

**SUBSTITUTE FOR
HOUSE BILL NO. 5975**

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 2020 PA 6, and
by adding section 4b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (a) "Child care staff member" means an individual who is 18
- 3 years of age or older to whom 1 or more of the following applies:
- 4 (i) The individual is employed by a child care center, group



1 child care home, or family child care home for compensation,
2 including a contract employee or a self-employed individual.

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

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

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

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

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

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

28 (c) "Child caring institution" means a child care facility
29 that is organized for the purpose of receiving minor children for



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

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

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

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



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

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

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

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

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

29 (i) Provides care, maintenance, and supervision, usually on a



1 24-hour basis.

2 (ii) Complies with the rules for child caring institutions,
3 except that behavior management rooms, personal restraint,
4 mechanical restraint, or seclusion, which is allowed in certain
5 circumstances under licensing rules, are prohibited in a children's
6 therapeutic group home.

7 (iii) Is not a private home.

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

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

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

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

28 (iii) A program that is primarily supervised, school-age-child-
29 focused training in a specific subject, including, but not limited



1 to, dancing, drama, music, or religion. This exclusion applies only
2 to the time a child is involved in supervised, school-age-child-
3 focused training.

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

12 (v) A program that primarily provides therapeutic services to
13 a child.

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

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

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

26 (m) "Department" means the department of health and human
27 services and the department of licensing and regulatory affairs or
28 a successor agency or department responsible for licensure under
29 this act. The department of licensing and regulatory affairs is



1 responsible for licensing and regulatory matters for child care
2 centers, group child care homes, family child care homes,
3 children's camps, and children's campsites. The department of
4 health and human services is responsible for licensing and
5 regulatory matters for child caring institutions, child placing
6 agencies, children's therapeutic group homes, foster family homes,
7 and foster family group homes.

8 (n) "Eligible" means that the individual obtained the checks
9 and clearances described in sections 5n and 5q and is considered
10 appropriate to obtain a license, to be a member of the household of
11 a group child care home or family child care home, or to be a child
12 care staff member.

13 (o) "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 (p) "Private home" means a private residence in which the
20 licensee permanently resides, which residency is not contingent
21 upon caring for children or employment by a child placing agency.
22 Private home includes a full-time foster family home, a full-time
23 foster family group home, a group child care home, or a family
24 child care home, as follows:

25 (i) "Foster family home" means the private home of an
26 individual who is licensed to provide 24-hour care for 1 but not
27 more than 4 minor children who are placed away from their parent,
28 legal guardian, or legal custodian in foster care. The licensed
29 individual providing care is required to comply with the reasonable



1 and prudent parenting standard as defined in section 1 of chapter
2 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.

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

11 (iii) "Family child care home", **except as provided in section**
12 **4b**, means a private home in which 1 but fewer than 7 minor children
13 are received for care and supervision for compensation for periods
14 of less than 24 hours a day, unattended by a parent or legal
15 guardian, except children related to an adult member of the
16 household by blood, marriage, or adoption. Family child care home
17 includes a home in which care is given to an unrelated minor child
18 for more than 4 weeks during a calendar year. A family child care
19 home does not include an individual providing babysitting services
20 for another individual. As used in this subparagraph, "providing
21 babysitting services" means caring for a child on behalf of the
22 child's parent or guardian if the annual compensation for providing
23 those services does not equal or exceed \$600.00 or an amount that
24 would according to the internal revenue code of 1986 obligate the
25 child's parent or guardian to provide a form 1099-MISC to the
26 individual for compensation paid during the calendar year for those
27 services.

28 (iv) "Group child care home", **except as provided in section 4b**,
29 means a private home in which more than 6 but not more than 12

1 minor children are given care and supervision for periods of less
2 than 24 hours a day unattended by a parent or legal guardian,
3 except children related to an adult member of the household by
4 blood, marriage, or adoption. Group child care home includes a home
5 in which care is given to an unrelated minor child for more than 4
6 weeks during a calendar year.

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

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

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

17 (t) "Member of the household" means any individual who resides
18 in a family child care home, group child care home, foster family
19 home, or foster family group home on an ongoing basis, or who has a
20 recurrent presence in the home, including, but not limited to,
21 overnight stays. For foster family homes and foster family group
22 homes, a member of the household does not include a foster child.
23 For group child care homes and family child care homes, a member of
24 the household does not include a child to whom child care is being
25 provided.

26 (u) "Original license" means a license issued to a child care
27 organization during the first 6 months of operation indicating that
28 the organization is in compliance with all rules promulgated by the
29 department under this act.



1 (v) "Provisional license" means a license issued to a child
2 care organization that is temporarily unable to conform to the
3 rules promulgated under this act.

4 (w) "Qualified residential treatment program" or "QRTP" means
5 a program within a child caring institution to which all of the
6 following apply:

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

10 (ii) The program has registered or licensed nursing and other
11 licensed clinical staff on-site or available 24 hours a day, 7 days
12 a week, who provide care in the scope of their practice as provided
13 in parts 170, 172, 181, 182, 182A, and 185 of the public health
14 code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to
15 333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237,
16 333.18251 to 333.18267, and 333.18501 to 333.18518.

17 (iii) The program integrates families into treatment, including
18 maintaining sibling connections.

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

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

23 (vi) The program does not include a detention facility,
24 forestry camp, training school, or other facility operated
25 primarily for detaining minor children who are determined to be
26 delinquent.

27 (x) "Regular license" means a license issued to a child care
28 organization indicating that the organization is in substantial
29 compliance with all rules promulgated under this act and, if there



1 is a deficiency, has entered into a corrective action plan.

2 (y) "Guardian" means the guardian of the person.

3 (z) "Minor child" means any of the following:

4 (i) A person less than 18 years of age.

5 (ii) A person who is a resident in a child caring institution,
6 foster family home, or foster family group home, who is at least 18
7 but less than 21 years of age, and who meets the requirements of
8 the young adult voluntary foster care act, 2011 PA 225, MCL 400.641
9 to 400.671.

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

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

26 (B) Three, if the total number of residents is not less than
27 11 and not more than 14.

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



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

2 (iv) A person 18 years of age or older who is placed in an
3 unlicensed residence under section 5(4) or a foster family home
4 under section 5(7).

5 (aa) "Related" means in the relationship by blood, marriage,
6 or adoption, as parent, grandparent, great-grandparent, great-
7 great-grandparent, aunt or uncle, great-aunt or great-uncle, great-
8 great-aunt or great-great-uncle, sibling, stepsibling, nephew or
9 niece, first cousin or first cousin once removed, and the spouse of
10 any of the individuals described in this definition, even after the
11 marriage has ended by death or divorce.

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

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

21 (dd) "Severe physical injury" means that term as defined in
22 section 8 of the child protection law, 1975 PA 238, MCL 722.628.

23 (ee) "Licensee designee" means the individual designated in
24 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 Sec. 4b. (1) Beginning on the effective date of the amendatory
3 act that added this section, except as otherwise provided in this
4 section, the ratio of child care personnel to minor children
5 present in the family child care home or group child care home at
6 any 1 time must be not less than 1 child care personnel to 6 minor
7 children. The ratio must include all minor children in care who are
8 not related to a child care personnel and any of the following
9 minor children who are less than 6 years of age:

10 (a) A minor child of the licensee.

11 (b) A minor child of a child care staff personnel.

12 (c) A minor child related to a member of the household by
13 blood, marriage, or adoption.

14 (2) For each child care personnel, not more than 4 minor
15 children shall be under the age of 30 months, with not more than 2
16 of the 4 minor children under the age of 18 months.

17 (3) Beginning on the effective date of the amendatory act that
18 added this section, with the written approval from the department,
19 an operator of a family child care home who has at least 3 years of
20 experience and has a regular license with no pending disciplinary
21 action, including, but not limited to, a provisional license,
22 refusal to renew, or revocation or increased monitoring due to rule
23 or law violation, may submit a written request to the department to
24 maintain a ratio of not less than 1 child care personnel to 7
25 children. Upon approval from the department, a family child care
26 home may care for 1 additional unrelated, minor child. The existing
27 square footage requirement must be met to obtain departmental
28 approval.

29 (4) Beginning on the effective date of the amendatory act that



1 added this section, with the written approval of the department, an
2 operator of a group child care home who has at least 3 years of
3 experience and has a regular license with no pending disciplinary
4 action, including, but not limited to, a provisional license,
5 refusal to renew, or revocation or increased monitoring due to rule
6 or law violation, may submit a written request to the department to
7 maintain a ratio of not less than 1 child care personnel to 7
8 children. Upon approval from the department, a group child care
9 home may care for 2 additional unrelated, minor children. The
10 existing square footage requirement must be met to obtain
11 departmental approval.

12 (5) The department shall rescind the written approval of 1
13 additional unrelated minor child for the operator of a family child
14 care home if a recommendation is made for disciplinary action, as
15 described in subsection (3), including, but not limited to,
16 increased monitoring of that license due to substantial or willful
17 violation of a rule or law.

18 (6) The department shall rescind the written approval of 2
19 additional unrelated minor children for the operator of a group
20 child care home if a recommendation is made for disciplinary
21 action, as described in subsection (4), including, but not limited
22 to, increased monitoring of that license due to substantial or
23 willful violation of a rule or law.

24 (7) As used in this section, "child care personnel" means an
25 individual who is 14 years of age or older to whom 1 or more of the
26 following apply:

27 (a) The individual is employed by a group child care home or
28 family child care home for compensation, including a contract
29 employee or a self-employed individual.



1 (b) An individual whose activities involve the unsupervised
2 care or supervision of children for a group child care home or
3 family child care home.

4 (c) An individual who has unsupervised access to children who
5 are cared for or supervised by a group child care home or family
6 child care home.

7 (d) An individual who acts in the role of a licensee designee.