

HOUSE BILL NO. 5497

February 22, 2024, Introduced by Rep. Schriver and referred to the Committee on Government Operations.

A bill to amend 1973 PA 116, entitled

"An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,"

by amending section 1 (MCL 722.111), as amended by 2023 PA 173.

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~~, **333.22121**, a
 17 boarding school licensed under section 1335 of the revised school
 18 code, 1976 PA 451, MCL 380.1335, a hospital or facility operated by
 19 the state or licensed under the mental health code, 1974 PA 258,
 20 MCL 330.1001 to 330.2106, or an adult foster care family home or an
 21 adult foster care small group home licensed under the adult foster
 22 care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737,
 23 in which a 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) Complies with the rules for child caring institutions,
5 except that behavior management rooms, personal restraint,
6 mechanical restraint, or seclusion, which is allowed in certain
7 circumstances under licensing rules, are prohibited in a children's
8 therapeutic group home.

9 (iii) Is not a private home.

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

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

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

26 (ii) A facility operated by a religious organization where
27 children are in the religious organization's care for not more than
28 3 hours while persons responsible for the children are attending
29 religious services.

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

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

14 (v) A program that primarily provides therapeutic services to
15 a child.

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

23 (k) "Criminal history check" means a fingerprint-based
24 criminal history record information background check through the
25 department of state police and the Federal Bureau of Investigation.

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

28 (m) "Department" means the department of health and human
29 services and the department of licensing and regulatory affairs or

1 a successor agency or department responsible for licensure under
2 this act. The department of licensing and regulatory affairs is
3 responsible for licensing and regulatory matters for child care
4 centers, group child care homes, family child care homes,
5 children's camps, and children's campsites. The department of
6 health and human services is responsible for licensing and
7 regulatory matters for child caring institutions, child placing
8 agencies, children's therapeutic group homes, foster family homes,
9 and foster family group homes.

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

14 (o) "Eligible" means that the individual obtained the checks
15 and clearances described in sections 5n and 5q and is considered
16 appropriate to obtain a license, to be a member of the household of
17 a group child care home or family child care home, or to be a child
18 care staff member.

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

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

23 (i) Is connected to customer site piping.

24 (ii) Filters water and is certified to meet NSF/ANSI standard
25 53 for lead reduction and NSF/ANSI standard 42 for particulate
26 removal.

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

29 (iv) Has a light or other device to indicate filter cartridge

1 replacement status.

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

4 (vi) Includes a drinking fountain.

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

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

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

19 (u) "Increased capacity" means 1 additional child added to the
20 total number of minor children received for care and supervision in
21 a family child care home or 2 additional children added to the
22 total number of minor children received for care and supervision in
23 a group child care home.

24 (v) "Private home" means a private residence in which the
25 licensee permanently resides, which residency is not contingent
26 upon caring for children or employment by a child placing agency.
27 Private home includes a full-time foster family home, a full-time
28 foster family group home, a group child care home, or a family
29 child care home, as follows:

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

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

16 (iii) "Family child care home" means a private home in which 1
17 but fewer than 7 minor children are received for care and
18 supervision for compensation for periods of less than 24 hours a
19 day, unattended by a parent or legal guardian, except children
20 related to an adult member of the household. Family child care home
21 includes a home in which care is given to an unrelated minor child
22 for more than 4 weeks during a calendar year. A family child care
23 home does not include an individual providing babysitting services
24 for another individual. As used in this subparagraph, "providing
25 babysitting services" means caring for a child on behalf of the
26 child's parent or guardian if the annual compensation for providing
27 those services does not equal or exceed \$600.00 or an amount that
28 would according to the internal revenue code of 1986 obligate the
29 child's parent or guardian to provide a form 1099-MISC to the

1 individual for compensation paid during the calendar year for those
2 services. Family child care home includes a private home with
3 increased capacity.

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

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

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

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

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

24 (aa) "Member of the household" means any individual who
25 resides in a family child care home, group child care home, foster
26 family home, or foster family group home on an ongoing basis, or
27 who has a recurrent presence in the home, including, but not
28 limited to, overnight stays. For foster family homes and foster
29 family group homes, a member of the household does not include a

1 foster child. For group child care homes and family child care
2 homes, a member of the household does not include a child to whom
3 child care is being provided.

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

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

11 (dd) "Qualified residential treatment program" or "QRTP" means
12 a program within a child caring institution to which all of the
13 following apply:

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

17 (ii) The program has registered or licensed nursing and other
18 licensed clinical staff on-site or available 24 hours a day, 7 days
19 a week, who provide care in the scope of their practice as provided
20 in parts 170, 172, 181, 182, 182A, and 185 of the public health
21 code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to
22 333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237,
23 333.18251 to 333.18267, and 333.18501 to 333.18518.

24 (iii) The program integrates families into treatment, including
25 maintaining sibling connections.

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

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

1 (vi) The program does not include a detention facility,
 2 forestry camp, training school, or other facility operated
 3 primarily for detaining minor children who are determined to be
 4 delinquent.

5 (ee) "Regular license" means a license issued to a child care
 6 organization indicating that the organization is in substantial
 7 compliance with all rules promulgated under this act and, if there
 8 is a deficiency, has entered into a corrective action plan.

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

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

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

12 (ii) An individual who is a resident in a child caring
 13 institution, foster family home, or foster family group home, who
 14 is at least 18 but less than 21 years of age, and who meets the
 15 requirements of the young adult voluntary foster care act, 2011 PA
 16 225, MCL 400.641 to 400.671.

17 (iii) An individual who is a resident in a child caring
 18 institution, children's camp, foster family home, or foster family
 19 group home; who becomes 18 years of age while residing in a child
 20 caring institution, children's camp, foster family home, or foster
 21 family group home; and who continues residing in a child caring
 22 institution, children's camp, foster family home, or foster family
 23 group home to receive care, maintenance, training, and supervision.
 24 A minor child under this subparagraph does not include a person 18
 25 years of age or older who is placed in a child caring institution,
 26 foster family home, or foster family group home under an
 27 adjudication under section 2(a) of chapter XIIA of the probate code
 28 of 1939, 1939 PA 288, MCL 712A.2, or under section 1 of chapter IX
 29 of the code of criminal procedure, 1927 PA 175, MCL 769.1. This

1 subparagraph applies only if the number of those residents who
2 become 18 years of age does not exceed the following:

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

4 (B) Three, if the total number of residents is not less than
5 11 and not more than 14.

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

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

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

12 (hh) "Related" means 1 of the following:

13 (i) Except as provided in subparagraph (ii), a relative as
14 defined in section 13a of chapter XIIIA of the probate code of 1939,
15 1939 PA 288, MCL 712A.13a.

16 (ii) For licensing by the department related to a child care
17 center, children's camp, children's campsite, family child care
18 home, foster family home, foster family group home, or group child
19 care home, in the relationship by blood, marriage, or adoption, as
20 parent, grandparent, great-grandparent, great-great-grandparent,
21 aunt or uncle, great-aunt or great-uncle, great-great-aunt or
22 great-great-uncle, sibling, stepsibling, nephew or niece, first
23 cousin or first cousin once removed, and the spouse of any of the
24 individuals described in this definition, even after the marriage
25 has ended by death or divorce.

26 (ii) "Religious organization" means a church, ecclesiastical
27 corporation, or group, not organized for pecuniary profit, that
28 gathers for mutual support and edification in piety or worship of a
29 supreme deity.

1 (jj) "School-age child" means a child who is eligible to
2 attend a grade of kindergarten or higher, but is less than 13 years
3 of age. A child is considered to be a school-age child on the first
4 day of the school year in which the child is eligible to attend
5 school.

6 (kk) "Severe physical injury" means serious physical harm as
7 that term is defined in section 136b of the Michigan penal code,
8 1931 PA 328, MCL 750.136b.

9 (ll) "Licensee designee" means the individual designated in
10 writing by the board of directors of the corporation or by the
11 owner or person with legal authority to act on behalf of the
12 company or organization on licensing matters. The individual must
13 agree in writing to be designated as the licensee designee. All
14 license applications must be signed by the licensee in the case of
15 the individual or by a member of the corporation, company, or
16 organization.

17 (mm) "Water delivery service" means a service that delivers
18 drinking water to a child care center and provides drinking water
19 that meets the standards of the safe drinking water act, 42 USC
20 300f to 300j-25.

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

24 (a) Holds a current license.

25 (b) Has been licensed to operate for at least 29 consecutive
26 months.

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

29 (d) Has received a renewed regular license after at least 29

1 months of licensed operation under subdivision (b).

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

4 (a) Corrective action.

5 (b) Licensing action.

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

9 (4) If the department rescinds increased capacity as outlined
10 in subsection (3), the family child care home or group child care
11 home may be considered for increased capacity not less than 22
12 months after rescinding increased capacity in a form and manner
13 determined by the department.

14 (5) A family child care home or group child care home may
15 appeal rescission of increased capacity under a hearing held in the
16 manner provided under section 11(2).

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. ____ or House Bill No. 5477 (request no.
19 01038'23) of the 102nd Legislature is enacted into law.