

HOUSE BILL NO. 5975

July 22, 2020, Introduced by Reps. O'Malley, Crawford, Markkanen, Wozniak and Wendzel and referred to the Committee on Families, Children, and Seniors.

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:



1 (a) "Child care staff member" means an individual who is 18
2 years of age or older to whom 1 or more of the following applies:

3 (i) The individual is employed by a child care center, group
4 child care home, or family child care home for compensation,
5 including a contract employee or a self-employed individual.

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

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

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

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

25 (i) Provides care exclusively to minors who have been
26 emancipated by court order under section 4(3) of 1968 PA 293, MCL
27 722.4.

28 (ii) Provides care exclusively to persons who are 18 years of
29 age or older and to minors who have been emancipated by court order



1 under section 4(3) of 1968 PA 293, MCL 722.4, at the same location.

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

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

28 (i) The individual is employed by a child caring institution
29 for compensation, including an adult who does not work directly



1 with children.

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

4 (iii) The individual is an intern or other individual who
5 provides specific services under the rules promulgated under this
6 act.

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

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

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

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



1 mental health code, 1974 PA 258, MCL 330.1100d, and that meets all
2 of the following requirements:

3 (i) Provides care, maintenance, and supervision, usually on a
4 24-hour basis.

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

10 (iii) Is not a private home.

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

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

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

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



1 religious services.

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

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

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

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

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

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

29 (m) "Department" means the department of health and human



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

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

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

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

28 (i) "Foster family home" means the private home of an
29 individual who is licensed to provide 24-hour care for 1 but not



1 more than 4 minor children who are placed away from their parent,
2 legal guardian, or legal custodian in foster care. The licensed
3 individual providing care is required to comply with the reasonable
4 and prudent parenting standard as defined in section 1 of chapter
5 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.

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

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



1 services.

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

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

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

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

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

29 (u) "Original license" means a license issued to a child care



1 organization during the first 6 months of operation indicating that
2 the organization is in compliance with all rules promulgated by the
3 department under this act.

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

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

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

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

20 (iii) The program integrates families into treatment, including
21 maintaining sibling connections.

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

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

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



1 (x) "Regular license" means a license issued to a child care
2 organization indicating that the organization is in substantial
3 compliance with all rules promulgated under this act and, if there
4 is a deficiency, has entered into a corrective action plan.

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

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

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

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

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

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

29 (B) Three, if the total number of residents is not less than



1 11 and not more than 14.

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

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

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

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

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

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

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

26 (ee) "Licensee designee" means the individual designated in
27 writing by the board of directors of the corporation or by the
28 owner or person with legal authority to act on behalf of the
29 company or organization on licensing matters. The individual must



1 agree in writing to be designated as the licensee designee. All
2 license applications must be signed by the licensee in the case of
3 the individual or by a member of the corporation, company, or
4 organization.

5 **Sec. 4b. (1) Beginning on the effective date of the amendatory**
6 **act that added this section, except as otherwise provided in this**
7 **section, the ratio of child care staff members to minor children**
8 **present in the family child care home or group child care home at**
9 **any 1 time must be not less than 1 child care staff member to 6**
10 **minor children. The ratio must include all minor children in care**
11 **who are not related to a child care staff member and any of the**
12 **following minor children who are less than 6 years of age:**

13 (a) A minor child of the licensee.

14 (b) A minor child of a child care staff member.

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

17 (2) For each child care staff member, not more than 4 minor
18 children shall be under the age of 30 months, with not more than 2
19 of the 4 minor children under the age of 18 months.

20 (3) Beginning on the effective date of the amendatory act that
21 added this section, if the operator of a family child care home or
22 group child care home has at least 3 years of experience in good
23 standing operating a family child care home or group child care
24 home, the ratio of child care staff members to minor children at
25 any 1 time may be not less than 1 child care staff member to 7
26 minor children. A family child care home operating under this
27 subsection shall not receive more than 7 minor children in its care
28 at 1 time. A group child care home operating under this subsection
29 shall not receive more than 14 minor children in its care at 1



1 time.

