

SENATE BILL No. 1100

February 3, 2010, Introduced by Senators OLSHOVE, CHERRY, JACOBS, NOFS, BASHAM, PRUSI, HUNTER, JANSEN, GLEASON, WHITMER, ANDERSON, BRATER, BIRKHOLZ, BARCIA and ALLEN and referred to the Committee on Families and Human Services.

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, 5, 5c, 5d, and 9 (MCL 722.111, 722.115, 722.115c, 722.115d, and 722.119), section 1 as amended by 2007 PA 217, section 5 as amended by 2007 PA 218, section 5c as amended by 2006 PA 580, section 5d as added by 2005 PA 133, and section 9 as added by 2002 PA 674.

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
3 nongovernmental organization having as its principal function
4 receiving minor children for care, maintenance, training, and

1 supervision, notwithstanding that educational instruction may be
2 given. Child care organization includes organizations commonly
3 described as child caring institutions, child placing agencies,
4 children's camps, children's campsites, children's therapeutic
5 group homes, child care centers, day care centers, nursery schools,
6 parent cooperative preschools, foster homes, group homes, or child
7 care homes. Child care organization does not include a governmental
8 or nongovernmental organization that does either of the following:

9 (i) Provides care exclusively to minors who have been
10 emancipated by court order under section 4(3) of 1968 PA 293, MCL
11 722.4.

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

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

1 not include a hospital, nursing home, or home for the aged licensed
2 under article 17 of the public health code, 1978 PA 368, MCL
3 333.20101 to 333.22260, a boarding school licensed under section
4 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a
5 hospital or facility operated by the state or licensed under the
6 mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an
7 adult foster care family home or an adult foster care small group
8 home licensed under the adult foster care facility licensing act,
9 1979 PA 218, MCL 400.701 to 400.737, in which a child has been
10 placed under section 5(6).

11 (c) "Child placing agency" means a governmental organization
12 or an agency organized under the nonprofit corporation act, 1982 PA
13 162, MCL 450.2101 to 450.3192, for the purpose of receiving
14 children for placement in private family homes for foster care or
15 for adoption. The function of a child placing agency may include
16 investigating applicants for adoption and investigating and
17 certifying foster family homes and foster family group homes as
18 provided in this act. The function of a child placing agency may
19 also include supervising children who are 16 or 17 years of age and
20 who are living in unlicensed residences as provided in section
21 5(4).

22 (d) "Children's camp" means a residential, day, troop, or
23 travel camp that provides care and supervision and is conducted in
24 a natural environment for more than 4 children, apart from the
25 children's parents, relatives, or legal guardians, for 5 or more
26 days in a 14-day period.

27 (e) "Children's campsite" means the outdoor setting where a

1 children's residential or day camp is located.

2 (f) "Children's therapeutic group home" means a child caring
3 institution receiving not more than 6 minor children who are
4 diagnosed with a developmental disability as defined in section
5 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a
6 serious emotional disturbance as defined in section 100d of the
7 mental health code, 1974 PA 258, MCL 330.1100d. A children's
8 therapeutic group home meets all of the following requirements:

9 (i) Provides care, maintenance, and supervision, usually on a
10 24-hour basis.

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

16 (iii) Is not a private home.

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

18 (g) "Child care center" or "day care center" means a facility,
19 other than a private residence, receiving 1 or more preschool or
20 school-age children for care for periods of less than 24 hours a
21 day, where the parents or guardians are not immediately available
22 to the child. Child care center or day care center includes a
23 facility that provides care for not less than 2 consecutive weeks,
24 regardless of the number of hours of care per day. The facility is
25 generally described as a child care center, day care center, day
26 nursery, nursery school, parent cooperative preschool, play group,
27 before- or after-school program, or drop-in center. Child care

1 center or day care center does not include any of the following:

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

7 (ii) A facility operated by a religious organization where
8 children are in the religious organization's care for not more than
9 3 hours while persons responsible for the children are attending
10 religious services.

11 (iii) A program that is primarily supervised, school-age-child-
12 focused training in a specific subject, including, but not limited
13 to, dancing, drama, music, or religion. This exclusion applies only
14 to the time a child is involved in supervised, school-age-child-
15 focused training.

16 (iv) A program that is primarily an incident of group athletic
17 or social activities for school-age children sponsored by or under
18 the supervision of an organized club or hobby group, including, but
19 not limited to, youth clubs, scouting, and school-age recreational
20 or supplementary education programs. This exclusion applies only to
21 the time the school-age child is engaged in the group athletic or
22 social activities and if the school-age child can come and go at
23 will.

24 (h) "Department" means the department of human services or a
25 successor agency or department responsible for licensure and
26 registration under this act.

27 (i) "Private home" means a private residence in which the

1 licensee or registrant permanently resides as a member of the
2 household, which residency is not contingent upon caring for
3 children or employment by a licensed or approved child placing
4 agency. Private home includes a full-time foster family home, a
5 full-time foster family group home, a group child care home, or a
6 family child care home, as follows:

7 (i) "Foster family home" is a private home in which 1 but not
8 more than 4 minor children, who are not related to an adult member
9 of the household by blood or marriage, or who are not placed in the
10 household under the Michigan adoption code, chapter X of the
11 probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are given
12 care and supervision for 24 hours a day, for 4 or more days a week,
13 for 2 or more consecutive weeks, unattended by a parent, legal
14 guardian, or legal custodian.

15 (ii) "Foster family group home" means a private home in which
16 more than 4 but fewer than 7 minor children, who are not related to
17 an adult member of the household by blood or marriage, or who are
18 not placed in the household under the Michigan adoption code,
19 chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to
20 710.70, are provided care for 24 hours a day, for 4 or more days a
21 week, for 2 or more consecutive weeks, unattended by a parent,
22 legal guardian, or legal custodian.

23 (iii) "Family child care home" means a private home in which 1
24 but fewer than 7 minor children are received for care and
25 supervision for periods of less than 24 hours a day, unattended by
26 a parent or legal guardian, except children related to an adult
27 member of the family by blood, marriage, or adoption. Family child

1 care home includes a home in which care is given to an unrelated
2 minor child for more than 4 weeks during a calendar year.

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

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

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

18 (l) "Provisional license" means a license issued to a child
19 care organization that is temporarily unable to conform to all of
20 the rules promulgated under this act.

21 (m) "Regular license" means a license issued to a child care
22 organization indicating that the organization is in compliance with
23 all rules promulgated under this act.

24 (n) "Guardian" means the guardian of the person.

25 (o) "Minor child" means any of the following:

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

27 (ii) A person who is a resident in a child caring institution,

1 children's camp, foster family home, or foster family group home;
2 who becomes 18 years of age while residing in the child caring
3 institution, children's camp, foster family home, or foster family
4 group home; and who continues residing in the child caring
5 institution, children's camp, foster family home, or foster family
6 group home to receive care, maintenance, training, and supervision.
7 A minor child under this subparagraph does not include a person 18
8 years of age or older who is placed in a child caring institution,
9 foster family home, or foster family group home under an
10 adjudication under section 2(a) of chapter XIIIA of the probate code
11 of 1939, 1939 PA 288, MCL 712A.2, or section 1 of chapter IX of the
12 code of criminal procedure, 1927 PA 175, MCL 769.1. This
13 subparagraph applies only if the number of those residents who
14 become 18 years of age does not exceed the following:

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

16 (B) Three, if the total number of residents is not less than
17 11 and not more than 14.

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

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

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

23 (p) "Registrant" means a person who has been issued a
24 certificate of registration under this act to operate a family
25 child care home.

26 (q) "Registration" means the process by which the department
27 regulates family child care homes, and includes the requirement

1 that a family child care home certify to the department that the
2 family child care home has complied with and will continue to
3 comply with the rules promulgated under this act.

4 (r) "Certificate of registration" means a written document
5 issued under this act to a family child care home through
6 registration.

7 (s) "Related" means a parent, grandparent, brother, sister,
8 stepparent, stepsister, stepbrother, uncle, aunt, cousin, great
9 aunt, great uncle, or stepgrandparent related by marriage, blood,
10 or adoption.

11 (t) "Religious organization" means a church, ecclesiastical
12 corporation, or group, not organized for pecuniary profit, that
13 gathers for mutual support and edification in piety or worship of a
14 supreme deity.

15 (u) "School-age child" means a child who is eligible to be
16 enrolled in a grade of kindergarten or above, but is less than 13
17 years of age.

18 (v) "LICENSEE DESIGNEE" MEANS THE INDIVIDUAL DESIGNATED IN
19 WRITING BY THE BOARD OF DIRECTORS OF THE CORPORATION OR BY THE
20 OWNER OR PERSON WITH LEGAL AUTHORITY TO ACT ON BEHALF OF THE
21 COMPANY OR ORGANIZATION ON LICENSING MATTERS. ALL LICENSE
22 APPLICATIONS MUST BE SIGNED BY THE LICENSEE IN THE CASE OF THE
23 INDIVIDUAL OR BY A MEMBER OF THE CORPORATION, COMPANY, OR
24 ORGANIZATION.

25 (2) A facility or program for school-age children that is
26 currently operated and has been in operation and licensed or
27 approved as provided in this act for a minimum of 2 years may apply

1 to the department to be exempt from inspections and on-site visits
2 required under section 5. The department shall respond to a
3 facility or program requesting exemption from inspections and on-
4 site visits required under section 5 as provided under this
5 subsection within 45 days from the date the completed application
6 is received. The department may grant exemption from inspections
7 and on-site visits required under section 5 to a facility or
8 program that meets all of the following criteria:

9 (a) The facility or program has been in operation and licensed
10 or approved under this act for a minimum of 2 years immediately
11 preceding the application date.

12 (b) During the 2 years immediately preceding the application
13 date, the facility or program has not had a substantial violation
14 of this act, rules promulgated under this act, or the terms of a
15 licensure or an approval under this act.

16 (c) The school board, board of directors, or governing body
17 adopts a resolution supporting the application for exemption from
18 inspections and on-site visits required under section 5 as provided
19 for in this subsection.

20 (3) A facility or program granted exemption from inspections
21 and on-site visits required under section 5 as provided under
22 subsection (2) is required to maintain status as a licensed or
23 approved program under this act and must continue to meet the
24 requirements of this act, the rules promulgated under this act, or
25 the terms of a license or approval under this act. A facility or
26 program granted exemption from inspections and on-site visits
27 required under section 5 as provided under subsection (2) is

1 subject to an investigation by the department if a violation of
2 this act or a violation of a rule promulgated under this act is
3 alleged.

4 (4) A facility or program granted exemption from inspections
5 and on-site visits required under section 5 as provided under
6 subsection (2) is not subject to interim or annual licensing
7 reviews. A facility or program granted exemption from inspections
8 and on-site visits required under section 5 as provided under
9 subsection (2) is required to submit documentation annually
10 demonstrating compliance with the requirements of this act, the
11 rules promulgated under this act, or the terms of a license or
12 approval under this act.

13 (5) An exemption provided under subsection (2) may be
14 rescinded by the department if the facility or program willfully
15 and substantially violates this act, the rules promulgated under
16 this act, or the terms of a license or approval granted under this
17 act.

18 Sec. 5. (1) A person, partnership, firm, corporation,
19 association, or nongovernmental organization shall not establish or
20 maintain a child care organization unless licensed or registered by
21 the department. Application for a license or certificate of
22 registration shall be made on forms provided, and in the manner
23 prescribed, by the department. Before issuing or renewing a
24 license, the department shall investigate the applicant's
25 activities and proposed standards of care and shall make an on-site
26 visit of the proposed or established organization. ~~If~~**EXCEPT AS**
27 **OTHERWISE PROVIDED IN THIS SUBSECTION, IF** the department is

1 satisfied as to the need for a child care organization, its
2 financial stability, the applicant's good moral character, and that
3 the services and facilities are conducive to the welfare of the
4 children, the department shall issue or renew the license. If a
5 county juvenile agency as defined in section 2 of the county
6 juvenile agency act, 1998 PA 518, MCL 45.622, certifies to the
7 department that it intends to contract with an applicant for a new
8 license, the department shall issue or deny the license within 60
9 days after it receives a complete application as provided in
10 section 5b. **THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO OR RENEW A
11 LICENSE OF AN APPLICANT IF ANY OF THE FOLLOWING PERSONS HAVE BEEN
12 CONVICTED OF CHILD ABUSE OR CHILD NEGLECT:**

13 (A) **THE INDIVIDUAL APPLICANT.**

14 (B) **THE OWNER, PARTNER, OR DIRECTOR OF THE APPLYING
15 ORGANIZATION, IF OTHER THAN AN INDIVIDUAL.**

16 (2) The department shall issue a certificate of registration
17 to a person who has successfully completed an orientation session
18 offered by the department and who certifies to the department that
19 the family child care home has complied with and will continue to
20 comply with the rules promulgated under this act and will provide
21 services and facilities, as determined by the department, conducive
22 to the welfare of children. The department shall make available to
23 applicants for registration an orientation session regarding this
24 act, the rules promulgated under this act, and the needs of
25 children in family child care before issuing a certificate of
26 registration. The department shall issue a certificate of
27 registration to a specific person at a specific location. A

1 certificate of registration is nontransferable and remains the
2 property of the department. Within 90 days after initial
3 registration, the department shall make an on-site visit of the
4 family child care home.

5 (3) The department may authorize a licensed child placing
6 agency or an approved governmental unit to investigate a foster
7 family home or a foster family group home according to subsection
8 (1) and to certify that the foster family home or foster family
9 group home meets the licensing requirements prescribed by this act.
10 Before certifying to the department that a foster family home or
11 foster family group home meets the licensing requirements
12 prescribed by this act, the licensed child placing agency or
13 approved governmental unit shall receive and review a medical
14 statement for each member of the household indicating that he or
15 she does not have a known condition that would affect the care of a
16 foster child. The medical statement required under this section
17 shall be signed and dated by a physician licensed under article 15
18 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
19 a physician's assistant licensed under article 15 of the public
20 health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a
21 certified nurse practitioner licensed as a registered professional
22 nurse under part 172 of the public health code, 1978 PA 368, MCL
23 333.17201 to 333.17242, who has been issued a specialty
24 certification as a nurse practitioner by the board of nursing under
25 section 17210 of the public health code, 1978 PA 368, MCL
26 333.17210, within the 12 months immediately preceding the date of
27 the initial evaluation. This subsection does not require new or

1 additional third party reimbursement or worker's compensation
2 benefits for services rendered. A foster family home or a foster
3 family group home shall be certified for licensing by the
4 department by only 1 child placing agency or approved governmental
5 unit. Other child placing agencies may place children in a foster
6 family home or foster family group home only upon the approval of
7 the certifying agency or governmental unit.

8 (4) The department may authorize a licensed child placing
9 agency or an approved governmental unit to place a child who is 16
10 or 17 years of age in his or her own unlicensed residence, or in
11 the unlicensed residence of an adult who has no supervisory
12 responsibility for the child, if a child placing agency or
13 governmental unit retains supervisory responsibility for the child.

14 (5) A licensed child placing agency, child caring institution,
15 and an approved governmental unit shall provide the state court
16 administrative office and a local foster care review board
17 established under 1984 PA 422, MCL 722.131 to 722.139a, those
18 records requested pertaining to children in foster care placement
19 for more than 6 months.

20 (6) The department may authorize a licensed child placing
21 agency or an approved governmental unit to place a child who is 16
22 or 17 years old in an adult foster care family home or an adult
23 foster care small group home licensed under the adult foster care
24 facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if a
25 licensed child placing agency or approved governmental unit retains
26 supervisory responsibility for the child and certifies to the
27 department all of the following:

1 (a) The placement is in the best interests of the child.

2 (b) The child's needs can be adequately met by the adult
3 foster care family home or small group home.

4 (c) The child will be compatible with other residents of the
5 adult foster care family home or small group home.

6 (d) The child placing agency or approved governmental unit
7 will periodically reevaluate the placement of a child under this
8 subsection to determine that the criteria for placement in
9 subdivisions (a) through (c) continue to be met.

10 (7) On an exception basis, the director of the department, or
11 his or her designee, may authorize a licensed child placing agency
12 or an approved governmental unit to place an adult in a foster
13 family home if a licensed child placing agency or approved
14 governmental unit certifies to the department all of the following:

15 (a) The adult is a person with a developmental disability as
16 defined by section 100a of the mental health code, 1974 PA 258, MCL
17 330.1100a, or a person who is otherwise neurologically disabled and
18 is also physically limited to a degree that requires complete
19 physical assistance with mobility and activities of daily living.

20 (b) The placement is in the best interests of the adult and
21 will not adversely affect the interests of the foster child or
22 children residing in the foster family home.

23 (c) The identified needs of the adult can be met by the foster
24 family home.

25 (d) The adult will be compatible with other residents of the
26 foster family home.

27 (e) The child placing agency or approved governmental unit

1 will periodically reevaluate the placement of an adult under this
2 subsection to determine that the criteria for placement in
3 subdivisions (a) through (d) continue to be met and document that
4 the adult is receiving care consistent with the administrative
5 rules for a child placing agency.

6 (8) On an exception basis, the director of the department, or
7 his or her designee, may authorize a licensed child placing agency
8 or an approved governmental unit to place a child in an adult
9 foster care family home or an adult foster care small group home
10 licensed under the adult foster care facility licensing act, 1979
11 PA 218, MCL 400.701 to 400.737, if the licensed child placing
12 agency or approved governmental unit certifies to the department
13 all of the following:

14 (a) The placement is in the best interests of the child.

15 (b) The placement has the concurrence of the parent or
16 guardian of the child.

17 (c) The identified needs of the child can be met adequately by
18 the adult foster care family home or small group home.

19 (d) The child's psychosocial and clinical needs are compatible
20 with those of other residents of the adult foster care family home
21 or small group home.

22 (e) The clinical treatment of the child's condition is similar
23 to that of the other residents of the adult foster care family home
24 or small group home.

25 (f) The child's cognitive level is consistent with the
26 cognitive level of the other residents of the adult foster care
27 family home or small group home.

1 (g) The child is neurologically disabled and is also
2 physically limited to ~~such a degree as to require~~ **THAT REQUIRES**
3 complete physical assistance with mobility and activities of daily
4 living.

5 (h) The child placing agency or approved governmental unit
6 will periodically reevaluate the placement of a child under this
7 subsection to determine that the criteria for placement in
8 subdivisions (a) to (g) continue to be met.

9 (9) Except as provided in subsection (1) and section 5b, the
10 department shall issue an initial or renewal license or
11 registration under this act for child care centers, group child
12 care homes, and family child care homes not later than 6 months
13 after the applicant files a completed application. Receipt of the
14 application is considered the date the application is received by
15 any agency or department of this state. If the application is
16 considered incomplete by the department, the department shall
17 notify the applicant in writing or make notice electronically
18 available within 30 days after receipt of the incomplete
19 application, describing the deficiency and requesting additional
20 information. This subsection does not affect the time period within
21 which an on-site visit to a family child care home shall be made.
22 If the department identifies a deficiency or requires the
23 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

1 action plan is required, until the date the department determines
2 the requirements of the corrective action plan have been met.

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

7 (11) Except as provided in subsection (1) and section 5b, if
8 the department fails to issue or deny a license or registration to
9 a child care center, group child care home, or family child care
10 home within the time required by this section, the department shall
11 return the license or registration fee and shall reduce the license
12 or registration fee for the applicant's next renewal application,
13 if any, by 15%. Failure to issue or deny a license to a child care
14 center, group child care home, or family child care home within the
15 time period required under this section does not allow the
16 department to otherwise delay the processing of the application. A
17 completed application shall be placed in sequence with other
18 completed applications received at that same time. The department
19 shall not discriminate against an applicant in the processing of an
20 application based on the fact that the application fee was refunded
21 or discounted under this subsection.

22 (12) If, on a continual basis, inspections performed by a
23 local health department delay the department in issuing or denying
24 licenses or registrations for child care centers, group day care
25 homes, and family child care homes under this act within the 6-
26 month period, the department may use department staff to complete
27 the inspections instead of the local health department causing the

1 delays.

2 (13) ~~Beginning October 1, 2008, the~~ **THE** director of the
3 department shall submit a report by December 1 of each year to the
4 standing committees and appropriations subcommittees of the senate
5 and house of representatives concerned with human services and
6 children's issues. The director shall include all of the following
7 information regarding applications for licenses and registrations
8 only for child care centers, group child care homes, and family
9 child care homes filed under this act in the report concerning the
10 preceding fiscal year:

11 (a) The number of initial and renewal applications the
12 department received and completed within the 6-month time period
13 described in subsection (9).

14 (b) The number of applications requiring a request for
15 additional information.

16 (c) The number of applications rejected.

17 (d) The number of licenses and registrations not issued within
18 the 6-month period.

19 (e) The average processing time for initial and renewal
20 licenses and registrations granted after the 6-month period.

21 (14) Except as provided in section 5c(8), the department shall
22 not issue to or renew the license of a child care center, ~~or~~ day
23 care center, **CHILD PLACING AGENCY, CHILD CARING INSTITUTION, OR**
24 **CHILDREN'S CAMP** under this act without requesting a criminal
25 history check and criminal records check as required by section 5c.
26 If a criminal history check or criminal records check performed
27 under section 5c or information obtained as a result of

1 notification from the department of state police under section 5k
2 reveals that an applicant for a license under this act has been
3 convicted of a listed offense, the department shall not issue a
4 license to that applicant. If a criminal history check or criminal
5 records check performed under section 5c or information obtained as
6 a result of notification from the department of state police under
7 section 5k reveals that an applicant for renewal of a license under
8 this act has been convicted of a listed offense, the department
9 shall not renew that license. If a criminal history check or
10 criminal records check performed under section 5c or information
11 obtained as a result of notification from the department of state
12 police under section 5k reveals that a current licensee has been
13 convicted of a listed offense, the department shall revoke the
14 license of that licensee.

15 (15) Except as provided in section 5f(13), the department
16 shall not issue or renew a certificate of registration to a family
17 child care home or a license to a group child care home under this
18 act without requesting a criminal history check and criminal
19 records check as required by sections 5f and 5g. If a criminal
20 history check or criminal records check performed under section 5f
21 or 5g or information obtained as a result of notification from the
22 department of state police under section 5k reveals that an
23 applicant for a certificate of registration or license under this
24 act or a person over 18 years of age residing in that applicant's
25 home has been convicted of a listed offense, the department shall
26 not issue a certificate of registration or license to that
27 applicant. If a criminal history check or criminal records check

1 performed under section 5f or 5g or information obtained as a
2 result of notification from the department of state police under
3 section 5k reveals that an applicant for renewal of a certificate
4 of registration or license under this act or a person over 18 years
5 of age residing in that applicant's home has been convicted of a
6 listed offense, the department shall not renew a certificate of
7 registration or license to that applicant. If a criminal history
8 check or criminal records check performed under section 5f or 5g or
9 information obtained as a result of notification from the
10 department of state police under section 5k reveals that a current
11 registrant or licensee under this act or a person over 18 years of
12 age residing in that registrant's or licensee's home has been
13 convicted of a listed offense, the department shall revoke that
14 registrant's certificate of registration or licensee's license.

15 (16) Except as provided in section 5h(7), the department shall
16 not issue or renew a license to operate a foster family home or
17 foster family group home under this act without requesting a
18 criminal history check and criminal records check as required by
19 sections 5h and 5j. If a criminal history check or criminal records
20 check performed under section 5h or 5j or information obtained as a
21 result of notification from the department of state police under
22 section 5k reveals that an applicant for a license to operate a
23 foster family home or foster family group home under this act or a
24 person over 18 years of age residing in that applicant's home has
25 been convicted of a listed offense, the department shall not issue
26 a license to that applicant. If a criminal history check or
27 criminal records check performed under section 5h or 5j or

1 information obtained as a result of notification from the
2 department of state police under section 5k reveals that an
3 applicant for renewal of a license to operate a foster family home
4 or foster family group home under this act or a person over 18
5 years of age residing in that applicant's home has been convicted
6 of a listed offense, the department shall not renew a license to
7 that applicant. If a criminal history check or criminal records
8 check performed under section 5h or 5j or information obtained as a
9 result of notification from the department of state police under
10 section 5k reveals that a current licensee under this act of a
11 foster family home or foster family group home or a person over 18
12 years of age residing in that licensee's foster family home or
13 foster family group home has been convicted of a listed offense,
14 the department shall revoke that licensee's license.

15 (17) As used in this section:

16 (A) "CHILD ABUSE" AND "CHILD NEGLECT" MEAN THOSE TERMS AS
17 DEFINED IN SECTION 2 OF THE CHILD PROTECTION LAW, 1975 PA 238, MCL
18 722.622.

19 (B) ~~(a)~~-"Completed application" means an application complete
20 on its face and submitted with any applicable licensing or
21 registration fees as well as any other information, records,
22 approval, security, or similar item required by law or rule from a
23 local unit of government, a federal agency, or a private entity but
24 not from another department or agency of this state. A completed
25 application does not include a health inspection performed by a
26 local health department.

27 (C) ~~(b)~~-"Good moral character" means that term as defined in

1 and determined under 1974 PA 381, MCL 338.41 to 338.47.

2 (D) ~~(e)~~—"Member of the household" means any individual, other
3 than a foster child, who resides in a foster family home or foster
4 family group home on an ongoing or recurrent basis.

5 Sec. 5c. (1) Except as provided in subsection (8), when a
6 person ~~, OR partnership, OR LICENSEE DESIGNEE IF THE APPLICANT IS A~~
7 **LIMITED LIABILITY CORPORATION**, firm, corporation, association, or
8 nongovernmental organization applies for or **APPLIES** to renew a
9 license for a child care ~~center or day care center~~ **ORGANIZATION**
10 under section 5, the department shall request the department of
11 state police to perform both of the following on the person, ~~or~~
12 ~~each partner, officer, or manager of the child care center or day~~
13 ~~care center applying for the license~~ **LICENSEE DESIGNEE, CHIEF**
14 **ADMINISTRATOR, AND PROGRAM DIRECTOR OF A CHILD CARE ORGANIZATION:**

15 (a) Conduct a criminal history check on the person.

16 (b) Conduct a criminal records check through the federal
17 bureau of investigation on the person.

18 (2) Except as provided in subsection (7), each person applying
19 for a license to operate a child care ~~center or day care center~~
20 **ORGANIZATION** shall give written consent at the time of the license
21 application for the department of state police to conduct the
22 criminal history check and criminal records check required under
23 this section. The department shall require the person to submit his
24 or her fingerprints to the department of state police for the
25 criminal history check and criminal records check described in
26 subsection (1).

27 (3) The department shall request a criminal history check and

1 criminal records check required under this section on a form and in
2 the manner prescribed by the department of state police.

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

10 (5) Within a reasonable time after receiving a proper request
11 by the department for a criminal records check on a person under
12 this section, the department of state police shall initiate the
13 criminal records check. After receiving the results of the criminal
14 records check from the federal bureau of investigation, the
15 department of state police shall provide a report of the results to
16 the department.

17 (6) The department of state police may charge the department a
18 fee for a criminal history check or a criminal records check
19 required under this section that does not exceed the actual and
20 reasonable cost of conducting the check. The department may pass
21 along to the licensee or applicant the actual cost or fee charged
22 by the department of state police for performing a criminal history
23 check or a criminal records check required under this section.

24 (7) When a person, partnership, firm, corporation,
25 association, or nongovernmental organization applies for or renews
26 a license under section 5 for a child care center or day care
27 center that is established and operated by an intermediate school

1 board, the board of a local school district, or by the board or
2 governing body of a state-approved nonpublic school, the criminal
3 history check and criminal records check required under subsection
4 (1) shall be performed in compliance with the provisions of
5 sections 1230 to 1230h of the revised school code, 1976 PA 451, MCL
6 380.1230 to 380.1230h. Before issuing or renewing a license to a
7 child care center or day care center described in this subsection,
8 the department shall verify that the intermediate school board, the
9 board of a local school district, or the board or governing body of
10 a state-approved nonpublic school has obtained the required
11 criminal history checks and criminal records checks.

12 (8) ~~Beginning January 1, 2006, if~~ **IF** a person, ~~partnership,~~
13 ~~firm, corporation, association, or nongovernmental organization~~
14 **LICENSEE DESIGNEE, CHIEF ADMINISTRATOR, OR PROGRAM DIRECTOR OF A**
15 **CHILD CARE CENTER** applying to renew a license to operate a child
16 ~~care center or day care center~~ **ORGANIZATION** has previously
17 undergone a criminal history check and criminal records check
18 required under subsection (1) and has remained continuously
19 licensed after the criminal history check and criminal records
20 check have been performed, that person, ~~partnership, firm,~~
21 ~~corporation, association, or nongovernmental organization~~ **LICENSEE**
22 **DESIGNEE, CHIEF ADMINISTRATOR, OR PROGRAM DIRECTOR OF A CHILD CARE**
23 **CENTER** is not required to submit to another criminal history check
24 or criminal records check upon renewal of the license obtained
25 under section 5.

26 (9) As used in this section and sections 5, 5d, 5e, 5f, and
27 5g:

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

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

5 Sec. 5d. (1) Before a child care ~~center or day care center~~
6 **ORGANIZATION** makes an offer of employment to a person or allows a
7 person to regularly and continuously work under contract at the
8 child care ~~center or day care center~~ **ORGANIZATION**, the child care
9 ~~center or day care center~~ **ORGANIZATION** shall perform a criminal
10 history check on that person using the department of state police's
11 internet criminal history access tool (ICHAT) **OR EQUIVALENT CHECK**
12 **ON THAT PERSON FROM THE STATE OR PROVINCE OF RESIDENCE.**

13 (2) If a search of the department of state police's ICHAT **OR**
14 **EQUIVALENT CHECK ON THE PERSON FROM THE STATE OR PROVINCE OF**
15 **RESIDENCE** reveals that the person described in subsection (1) has
16 been convicted of a listed offense, the child care ~~center or day~~
17 ~~care center~~ **ORGANIZATION** shall not make an offer of employment to
18 that person or allow that person to regularly and continuously work
19 under contract at the child care ~~center or day care center~~
20 **ORGANIZATION**. If a search of the department of state police's ICHAT
21 reveals that a current employee has been convicted of a listed
22 offense, the child care ~~center or day care center~~ **ORGANIZATION**
23 shall not continue to employ that person. If a search of the
24 department of state police's ICHAT **OR EQUIVALENT CHECK ON THAT**
25 **PERSON FROM THE STATE OR PROVINCE OF RESIDENCE** reveals that a
26 person who regularly and continuously works under contract at the
27 child care ~~center or day care center~~ **ORGANIZATION** has been

1 convicted of a listed offense, the child care ~~center or day care~~
 2 ~~center~~**ORGANIZATION** shall not allow that person to regularly or
 3 continuously work under contract at the child care ~~center or day~~
 4 ~~care center~~**ORGANIZATION**.

5 (3) Not later than 1 year after the effective date of the **2009**
 6 amendatory act that ~~added~~**AMENDED** this section, the child care
 7 ~~center or day care center~~**ORGANIZATION** shall conduct a criminal
 8 history check on all current employees using the department of
 9 state police's **ICHAT OR EQUIVALENT CHECK ON THE PERSON FROM THE**
 10 **STATE OR PROVINCE OF RESIDENCE**.

11 (4) A child care ~~center or day care center~~**ORGANIZATION** may
 12 pass along the actual cost of a search of the department of state
 13 police's **ICHAT OR EQUIVALENT CHECK ON THAT PERSON FROM THE STATE OR**
 14 **PROVINCE OF RESIDENCE** to the employee or applicant on whom the
 15 search is being performed.

16 Sec. 9. (1) A ~~staff member~~**LICENSEE OR REGISTRANT, ADULT**
 17 **HOUSEHOLD MEMBER, LICENSEE DESIGNEE, CHIEF ADMINISTRATOR, OR**
 18 **PROGRAM DIRECTOR OF A CHILD CARE ORGANIZATION** shall not be present
 19 in a child care ~~center, child caring institution, or child placing~~
 20 ~~agency~~**ORGANIZATION** if he or she has been convicted of ~~either of~~
 21 ~~the following:~~

22 ~~—— (a) Child~~**CHILD** abuse or child neglect.

23 ~~—— (b) A felony involving harm or threatened harm to an~~
 24 ~~individual within the 10 years immediately preceding the date of~~
 25 ~~hire.~~

26 (2) A **STAFF MEMBER OR UNSUPERVISED** volunteer shall not have
 27 ~~unsupervised~~ contact with children who are in the care of a child

1 ~~care center, child caring institution, or child placing agency~~
 2 **ORGANIZATION** if he or she has been convicted of either of the
 3 following:

4 (a) Child abuse or child neglect.

5 (b) A felony involving harm or threatened harm to an
 6 individual within the 10 years immediately preceding the date of
 7 ~~offering to volunteer at the child care center, child caring~~
 8 ~~institution, or child placing agency~~ **HIRE OR APPOINTMENT.**

9 (3) ~~Before a~~ **EXCEPT AS PROVIDED IN SUBSECTION (5), A LICENSEE,**
 10 **REGISTRANT, ADULT HOUSEHOLD MEMBER, LICENSEE DESIGNEE, CHIEF**
 11 **ADMINISTRATOR,** staff member, or unsupervised volunteer may **NOT** have
 12 contact with a child who is in the care of a child care ~~center,~~
 13 ~~child caring institution, or child placing agency,~~ **ORGANIZATION,**
 14 **UNTIL** the **LICENSEE, REGISTRANT, ADULT HOUSEHOLD MEMBER, LICENSEE**
 15 **DESIGNEE, CHIEF ADMINISTRATOR,** staff member, or volunteer ~~shall~~
 16 ~~provide~~ **PROVIDES** the child care ~~center, child caring institution,~~
 17 ~~or child placing agency~~ **ORGANIZATION** with documentation from the
 18 ~~family independence agency~~ **DEPARTMENT** that he or she has not been
 19 named in a central registry case as the perpetrator of child abuse
 20 or child neglect. ~~For individuals who are employed by or volunteer~~
 21 ~~at a~~ **UPON REQUEST BY THE DEPARTMENT, THE LICENSEE OR REGISTRANT**
 22 **SHALL PROVIDE THE DEPARTMENT WITH AN UPDATED AUTHORIZATION FOR**
 23 **CENTRAL REGISTRY CLEARANCE. IF AN UPDATED CENTRAL REGISTRY**
 24 **CLEARANCE DOCUMENTS THAT A LICENSEE, REGISTRANT, ADULT HOUSEHOLD**
 25 **MEMBER, LICENSEE DESIGNEE, CHIEF ADMINISTRATOR, STAFF MEMBER, OR**
 26 **UNSUPERVISED VOLUNTEER IS NAMED AS A PERPETRATOR IN A CENTRAL**
 27 **REGISTRY CASE, HE OR SHE MAY NOT BE PRESENT IN THE CHILD CARE**

1 **ORGANIZATION.** A child care center, ~~child caring institution, or~~
2 ~~child placing agency, the child care center, child caring~~
3 ~~institution, or child placing agency~~ **ORGANIZATION** shall comply with
4 this subsection not later than the date on which that child care
5 center's, ~~child caring institution's, or child placing agency's~~
6 **ORGANIZATION'S** license **OR CERTIFICATE OF REGISTRATION** is issued or
7 first renewed after the effective date of the **2009** amendatory act
8 that ~~added~~ **AMENDED** this section. As used in this subsection, "child
9 abuse" and "child neglect" mean those terms as defined in section 2
10 of the child protection law, 1975 PA 238, MCL 722.622.

11 (4) Each child care center, ~~child caring institution, or child~~
12 ~~placing agency~~ **ORGANIZATION** shall establish and maintain a policy
13 regarding supervision of volunteers including volunteers who are
14 parents of a child receiving care at the child care center, ~~child~~
15 ~~caring institution, or child placing agency~~ **ORGANIZATION**.

16 (5) **STAFF MEMBERS OR UNSUPERVISED VOLUNTEERS IN CHILDREN'S**
17 **CAMPS OR CHILDREN'S CAMPSITES WHO ARE 21 YEARS OF AGE OR OLDER MAY**
18 **NOT HAVE CONTACT WITH A CHILD WHO IS IN THE CARE OF A CHILDREN'S**
19 **CAMP UNTIL THE STAFF MEMBER OR VOLUNTEER PROVIDES THE CHILDREN'S**
20 **CAMP WITH DOCUMENTATION FROM THE DEPARTMENT THAT HE OR SHE HAS NOT**
21 **BEEN NAMED IN A CENTRAL REGISTRY CASE AS THE PERPETRATOR OF CHILD**
22 **ABUSE OR CHILD NEGLECT.**