

CHILD CARE ORGANIZATIONS (EXCERPT)
Act 116 of 1973

722.112 Rules; ad hoc committee; restrictions; review; compliance timeline.

Sec. 2. (1) The departments of health and human services and licensing and regulatory affairs are responsible for developing rules for the care and protection of children in organizations covered by this act and for promulgating these rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The department shall establish an ad hoc committee for each type of child care organization as defined in this act when it is formulating or amending rules under this act. The committee shall consist of not less than 12 members, and must include representatives of the following groups and agencies:

- (a) Department of health and human services.
- (b) Department of licensing and regulatory affairs, bureau of fire services, and state fire safety board.
- (c) Department of education.
- (d) Representatives of organizations affected by this act.
- (e) Parents of children affected by this act.

(3) A majority of the members appointed to the committee established by subsection (2) must be representatives of organizations affected by this act and parents of children affected by this act. The committee shall serve during the period of the formulation of rules, shall have responsibility for making recommendations on the content of rules, and shall recommend to the department revisions in proposed rules at any time before the rules are promulgated.

(4) The rules promulgated under this act shall be restricted to the following:

(a) The operation and conduct of child care organizations and the responsibility the organizations assume for child care.

(b) The character, suitability, health, training, and qualifications of applicants and other persons directly responsible for the care and welfare of children served.

(c) The character and health of household members.

(d) The general financial ability and competence of applicants to provide necessary care for children and to maintain prescribed standards.

(e) The number of individuals or staff required to ensure adequate supervision and care of the children received.

(f) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire prevention and health standards to provide for the physical comfort, care, and well-being of the children received. The rules with respect to fire prevention and fire safety do not apply to a child care center established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a state approved nonpublic school, if the child care center is located in a school building that is approved by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or other similar authority as provided in section 3 of 1937 PA 306, MCL 388.853, for school purposes and is in compliance with the school fire safety rules, R 29.1901 to R 29.1934 of the Michigan Administrative Code, as determined by the bureau of fire services or a fire inspector certified under section 2b of the fire prevention code, 1941 PA 207, MCL 29.2b.

(g) Provisions for food, clothing, educational opportunities, programs, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of children served.

(h) Provisions to safeguard the legal rights of children served.

(i) Maintenance of records pertaining to admission, progress, health, and discharge of children.

(j) Filing of reports with the department.

(k) Discipline of children.

(l) Transportation safety.

(5) Rules once promulgated are subject to major review by an ad hoc committee not less than once every 5 years and must be reviewed biennially by the department. The ad hoc committee shall be established by the department, shall consist of not less than 12 members, and shall include representatives of the groups and agencies indicated in subsection (2). The ad hoc committee shall hold at least 2 public hearings regarding the review of rules and shall report its recommendations regarding rules to the appropriate committees of the legislature.

(6) Unless there is an immediate federal obligation or an immediate risk to health and safety as determined by the department, a child care center, group child care home, or family child care home that is controlled by a rule promulgated under this act has not less than 90 days after a rule is promulgated to become compliant with the rule.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1983, Act 150, Imd. Eff. July 18, 1983;—Am. 2006, Act 206, Imd. Eff. June 19, 2006;—Am. 2017, Act 257, Eff. Mar. 28, 2018;—Am. 2022, Act 111, Imd. Eff. June 23, 2022.

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v Emmanuel Baptist Preschool, 434 Mich 380; 455 NW2d 1 (1990).

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.

For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular name: Act 116

Popular name: Child Care Licensing Act

Administrative rules: R 400.1 et seq.; R 400.1301 et seq.; R 400.4101 et seq.; R 400.5101 et seq.; R 400.5106 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; R 400.12101 et seq.; and R 400.16001 of the Michigan Administrative Code.