

Act No. 379
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STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010

Introduced by Senators Olshove, Cherry, Jacobs, Nofs, Basham, Prusi, Hunter, Jansen, Gleason, Whitmer, Anderson, Brater, Birkholz, Barcia and Allen

ENROLLED SENATE BILL No. 1100

AN ACT 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 2009 PA 155, 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:

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

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

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

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

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

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

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

(e) “Children’s campsite” means the outdoor setting where a children’s residential or day camp is located.

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

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

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

(iii) Is not a private home.

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

(g) “Child care center” or “day care center” means a facility, other than a private residence, receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. Child care center or day care center does not include any of the following:

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

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

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

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

(h) “Department” means the department of human services or a successor agency or department responsible for licensure and registration under this act.

(i) “Private home” means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group child care home, or a family child care home, as follows:

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

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

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

includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual. As used in this subparagraph, “providing babysitting services” means caring for a child on behalf of the child’s parent or guardian when the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would according to the internal revenue code of 1986 obligate the child’s parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services.

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

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

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

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

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

(n) “Guardian” means the guardian of the person.

(o) “Minor child” means any of the following:

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

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

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

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

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

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

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

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

(q) “Registration” means the process by which the department regulates family child care homes, and includes the requirement that a family child care home certify to the department that the family child care home has complied with and will continue to comply with the rules promulgated under this act.

(r) “Certificate of registration” means a written document issued under this act to a family child care home through registration.

(s) “Related” means a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin, great aunt, great uncle, or stepgrandparent related by marriage, blood, or adoption.

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

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

(v) “Licensee designee” means the individual designated in writing by the board of directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing matters. All license applications must be signed by the licensee in the case of the individual or by a member of the corporation, company, or organization.

(2) A facility or program for school-age children that is currently operated and has been in operation and licensed or approved as provided in this act for a minimum of 2 years may apply to the department to be exempt from inspections and on-site visits required under section 5. The department shall respond to a facility or program requesting exemption from inspections and on-site visits required under section 5 as provided under this subsection within 45 days from the date the completed application is received. The department may grant exemption from inspections and on-site visits required under section 5 to a facility or program that meets all of the following criteria:

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

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

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

(3) A facility or program granted exemption from inspections and on-site visits required under section 5 as provided under subsection (2) is required to maintain status as a licensed or approved program under this act and must continue to meet the requirements of this act, the rules promulgated under this act, or the terms of a license or approval under this act. A facility or program granted exemption from inspections and on-site visits required under section 5 as provided under subsection (2) is subject to an investigation by the department if a violation of this act or a violation of a rule promulgated under this act is alleged.

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

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

Sec. 5. (1) A person, partnership, firm, corporation, association, or nongovernmental organization shall not establish or maintain a child care organization unless licensed or registered by the department. Application for a license or certificate of registration shall be made on forms provided, and in the manner prescribed, by the department. Before issuing or renewing a license, the department shall investigate the applicant's activities and proposed standards of care and shall make an on-site visit of the proposed or established organization. Except as otherwise provided in this subsection, if the department is satisfied as to the need for a child care organization, its financial stability, the applicant's good moral character, and that the services and facilities are conducive to the welfare of the children, the department shall issue or renew the license. If a county juvenile agency as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622, certifies to the department that it intends to contract with an applicant for a new license, the department shall issue or deny the license within 60 days after it receives a complete application as provided in section 5b. The department shall not issue a license to or renew a license of an applicant if any of the following persons have been convicted of child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145:

(a) The individual applicant.

(b) The owner, partner, or director of the applying organization, if other than an individual.

(2) The department shall issue a certificate of registration to a person who has successfully completed an orientation session offered by the department and who certifies to the department that the family child care home has complied with and will continue to comply with the rules promulgated under this act and will provide services and facilities, as determined by the department, conducive to the welfare of children. The department shall make available to applicants for registration an orientation session regarding this act, the rules promulgated under this act, and the needs of children in family child care before issuing a certificate of registration. The department shall issue a certificate of registration to a specific person at a specific location. A certificate of registration is nontransferable and remains the property of the department. Within 90 days after initial registration, the department shall make an on-site visit of the family child care home.

(3) The department may authorize a licensed child placing agency or an approved governmental unit to investigate a foster family home or a foster family group home according to subsection (1) and to certify that the foster family home or foster family group home meets the licensing requirements prescribed by this act. Before certifying to the department that a foster family home or foster family group home meets the licensing requirements prescribed by this act, the licensed child placing agency or approved governmental unit shall receive and review a medical statement for each member of the household indicating that he or she does not have a known condition that would affect the care of a foster child. The medical statement required under this section shall be signed and dated by a physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, a physician's assistant licensed under article 15

of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a certified nurse practitioner licensed as a registered professional nurse under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242, who has been issued a specialty certification as a nurse practitioner by the board of nursing under section 17210 of the public health code, 1978 PA 368, MCL 333.17210, within the 12 months immediately preceding the date of the initial evaluation. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered. A foster family home or a foster family group home shall be certified for licensing by the department by only 1 child placing agency or approved governmental unit. Other child placing agencies may place children in a foster family home or foster family group home only upon the approval of the certifying agency or governmental unit.

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

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

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

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

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

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

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

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

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

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

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

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

(e) The child placing agency or approved governmental unit will periodically reevaluate the placement of an adult under this subsection to determine that the criteria for placement in subdivisions (a) through (d) continue to be met and document that the adult is receiving care consistent with the administrative rules for a child placing agency.

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

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

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

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

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

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

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

(g) The child is neurologically disabled and is also physically limited to a degree that requires complete physical assistance with mobility and activities of daily living.

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

(9) Except as provided in subsection (1) and section 5b, the department shall issue an initial or renewal license or registration under this act for child care centers, group child care homes, and family child care homes not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. This subsection does not affect the time period within which an on-site visit to a family child care home shall be made. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

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

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

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

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

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

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

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

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

(c) The number of applications rejected.

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

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

(14) Except as provided in section 5c(8), the department shall not issue to or renew the license of a child care organization under this act without requesting a criminal history check and criminal records check as required by section 5c. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license under this act has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license under this act has been convicted of a listed offense, the department shall not renew that license. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that a current licensee has been convicted of a listed offense, the department shall revoke the license of that licensee.

(15) Except as provided in section 5f(13), the department shall not issue or renew a certificate of registration to a family child care home or a license to a group child care home under this act without requesting a criminal history check and criminal records check as required by sections 5f and 5g. If a criminal history check or criminal records check performed under section 5f or 5g or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a certificate of registration or license under this act or a person over

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

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

(17) As used in this section:

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

(b) "Good moral character" means that term as defined in and determined under 1974 PA 381, MCL 338.41 to 338.47.

(c) "Member of the household" means any individual, other than a foster child, who resides in a foster family home or foster family group home on an ongoing or recurrent basis.

Sec. 5c. (1) Except as provided in subsection (8), when a person or partnership, or licensee designee if the applicant is a limited liability corporation, firm, corporation, association, or nongovernmental organization applies for or applies to renew a license for a child care organization under section 5, the department shall request the department of state police to perform both of the following on the person, licensee designee, chief administrator, and program director of a child care organization:

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

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

(2) Except as provided in subsection (7), each person applying for a license to operate a child care organization shall give written consent at the time of the license application for the department of state police to conduct the criminal history check and criminal records check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsection (1).

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

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

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

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

(7) When a person, partnership, firm, corporation, association, or nongovernmental organization applies for or renews a license under section 5 for a child care center or day care center that is established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a state-approved nonpublic school, the criminal history check and criminal records check required under subsection (1) shall be performed in compliance with the provisions of sections 1230 to 1230h of the revised school code, 1976 PA 451, MCL 380.1230 to 380.1230h. Before issuing or renewing a license to a child care center or day care center described in this subsection, the department shall verify that the intermediate school board, the board of a local school district, or the board or governing body of a state-approved nonpublic school has obtained the required criminal history checks and criminal records checks.

(8) If a person, licensee designee, chief administrator, or program director of a child care organization applying to renew a license to operate a child care organization has previously undergone a criminal history check and criminal records check required under subsection (1) and has remained continuously licensed after the criminal history check and criminal records check have been performed, that person, licensee designee, chief administrator, or program director of a child care organization is not required to submit to another criminal history check or criminal records check upon renewal of the license obtained under section 5.

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

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

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

Sec. 5d. (1) Before a child care organization makes an offer of employment to a person or allows a person to regularly and continuously work under contract at the child care organization, the child care organization shall perform a criminal history check on that person using the department of state police's internet criminal history access tool (ICHAT) or equivalent check on that person from the state or province of residence.

(2) If a search of the department of state police's ICHAT or equivalent check on the person from the state or province of residence reveals that the person described in subsection (1) has been convicted of a listed offense, the child care organization shall not make an offer of employment to that person or allow that person to regularly and continuously work under contract at the child care organization. If a search of the department of state police's ICHAT reveals that a current employee has been convicted of a listed offense, the child care organization shall not continue to employ that person. If a search of the department of state police's ICHAT or equivalent check on that person from the state or province of residence reveals that a person who regularly and continuously works under contract at the child care organization has been convicted of a listed offense, the child care organization shall not allow that person to regularly or continuously work under contract at the child care organization.

(3) Not later than 1 year after the effective date of the 2010 amendatory act that amended this section, the child care organization shall conduct a criminal history check on all current employees using the department of state police's ICHAT or equivalent check on the person from the state or province of residence.

(4) A child care organization may pass along the actual cost of a search of the department of state police's ICHAT or equivalent check on that person from the state or province of residence to the employee or applicant on whom the search is being performed.

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

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

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

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

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

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

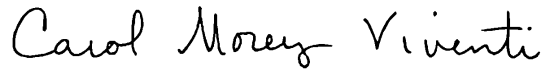
(3) Except as provided in subsection (5), a licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or unsupervised volunteer may not have contact with a child who is in the care of a child

care organization, until the licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or volunteer provides the child care organization with documentation from the department that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. Upon request by the department, the licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or unsupervised volunteer shall provide the department with an updated authorization for central registry clearance. If an updated central registry clearance documents that a licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or unsupervised volunteer is named as a perpetrator in a central registry case, he or she may not be present in the child care organization. A child care organization shall comply with this subsection not later than the date on which that child care organization's license or certificate of registration is issued or first renewed after the effective date of the 2010 amendatory act that amended this section. As used in this subsection, "child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

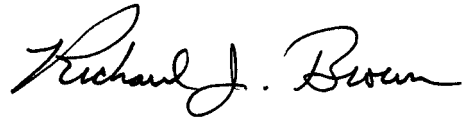
(4) Each child care organization shall establish and maintain a policy regarding supervision of volunteers including volunteers who are parents of a child receiving care at the child care organization.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor