~~(ee)~~—"Licensee designee" means the individual designated
20 in writing by the board of directors of the corporation or by the
21 owner or person with legal authority to act on behalf of the
22 company or organization on licensing matters. The individual must
23 agree in writing to be designated as the licensee designee. All
24 license applications must be signed by the licensee in the case of
25 the individual or by a member of the corporation, company, or
26 organization.