

HOUSE BILL No. 4928

July 2, 2003, Introduced by Rep. Ward 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 section 1 (MCL 722.111), as amended by 2002 PA 696.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

2 (a) "Child care organization" means a governmental or
3 nongovernmental organization having as its principal function the
4 receiving of minor children for care, maintenance, training, and
5 supervision, notwithstanding that educational instruction may be
6 given. Child care organization includes organizations commonly
7 described as child caring institutions, child placing agencies,
8 children's camps, child care centers, day care centers, nursery
9 schools, parent cooperative preschools, foster homes, group

1 homes, or day care homes. Child care organization does not
2 include a governmental or nongovernmental organization that does
3 either of the following:

4 (i) Provides care exclusively to minors who have been
5 emancipated by court order ~~pursuant to~~ **under** section 4(3) of
6 1968 PA 293, MCL 722.4.

7 (ii) Provides care exclusively to ~~persons~~ **individuals** who
8 are 18 years of age or older and to minors who have been
9 emancipated by court order ~~pursuant to~~ **under** section 4(3) of
10 1968 PA 293, MCL 722.4, at the same location.

11 (b) "Child caring institution" means a child care facility
12 that is organized for the purpose of receiving minor children for
13 care, maintenance, and supervision, usually on a 24-hour basis,
14 in buildings maintained by the child caring institution for that
15 purpose, and operates throughout the year. An educational
16 program may be provided, but the educational program shall not be
17 the primary purpose of the facility. Child caring institution
18 includes a maternity home for the care of unmarried mothers who
19 are minors and an agency group home, that is described as a small
20 child caring institution owned, leased, or rented by a licensed
21 agency providing care for more than 4 but less than 13 minor
22 children. Child caring institution also includes institutions
23 for mentally retarded or emotionally disturbed minor children.
24 Child caring institution does not include a hospital, nursing
25 home, or home for the aged licensed under article 17 of the
26 public health code, 1978 PA 368, MCL 333.20101 to 333.22260, a
27 boarding school licensed under section 1335 of the revised school

1 code, 1976 PA 451, MCL 380.1335, a hospital or facility operated
2 by the state or licensed under the mental health code, 1974 PA
3 258, MCL 330.1001 to 330.2106, or an adult foster care family
4 home or an adult foster care small group home licensed under the
5 adult foster care facility licensing act, 1979 PA 218, MCL
6 400.701 to 400.737, in which a child has been placed ~~pursuant~~
7 **according** to section 5(6).

8 (c) "Child placing agency" means a governmental organization
9 or an agency organized ~~pursuant to~~ **under** the nonprofit
10 corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, for the
11 purpose of receiving children for placement in private family
12 homes for foster care or for adoption. The function of a child
13 placing agency may include investigating applicants for adoption
14 and investigating and certifying foster family homes and foster
15 family group homes as provided in this act. The function of a
16 child placing agency may also include supervising children who
17 are 16 or 17 years of age and who are living in unlicensed
18 residences as provided in section 5(4).

19 (d) "Children's camp" means a residential, day, troop, or
20 travel camp conducted in a natural environment for more than 4
21 school-age children, apart from the children's parents,
22 relatives, or legal guardians, for ~~5 or more~~ **not more than 7**
23 days in a 14-day period. A children's camp provides care and
24 supervision for the same group of children for usually not more
25 than 12 weeks.

26 (e) "Child care center" or "day care center" means a
27 facility, other than a private residence, receiving 1 or more

1 preschool or school-age children for care for periods of less
2 than 24 hours a day, and where the parents or guardians are not
3 immediately available to the child. Child care center or day
4 care center includes a facility that provides care for not less
5 than 2 consecutive weeks, regardless of the number of hours of
6 care per day. The facility is generally described as a child
7 care center, day care center, day nursery, nursery school, parent
8 cooperative preschool, play group, or drop-in center. Child care
9 center or day care center does not include any of the following:

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

15 (ii) A facility operated by a religious organization ~~where~~
16 ~~children are cared~~ **that provides child care** for not more than 3
17 hours while ~~persons~~ **individuals** responsible for the children
18 are attending religious services.

19 (iii) Beginning July 1, 2003, a facility or program for
20 school-age children that is operated at a school by a public
21 school or by a person or entity with whom a public school
22 contracts for services, in accordance with section 1285a(2) of
23 the revised school code, 1976 PA 451, MCL 380.1285a, if that
24 facility or program has been granted an exemption under
25 subsection (2).

26 (f) "Private home" means a private residence in which the
27 licensee or registrant permanently resides as a member of the

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

6 (i) "Foster family home" is a private home in which 1 but not
7 more than 4 minor children, who are not related to an adult
8 member of the household by blood or marriage, or who are not
9 placed in the household ~~pursuant to~~ **under** the Michigan adoption
10 code, chapter X of the probate code of 1939, 1939 PA 288, MCL
11 710.21 to 710.70, are given care and supervision for 24 hours a
12 day, for 4 or more days a week, for 2 or more consecutive weeks,
13 unattended by a parent or legal guardian.

14 (ii) "Foster family group home" means a private home in which
15 more than 4 but fewer than 7 minor children, who are not related
16 to an adult member of the household by blood or marriage, or who
17 are not placed in the household ~~pursuant to~~ **under** the Michigan
18 adoption code, chapter X of the probate code of 1939, 1939 PA
19 288, MCL 710.21 to 710.70, are provided care for 24 hours a day,
20 for 4 or more days a week, for 2 or more consecutive weeks,
21 unattended by a parent or legal guardian.

22 (iii) "Family day care home" means a private home in which
23 1 but fewer than 7 minor children are received for care and
24 supervision for periods of less than 24 hours a day, unattended
25 by a parent or legal guardian, except children related to an
26 adult member of the family by blood, marriage, or adoption.
27 Family day care home includes a home in which care is given to an

1 unrelated minor child for more than 4 weeks during a calendar
2 year.

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

10 (g) "Licensee" means a person, partnership, firm,
11 corporation, association, nongovernmental organization, or local
12 or state government child care organization that has been issued
13 a license under this act to operate a child care organization.

14 (h) "Provisional license" means a license issued **under this**
15 **act** to a child care organization that is temporarily unable to
16 conform to all of the rules promulgated under this act.

17 (i) "Regular license" means a license issued **under this act**
18 to a child care organization indicating that the organization is
19 in compliance with all rules promulgated under this act.

20 (j) "Guardian" means the guardian of the person.

21 (k) "Minor child" means any of the following:

22 (i) ~~A person~~ **An individual** less than 18 years of age.

23 (ii) ~~A person~~ **An individual** who is a resident in a child
24 caring institution, children's camp, foster family home, or
25 foster family group home; who becomes 18 years of age while
26 residing in the child caring institution, children's camp, foster
27 family home, or foster family group home; and who continues

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

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

14 (B) Three, if the total number of residents is not less than
 15 11 and not more than 14.

16 (C) Four, if the total number of residents is not less than
 17 15 and not more than 20.

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

19 (iii) ~~A person~~ **An individual** 18 years of age or older who
 20 is placed in a foster family home under section 5(7).

21 (l) "Registrant" means a person who has been issued a
 22 certificate of registration under this act to operate a family
 23 day care home.

24 (m) "Registration" means the process by which the department
 25 of consumer and industry services regulates family day care
 26 homes, and includes the requirement that a family day care home
 27 certify to the department that the family day care home has

1 complied with and will continue to comply with the rules
2 promulgated under this act.

3 (n) "Certificate of registration" means a written document
4 issued under this act to a family day care home through
5 registration.

6 (o) "Related" means a parent, grandparent, brother, sister,
7 stepparent, stepsister, stepbrother, uncle, aunt, cousin, great
8 aunt, great uncle, or stepgrandparent related by marriage, blood,
9 or adoption.

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

14 (2) A facility or program for school-age children that is
15 operated at a school by a public school or by a person or entity
16 with whom a public school contracts for services and that has
17 been in operation and approved for a minimum of 4 years may apply
18 to the department of consumer and industry services to be exempt
19 from this act. The department of consumer and industry services
20 shall respond to a facility or program requesting exemption under
21 this subsection within 45 days from the date the completed
22 application is received. The department of consumer and industry
23 services may exempt from this act a facility or program that
24 meets all of the following criteria:

25 (a) The facility or program has been in operation and
26 approved for a minimum of 4 years before the application date.

27 (b) During the 4 years before the application date, the

1 facility or program has not had a substantial violation of this
2 act, rules promulgated under this act, or the terms of an
3 approval under this act.

4 (c) The school board or board of directors adopts a
5 resolution supporting the application for exemption described in
6 this subsection.