

CHILD CARE ORGANIZATIONS (EXCERPT)
Act 116 of 1973

722.119 Child care organization; presence of certain individuals prohibited; conditions; contact by certain individuals prohibited; conditions; documentation that individual not named in central registry; policy regarding supervision of volunteers; children's camps or campsites; administrative review for former applicant or licensee; expungement; criminal history check.

Sec. 9. (1) A licensee, adult member of the household, licensee designee, chief administrator, or program director of a child care organization shall not be present in a child care organization if he or she has been convicted of either of the following:

(a) Child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment or of becoming a member of the household.

(2) A staff member or unsupervised volunteer shall not have contact with children who are in the care of a child care organization if he or she has been convicted of either of the following:

(a) Child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment.

(3) Except as provided in subsection (5), a licensee, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer may not have contact with a child who is in the care of a child care organization, until the licensee, adult member of the household, licensee designee, chief administrator, staff member, or volunteer provides the child care organization with documentation from the department that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. Upon request by the department, the licensee, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer shall provide the department with an updated authorization for central registry clearance. If an updated central registry clearance documents that a licensee, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer is named as a perpetrator in a central registry case, he or she may not be present in the child care organization. As used in this subsection and subsection (5), "child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(4) Each child care organization shall establish and maintain a policy regarding supervision of volunteers including volunteers who are parents of a child receiving care at the child care organization.

(5) Staff members or unsupervised volunteers in children's camps or children's campsites who are 21 years of age or older may not have contact with a child who is in the care of a children's camp until the staff member or volunteer provides the children's camp with documentation from the department of health and human services that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect.

(6) A former applicant or former licensee may request an administrative review by the department responsible for licensure under this act if the license for a child care organization was denied, revoked, or refused renewal due in whole or in part to the person's placement on the statewide electronic central registry originally maintained under section 7 of the child protection law, 1975 PA 238, MCL 722.627, prior to the effective date of the amendatory act that created the statewide electronic case management system under section 7j of the child protection law, 1975 PA 238, MCL 722.627j, and if the person's placement on the original central registry was subsequently expunged from the case management system as a central registry case after the effective date of the amendatory act that created the statewide electronic case management system under section 7j of the child protection law, 1975 PA 238, MCL 722.627j. The request for administrative review under this subsection must be submitted in writing addressed to the director of the department responsible for licensure or the director's designee within 60 days of receipt of the written notification under section 7j of the child protection law, 1975 PA 238, MCL 722.627j, and the local office file under section 7l from the department of health and human services that the person is no longer listed on central registry or named in a central registry case. The administrative review under this subsection is limited to determining if the department will enforce the 5-year prohibition in section 15(4). Within 90 days of receipt of the request for an administrative review under this subsection or receipt of the written notification under section 7j of the child protection law, 1975 PA 238, MCL 722.627j, and the local office file under section 7l from the department of health and human services of the removal of the person listed on the central registry,

whichever is later, the director of the department responsible for licensure or the director's designee shall complete the review and notify the person in writing of the final decision. If the department's final decision is to enforce the 5-year prohibition in section 15(4), the person may appeal as provided in chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306. If the department's decision is to waive the 5-year prohibition in section 15(4), the former applicant or former licensee may apply for a new license with the department responsible for licensure under this act. As used in this subsection, "local office file" means that term as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(7) A child care staff member, adult member of the household, or a person who had been determined to be ineligible by the department as provided under section 5q, and who is no longer listed on the central registry nor named in a central registry case, may be eligible to be a child care staff member or adult member of the household as an employee or volunteer if that person complies with the criminal history check required under section 5n and submits documentation to the department from the department of health and human services demonstrating that the person is no longer listed on the central registry or named in a central registry case.

History: Add. 2002, Act 674, Eff. Mar. 31, 2003;—Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010;—Am. 2017, Act 257, Eff. Mar. 28, 2018;—Am. 2022, Act 71, Eff. Nov. 1, 2022.

Compiler's note: Former MCL 722.119, which pertained to registration of family day care homes, was repealed by Act 232 of 1980, Imd. Eff. July 20, 1980.

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.

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Popular name: Child Care Licensing Act