

Act No. 5
Public Acts of 2021
Approved by the Governor
March 26, 2021
Filed with the Secretary of State
March 26, 2021
EFFECTIVE DATE: March 26, 2021

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2021**

Introduced by Senator Bizon

ENROLLED SENATE BILL No. 100

AN ACT 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 13a (MCL 722.123a), as added by 2020 PA 8.

The People of the State of Michigan enact:

Sec. 13a. (1) In the case of a child in foster care who is placed in a qualified residential treatment program, the following requirements apply:

(a) Within 30 days after the start of each placement in a qualified residential treatment program, a qualified individual must do all of the following:

(i) Assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the secretary.

(ii) Determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child, as specified in the child’s permanency plan.

(iii) Develop a list of child-specific short-term and long-term mental and behavioral health goals.

(b) The child placing agency responsible for care and supervision of the child must assemble a team for the child in accordance with the requirements of subdivision (a)(i) and (ii). The qualified individual conducting the assessment required under subdivision (a) must work in conjunction with the child’s team while conducting and making the assessment.

(c) The child’s team, as described in subdivision (b), must consist of all appropriate biological family members, relatives, and other supportive adults of the child, as well as professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the team must include members of the permanency planning team for the child that are selected by the child.

(d) The child placing agency responsible for the child’s care and supervision must document in the child’s case plan all the following:

(i) The reasonable and good-faith effort to identify and include all the individuals described in subdivision (c) on the child’s team.

(ii) All contact information for members of the team, as well as contact information for other relatives and

supportive adults who are not part of the child's team.

(iii) Evidence that meetings of the team, including meetings relating to the assessment required under subdivision (a), are held at a time and place convenient for family.

(iv) If reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input to the members of the child's team.

(v) Evidence that the assessment required under subdivision (a) is determined in conjunction with the child's team.

(vi) The placement preference of the child's team relative to the assessment that recognizes a child should be placed with his or her sibling unless there is a finding by the court that such placement is contrary to the child's best interests.

(vii) If the placement preferences of the child's team and the child are not the placement setting recommended by the qualified individual conducting the assessment under subdivision (a), the reason why the preferences of the child's team and of the child were not recommended.

(2) If the qualified individual conducting the assessment determines the child should not be placed in a foster family home, the qualified individual shall specify in writing the reason why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes is not an acceptable reason for determining that the needs of the child cannot be met in a foster family home. The qualified individual must specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child.

(3) Within 60 days after the start of each placement in a qualified residential treatment program, the court, or an administrative body appointed or approved by the court, independently, must do the following:

(a) Consider the assessment, determination, and documentation made by the qualified individual.

(b) Determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the goals for the child, as specified in the permanency plan for the child.

(c) Approve or disapprove the qualified residential treatment program placement.

(4) The written documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body under subsection (3) shall be included in and made part of the case plan for the child.

(5) As long as a child remains placed in a qualified residential treatment program, the department must submit evidence at each dispositional review hearing and each permanency planning hearing held with respect to the child that does the following:

(a) Demonstrates that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child.

(b) Documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services.

(c) Documents the reasonable efforts made by the department to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

(6) At each dispositional review hearing and permanency planning hearing held with respect to the child, the court shall approve or disapprove the qualified residential treatment program placement.

(7) In the case of a child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months, the department shall obtain the signed approval of the director of the department for the continued placement of the child in that setting.

(8) In response to the restrictions on title IV-E foster care payments for child caring institutions in section 472(k) of the family first prevention services act, 42 USC 672(k), the department shall not enact or advance policies or practices that would result in a significant increase in the population of youth in the juvenile justice system.

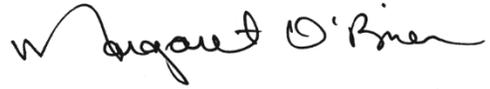
(9) As used in this section:

(a) "Foster care" means 24-hour substitute care for a child placed away from his or her parent or guardian and for whom the title IV-E agency has placement and care responsibility.

(b) "Qualified individual" means a trained professional or licensed clinician who is not an employee of the department and who is not connected to, or affiliated with, any placement setting in which children are placed by the department. The department may seek a waiver from the secretary to approve a qualified individual who does not meet the criteria in this subdivision to conduct the assessment. The individual must maintain objectivity with respect to determining the most effective and appropriate placement for the child.

(c) "Secretary" means the United States Secretary of the Department of Health and Human Services.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor