

**SUBSTITUTE FOR
SENATE BILL NO. 532**

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 the department of social services and adoption facilitators; to provide penalties; and to repeal certain acts and parts of acts,"

by amending section 5 (MCL 722.115), as amended by 1995 PA 81, and by adding sections 5b, 5c, and 5d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) A person, partnership, firm, corporation, asso-
2 ciation, or nongovernmental organization shall not establish or
3 maintain a child care organization unless licensed or registered
4 by the department. Application for a license or certificate of
5 registration shall be made on forms provided, and in the manner
6 prescribed, by the department. Before issuing or renewing a
7 license, the department shall investigate the APPLICANT'S

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1 activities and proposed standards of care ~~of the applicant~~ and
2 shall make an on-site visit of the proposed or established
3 organization. If the department is satisfied as to the need for
4 a child care organization, its financial stability, the
5 APPLICANT'S good moral character, ~~of the applicant,~~ and that
6 the services and facilities are conducive to the welfare of the
7 children, the department shall issue or renew the license. As
8 used in this subsection, "good moral character" means ~~good moral~~
9 ~~character~~ THAT TERM as defined IN and determined ~~pursuant to~~
10 ~~Act No. 381 of the Public Acts of 1974, being sections 338.41 to~~
11 ~~338.47 of the Michigan Compiled Laws~~ UNDER 1974 PA 381, MCL
12 338.41 TO 338.47.

13 (2) THE DEPARTMENT SHALL NOT ISSUE OR RENEW A LICENSE OR
14 CERTIFICATE OF REGISTRATION UNDER THIS ACT WITHOUT REQUESTING
15 CRIMINAL HISTORY CHECKS AND CRIMINAL RECORDS CHECKS AS REQUIRED
16 BY SECTION 5B.

17 (3) ~~(2)~~ The department shall issue a certificate of regis-
18 tration to a person who has successfully completed an orientation
19 session offered by the department ~~,~~ and who certifies to the
20 department that the family day care home has complied with and
21 will continue to comply with the rules promulgated under this act
22 ~~,~~ and will provide services and facilities, as determined by
23 the department, conducive to the welfare of children. The
24 department shall make available TO APPLICANTS FOR REGISTRATION an
25 orientation session ~~to applicants for registration~~ regarding
26 this act, the rules promulgated under this act, and the needs of
27 children in family day care before issuing a certificate of

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1 registration. The department shall issue a certificate of
2 registration to a specific person at a specific location. A cer-
3 tificate of registration is nontransferable and remains the prop-
4 erty of the department. Within 90 days after initial registra-
5 tion, the department shall make an on-site visit of the family
6 day care home.

7 (4) ~~-(3)-~~ The department may authorize a licensed child
8 placing agency or an approved governmental unit to investigate a
9 foster family home or a foster family group home pursuant to sub-
10 section (1) and to certify that the foster family home or foster
11 family group home meets the licensing requirements prescribed by
12 this act. A foster family home or a foster family group home
13 shall be certified for licensing by the department by only 1
14 child placing agency or approved governmental unit. Other child
15 placing agencies may place children in a foster family home or
16 foster family group home only upon the approval of the certifying
17 agency or governmental unit.

18 (5) ~~-(4)-~~ The department may authorize a licensed child
19 placing agency or an approved governmental unit to place a child
20 who is 16 or 17 years of age in his or her own unlicensed resi-
21 dence, or in the unlicensed residence of an adult who has no
22 supervisory responsibility for the child, if a child placing
23 agency or governmental unit retains supervisory responsibility
24 for the child.

25 (6) ~~-(5)-~~ A licensed child placing agency, child caring
26 institution, ~~and an~~ OR approved governmental unit shall provide
27 the state court administrative office and a local foster care

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1 review board established under ~~Act No. 422 of the Public Acts of~~
2 ~~1984, being sections 722.131 to 722.139a of the Michigan Compiled~~
3 ~~Laws, such~~ 1984 PA 422, MCL 722.131 TO 722.139A, THOSE records
4 ~~as may be~~ requested pertaining to children in foster care
5 placement for more than 6 months.

6 (7) ~~(6)~~ The department may authorize a licensed child
7 placing agency or an approved governmental unit to place a child
8 who is 16 or 17 years old in an adult foster care family home or
9 an adult foster care small group home licensed under the adult
10 foster care facility licensing act, ~~Act No. 218 of the Public~~
11 ~~Acts of 1979, being sections 400.701 to 400.737 of the Michigan~~
12 ~~Compiled Laws~~ 1979 PA 218, MCL 400.701 TO 400.737, if a licensed
13 child placing agency or approved governmental unit retains super-
14 visory responsibility for the child and certifies to the depart-
15 ment all of the following:

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

17 (b) The CHILD'S needs ~~of the child~~ can be adequately met
18 by the adult foster care family home or small group home.

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

21 (d) The child placing agency or approved governmental unit
22 will periodically reevaluate the placement of ~~an individual~~ A
23 CHILD under this subsection to determine that the criteria for
24 placement in subdivisions (a) through (c) continue to be met.

25 (8) ~~(7) The~~ ON AN EXCEPTION BASIS, THE director of the
26 department, or his or her designee, may authorize ~~, on an~~
27 ~~exception basis,~~ a licensed child placing agency or an approved

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1 governmental unit to place an adult in a foster family home ~~—~~,
2 if a licensed child placing agency or approved governmental unit
3 certifies to the department all of the following:

4 (a) The adult is a person with a developmental disability as
5 defined by section 600 of the mental health code, ~~Act No. 258 of~~
6 ~~the Public Acts of 1974, being section 330.1600 of the Michigan~~
7 ~~Compiled Laws~~ 1974 PA 258, MCL 330.1600, or a person who is oth-
8 erwise neurologically handicapped ~~—~~, and ~~the person~~ is also
9 physically limited to such a degree as to require complete physi-
10 cal assistance with mobility and activities of daily living.

11 (b) The placement is in the ADULT'S best ~~interest of the~~
12 ~~adult~~ INTERESTS and will not adversely affect the ~~interest~~
13 INTERESTS of the foster child or children residing in the foster
14 family home.

15 (c) The ADULT'S identified needs ~~of the adult~~ can be met
16 by the foster family home.

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

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

25 (9) ~~(8) The~~ ON AN EXCEPTION BASIS, THE director of the
26 department, or his or her designee, may authorize ~~—, on an~~
27 ~~exception basis,~~ a licensed child placing agency or an approved

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1 governmental unit to place a child in an adult foster care family
2 home or an adult foster care small group home licensed under ~~Act~~
3 ~~No. 218 of the Public Acts of 1979~~ THE ADULT FOSTER CARE LICENS-
4 ING FACILITY ACT, 1979 PA 218, MCL 400.701 TO 400.737, if the
5 licensed child placing agency or approved governmental unit cer-
6 tifies to the department all of the following:

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

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

10 (c) The CHILD'S identified needs ~~of the child~~ can be met
11 adequately by the adult foster care family home or small group
12 home.

13 (d) The CHILD'S psychosocial and clinical needs ~~of the~~
14 ~~child~~ are compatible with those of other residents of the adult
15 foster care family home or small group home.

16 (e) The clinical treatment of the child's condition is simi-
17 lar to that of the other residents of the adult foster care
18 family home or small group home.

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

22 (g) The child is neurologically handicapped and is also
23 physically limited to such a degree as to require complete physi-
24 cal assistance with mobility and activities of daily living.

25 (h) The child placing agency or approved governmental unit
26 will periodically reevaluate the placement of a child under this

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1 subsection to determine that the criteria for placement in
2 subdivisions (a) to (g) continue to be met.

3 SEC. 5B. (1) WHEN A PERSON, PARTNERSHIP, FIRM, CORPORATION,
4 ASSOCIATION, OR NONGOVERNMENTAL ORGANIZATION APPLIES FOR OR TO
5 RENEW A LICENSE OR CERTIFICATE OF REGISTRATION FOR A CHILD CARE
6 ORGANIZATION UNDER SECTION 5, THE DEPARTMENT SHALL REQUEST THE
7 DEPARTMENT OF STATE POLICE TO DO BOTH OF THE FOLLOWING FOR THE
8 PERSON OR EACH PARTNER, OFFICER, OR MANAGER OF THE CHILD CARE
9 ORGANIZATION AND, IF ANY FACILITY OF THE CHILD CARE ORGANIZATION
10 IS A PRIVATE RESIDENCE, FOR EACH INDIVIDUAL WHO IS 17 YEARS OF
11 AGE OR OLDER AND RESIDES OR INTENDS TO RESIDE IN THAT RESIDENCE:

12 (A) CONDUCT A CRIMINAL HISTORY CHECK ON THE INDIVIDUAL.

13 (B) CONDUCT A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL
14 BUREAU OF INVESTIGATION ON THE INDIVIDUAL. [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 (2) EACH INDIVIDUAL SHALL GIVE WRITTEN CONSENT AT THE TIME
20 OF THE LICENSE OR CERTIFICATE OF REGISTRATION APPLICATION FOR THE
21 DEPARTMENT OF STATE POLICE TO CONDUCT THE CRIMINAL HISTORY CHECK
22 AND CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION. THE
23 DEPARTMENT SHALL REQUIRE THE INDIVIDUAL TO SUBMIT HIS OR HER
24 FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE FOR THE CRIMINAL
25 HISTORY AND CRIMINAL RECORDS CHECKS DESCRIBED IN SUBSECTION (1).

26 (3) THE DEPARTMENT SHALL REQUEST A CRIMINAL HISTORY CHECK
27 AND CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION ON A FORM
AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE.

28 (4) WITHIN 45 DAYS AFTER RECEIVING A PROPER REQUEST BY THE
29 DEPARTMENT FOR A CRIMINAL HISTORY CHECK ON AN INDIVIDUAL UNDER

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1 THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT THE
2 CRIMINAL HISTORY CHECK AND PROVIDE A REPORT OF THE RESULTS TO THE
3 DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY RECORD
4 INFORMATION ON THE INDIVIDUAL MAINTAINED BY THE DEPARTMENT OF
5 STATE POLICE.

6 (5) WITHIN 7 DAYS AFTER RECEIVING A PROPER REQUEST BY THE
7 DEPARTMENT FOR A CRIMINAL RECORDS CHECK ON AN INDIVIDUAL UNDER
8 THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL INITIATE THE
9 CRIMINAL RECORDS CHECK. AFTER CONDUCTING THE CRIMINAL RECORDS
10 CHECK, THE DEPARTMENT OF STATE POLICE SHALL PROVIDE THE RESULTS
11 OF THE CRIMINAL RECORDS CHECK TO THE DEPARTMENT.

12 (6) THE DEPARTMENT SHALL NOT ISSUE OR RENEW THE LICENSE OR
13 CERTIFICATE OF REGISTRATION UNTIL IT RECEIVES THE REPORTS
14 DESCRIBED IN SUBSECTIONS (4) AND (5).

15 (7) IF A CRIMINAL HISTORY CHECK OR CRIMINAL RECORDS CHECK
16 PERFORMED UNDER THIS SECTION REVEALS THAT AN APPLICANT OR A PART-
17 NER, OFFICER, OR MANAGER OF AN APPLICANT HAS A CRIMINAL CONVIC-
18 TION, 1 OF THE FOLLOWING APPLIES:

19 (A) IF THE CONVICTION IS NOT A LISTED CONVICTION, THE
20 DEPARTMENT MAY CONSIDER THE INFORMATION IN DETERMINING WHETHER TO
21 ISSUE OR RENEW THE LICENSE OR CERTIFICATE OF REGISTRATION.

22 (B) IF THE CONVICTION IS A LISTED CONVICTION, 1 OF THE FOL-
23 LOWING APPLIES:

24 (i) IF THE APPLICATION IS FOR RENEWAL OF A LICENSE OR CER-
25 TIFICATE OF REGISTRATION ORIGINALLY ISSUED BEFORE THE EFFECTIVE
26 DATE OF THIS SECTION, THE DEPARTMENT MAY CONSIDER THE INFORMATION
27 IN DETERMINING WHETHER TO RENEW THE LICENSE OR CERTIFICATE OF

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1 REGISTRATION. UPON RENEWAL, THE CHILD CARE ORGANIZATION MUST
2 NOTIFY THE PARENT OR GUARDIAN OF EACH CHILD WHO USES THE
3 ORGANIZATION'S SERVICES OF THE FACT AND NATURE OF THE
4 INDIVIDUAL'S LISTED CONVICTION.

5 (ii) IF THE APPLICATION IS FOR AN ORIGINAL LICENSE OR CER-
6 TIFICATE OF REGISTRATION, THE DEPARTMENT SHALL DENY THE
7 APPLICATION.

(8) THE DEPARTMENT OF STATE POLICE MAY CHARGE A FEE FOR A
CRIMINAL HISTORY CHECK OR A CRIMINAL RECORDS CHECK DESCRIBED IN
SUBSECTION (1) THAT DOES NOT EXCEED THE ACTUAL COST OF CONDUCTING
THE CHECK.

8 (9) AS USED IN THIS SECTION AND SECTION 5C:

9 (A) "CRIMINAL HISTORY RECORD INFORMATION" MEANS THAT TERM AS
10 DEFINED IN SECTION 1A OF 1925 PA 289, MCL 28.241A.

11 (B) "LISTED CONVICTION" MEANS A CONVICTION OF ANY OF THE
12 FOLLOWING:

13 (i) A FELONY VIOLATION OF PART 74 OF THE PUBLIC HEALTH CODE,
14 1978 PA 368, MCL 333.7401 TO 333.7461, OR A VIOLATION OF SECTION
15 7455(2) OF THAT ACT, MCL 333.7455.

16 (ii) A VIOLATION OF THE YOUTH EMPLOYMENT STANDARDS ACT, 1978
17 PA 90, MCL 409.101 TO 409.124, INVOLVING THE EMPLOYMENT OF A
18 MINOR.

19 (iii) A VIOLATION OF SECTION 33 OF THE MICHIGAN LIQUOR CON-
20 TROL ACT, 1933 (EX SESS) PA 8, MCL 436.33, OR A VIOLATION OF SEC-
21 TION 33B(2) OF THAT ACT, MCL 436.33B, INVOLVING FURNISHING FRAUD-
22 ULENT IDENTIFICATION.

23 (iv) A VIOLATION OF 1973 PA 116, MCL 722.111 TO 722.128.

24 (v) A VIOLATION OF 1968 PA 296, MCL 722.151 TO 722.152.

25 (vi) SECTION 13(2) OR (5) OF THE CHILD PROTECTION LAW, 1975
26 PA 238, MCL 722.633.

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1 (vii) A VIOLATION OF SECTION 1 OF THE YOUTH TOBACCO ACT,
2 1915 PA 31, MCL 722.641.

3 (viii) A VIOLATION OF SECTION 5, 7, OR 8 OF 1978 PA 33, MCL
4 722.675, 722.677, AND 722.678.

5 (ix) A VIOLATION OF SECTION 3 OF 1960 PA 41, MCL 722.753.

6 (x) A VIOLATION OF SECTION 28, 72, 73, 75, 82, 83, 84, 86,
7 87, 88, 89, 90, 91, 110, 110A, 111, 112, 135, 136B, 137, 138,
8 140, 141, 141A, 142, 143, 144, 145, 145A, 145C, 145o,, 157B(2),
9 157C, 161, 164, 167(1)(A), (B), (C), (F), OR (I), 204, 204A, 205,
10 205A, 206, 207, 208, 209, 210, 213, 223(2), 224, 224A, 224B,
11 224C, 226, 227, 227F, 234A, 234B, 234C, 316, 317, 321, 327A, 328,
12 335A, 349, 349A, 350, 397, 397A, 411H, 411I, 436, 448, 449, 449A,
13 450, 452, 454, 455, 456, 457, 458, 459, 462, 520B, 520C, 520D,
14 520E, 520G, 529, 529A, 530, OR 531 OF THE MICHIGAN PENAL CODE,
15 1931 PA 328, MCL 750.28, 750.72, 750.73, 750.75, 750.82, 750.83,
16 750.84, 750.86, 750.87, 750.88, 750.89, 750.90, 750.91, 750.110,
17 750.110A, 750.111, 750.112, 750.135, 750.136B, 750.137, 750.138,
18 750.140, 750.141, 750.141A, 750.142, 750.143, 750.144, 750.145,
19 750.145A, 750.145C, 750.145o, 750.157B, 750.157C, 750.161,
20 750.164, 750.167, 750.204, 750.204A, 750.205, 750.205A, 750.206,
21 750.207, 750.208, 750.209, 750.210, 750.213, 750.223, 750.224,
22 750.224A, 750.224B, 750.224C, 750.226, 750.227, 750.227F,
23 750.234A, 750.234B, 750.234C, 750.316, 750.317, 750.321,
24 750.327A, 750.328, 750.335A, 750.349, 750.349A, 750.350, 750.397,
25 750.397A, 750.411H, 750.411I, 750.436, 750.448, 750.449,
26 750.449A, 750.450, 750.452, 750.454, 750.455, 750.456, 750.457,

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1 750.458, 750.459, 750.462, 750.520B, 750.520C, 750.520D,
2 750.520E, 750.520G, 750.529, 750.529A, 750.530, AND 750.531.

3 (xi) A FELONY VIOLATION OF SECTION 74 OR 145N OF THE
4 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.74 AND 750.145N.

5 (xii) A VIOLATION OF SECTION 81 OR 81A OF THE MICHIGAN PENAL
6 CODE, 1931 PA 328, MCL 750.81 AND 750.81A, INVOLVING AN ASSAULT
7 AGAINST A MINOR.

8 (xiii) A VIOLATION OF SECTION 5 OF 1984 PA 343, MCL
9 752.365.

10 (xiv) A VIOLATION OF A FORMER LAW OF THIS STATE OR AN ORDI-
11 NANCE OR FORMER ORDINANCE OF A POLITICAL SUBDIVISION OF THIS
12 STATE SUBSTANTIALLY CORRESPONDING TO A LAW DESCRIBED IN SUBPARA-
13 GRAPHS (i) TO (xiii).

14 (xv) A VIOLATION OF A LAW OR FORMER LAW OF THE UNITED STATES
15 OR ANOTHER STATE OR AN ORDINANCE OR FORMER ORDINANCE OF A POLITI-
16 CAL SUBDIVISION OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO A
17 LAW DESCRIBED IN SUBPARAGRAPHS (i) TO (xiii).

18 (xvi) AN ATTEMPT OR CONSPIRACY TO COMMIT AN OFFENSE
19 DESCRIBED IN SUBPARAGRAPHS (i) TO (xv).

20 SEC. 5C. (1) WHEN A CHILD CARE ORGANIZATION MAKES AN OFFER
21 OF INITIAL EMPLOYMENT TO AN INDIVIDUAL 16 YEARS OF AGE OR OLDER
22 FOR A POSITION INVOLVING THE CARE, CUSTODY, OR SUPERVISION OF
23 CHILDREN, THE CHILD CARE ORGANIZATION SHALL REQUEST THE DEPART-
24 MENT OF STATE POLICE TO DO BOTH OF THE FOLLOWING:

25 (A) CONDUCT A CRIMINAL HISTORY CHECK ON THE INDIVIDUAL.

26 (B) CONDUCT A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL
27 BUREAU OF INVESTIGATION ON THE INDIVIDUAL.

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5 (2) THE INDIVIDUAL SHALL GIVE WRITTEN CONSENT AT THE TIME OF
6 HIS OR HER EMPLOYMENT APPLICATION FOR THE DEPARTMENT OF STATE
7 POLICE TO CONDUCT THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS
8 CHECK REQUIRED UNDER THIS SECTION. THE CHILD CARE ORGANIZATION
SHALL REQUIRE THE INDIVIDUAL TO SUBMIT HIS OR HER FINGERPRINTS TO
THE DEPARTMENT OF STATE POLICE FOR THE CRIMINAL HISTORY AND CRIMINAL
RECORDS CHECKS DESCRIBED IN SUBSECTION (1).

9 (3) A CHILD CARE ORGANIZATION SHALL REQUEST A CRIMINAL HIS-
10 TORY CHECK AND CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION
11 ON A FORM AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF STATE
12 POLICE.

13 (4) WITHIN 45 DAYS AFTER RECEIVING A PROPER REQUEST BY A
14 CHILD CARE ORGANIZATION FOR A CRIMINAL HISTORY CHECK ON AN INDI-
15 VIDUAL UNDER THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL
16 CONDUCT THE CRIMINAL HISTORY CHECK AND PROVIDE A REPORT OF THE
17 RESULTS TO THE CHILD CARE ORGANIZATION. THE REPORT SHALL CONTAIN
18 ANY CRIMINAL HISTORY RECORD INFORMATION ON THE INDIVIDUAL MAIN-
19 TAINED BY THE DEPARTMENT OF STATE POLICE.

20 (5) WITHIN 7 DAYS AFTER RECEIVING A PROPER REQUEST BY A
21 CHILD CARE ORGANIZATION FOR A CRIMINAL RECORDS CHECK ON AN INDI-
22 VIDUAL UNDER THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL
23 INITIATE THE CRIMINAL RECORDS CHECK. AFTER CONDUCTING THE CRIMI-
24 NAL RECORDS CHECK FOR A CHILD CARE ORGANIZATION THAT IS A GOVERN-
25 MENTAL ORGANIZATION, THE DEPARTMENT OF STATE POLICE SHALL PROVIDE
26 THE RESULTS OF THE CRIMINAL RECORDS CHECK TO THAT CHILD CARE
27 ORGANIZATION. AFTER CONDUCTING THE CRIMINAL RECORDS CHECK FOR A

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1 NONGOVERNMENTAL CHILD CARE ORGANIZATION, THE DEPARTMENT OF STATE
2 POLICE SHALL NOTIFY THE CHILD CARE ORGANIZATION WHETHER THE CRIM-
3 INAL RECORDS CHECK DISCLOSED ANY CRIMINAL HISTORY THAT IS NOT
4 DISCLOSED IN THE CRIMINAL HISTORY CHECK UNDER SUBSECTION (4).

5 (6) EXCEPT AS PROVIDED IN THIS SUBSECTION, A CHILD CARE
6 ORGANIZATION SHALL NOT EMPLOY THE INDIVID-
7 UAL UNTIL IT RECEIVES THE REPORTS DESCRIBED IN SUBSECTIONS (4)

8 AND (5). IF THE CHILD CARE ORGANIZATION DETERMINES IT IS NECESSARY
9 TO EMPLOY AN INDIVIDUAL AND IT HAS RECEIVED THE RESULTS OF THE
10 CRIMINAL HISTORY CHECK ON THE INDIVIDUAL, IT MAY EMPLOY THE
11 INDIVIDUAL AS A CONDITIONAL EMPLOYEE BEFORE RECEIVING THE REPORT
12 DESCRIBED IN SUBSECTION (5). SUBSECTION (8) APPLIES TO THAT
13 CONDITIONAL EMPLOYEE.

14 (7) A CHILD CARE ORGANIZATION SHALL REQUEST AND THE DEPART-
15 MENT OF STATE POLICE SHALL CONDUCT CRIMINAL HISTORY CHECKS AND
16 CRIMINAL RECORDS CHECKS OF ALL EXISTING EMPLOYEES WHO ARE 16
17 YEARS OF AGE OR OLDER IN THE SAME MANNER AS FOR APPLICANTS FOR
18 EMPLOYMENT UNDER THIS SECTION ACCORDING TO THE FOLLOWING
19 SCHEDULE:

20 (A) FOR THE CALENDAR YEAR IN WHICH THIS ACT TAKES EFFECT,
21 THE CHILD CARE ORGANIZATION SHALL REQUEST CRIMINAL HISTORY CHECKS
22 AND CRIMINAL RECORDS CHECKS OF EMPLOYEES WHO BEGAN IN THAT CALEN-
23 DAR YEAR AND THE 2 PRECEDING CALENDAR YEARS. THUS, IF THIS ACT
24 TAKES EFFECT AUGUST 1, 1997, IN 1997 THE CHILD CARE ORGANIZATION
25 SHALL REQUEST CRIMINAL HISTORY CHECKS AND CRIMINAL RECORDS CHECKS
26 OF EMPLOYEES WHO BEGAN IN 1997 AND EMPLOYEES WHO BEGAN IN 1995
27 AND 1996.

28 (B) FOR EACH SUBSEQUENT CALENDAR YEAR, THE CHILD CARE ORGAN-
29 IZATION SHALL REQUEST CRIMINAL HISTORY CHECKS AND CRIMINAL
30 RECORDS CHECKS OF EMPLOYEES WHO BEGAN IN THE 2 CALENDAR YEARS
31 PRECEDING THE EARLIEST CALENDAR YEAR FOR WHICH CRIMINAL HISTORY
32 CHECKS AND CRIMINAL RECORDS CHECKS WERE CONDUCTED IN THE
33 PRECEDING CALENDAR YEAR. THUS, IF THIS ACT TAKES EFFECT AUGUST

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1 1, 1997, FOR 1998, THE CHILD CARE ORGANIZATION SHALL REQUEST
2 CRIMINAL HISTORY CHECKS AND CRIMINAL RECORDS CHECKS OF EMPLOYEES
3 WHO BEGAN IN 1993 AND 1994.

4 (8) IF A CRIMINAL HISTORY CHECK OR CRIMINAL RECORDS CHECK
5 REVEALS A LISTED CONVICTION, THE CHILD CARE ORGANIZATION SHALL
6 REFUSE TO HIRE THAT APPLICANT OR SHALL DISMISS THAT EMPLOYEE.

7 (9) CRIMINAL HISTORY RECORD INFORMATION OR THE RESULTS OF A
8 CRIMINAL RECORDS CHECK UNDER THIS SECTION SHALL BE USED BY A
9 CHILD CARE ORGANIZATION ONLY FOR THE PURPOSE OF EVALUATING AN
10 APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT IN THE POSITION FOR
11 WHICH HE OR SHE HAS APPLIED OR WHETHER TO RETAIN AN EMPLOYEE. A
12 LICENSEE OR REGISTRANT OR ITS OFFICERS, AGENTS, OR EMPLOYEES
13 SHALL NOT DISCLOSE THE REPORT OR ITS CONTENTS EXCEPT A FELONY
14 CONVICTION OR A MISDEMEANOR CONVICTION INVOLVING SEXUAL OR PHYSI-
15 CAL ABUSE TO ANY PERSON NOT DIRECTLY INVOLVED IN EVALUATING THE
16 APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT OR THE ISSUE OF THE
17 EMPLOYEE'S CONTINUED EMPLOYMENT. A PERSON WHO VIOLATES THIS SUB-
18 SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT
19 MORE THAN \$10,000.00.

(10) THE DEPARTMENT OF STATE POLICE MAY CHARGE A FEE FOR A
CRIMINAL HISTORY CHECK OR A CRIMINAL RECORDS CHECK DESCRIBED IN
SUBSECTION (1) THAT DOES NOT EXCEED THE ACTUAL COST OF CONDUCTING
THE CHECK.

20 SEC. 5D. IF A PARENT OR GUARDIAN HIRES OR INTENDS TO HIRE
21 AN INDIVIDUAL 16 YEARS OF AGE OR OLDER WHO IS NOT REQUIRED TO BE
22 A LICENSEE OR REGISTRANT OR WHO IS NOT EMPLOYED BY A LICENSEE OR
23 REGISTRANT BUT WHOSE POSITION INVOLVES OR WILL INVOLVE THE CARE,
24 CUSTODY, OR SUPERVISION OF A CHILD IN THAT PARENT'S OR GUARDIAN'S
25 CUSTODY, THE PARENT OR GUARDIAN MAY REQUEST THE DEPARTMENT OF
26 STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK OR CRIMINAL
27 RECORDS CHECK, OR BOTH, OF THAT INDIVIDUAL. UPON REQUEST AND

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1 AFTER RECEIVING THE INDIVIDUAL'S CONSENT AND FINGERPRINTS, IF
2 REQUIRED, THE DEPARTMENT OF STATE POLICE SHALL CONDUCT THE CRIMI-
3 NAL HISTORY CHECK AND CRIMINAL RECORDS CHECK FOR THE PARENT OR
4 GUARDIAN ON THE SAME TERMS AS IT WOULD FOR A NONGOVERNMENTAL
5 CHILD CARE ORGANIZATION UNDER SECTION 5C.