

# HOUSE BILL No. 5742

May 4, 2000, Introduced by Reps. Faunce, Hart, Birkholz, Julian, Tabor, Scranton, Mead, Kowall, Pumford, Vander Roest, Van Woerkom, Howell, DeRossett, Caul, Shackleton, Jelinek, Bishop, Kuipers, Woronchak, Ehardt, Pappageorge, DeWeese, Rick Johnson, Richner, LaSata, Middaugh, Voorhees, Jansen, Ruth Johnson, Hager, Frank, Pestka, Neumann, O'Neil and Richardville and referred to the Committee on Family and Children Services.

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 5 and 11 (MCL 722.115 and 722.121), section 5 as amended by 1998 PA 519 and section 11 as amended by 1980 PA 232.

## 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

1 license, the department shall investigate the applicant's  
2 activities and proposed standards of care , ~~and~~ shall make an  
3 on-site visit of the proposed or established organization, AND  
4 COMPLY WITH THE PROVISIONS OF THE CHILD-RELATED EMPLOYMENT BACK-  
5 GROUND CHECK ACT. If the department is satisfied as to the need  
6 for a child care organization, its financial stability, the  
7 applicant's good moral character, ~~and~~ that the services and  
8 facilities are conducive to the welfare of the children, AND THAT  
9 THE REQUIREMENTS OF THE CHILD-RELATED EMPLOYMENT BACKGROUND CHECK  
10 ACT ARE MET, the department shall issue or renew the license. As  
11 used in this subsection, "good moral character" means that term  
12 as defined in and determined under 1974 PA 381, MCL 338.41 to  
13 338.47. If a county juvenile agency as defined in section 2 of  
14 the county juvenile agency act certifies to the department that  
15 it intends to contract with an applicant for a new license, the  
16 department shall issue or deny the license within 60 days after  
17 it receives a complete application as provided in section 5b.

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

1 day care before issuing a certificate of registration. BEFORE  
2 ISSUING A CERTIFICATE OF REGISTRATION TO AN APPLICANT, THE  
3 DEPARTMENT SHALL COMPLY WITH THE PROVISIONS OF THE CHILD-RELATED  
4 EMPLOYMENT BACKGROUND CHECK ACT. The department shall issue a  
5 certificate of registration to a specific person at a specific  
6 location. A certificate of registration is nontransferable and  
7 remains the property of the department. Within 90 days after  
8 initial registration, the department shall make an on-site visit  
9 of the family day care home.

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

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

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

7       (6) The department may authorize a licensed child placing  
8 agency or an approved governmental unit to place a child who is  
9 16 or 17 years old in an adult foster care family home or an  
10 adult foster care small group home licensed under the adult  
11 foster care facility licensing act, 1979 PA 218, MCL 400.701 to  
12 400.737, if a licensed child placing agency or approved govern-  
13 mental unit retains supervisory responsibility for the child and  
14 certifies to the department all of the following:

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

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

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

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

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

1 governmental unit certifies to the department all of the  
2 following:

3       (a) The adult is a person with a developmental disability as  
4 defined by section 100a of the mental health code, 1974 PA 258,  
5 MCL 330.1100a, or a person who is otherwise neurologically dis-  
6 abled and is also physically limited to such a degree as to  
7 require complete physical assistance with mobility and activities  
8 of daily living.

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

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

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

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

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

1 agency or approved governmental unit certifies to the department  
2 all of the following:

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

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

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

8       (d) The child's psychosocial and clinical needs are compati-  
9 ble with those of other residents of the adult foster care family  
10 home or small group home.

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

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

17       (g) The child is neurologically disabled and is also physi-  
18 cally limited to such a degree as to require complete physical  
19 assistance with mobility and activities of daily living.

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

24       Sec. 11. (1) An original license shall not be granted  
25 under this act if the issuance of the license would substantially  
26 contribute to an excessive concentration of community residential

1 facilities within a city, village, township, or county of this  
2 state.

3       (2) The department may deny, revoke, or refuse to renew a  
4 license or certificate of registration of a child care organiza-  
5 tion when the licensee, registrant, or applicant falsifies infor-  
6 mation on the application or ~~wilfully~~ WILLFULLY and substan-  
7 tially violates this act, the rules promulgated under this act,  
8 or the terms of the license or certificate of registration, OR  
9 FAILS TO COMPLY WITH THE PROVISIONS OF THE CHILD-RELATED EMPLOY-  
10 MENT BACKGROUND CHECK ACT. The department may modify to a provi-  
11 sional status a license of a child care organization when the  
12 licensee ~~wilfully~~ WILLFULLY and substantially violates this  
13 act, the rules promulgated under this act, or the terms of the  
14 license. ~~A~~ EXCEPT AS PROVIDED IN THE CHILD-RELATED EMPLOYMENT  
15 BACKGROUND CHECK ACT, A license or a certificate of registration  
16 shall not be revoked, a renewal of a license or certificate of  
17 registration shall not be refused, an application for a license  
18 or a certificate of registration shall not be denied, or a regu-  
19 lar license shall not be modified to a provisional status unless  
20 the licensee, registrant, or applicant is given notice in writing  
21 of the grounds of the proposed revocation, denial, modification,  
22 or refusal. If revocation, denial, modification, or refusal is  
23 appealed within 30 days after receipt of the notice by writing  
24 addressed to the director of the department, the director or a  
25 designated representative of the director shall conduct a hearing  
26 at which the licensee, registrant, or applicant may present  
27 testimony and confront witnesses. Notice of the hearing shall be

1 given to the licensee, registrant, or applicant by personal  
2 service or delivery to the proper address by certified mail not  
3 less than 2 weeks before the date of the hearing. The decision  
4 of the director shall be made not more than 30 days after the  
5 hearing, and forwarded to the protesting party by certified mail  
6 not more than 10 days thereafter. If the proposed revocation,  
7 denial, modification, or refusal is not protested, the license or  
8 certificate of registration may be revoked or the application or  
9 the renewal of the license or certificate of registration  
10 refused.

11 (3) The department shall deny a license to a child caring  
12 institution or foster family group home which does not comply  
13 with section 16a of ~~Act No. 183 of the Public Acts of 1943, as~~  
14 ~~amended, being section 125.216a of the Michigan Compiled Laws~~  
15 THE COUNTY ZONING ACT OF 1943, 1943 PA 183, MCL 125.216A, section  
16 16a of ~~Act No. 184 of the Public Acts of 1943, as amended,~~  
17 ~~being section 125.286a of the Michigan Compiled Laws~~ THE TOWN-  
18 SHIP ZONING ACT OF 1943, 1943 PA 184, MCL 125.286A, and section  
19 3b of ~~Act No. 207 of the Public Acts of 1921, as amended, being~~  
20 ~~section 125.583b of the Michigan Compiled Laws~~ THE CITY AND VIL-  
21 LAGE ZONING ACT OF 1921, 1921 PA 207, MCL 125.583B.

22 (4) The legislative body of a city, village, or township in  
23 which a child caring institution or foster family group home is  
24 located may file a complaint with the department to have the  
25 organization's license suspended, denied, or revoked pursuant to  
26 the procedures outlined in this act and the rules promulgated  
27 under this act. The director of the department shall resolve the



1 issues of the complaint within 45 days after the receipt of the  
2 complaint. Notice of the resolution of the issues shall be  
3 mailed by certified mail to the complainant and the licensee.  
4 Failure of the director of the department to resolve the issues  
5 of the complaint within 45 days after receipt of the complaint  
6 shall serve as a decision by the director to suspend, deny, or  
7 revoke the organization's license. If the decision to suspend,  
8 deny, or revoke the license or the resolution of the issues is  
9 protested by written objection of the complainant or licensee to  
10 the director of the department within 30 days after the suspen-  
11 sion, denial, or revocation of the license or the receipt of the  
12 notice of resolution, the director of the department or a desig-  
13 nated representative of the director shall conduct a hearing pur-  
14 suant to ~~Act No. 306 of the Public Acts of 1969, as amended,~~  
15 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws~~  
16 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL  
17 24.201 TO 24.328, at which the complainant and licensee may  
18 present testimony and cross-examine witnesses. The decision of  
19 the director of the department shall be mailed by certified mail  
20 to the complainant and the licensee. If the resolution of the  
21 issues by the director of the department is not protested within  
22 30 days after receipt of the notice of the resolution, the reso-  
23 lution by the director of the department is final.

24 Enacting section 1. This amendatory act does not take  
25 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5741  
26 (request no. 02221'99\*) of the 90th Legislature is enacted into  
27 law.