

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 227

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, 2b, and 2c (MCL 722.111, 722.112b, and 722.112c), section 1 as amended by 2023 PA 173, section 2b as amended by 2007 PA 217, and section 2c as amended by 2017 PA 257.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

2 (a) "Child care staff member" means an individual who is 16
3 years of age or older to whom 1 or more of the following apply:

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

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

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

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

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

23 (i) Provides care exclusively to minors who have been
24 emancipated by court order under section 4(3) of 1968 PA 293, MCL
25 722.4.

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

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

24 (d) "Child caring institution staff member" means an
25 individual who is 18 years of age or older to whom 1 or more of the
26 following apply:

27 (i) The individual is employed by a child caring institution
28 for compensation, including an adult who does not work directly
29 with children.

1 (ii) The individual is a contract employee or self-employed
2 individual with a child caring institution.

3 (iii) The individual is an intern or other individual who
4 provides specific services under the rules promulgated under this
5 act.

6 (e) "Child placing agency" means a governmental organization
7 or an agency organized under the nonprofit corporation act, 1982 PA
8 162, MCL 450.2101 to 450.3192, for the purpose of receiving
9 children for placement in private family homes for foster care or
10 for adoption. The function of a child placing agency may include
11 investigating applicants for adoption and investigating and
12 certifying foster family homes and foster family group homes as
13 provided in this act. The function of a child placing agency may
14 also include supervising children who are at least 16 but less than
15 21 years of age and who are living in unlicensed residences as
16 provided in section 5(4).

17 (f) "Children's camp" means a residential, day, troop, or
18 travel camp that provides care and supervision and is conducted in
19 a natural environment for more than 4 children, apart from the
20 children's parents, relatives, or legal guardians, for 5 or more
21 days in a 14-day period.

22 (g) "Children's campsite" means the outdoor setting where a
23 children's residential or day camp is located.

24 (h) "Children's therapeutic group home" means a child caring
25 institution receiving ~~not more than 6 minor~~ children who are
26 diagnosed with a developmental disability as defined in section
27 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a
28 serious emotional disturbance as defined in section 100d of the
29 mental health code, 1974 PA 258, MCL 330.1100d, and that meets all

1 of the following requirements:

2 (i) Provides care, maintenance, and supervision, usually on a
3 24-hour basis.

4 (ii) **Has a capacity of not more than 6 children.**

5 (iii) ~~(ii)~~ Complies with the rules for child caring institutions.
6 ~~, except that behavior management rooms, personal restraint,~~
7 ~~mechanical restraint, or seclusion, which is allowed in certain~~
8 ~~circumstances under licensing rules, are prohibited in a children's~~
9 ~~therapeutic group home.~~ **Emergency safety intervention in the form of**
10 **physical management is allowed but must comply with the mental**
11 **health code, 1974 PA 258, MCL 330.1001 to 330.2106, and associated**
12 **administrative rules.**

13 (iv) ~~(iii)~~ Is not a private home.

14 (v) ~~(iv)~~ Is not located on a campus with other licensed
15 facilities.

16 (i) "Child care center" means a facility, other than a private
17 residence, receiving 1 or more children under 13 years of age for
18 care for periods of less than 24 hours a day, where the parents or
19 guardians are not immediately available to the child. Child care
20 center includes a facility that provides care for not less than 2
21 consecutive weeks, regardless of the number of hours of care per
22 day. The facility is generally described as a child care center,
23 day care center, day nursery, nursery school, parent cooperative
24 preschool, play group, before- or after-school program, or drop-in
25 center. Child care center does not include any of the following:

26 (i) A Sunday school, a vacation bible school, or a religious
27 instructional class that is conducted by a religious organization
28 where children are attending for not more than 3 hours per day for
29 an indefinite period or for not more than 8 hours per day for a

1 period not to exceed 4 weeks during a 12-month period.

2 (ii) A facility operated by a religious organization where
3 children are in the religious organization's care for not more than
4 3 hours while ~~persons~~**individuals** responsible for the children are
5 attending religious services.

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

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

19 (v) A program that primarily provides therapeutic services to
20 a child.

21 (j) "Conviction" means a final conviction, the payment of a
22 fine, a plea of guilty or nolo contendere if accepted by the court,
23 a finding of guilt for a criminal law violation or a juvenile
24 adjudication or disposition by the juvenile division of probate
25 court or family division of circuit court for a violation that if
26 committed by an adult would be a crime, or a conviction in a tribal
27 court or a military court.

28 (k) "Criminal history check" means a fingerprint-based
29 criminal history record information background check through the

1 department of state police and the Federal Bureau of Investigation.

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

4 (m) "Department" means the department of health and human
5 services and the department of licensing and regulatory affairs or
6 a successor agency or department responsible for licensure under
7 this act. The department of licensing and regulatory affairs is
8 responsible for licensing and regulatory matters for child care
9 centers, group child care homes, family child care homes,
10 children's camps, and children's campsites. The department of
11 health and human services is responsible for licensing and
12 regulatory matters for child caring institutions, child placing
13 agencies, children's therapeutic group homes, foster family homes,
14 and foster family group homes.

15 (n) "Drinking fountain" means a plumbing fixture that is
16 connected to the potable water distribution system and drainage
17 system that allows the user to obtain a drink directly from a
18 stream of flowing water without the use of any accessory.

19 (o) "Eligible" means that the individual obtained the checks
20 and clearances described in sections 5n and 5q and is considered
21 appropriate to obtain a license, to be a member of the household of
22 a group child care home or family child care home, or to be a child
23 care staff member.

24 (p) "Faucet" means a valve end of a water pipe by which water
25 is drawn from or held within the pipe.

26 (q) "Filtered bottle-filling station" or "station" means an
27 apparatus that meets all of the following requirements:

28 (i) Is connected to customer site piping.

29 (ii) Filters water and is certified to meet NSF/ANSI standard

1 53 for lead reduction and NSF/ANSI standard 42 for particulate
2 removal.

3 (iii) The flow rate through the station is paired to the
4 specified flow rate of the filter cartridge.

5 (iv) Has a light or other device to indicate filter cartridge
6 replacement status.

7 (v) Is designed to fill drinking bottles or other containers
8 for personal water consumption.

9 (vi) Includes a drinking fountain.

10 (r) "Filtered faucet" means a faucet that at the point of use
11 includes a filter that is certified to meet NSF/ANSI standard 53
12 for lead reduction and NSF/ANSI standard 42 for particulate
13 removal.

14 (s) "Filtered pitcher" means a container used for holding and
15 pouring liquids that at the point of use includes a filter that is
16 certified to meet NSF/ANSI standard 53 for lead reduction and
17 NSF/ANSI standard 42 for particulate removal.

18 (t) "Ineligible" means that the individual obtained the checks
19 and clearances as described in sections 5n and 5q and is not
20 considered appropriate to obtain a license, to be a member of the
21 household of a group child care home or family child care home, or
22 to be a child care staff member due to violation of section 5n, 5q,
23 or 5r.

24 (u) "Increased capacity" means 1 additional child added to the
25 total number of minor children received for care and supervision in
26 a family child care home or 2 additional children added to the
27 total number of minor children received for care and supervision in
28 a group child care home.

29 (v) "Private home" means a private residence in which the

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

6 (i) "Foster family home" means the private home of an
7 individual who is licensed to provide 24-hour care for 1 but not
8 more than 4 minor children who are placed away from their parent,
9 legal guardian, or legal custodian in foster care. The licensed
10 individual providing care is required to comply with the reasonable
11 and prudent parenting standard as defined in section 1 of chapter
12 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.

13 (ii) "Foster family group home" means the private home of an
14 individual who has been licensed by the department to provide 24-
15 hour care for more than 4 but fewer than 7 minor children who are
16 placed away from their parent, legal guardian, or legal custodian
17 in foster care. The licensed individual providing care is required
18 to comply with the reasonable and prudent parenting standard as
19 defined in section 1 of chapter XIIIA of the probate code of 1939,
20 1939 PA 288, MCL 712A.1.

21 (iii) "Family child care home" means a private home in which 1
22 but fewer than 7 minor children are received for care and
23 supervision for compensation for periods of less than 24 hours a
24 day, unattended by a parent or legal guardian, except children
25 related to an adult member of the household. Family child care home
26 includes a home in which care is given to an unrelated minor child
27 for more than 4 weeks during a calendar year. A family child care
28 home does not include an individual providing babysitting services
29 for another individual. As used in this subparagraph, "providing

1 babysitting services" means caring for a child on behalf of the
2 child's parent or guardian if the annual compensation for providing
3 those services does not equal or exceed \$600.00 or an amount that
4 would according to the internal revenue code of 1986 obligate the
5 child's parent or guardian to provide a form 1099-MISC to the
6 individual for compensation paid during the calendar year for those
7 services. Family child care home includes a private home with
8 increased capacity.

9 (iv) "Group child care home" means a private home in which more
10 than 6 but not more than 12 minor children are given care and
11 supervision for periods of less than 24 hours a day unattended by a
12 parent or legal guardian, except children related to an adult
13 member of the household. Group child care home includes a home in
14 which care is given to an unrelated minor child for more than 4
15 weeks during a calendar year. Group child care home includes a
16 private home with increased capacity.

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

21 (x) "Legal entity" means a sole proprietorship, partnership,
22 corporation, limited liability company, or any other entity.

23 (y) "Licensee" means a person, legal entity organized under a
24 law of this state, state or local government, or trust that has
25 been issued a license under this act to operate a child care
26 organization.

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

29 (aa) "Member of the household" means any individual who

1 resides in a family child care home, group child care home, foster
2 family home, or foster family group home on an ongoing basis, or
3 who has a recurrent presence in the home, including, but not
4 limited to, overnight stays. For foster family homes and foster
5 family group homes, a member of the household does not include a
6 foster child. For group child care homes and family child care
7 homes, a member of the household does not include a child to whom
8 child care is being provided.

9 (bb) "Original license" means a license issued to a child care
10 organization during the first 6 months of operation indicating that
11 the organization is in compliance with all rules promulgated by the
12 department under this act.

13 (cc) "Provisional license" means a license issued to a child
14 care organization that is temporarily unable to conform to the
15 rules promulgated under this act.

16 (dd) **"Psychiatric residential treatment facility" or "PRTF"**
17 **means a facility other than a hospital that provides psychiatric**
18 **services, as described in 42 CFR 441.150 to 441.184, in an**
19 **inpatient setting to individuals under the age of 21. Emergency**
20 **safety intervention in the form of physical management is allowed**
21 **but must comply with the mental health code, 1974 PA 258, MCL**
22 **330.1001 to 330.2106, and associated administrative rules.**

23 (ee) ~~(dd)~~ "Qualified residential treatment program" or "QRTP"
24 means a program within a child caring institution to which all of
25 the following apply:

26 (i) The program has a trauma-informed treatment model,
27 evidenced by the inclusion of trauma awareness, knowledge, and
28 skills into the program's culture, practices, and policies.

29 (ii) The program has registered or licensed nursing and other

1 licensed clinical staff on-site or available 24 hours a day, 7 days
 2 a week, who provide care in the scope of their practice as provided
 3 in parts 170, 172, 181, 182, 182A, and 185 of the public health
 4 code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to
 5 333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237,
 6 333.18251 to 333.18267, and 333.18501 to 333.18518.

7 (iii) The program integrates families into treatment, including
 8 maintaining sibling connections.

9 (iv) The program provides aftercare services for at least 6
 10 months post discharge.

11 (v) The program is accredited by an independent not-for-profit
 12 organization as described in 42 USC 672(k)(4)(G).

13 (vi) The program does not include a detention facility,
 14 forestry camp, training school, or other facility operated
 15 primarily for detaining minor children who are determined to be
 16 delinquent.

17 (ff) ~~(ee)~~ "Regular license" means a license issued to a child
 18 care organization indicating that the organization is in
 19 substantial compliance with all rules promulgated under this act
 20 and, if there is a deficiency, has entered into a corrective action
 21 plan.

22 (gg) ~~(ff)~~ "Guardian" means the **individual's** guardian. ~~of the~~
 23 ~~person.~~

24 (hh) ~~(gg)~~ "Minor child" means any of the following:

25 (i) An individual less than 18 years of age.

26 (ii) An individual who is a resident in a child caring
 27 institution, foster family home, or foster family group home, who
 28 is at least 18 but less than 21 years of age, and who meets the
 29 requirements of the young adult voluntary foster care act, 2011 PA

1 225, MCL 400.641 to 400.671.

2 (iii) An individual who is a resident in a child caring
 3 institution, children's camp, foster family home, or foster family
 4 group home; who becomes 18 years of age while residing in a child
 5 caring institution, children's camp, foster family home, or foster
 6 family group home; and who continues residing in a child caring
 7 institution, children's camp, foster family home, or foster family
 8 group home to receive care, maintenance, training, and supervision.
 9 A minor child under this subparagraph does not include ~~a person~~**an**
 10 **individual** 18 years of age or older who is placed in a child caring
 11 institution, foster family home, or foster family group home under
 12 an adjudication under section 2(a) of chapter XIIIA of the probate
 13 code of 1939, 1939 PA 288, MCL 712A.2, or under section 1 of
 14 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
 15 769.1. This subparagraph applies only if the number of those
 16 residents who become 18 years of age does not exceed the following:

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

18 (B) Three, if the total number of residents is not less than
 19 11 and not more than 14.

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

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

23 (iv) An individual 18 years of age or older who is placed in an
 24 unlicensed residence under section 5(4) or a foster family home
 25 under section 5(7).

26 (ii) ~~(hh)~~ "Related" means 1 of the following:

27 (i) Except as provided in subparagraph (ii), a relative as
 28 defined in section 13a of chapter XIIIA of the probate code of 1939,
 29 1939 PA 288, MCL 712A.13a.

1 (ii) For licensing by the department related to a child care
2 center, children's camp, children's campsite, family child care
3 home, foster family home, foster family group home, or group child
4 care home, in the relationship by blood, marriage, or adoption, as
5 parent, grandparent, great-grandparent, great-great-grandparent,
6 aunt or uncle, great-aunt or great-uncle, great-great-aunt or
7 great-great-uncle, sibling, stepsibling, nephew or niece, first
8 cousin or first cousin once removed, and the spouse of any of the
9 individuals described in this definition, even after the marriage
10 has ended by death or divorce.

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

15 (kk) ~~(jj)~~—"School-age child" means a child who is eligible to
16 attend a grade of kindergarten or higher, but is less than 13 years
17 of age. A child is considered to be a school-age child on the first
18 day of the school year in which the child is eligible to attend
19 school.

20 (ll) ~~(kk)~~—"Severe physical injury" means serious physical harm
21 as that term is defined in section 136b of the Michigan penal code,
22 1931 PA 328, MCL 750.136b.

23 (mm) ~~(ll)~~—"Licensee designee" means the individual designated
24 in writing by the board of directors of the corporation or by the
25 owner or person with legal authority to act on behalf of the
26 company or organization on licensing matters. The individual must
27 agree in writing to be designated as the licensee designee. All
28 license applications must be signed by the licensee in the case of
29 the individual or by a member of the corporation, company, or

1 organization.

2 **(nn)** ~~(mm)~~ "Water delivery service" means a service that
 3 delivers drinking water to a child care center and provides
 4 drinking water that meets the standards of the safe drinking water
 5 act, 42 USC 300f to 300j-25.

6 (2) A family child care home or group child care home is
 7 automatically eligible for increased capacity after satisfying all
 8 of the following criteria:

9 (a) Holds a current license.

10 (b) Has been licensed to operate for at least 29 consecutive
 11 months.

12 (c) Has received 1 or more unrelated minor children for care
 13 and supervision during the licensed period under subdivision (b).

14 (d) Has received a renewed regular license after at least 29
 15 months of licensed operation under subdivision (b).

16 (3) The department may rescind increased capacity due to 1 or
 17 more of the following:

18 (a) Corrective action.

19 (b) Licensing action.

20 (c) Determination by the department that increased capacity is
 21 not conducive to the welfare of children as that term is defined in
 22 section 5m.

23 (4) If the department rescinds increased capacity as outlined
 24 in subsection (3), the family child care home or group child care
 25 home may be considered for increased capacity not less than 22
 26 months after rescinding increased capacity in a form and manner
 27 determined by the department.

28 (5) A family child care home or group child care home may
 29 appeal rescission of increased capacity under a hearing held in the

1 manner provided under section 11(2).

2 Sec. 2b. ~~(1)~~—As used in this section and sections 2c, 2d, and
3 2e, unless the context requires otherwise:

4 (a) "Adaptive device" means a mechanical device incorporated
5 in the individual plan of services that is intended to provide
6 anatomical support or to assist the minor child with adaptive
7 skills.

8 (b) "Chemical restraint" means a drug that meets all of the
9 following criteria:

10 (i) Is administered to manage a minor child's behavior in a way
11 that reduces the safety risk to the minor child or others.

12 (ii) Has the temporary effect of restricting the minor child's
13 freedom of movement.

14 (iii) Is not a standard treatment for the minor child's medical
15 or psychiatric condition.

16 (c) "Emergency safety intervention" means use of personal
17 restraint or seclusion as an immediate response to an emergency
18 safety situation. **Use of personal restraint as an emergency safety
19 intervention is not child abuse or child neglect unless it meets
20 the definition of child abuse or child neglect as defined under
21 section 2 of the child protection law, 1975 PA 238, MCL 722.622.**

22 (d) "Emergency safety situation" means the onset of an
23 unanticipated, severely aggressive, or destructive behavior that
24 places the minor child or others at serious threat of violence or
25 injury if no intervention occurs and that calls for an emergency
26 safety intervention.

27 (e) "Individual plan of services" means that term as defined
28 in section 100b of the mental health code, 1974 PA 258, MCL
29 330.1100b.

1 (f) "Licensed practitioner" means an individual who has been
2 trained in the use of personal restraint and seclusion, who is
3 knowledgeable of the risks inherent in the implementation of
4 personal restraint and seclusion, and who is 1 of the following:

5 (i) A physician licensed under article 15 of the public health
6 code, 1978 PA 368, MCL 333.16101 to 333.18838.

7 (ii) An individual who has been issued a specialty
8 certification as a nurse practitioner under article 15 of the
9 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

10 (iii) A physician's assistant licensed under article 15 of the
11 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

12 (iv) A registered nurse licensed under article 15 of the public
13 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

14 (v) A psychologist and a limited licensed psychologist
15 licensed under article 15 of the public health code, 1978 PA 368,
16 MCL 333.16101 to 333.18838.

17 (vi) A counselor and a limited licensed counselor licensed
18 under article 15 of the public health code, 1978 PA 368, MCL
19 333.16101 to 333.18838.

20 (vii) A licensed master's social worker licensed under article
21 15 of the public health code, 1978 PA 368, MCL 333.16101 to
22 333.18838.

23 (g) "Mechanical restraint" means a device attached or adjacent
24 to the minor child's body that he or she cannot easily remove and
25 that restricts freedom of movement or normal access to his or her
26 body. Mechanical restraint does not include the use of a protective
27 or adaptive device or a device primarily intended to provide
28 anatomical support. Mechanical restraint does not include use of a
29 mechanical device to ensure security precautions appropriate to the

1 condition and circumstances of a minor child placed in the child
2 caring institution as a result of an order of the family division
3 of circuit court under section 2(a) of chapter XIIIA of the probate
4 code of 1939, 1939 PA 288, MCL 712A.2.

5 (h) "Personal restraint" means the application of physical
6 force without the use of a device, for the purpose of restraining
7 the free movement of a minor child's body. Personal restraint does
8 not include:

9 (i) The use of a protective or adaptive device.

10 (ii) Briefly holding a minor child without undue force in order
11 to calm or comfort him or her.

12 (iii) Holding a minor child's hand, wrist, shoulder, or arm to
13 safely escort him or her from 1 area to another.

14 (iv) The use of a protective or adaptive device or a device
15 primarily intended to provide anatomical support.

16 (i) "Protective device" means an individually fabricated
17 mechanical device or physical barrier, the use of which is
18 incorporated in the individualized written plan of service. The use
19 of a protective device is intended to prevent the minor child from
20 causing serious self-injury associated with documented, frequent,
21 and unavoidable hazardous events.

22 (j) "Seclusion" means the involuntary placement of a minor
23 child in a room alone, where the minor child is prevented from
24 exiting by any means, including the physical presence of a staff
25 person if the sole purpose of that staff person's presence is to
26 prevent the minor child from exiting the room. **Seclusion does not**
27 **include techniques for therapeutic de-escalation.** Seclusion does
28 not include the use of a sleeping room during regular sleeping
29 hours to ensure security precautions appropriate to the condition

1 and circumstances of a minor child placed in the child caring
 2 institution as a result of an order of the family division of
 3 circuit court under section 2(a) and (b) of chapter XIIIA of the
 4 probate code of 1939, 1939 PA 288, MCL 712A.2, if the minor child's
 5 individual case treatment plan indicates that the security
 6 precautions would be in the minor child's best interest.

7 (k) "Serious injury" means any significant impairment of the
 8 physical condition of the minor child as determined by qualified
 9 medical personnel that results from an emergency safety
 10 intervention. This includes, but is not limited to, burns,
 11 lacerations, bone fractures, substantial hematoma, and injuries to
 12 internal organs, whether self-inflicted or inflicted by someone
 13 else.

14 ~~(2) The provisions of this section and sections 2c, 2d, and 2e~~
 15 ~~only apply to a child caring institution that contracts with or~~
 16 ~~receives payment from a community mental health services program or~~
 17 ~~prepaid inpatient health plan for the care, treatment, maintenance,~~
 18 ~~and supervision of a minor child in that child caring institution.~~

19 Sec. 2c. ~~(1)~~ If a child caring institution contracts with and
 20 receives payment from a community mental health services program or
 21 prepaid inpatient health plan for the care, treatment, maintenance,
 22 and supervision of a minor child in a child caring institution, the
 23 child caring institution ~~may place a minor child in personal~~
 24 ~~restraint or seclusion only as provided in this section and~~
 25 ~~sections 2d and 2e but shall not use mechanical restraint or~~
 26 ~~chemical restraint.~~ **must comply with the rules for child caring**
 27 **institutions. Emergency safety intervention in the form of physical**
 28 **management is allowed but must comply with the mental health code,**
 29 **1974 PA 258, MCL 330.1001 to 330.2106, and associated**

1 **administrative rules.**

2 ~~(2) A child caring institution shall require its staff to have~~
3 ~~ongoing education, training, and demonstrated knowledge of all of~~
4 ~~the following:~~

5 ~~(a) Techniques to identify minor children's behaviors, events,~~
6 ~~and environmental factors that may trigger emergency safety~~
7 ~~situations.~~

8 ~~(b) The use of nonphysical intervention skills, such as de-~~
9 ~~escalation, mediation conflict resolution, active listening, and~~
10 ~~verbal and observational methods to prevent emergency safety~~
11 ~~situations.~~

12 ~~(c) The safe use of personal restraint or seclusion, including~~
13 ~~the ability to recognize and respond to signs of physical distress~~
14 ~~in minor children who are in personal restraint or seclusion or who~~
15 ~~are being placed in personal restraint or seclusion.~~

16 ~~(3) A child caring institution's staff shall be trained in the~~
17 ~~use of personal restraint and seclusion, shall be knowledgeable of~~
18 ~~the risks inherent in the implementation of personal restraint and~~
19 ~~seclusion, and shall demonstrate competency regarding personal~~
20 ~~restraint or seclusion before participating in the implementation~~
21 ~~of personal restraint or seclusion. A child caring institution's~~
22 ~~staff shall demonstrate their competencies in these areas on a~~
23 ~~semiannual basis. The department shall review and determine the~~
24 ~~acceptability of the child caring institutions' staff education,~~
25 ~~training, knowledge, and competency requirements required by this~~
26 ~~subsection and the training and knowledge required of a licensed~~
27 ~~practitioner in the use of personal restraint and seclusion.~~