

**SENATE SUBSTITUTE FOR**

**HOUSE BILL NO. 5584**

(As passed the Senate, December 13, 2002)

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 section 1 (MCL 722.111), as amended by 1994 PA 205.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. (1) As used in this act:

2           (a) "Child care organization" means a governmental or non-  
3 governmental organization having as its principal function the  
4 receiving of minor children for care, maintenance, training, and  
5 supervision, notwithstanding that educational instruction may be  
6 given. Child care organization includes organizations commonly  
7 described as child caring institutions, child placing agencies,  
8 children's camps, child care centers, day care centers, nursery

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1 schools, parent cooperative preschools, foster homes, group  
2 homes, or day care homes. Child care organization does not  
3 include a governmental or nongovernmental organization that does  
4 either of the following:

5 (i) Provides care exclusively to minors who have been eman-  
6 cipated by court order pursuant to section 4(3) of ~~Act No. 293~~  
7 ~~of the Public Acts of 1968, being section 722.4 of the Michigan~~  
8 ~~Compiled Laws~~ 1968 PA 293, MCL 722.4.

9 (ii) Provides care exclusively to persons who are 18 years  
10 of age or older and to minors who have been emancipated by court  
11 order pursuant to section 4(3) of ~~Act No. 293 of the Public Acts~~  
12 ~~of 1968~~ 1968 PA 293, MCL 722.4, at the same location.

13 (b) "Child caring institution" means a child care facility  
14 that is organized for the purpose of receiving minor children for  
15 care, maintenance, and supervision, usually on a 24-hour basis,  
16 in buildings maintained by the CHILD CARING institution for that  
17 purpose, and operates throughout the year. An educational pro-  
18 gram may be provided, but the educational program shall not be  
19 the primary purpose of the facility. Child caring institution  
20 includes a maternity home for the care of unmarried mothers who  
21 are minors and an agency group home, ~~which~~ THAT is described as  
22 a small child caring institution owned, leased, or rented by a  
23 licensed agency providing care for more than 4 but less than 13  
24 minor children. Child caring institution also includes institu-  
25 tions for mentally retarded or emotionally disturbed minor  
26 children. Child caring institution does not include a hospital,  
27 nursing home, or home for the aged licensed under article 17 of

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1 the public health code, ~~Act No. 368 of the Public Acts of 1978,~~  
2 ~~as amended, being sections 333.20101 to 333.22260 of the Michigan~~  
3 ~~Compiled Laws~~ 1978 PA 368, MCL 333.20101 TO 333.22260, a board-  
4 ing school licensed under section 1335 of the REVISED school  
5 code, ~~of 1976, Act No. 451 of the Public Acts of 1976, being~~  
6 ~~section 380.1335 of the Michigan Compiled Laws~~ 1976 PA 451,  
7 MCL 380.1335, a hospital or facility operated by the state or  
8 licensed under the mental health code, ~~Act No. 258 of the Public~~  
9 ~~Acts of 1974, as amended, being sections 330.1001 to 330.2106 of~~  
10 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1001 TO  
11 330.2106, or an adult foster care family home or an adult foster  
12 care small group home licensed under the adult foster care facil-  
13 ity licensing act, ~~Act No. 218 of the Public Acts of 1979, being~~  
14 ~~sections 400.701 to 400.737 of the Michigan Compiled Laws~~ 1979  
15 PA 218, MCL 400.701 TO 400.737, in which a child has been placed  
16 pursuant to section 5(6).

17 (c) "Child placing agency" means a governmental organization  
18 or an agency organized pursuant to the nonprofit corporation act,  
19 ~~Act No. 162 of the Public Acts of 1982, being sections 450.2101~~  
20 ~~to 450.3192 of the Michigan Compiled Laws~~ 1982 PA 162,  
21 MCL 450.2101 TO 450.3192, for the purpose of receiving children  
22 for ~~their~~ placement in private family homes for foster care or  
23 for adoption. The function of a child placing agency may include  
24 ~~the investigation of~~ INVESTIGATING applicants for adoption and  
25 ~~the investigation and certification of~~ INVESTIGATING AND  
26 CERTIFYING foster family homes and foster family group homes as  
27 provided in this act. The function of a child placing agency may

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1 also include ~~the supervision of~~ SUPERVISING children who are 16  
2 or 17 years of age and who are living in unlicensed residences as  
3 provided in section 5(4).

4 (d) "Children's camp" means a residential, day, troop, or  
5 travel camp conducted in a natural environment for more than 4  
6 school-age children, apart from ~~their~~ THE CHILDREN'S parents,  
7 relatives, or legal guardians, for 5 or more days in a 14-day  
8 period. A children's camp provides care and supervision for the  
9 same group of children for usually not more than 12 weeks.

10 (e) "Child care center" or "day care center" means a facili-  
11 ty, other than a private residence, receiving 1 or more preschool  
12 or school-age children for care for periods of less than 24 hours  
13 a day, and where the parents or guardians are not immediately  
14 available to the child. Child care center or day care center  
15 includes a facility that provides care for not less than 2 con-  
16 secutive weeks, regardless of the number of hours of care per  
17 day. The facility is generally described as a child care center,  
18 day care center, day nursery, nursery school, parent cooperative  
19 preschool, play group, or drop-in center. Child care center or  
20 day care center does not include any of the following:

21 (i) A Sunday school, a vacation bible school, or a religious  
22 instructional class that is conducted by a religious organization  
23 where children are ~~in attendance~~ ATTENDING for not more than  
24 3 hours per day for an indefinite period ~~,~~ or FOR not more than  
25 8 hours per day for a period not to exceed 4 weeks during a  
26 12-month period.

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1           (ii) A facility operated by a religious organization where  
2 children are cared for not more than 3 hours while persons  
3 responsible for the children are attending religious services.

4           (iii) BEGINNING JULY 1, 2003, A FACILITY OR PROGRAM FOR  
5 SCHOOL-AGE CHILDREN THAT IS OPERATED AT A SCHOOL BY A PUBLIC  
6 SCHOOL OR BY A PERSON OR ENTITY WITH WHOM A PUBLIC SCHOOL CON-  
7 TRACTS FOR SERVICES, IN ACCORDANCE WITH SECTION 1285A(2) OF THE  
8 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1285A, IF THAT FACILITY  
9 OR PROGRAM HAS BEEN GRANTED AN EXEMPTION UNDER SUBSECTION (2).

10           (f) "Private home" means a private residence in which the  
11 licensee or registrant permanently resides as a member of the  
12 household, which residency is not contingent upon caring for  
13 children or employment by a licensed or approved child placing  
14 agency. Private home includes a full-time foster family home, a  
15 full-time foster family group home, a group day care home, or a  
16 family day care home, as follows:

17           (i) "Foster family home" is a private home in which 1 but  
18 not more than 4 minor children, who are not related to an adult  
19 member of the household by blood or marriage, or who are not  
20 placed in the household pursuant to the MICHIGAN adoption code,  
21 chapter X of ~~Act No. 288 of the Public Acts of 1939, being~~  
22 ~~sections 710.21 to 710.70 of the Michigan Compiled Laws~~ THE PRO-  
23 BATE CODE OF 1939, 1939 PA 288, MCL 710.21 TO 710.70, are given  
24 care and supervision for 24 hours a day, for 4 or more days a  
25 week, for 2 or more consecutive weeks, unattended by a parent or  
26 legal guardian.

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1           (ii) "Foster family group home" means a private home in  
2 which more than 4 but fewer than 7 minor children, who are not  
3 related to an adult member of the household by blood or marriage,  
4 or who are not placed in the household pursuant to THE MICHIGAN  
5 ADOPTION CODE, chapter X of ~~Act No. 288 of the Public Acts of~~  
6 ~~1939~~ THE PROBATE CODE OF 1939, 1939 PA 288, MCL 710.21 TO  
7 710.70, are provided care for 24 hours a day, for 4 or more days  
8 a week, for 2 or more consecutive weeks, unattended by a parent  
9 or legal guardian.

10           (iii) "Family day care home" means a private home in which  
11 1 but fewer than 7 minor children are received for care and  
12 supervision for periods of less than 24 hours a day, unattended  
13 by a parent or legal guardian, except children related to an  
14 adult member of the family by blood, marriage, or adoption.  
15 Family day care home includes a home ~~that gives~~ IN WHICH care  
16 IS GIVEN to an unrelated minor child for more than 4 weeks during  
17 a calendar year.

18           (iv) "Group day care home" means a private home in which  
19 more than 6 but not more than 12 minor children are given care  
20 and supervision for periods of less than 24 hours a day unat-  
21 tended by a parent or legal guardian, except children related to  
22 an adult member of the family by blood, marriage, or adoption.  
23 Group day care home includes a home ~~that gives~~ IN WHICH care IS  
24 GIVEN to an unrelated minor child for more than 4 weeks during a  
25 calendar year.

26           (g) "Licensee" means a person, partnership, firm,  
27 corporation, association, nongovernmental organization, or local

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1 or state government child care organization that has been issued  
2 a license UNDER THIS ACT to operate a child care organization.

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

6 (i) "Regular license" means a license issued to a child care  
7 organization indicating that the organization is in compliance  
8 with all rules promulgated under this act.

9 (j) "Guardian" means the guardian of the person.

10 (k) "Minor child" means any of the following:

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

12 (ii) A person who is a resident in a child caring institu-  
13 tion, children's camp, foster family home, or foster family group  
14 home; who becomes 18 years of age while residing in the child  
15 caring institution, CHILDREN'S camp, FOSTER FAMILY HOME, or  
16 FOSTER FAMILY GROUP home; and who continues residing in the CHILD  
17 CARING institution, CHILDREN'S camp, FOSTER FAMILY HOME, or  
18 FOSTER FAMILY GROUP home to receive care, maintenance, training,  
19 and supervision. HOWEVER, A MINOR CHILD UNDER THIS SUBPARAGRAPH  
20 DOES NOT INCLUDE A PERSON 18 YEARS OF AGE OR OLDER WHO IS PLACED  
21 IN A CHILD CARING INSTITUTION, FOSTER FAMILY HOME, OR FOSTER  
22 FAMILY GROUP HOME PURSUANT TO AN ADJUDICATION UNDER SECTION 2(A)  
23 OF CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA 288,  
24 MCL 712A.2, OR SECTION 1 OF CHAPTER IX OF THE CODE OF CRIMINAL  
25 PROCEDURE, 1927 PA 175, MCL 769.1. This subparagraph applies only  
26 if the number of those residents who become 18 years of age does  
27 not exceed the following:

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

2 (B) Three, if the total number of residents is not less than  
3 11 and not more than 14.

4 (C) Four, if the total number of residents is not less than  
5 15 and not more than 20.

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

7 (iii) A person 18 years of age or older who is placed in a  
8 foster family home under section 5(7).

9 (l) "Registrant" means a person who has been issued a cer-  
10 tificate of registration UNDER THIS ACT to operate a family day  
11 care home.

12 (m) "Registration" means the process by which the department  
13 of ~~social~~ CONSUMER AND INDUSTRY services regulates family day  
14 care homes, ~~which process requires~~ AND INCLUDES THE REQUIREMENT  
15 that a family day care home certify to the department that the  
16 family day care home has complied with and will continue to  
17 comply with the rules promulgated under this act.

18 (n) "Certificate of registration" means a written document  
19 issued UNDER THIS ACT to a family day care home through  
20 registration.

21 (o) "Related" means a parent, grandparent, brother, sister,  
22 stepparent, stepsister, stepbrother, uncle, aunt, cousin, great  
23 aunt, great uncle, or stepgrandparent related by marriage, blood,  
24 or adoption.

25 (p) "Religious organization" means church, ecclesiastical  
26 corporation, or group, not organized for pecuniary profit, that



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1 gathers for mutual support and edification in piety or worship of  
2 a supreme deity.

3 (2) A FACILITY OR PROGRAM FOR SCHOOL-AGE CHILDREN THAT IS  
4 OPERATED AT A SCHOOL BY A PUBLIC SCHOOL OR BY A PERSON OR ENTITY  
5 WITH WHOM A PUBLIC SCHOOL CONTRACTS FOR SERVICES AND THAT HAS  
6 BEEN IN OPERATION AND APPROVED FOR A MINIMUM OF 4 YEARS MAY APPLY  
7 TO THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES TO BE EXEMPT  
8 FROM THIS ACT. THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES  
9 SHALL RESPOND TO A FACILITY OR PROGRAM REQUESTING EXEMPTION UNDER  
10 THIS SUBSECTION WITHIN 45 DAYS FROM THE DATE THE COMPLETED APPLI-  
11 CATION IS RECEIVED. THE DEPARTMENT OF CONSUMER AND INDUSTRY  
12 SERVICES MAY EXEMPT FROM THIS ACT A FACILITY OR PROGRAM THAT  
13 MEETS ALL OF THE FOLLOWING CRITERIA:

14 (A) THE FACILITY OR PROGRAM HAS BEEN IN OPERATION AND  
15 APPROVED FOR A MINIMUM OF 4 YEARS BEFORE THE APPLICATION DATE.

16 (B) DURING THE 4 YEARS BEFORE THE APPLICATION DATE, THE  
17 FACILITY OR PROGRAM HAS NOT HAD A SUBSTANTIAL VIOLATION OF THIS  
18 ACT, RULES PROMULGATED UNDER THIS ACT, OR THE TERMS OF AN  
19 APPROVAL UNDER THIS ACT.

20 (C) THE SCHOOL BOARD OR BOARD OF DIRECTORS ADOPTS A RESOLU-  
21 TION SUPPORTING THE APPLICATION FOR EXEMPTION DESCRIBED IN THIS  
22 SUBSECTION.

23 Enacting section 1. This amendatory act does not take  
24 effect unless House Bill No. 5583 of the 91st Legislature is  
25 enacted into law.