

# HOUSE BILL NO. 5211

November 07, 2019, Introduced by Rep. Slagh 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 sections 1, 5m, and 5n (MCL 722.111, 722.115m, and 722.115n), section 1 as amended by 2018 PA 431, section 5m as added by 2017 PA 258, and section 5n as added by 2017 PA 256, and by adding section 5t.



**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:

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

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

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

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

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

26       (i) Provides care exclusively to minors who have been  
27 emancipated by court order under section 4(3) of 1968 PA 293, MCL  
28 722.4.



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

4 (c) "Child caring institution" means a child care facility  
5 that is organized for the purpose of receiving minor children for  
6 care, maintenance, and supervision, usually on a 24-hour basis, in  
7 buildings maintained by the child caring institution for that  
8 purpose, and operates throughout the year. An educational program  
9 may be provided, but the educational program ~~shall~~**must** not be the  
10 primary purpose of the facility. Child caring institution includes  
11 a maternity home for the care of unmarried mothers who are minors  
12 and an agency group home, that is described as a small child caring  
13 institution, owned, leased, or rented by a licensed agency  
14 providing care for more than 4 but less than 13 minor children.  
15 Child caring institution also includes institutions for  
16 developmentally disabled or emotionally disturbed minor children.  
17 Child caring institution does not include a hospital, nursing home,  
18 or home for the aged licensed under article 17 of the public health  
19 code, 1978 PA 368, MCL 333.20101 to 333.22260, a boarding school  
20 licensed under section 1335 of the revised school code, 1976 PA  
21 451, MCL 380.1335, a hospital or facility operated by the state or  
22 licensed under the mental health code, 1974 PA 258, MCL 330.1001 to  
23 330.2106, or an adult foster care family home or an adult foster  
24 care small group home licensed under the adult foster care facility  
25 licensing act, 1979 PA 218, MCL 400.701 to 400.737, in which a  
26 child has been placed under section 5(6).

27 (d) "Child placing agency" means a governmental organization  
28 or an agency organized under the nonprofit corporation act, 1982 PA  
29 162, MCL 450.2101 to 450.3192, for the purpose of receiving



1 children for placement in private family homes for foster care or  
2 for adoption. The function of a child placing agency may include  
3 investigating applicants for adoption and investigating and  
4 certifying foster family homes and foster family group homes as  
5 provided in this act. The function of a child placing agency may  
6 also include supervising children who are at least 16 but less than  
7 21 years of age and who are living in unlicensed residences as  
8 provided in section 5(4).

9 (e) "Children's camp" means a residential, day, troop, or  
10 travel camp that provides care and supervision and is conducted in  
11 a natural environment for more than 4 children, apart from the  
12 children's parents, relatives, or legal guardians, for 5 or more  
13 days in a 14-day period.

14 (f) "Children's campsite" means the outdoor setting where a  
15 children's residential or day camp is located.

16 (g) "Children's therapeutic group home" means a child caring  
17 institution receiving not more than 6 minor children who are  
18 diagnosed with a developmental disability as defined in section  
19 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a  
20 serious emotional disturbance as defined in section 100d of the  
21 mental health code, 1974 PA 258, MCL 330.1100d, and that meets all  
22 of the following requirements:

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

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



1           (iii) Is not a private home.

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

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

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

18           (ii) A facility operated by a religious organization where  
19 children are in the religious organization's care for not more than  
20 3 hours while persons responsible for the children are attending  
21 religious services.

22           (iii) A program that is primarily supervised, school-age-child-  
23 focused training in a specific subject, including, but not limited  
24 to, dancing, drama, music, or religion. This exclusion applies only  
25 to the time a child is involved in supervised, school-age-child-  
26 focused training.

27           (iv) A program that is primarily an incident of group athletic  
28 or social activities for school-age children sponsored by or under  
29 the supervision of an organized club or hobby group, including, but



1 not limited to, youth clubs, scouting, and school-age recreational  
2 or supplementary education programs. This exclusion applies only to  
3 the time the school-age child is engaged in the group athletic or  
4 social activities and if the school-age child can come and go at  
5 will.

6 (v) A program that primarily provides therapeutic services to  
7 a child.

8 **(vi) A homeless shelter's program that provides child care**  
9 **services to temporary residents.**

10 (i) "Conviction" means a final conviction, the payment of a  
11 fine, a plea of guilty or nolo contendere if accepted by the court,  
12 a finding of guilt for a criminal law violation or a juvenile  
13 adjudication or disposition by the juvenile division of probate  
14 court or family division of circuit court for a violation that if  
15 committed by an adult would be a crime, or a conviction in a tribal  
16 court or a military court.

17 (j) "Criminal history check" means a fingerprint-based  
18 criminal history record information background check through the  
19 department of state police and the Federal Bureau of Investigation.

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

22 (l) "Department" means the department of health and human  
23 services and the department of licensing and regulatory affairs or  
24 a successor agency or department responsible for licensure under  
25 this act. The department of licensing and regulatory affairs is  
26 responsible for licensing and regulatory matters for child care  
27 centers, group child care homes, family child care homes,  
28 children's camps, and children's campsites. The department of  
29 health and human services is responsible for licensing and



1 regulatory matters for child caring institutions, child placing  
2 agencies, children's therapeutic group homes, foster family homes,  
3 and foster family group homes.

4 (m) "Eligible" means that the individual obtained the checks  
5 and clearances described in sections 5n and 5q and is considered  
6 appropriate to obtain a license, to be a member of the household of  
7 a group child care home or family child care home, or to be a child  
8 care staff member.

9 (n) "Ineligible" means that the individual obtained the checks  
10 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. **Ineligible does not apply to a temporary resident of a  
15 homeless shelter that provides child care services to its residents  
16 if that individual does not have access to the part of the homeless  
17 shelter where child care services are provided.**

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

24 (i) "Foster family home" means a private home in which 1 but  
25 not more than 4 minor children, who are not related to an adult  
26 member of the household by blood or marriage, who are not placed in  
27 the household under the Michigan adoption code, chapter X of the  
28 probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, or who are  
29 not hosted in the private home as provided in the safe families for



1 children act, are given care and supervision for 24 hours a day,  
2 for 4 or more days a week, for 2 or more consecutive weeks,  
3 unattended by a parent, legal guardian, or legal custodian.

4 (ii) "Foster family group home" means a private home in which  
5 more than 4 but fewer than 7 minor children, who are not related to  
6 an adult member of the household by blood or marriage, who are not  
7 placed in the household under the Michigan adoption code, chapter X  
8 of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, or  
9 who are not hosted in the private home as provided in the safe  
10 families for children act, are provided care for 24 hours a day,  
11 for 4 or more days a week, for 2 or more consecutive weeks,  
12 unattended by a parent, legal guardian, or legal custodian.

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

29 (iv) "Group child care home" means a private home in which more





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

7 (p) "Legal custodian" means an individual who is at least 18  
8 years of age in whose care a minor child remains or is placed after  
9 a court makes a finding under section 13a(5) of chapter XIIA of the  
10 probate code of 1939, 1939 PA 288, MCL 712A.13a.

11 (q) "Licensee" means a person, partnership, firm, corporation,  
12 association, nongovernmental organization, or local or state  
13 government organization that has been issued a license under this  
14 act to operate a child care organization.

15 (r) "Listed offense" means that term as defined in section 2  
16 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

17 (s) "Member of the household" means any individual who resides  
18 in a family child care home, group child care home, foster family  
19 home, or foster family group home on an ongoing basis, or who has a  
20 recurrent presence in the home, including, but not limited to,  
21 overnight stays. For foster family homes and foster family group  
22 homes, a member of the household does not include a foster child.  
23 For group child care homes and family child care homes, a member of  
24 the household does not include a child to whom child care is being  
25 provided. **For a homeless shelter that provides child care services**  
26 **to temporary residents of the shelter, a member of the household**  
27 **does not include an individual who does not have access to the part**  
28 **of the shelter where child care services are provided.**

29 (t) "Original license" means a license issued to a child care



1 organization during the first 6 months of operation indicating that  
2 the organization is in compliance with all rules promulgated by the  
3 department under this act.

4 (u) "Provisional license" means a license issued to a child  
5 care organization that is temporarily unable to conform to the  
6 rules promulgated under this act.

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

11 (w) "Guardian" means the guardian of the person.

12 (x) "Minor child" means any of the following:

13 (i) A person less than 18 years of age.

14 (ii) A person who is a resident in a child caring institution,  
15 foster family home, or foster family group home, who is at least 18  
16 but less than 21 years of age, and who meets the requirements of  
17 the young adult voluntary foster care act, 2011 PA 225, MCL 400.641  
18 to 400.671.

19 (iii) A person who is a resident in a child caring institution,  
20 children's camp, foster family home, or foster family group home;  
21 who becomes 18 years of age while residing in a child caring  
22 institution, children's camp, foster family home, or foster family  
23 group home; and who continues residing in a child caring  
24 institution, children's camp, foster family home, or foster family  
25 group home to receive care, maintenance, training, and supervision.  
26 A minor child under this subparagraph does not include a person 18  
27 years of age or older who is placed in a child caring institution,  
28 foster family home, or foster family group home under an  
29 adjudication under section 2(a) of chapter XIIIA of the probate code



1 of 1939, 1939 PA 288, MCL 712A.2, or under section 1 of chapter IX  
2 of the code of criminal procedure, 1927 PA 175, MCL 769.1. This  
3 subparagraph applies only if the number of those residents who  
4 become 18 years of age does not exceed the following:

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

6 (B) Three, if the total number of residents is not less than  
7 11 and not more than 14.

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

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

11 (iv) A person 18 years of age or older who is placed in an  
12 unlicensed residence under section 5(4) or a foster family home  
13 under section 5(7).

14 (y) "Related" means in the relationship by blood, marriage, or  
15 adoption, as parent, grandparent, great-grandparent, great-great-  
16 grandparent, aunt or uncle, great-aunt or great-uncle, great-great-  
17 aunt or great-great-uncle, sibling, stepsibling, nephew or niece,  
18 first cousin or first cousin once removed, and the spouse of any of  
19 the individuals described in this definition, even after the  
20 marriage has ended by death or divorce.

21 (z) "Religious organization" means a church, ecclesiastical  
22 corporation, or group, not organized for pecuniary profit, that  
23 gathers for mutual support and edification in piety or worship of a  
24 supreme deity.

25 **(aa) "Safe families for children act" means the safe families**  
26 **for children act, 2018 PA 434, MCL 722.1551 to 722.1567.**

27 **(bb) ~~(aa)~~**"School-age child" means a child who is eligible to  
28 attend a grade of kindergarten or higher, but is less than 13 years  
29 of age. A child is considered to be a school-age child on the first



1 day of the school year in which he or she is eligible to attend  
2 school.

3 (cc) ~~(bb)~~ "Severe physical injury" means that term as defined  
4 in section 8 of the child protection law, 1975 PA 238, MCL 722.628.

5 (dd) ~~(cc)~~ "Licensee designee" means the individual designated  
6 in writing by the board of directors of the corporation or by the  
7 owner or person with legal authority to act on behalf of the  
8 company or organization on licensing matters. The individual must  
9 agree in writing to be designated as the licensee designee. All  
10 license applications must be signed by the licensee in the case of  
11 the individual or by a member of the corporation, company, or  
12 organization.

13 Sec. 5m. (1) This section and sections 5n to 5s apply only to  
14 a child care center, group child care home, or family child care  
15 home. **This section does not apply to a homeless shelter that  
16 provides child care services to temporary residents of that  
17 shelter.**

18 (2) ~~A~~ **Except as provided in subsection (1),** a person,  
19 partnership, firm, corporation, association, nongovernmental  
20 organization, or governmental organization shall not establish or  
21 maintain a child care center, group child care home, or family  
22 child care home unless licensed by the department. Application for  
23 a child care center, group child care home, or family child care  
24 home license ~~shall~~ **must** be made on forms provided, and in the  
25 manner prescribed, by the department, including the fees required  
26 under subsection (10). Before issuing or renewing a child care  
27 center, group child care home, or family child care home license,  
28 the department shall investigate the applicant's activities and  
29 proposed standards of care and shall make an on-site visit of the



1 proposed or established child care center, group child care home,  
2 or family child care home. Except as otherwise provided in this  
3 subsection and sections 5q and 5r, if the department is satisfied  
4 as to the need for a child care center, group child care home, or  
5 family child care home, as to its financial stability, and that the  
6 service, facility, applicant, licensee, child care staff member, or  
7 member of the household is conducive to the welfare of the  
8 children, the department shall issue or renew the child care  
9 center, group child care home, or family child care home license.  
10 If the department determines that a service, facility, applicant,  
11 licensee, child care staff member, or member of the household is  
12 not conducive to the welfare of the children, the department shall  
13 deny that application or revoke that licensee's license according  
14 to section 11.

15 (3) To assess whether the service, facility, applicant,  
16 licensee, child care staff member, or member of the household is  
17 conducive to the welfare of the children, the department may  
18 utilize available information, including, but not limited to, any  
19 of the following:

20 (a) Investigative report, such as a law enforcement report and  
21 a children's protective services report.

22 (b) Medical report.

23 (c) Public record.

24 (d) Child care center, group child care home, or family child  
25 care home record.

26 (e) Inspection of the child care center, group child care  
27 home, or family child care home.

28 (4) The department may use information obtained under section  
29 5k to obtain reports prepared independently for police, law



1 enforcement, or other purposes to make a determination under this  
2 section.

3 (5) The department shall issue a group child care home or  
4 family child care home license to a person who has successfully  
5 completed an orientation session offered by the department and who  
6 meets the requirements of this act. The department shall make  
7 available to group child care home or family child care home  
8 applicants for licensure an orientation session regarding this act,  
9 the rules promulgated under this act, and the needs of children in  
10 child care before issuing a group child care home or family child  
11 care home license.

12 (6) Except as provided in subsection (2), the department shall  
13 issue an original or renewal license under this act for a child  
14 care center, group child care home, or family child care home not  
15 later than 6 months after the applicant files a completed  
16 application. Receipt of the application is considered the date the  
17 application is received by the department. If the application is  
18 considered incomplete by the department, the department shall  
19 notify the applicant in writing or make notice electronically  
20 available within 30 days after receipt of the incomplete  
21 application, describing the deficiency and requesting additional  
22 information. If the department identifies a deficiency or requires  
23 the fulfillment of a corrective action plan, the 6-month period is  
24 tolled until either of the following occurs:

25 (a) Upon notification by the department of a deficiency, until  
26 the date the requested information is received by the department.

27 (b) Upon notification by the department that a corrective  
28 action plan is required, until the date the department determines  
29 the requirements of the corrective action plan have been met.



1 (7) The determination of the completeness of an application is  
2 not an approval of the application for the license and does not  
3 confer eligibility on an applicant determined otherwise ineligible  
4 for issuance of a license.

5 (8) Except as provided in subsection (2), if the department  
6 fails to issue, deny, or refuse to renew a license to a child care  
7 center, group child care home, or family child care home within the  
8 time required by this section, the department shall return the  
9 application fee required under subsection (10) and shall reduce the  
10 application fee for the applicant's next renewal application, if  
11 any, by 15%. Failure to issue, deny, or refuse to renew a license  
12 to a child care center, group child care home, or family child care  
13 home within the time period required under this section does not  
14 allow the department to otherwise delay the processing of the  
15 application. A completed application shall be placed in sequence  
16 with other completed applications received at that same time. The  
17 department shall not discriminate against an applicant in  
18 processing of an application based on the fact that the application  
19 fee was refunded or discounted under this subsection.

20 (9) If, on a continual basis, inspections performed by a local  
21 health department delay the department in issuing or denying a  
22 license for a child care center, group child care home, or family  
23 child care home under this act within the 6-month period, the  
24 department may use department staff to complete the inspection  
25 instead of the local health department causing the delays.

26 (10) The department shall assess fees as provided in the  
27 following schedule:

28 (a) Family child care home license, \$50.00 for an original  
29 license application and \$25.00 for renewal.



1 (b) Group child care home license, \$100.00 for an original  
2 license application and \$50.00 for renewal.

3 (c) Child care center license with a capacity of 1 to 20,  
4 \$150.00 for an original license application and \$75.00 for renewal.

5 (d) Child care center license with a capacity of 21 to 50,  
6 \$200.00 for an original license application and \$100.00 for  
7 renewal.

8 (e) Child care center license with a capacity of 51 to 100,  
9 \$250.00 for an original license application and \$125.00 for  
10 renewal.

11 (f) Child care center license with a capacity of over 100,  
12 \$300.00 for an original license application and \$150.00 for  
13 renewal.

14 (11) The department shall use the fees collected under this  
15 section only to fund the program licensing child care centers,  
16 group child care homes, and family child care homes. Funds  
17 remaining at the end of the fiscal year shall not lapse to the  
18 general fund but shall remain available to fund the program in  
19 subsequent years.

20 (12) Fees described in this section are payable to the  
21 department at the time an application is submitted for original  
22 issuance or renewal. If a license is denied, revoked, or refused  
23 renewal, or an application is rejected as provided in section  
24 15(4), the department shall not refund fees paid to the department.

25 (13) As used in this section:

26 (a) "Completed application" means an application complete on  
27 its face and submitted with any applicable fees as well as any  
28 other information, records, approval, security, or similar item  
29 required by law or rule from a local unit of government, a federal





1 agency, a state department or agency of another state, or a private  
 2 entity but not from another department or agency of this state. A  
 3 completed application does not include a health inspection  
 4 performed by a local health department.

5 (b) "Conducive to the welfare of the children" means:

6 (i) The service and facility comply with this act and the  
 7 administrative rules promulgated under this act.

8 (ii) The disposition, temperament, condition, and action of the  
 9 applicant, licensee, licensee designee, program director, child  
 10 care staff member, and member of the household promote the safety  
 11 and well-being of the children served.

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

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

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

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



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

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

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

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

29 (5) Within a reasonable time after receiving a complete



1 request for a criminal history check on a person under this  
2 section, the department of state police shall conduct the criminal  
3 history check and provide a report of the results to the  
4 department. The report shall contain any criminal history record  
5 information on the person maintained by the department of state  
6 police and the Federal Bureau of Investigation.

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

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

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

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



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

6 (11) An individual who has been determined to be ineligible as  
7 provided under sections 5q and 5r may request a redetermination by  
8 the department if he or she believes that the basis for the  
9 ineligible determination is inaccurate. The individual shall file  
10 the request for redetermination with the department within 30  
11 calendar days after receiving the written notice that he or she was  
12 determined to be ineligible. If an individual has been determined  
13 to be ineligible based upon a conviction that has been expunged or  
14 set aside or a central registry case that has been expunged, the  
15 individual shall provide the supporting court, law enforcement, or  
16 department of health and human services, or equivalent department  
17 from another state, documents along with the request for  
18 redetermination. The individual shall not be determined to be  
19 ineligible based upon a conviction that has been set aside or  
20 expunged or a central registry case that has been expunged. The  
21 department shall review the request and issue a written decision  
22 within 30 business days after receiving the request for  
23 redetermination. The decision of the department is final.

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

27 (13) Except as otherwise provided in this subsection, not  
28 later than September 30, 2017, every child care center licensee,  
29 group child care home licensee, family child care home licensee,



1 child care staff member, and adult member of the household shall  
2 submit his or her fingerprints to the department of state police  
3 and the Federal Bureau of Investigation in order to carry out the  
4 records and database checks required under this section and section  
5 5q. If the department of education obtains an extension on the  
6 implementation of this program from the federal government, the  
7 provisions of this section may be implemented no later than  
8 September 30, 2018.

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

20 (15) Upon consent of an applicant as required in subsection  
21 (3) and upon request from a child care center, group child care  
22 home, or family child care home, the department shall review the  
23 information received from the criminal history check, if any, and  
24 notify the requesting child care center, group child care home, or  
25 family child care home of the information in the manner prescribed  
26 in subsection (7). Until the Federal Bureau of Investigation  
27 implements an automatic notification system as outlined in section  
28 5k, a child care center, group child care home, or family child  
29 care home may rely on the criminal history record information



1 provided by the department under this subsection and a new request  
2 as provided under this section is not necessary if all of the  
3 following requirements are met:

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

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

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

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

18 **(17) This section does not apply to a homeless shelter that**  
19 **provides child care services to temporary residents of that**  
20 **shelter.**

21 **Sec. 5t. (1) A homeless shelter that provides child care**  
22 **services to temporary residents of that shelter is exempt from the**  
23 **licensing requirements under this act if the homeless shelter meets**  
24 **all of the following criteria:**

25 (a) Has a paid nurse licensed under part 172 of the public  
26 health code, 1978 PA 368, MCL 333.17201 to 333.17242, on staff.

27 (b) Has not less than 75 beds for homeless residents.

28 (c) Has the following ratio of child care staff members,  
29 volunteers, or both, to the number of beds for temporary homeless



1 residents:

2 (i) For a shelter with 75 to 100 beds, 4 child care staff  
3 members, volunteers, or a combination of both.

4 (ii) For a shelter with 101 beds or more, 1 additional child  
5 care staff member or volunteer for every additional 25 beds.

6 (d) Maintains no more than 4 infants to each child care staff  
7 member or volunteer.

8 (e) Is located in a residential zoning district.

9 (f) Provides a job training program.

10 (g) Provides job placement assistance to parents who are  
11 residents of the homeless shelter.

12 (h) Has a written agreement with a local law enforcement  
13 agency to have that agency regularly patrol the homeless shelter.

14 (2) An adult resident of a homeless shelter described in  
15 subsection (1) is exempt from a criminal history check required  
16 under this act if the part of the facility where child care is  
17 provided is secure and the individual does not have access to that  
18 area. An individual who has access to the part of the building  
19 where child care is provided must submit to the criminal history  
20 check required under this act.

21 (3) As used in this section, "secure" means the facility has  
22 video surveillance and restricted access that can only be accessed  
23 by a child care staff member who is authorized to be in the part of  
24 the facility where child care is provided.

