

CHILD CARE ORGANIZATIONS (EXCERPT)
Act 116 of 1973

722.115n Application for or renewal of license to operate child care center, group child care home, or family child care home; household member or child care staff member; criminal history check; requirements; duties of department.

Sec. 5n. (1) Except as otherwise provided in subsection (13), when a person, partnership, firm, corporation, association, governmental organization, or nongovernmental organization applies for or applies to renew a license to operate a child care center, group child care home, or family child care home under section 5m and before a group child care home or family child care home allows an individual to be a member of the household, or a child care center, group child care home, or family child care home allows an individual to become a child care staff member, the department shall do all of the following:

(a) Review its database of individuals with previous disciplinary action within a child care center, group child care home, or family child care home or an adult foster care facility.

(b) Conduct a search of the individual through the national sex offender registry.

(c) Request a search of the individual through all state criminal registries or repositories for any states of residence in the past 5 years.

(d) Request that the department of state police perform a criminal history check on the individual, child care staff member, or adult member of the household.

(2) If the individual, child care staff member, or adult member of the household has resided out of the United States within the preceding 5 years, equivalent clearances of those described in subsection (1)(b) and (d) and section 5q from each country must be provided, if available. If the country does not have the equivalent clearance, the individual must sign a self-certifying statement that he or she is not ineligible to receive a license, to be an adult member of the household, or to be a child care staff member as prescribed by sections 5q and 5r. An individual who provides or is determined to have provided false information or knowingly omits information in the self-certification statement is ineligible for that application.

(3) Each individual listed in subsection (1) shall give written consent at the time of the license application and before a group child care home or family child care home allows an individual to be a member of the household, or before becoming a child care staff member to allow the department of state police to conduct the criminal history check required under subsection (1). The department shall require the individual to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check as required in subsection (1).

(4) The department shall request a criminal history check required under this section on a form and in the manner prescribed by the department of state police.

(5) Within a reasonable time after receiving a complete request for a criminal history check on a person under this section, the department of state police shall conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police and the Federal Bureau of Investigation.

(6) The department of state police may charge the department a fee for a criminal history check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass along to the individual fingerprinted the actual cost or fee charged by the department of state police, the Federal Bureau of Investigation, or a vendor approved by the department of state police for performing a criminal history check required under this section.

(7) The department shall provide whether the individual is eligible or ineligible as provided by sections 5q and 5r within 45 days after the date on which the request was submitted.

(8) The individual may serve as a child care staff member pending the results of the record and database checks required by this section and section 5q if the individual is supervised at all times.

(9) Within 45 days after the date on which the request was submitted, the department shall provide a statement to the child care center, group child care home, or family child care home that indicates whether the individual is eligible or ineligible to be, a licensee, an adult member of the household, or a child care staff member as provided under sections 5q and 5r without revealing any disqualifying crime or other related information regarding the individual.

(10) If the individual is ineligible due to the records or database checks required under this section and section 5q, the department shall provide information related to each disqualifying item in a report to the individual who has been determined ineligible.

(11) An individual who has been determined to be ineligible as provided under sections 5q and 5r may request a redetermination by the department if he or she believes that the basis for the ineligible determination is inaccurate. The individual shall file the request for redetermination with the department within 30 calendar

days after receiving the written notice that he or she was determined to be ineligible. If an individual has been determined to be ineligible based upon a conviction that has been expunged or set aside or a central registry case that has been expunged, the individual shall provide the supporting court, law enforcement, or department of health and human services, or equivalent department from another state, documents along with the request for redetermination. The individual shall not be determined to be ineligible based upon a conviction that has been set aside or expunged or a central registry case that has been expunged. The department shall review the request and issue a written decision within 30 business days after receiving the request for redetermination. The decision of the department is final.

(12) Each ineligible individual shall be given instructions about how to complete the request for redetermination process as provided in subsection (11).

(13) Except as otherwise provided in this subsection, not later than September 30, 2017, every child care center licensee, group child care home licensee, family child care home licensee, child care staff member, and adult member of the household shall submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation in order to carry out the records and database checks required under this section and section 5q. If the department of education obtains an extension on the implementation of this program from the federal government, the provisions of this section may be implemented no later than September 30, 2018.

(14) If a licensee, licensee designee, or program director of a child care center, group child care home, or family child care home applying for a new license or to renew a license to operate a child care center, group child care home, or family child care home has previously undergone a criminal history check required under subsections (1) and (13) and has remained continuously licensed after the criminal history check has been performed, that licensee, licensee designee, or program director of a child care center, group child care home, or family child care home is not required to submit to another criminal history check upon renewal of, or application for, the license obtained under this act.

(15) Upon consent of an applicant as required in subsection (3) and upon request from a child care center, group child care home, or family child care home, the department shall review the information received from the criminal history check, if any, and notify the requesting child care center, group child care home, or family child care home of the information in the manner prescribed in subsection (7). Until the Federal Bureau of Investigation implements an automatic notification system as outlined in section 5k, a child care center, group child care home, or family child care home may rely on the criminal history record information provided by the department under this subsection and a new request as provided under this section is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 5-year period.

(b) The applicant has been continuously employed by a child care center, group child care home, or family child care home since the criminal history check was conducted in compliance with this section.

(c) The applicant can provide evidence acceptable to the department that he or she has been a resident of this state for the immediately preceding 5-year period.

(16) The checks and clearances required in subsection (1)(a) to (c) and section 5q shall be updated at least every 5 years if the individual has been continuously licensed, has continuously been serving as a child care staff member, or has continuously been an adult member of the household.

History: Add. 2017, Act 256, Eff. Mar. 28, 2018.

Compiler's note: 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

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