

CHILD CARE LICENSING REVISIONS

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Senate Bill 180 as enacted
Public Act 256 of 2017

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Senate Bill 183 as enacted
Public Act 259 of 2017
Sponsor: Sen. Tonya Schuitmaker

Senate Bill 181 as enacted
Public Act 257 of 2017
Sponsor: Sen Dave Hildebrand

Senate Bill 182 as enacted
Public Act 258 of 2017
Sponsor: Sen. Hoon-Yung Hopgood

House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services
Complete to 4-12-18

SUMMARY:

Senate Bills 180, 181, and 182 amend the Child Care Licensing Act to revise various requirements concerning the regulation of child care organizations. The bills establish a separate set of licensure and application requirements, including criminal history checks, for child care centers, family child care homes, and group child care homes. Senate Bill 183 amends the Code of Criminal Procedure to make changes to the sentencing guidelines to reflect revisions made by Senate Bills 180 and 181.

Senate Bill 181 redefines department as either the Department of Health and Human Services (DHHS) or the Department of Licensing and Regulatory Affairs (LARA)—or successor agencies or departments responsible for licensure under the Act. The DHHS would be responsible for child caring institutions, child placing agencies, children's therapeutic group homes, foster family homes, and foster family group homes, while LARA would oversee child care centers, family and group child care homes, children's camps, and children's campsites. (As used in the bills and in this summary, *department* could mean the DHHS or LARA, depending on the type of facility licensed and regulated.)

Senate Bill 180 does the following:

- Revises requirements for criminal history checks of an applicant for licensure as a child care organization, foster family home, or foster family group home, and requires the person to submit fingerprints to the FBI as well as the Michigan Department of State Police (MSP).

- Revises requirements for licensees to report when they are arraigned for or convicted of certain crimes within three business days after being arraigned or convicted for one or more listed crimes, and extends the requirement to child care staff members.
- Establishes new provisions to require a child care licensee, designee or program director, group child care home licensee, and family child care home licensee report to the department within three days after receiving a report from a child care staff member.
- Requires a group child care home licensee or family child care home licensee report to the department, within three business days after he or she knows, or should reasonably know, that a member of the household has been arraigned for or convicted of one or more listed crimes.
- Establishes new provisions, specifically applying to child care centers, group child care homes, and family child care homes, regarding criminal background checks of licensees, applicants for licensure, child care staff members, and members of a licensee's household.
- Specifies that at the time a child care center, group child care home, or family child care home allows a person to become a child care staff member it must notify that person of the requirement to report when he or she is arraigned for or convicted of certain crimes and the penalty for not reporting.
- Prohibits a child care center, group child care home, or family child care home licensee, child care staff member, or adult member of the household from having contact with a child in the care of one of those facilities, until he or she is documented as not having been named as the perpetrator of child abuse or neglect in the DHHS's central registry.
- Provides that a person would be ineligible to be licensed as a child care center, group child care home, or family child care home or be a child care staff member or adult member of the household if he or she had certain criminal convictions, refused to consent to a criminal history or central registry check, or made a false statement or omission in connection with those checks.
- Allows LARA to find a person who otherwise was ineligible to receive a license, be a member of the household, or be eligible to be a child care staff member, to be eligible, if the department had previously reviewed and approved the person as a licensee or registrant, and he or she met other specified criteria.
- Defines member of the household.

Senate Bill 181 does the following:

- Specifies that Section 5 of the Act, which deals with licensure of child care organizations, does not apply to a child care center, group child care home, or family child care home (which would be subject to a separate licensure and application process under Senate Bill 182).
- Revises provisions regarding license revocation, refusal, or denial.
- Allows the department to bring an action of injunctive relief in the circuit court for the county in which the person resides or in the circuit court for Ingham County to enjoin a violation or threatened violation of this Act. An affidavit of an individual

who is personally familiar with the basis of noncompliance would have to be filed with the action for injunctive relief.

- Allows the department to obtain an injunction to restrain or prevent a person from acting in a manner that threatened the public health, safety, or welfare, or to compel a person to take corrective action, if the department had conducted an investigation that disclosed an imminent threat.
- Specifies that the department is entitled to actual costs and attorney fees if successful in obtaining an injunction.
- Extends from two to five years the period during which the department may refuse a license, or prohibit a person from being connected with a licensee, after the revocation, denial, or refusal to renew a license.
- Revises provisions dealing with the evaluation and examination of child care organizations, and includes inspection of the facilities in those provisions.
- Revises requirements for certain child care organizations regarding first aid and CPR certification, personal restraint restrictions, parental visits, and smoking prohibitions.
- Requires an annual inspection of a child care organization to be unannounced unless the department considers it necessary to schedule an appointment.
- Allows the temporary operation of a child care center, group child care home, or family child care home at an unlicensed location, in the case of a disaster, under certain circumstances.

Senate Bill 182 does the following:

- Requires an applicant, licensee, or licensee designee present a valid driver license or a valid state or federal government-issued identification card to obtain or renew a license for a child care center, group child care home, or family child care home.
- Enacts a new section to regulate licensure and application for licensure as a child care center, family child care home, or group child care home.
- Prohibits a person from establishing or maintaining a child care center, group child care home, or family child care home unless licensed by LARA.
- Establishes fees that LARA must assess for original and renewal licensure as a child care center, family child care home, or group child care home.
- Revises provisions concerning the issuance of a provisional license to a child care organization.
- Authorizes the department to modify the license of a child care organization to a provisional license when the licensee violated the Act, rules, or the terms of the license.
- Revises provisions addressing the effectiveness and renewal of a license.
- Revises the information that must be included in a database of child care centers, family child care homes, and group child care homes, and requires certain information in the database to be made available to people seeking information on child care options.

FISCAL IMPACT:

Senate Bills 180 to 183 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs, though likely an impact that reduces revenue. These bills would require LARA, in conjunction with other state agencies, to conduct criminal background checks and to collect fingerprints on all licensees; members of households where a group or family child care home is located; and staff members of child care centers, group child care homes, and family child care homes. The bill stipulates that the Department of State Police may charge LARA for background checks conducted on the aforementioned parties, but LARA will be able to offset these costs by instituting a fee on those undergoing the background checks. The department has estimated (earlier in FY 17) that roughly 85,000 individuals will need to be fingerprinted and undergo background checks. Additional funding for this program has been proposed in the FY 18 budget. The department would likely experience an undetermined increase in administrative costs for implementing the provisions of these bills.

Senate Bill 180 would have an indeterminate, but likely minor, fiscal impact on the Department of State Police (MSP). This bill would not substantively alter the current practices of the MSP in conducting background checks and would continue to allow the MSP to charge a fee to cover the costs of performing the service.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.