CHILD CARE ORGANIZATIONS
Act 116 of 1973

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.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1994, Act 209, Eff. Jan. 1, 1995;—Am. 1997, Act 165, Eff. Mar. 31, 1998.

Popular name: Act 116

Popular name: Child Care Licensing Act

The People of the State of Michigan enact:

722.111 Definitions; exemption from inspections and on-site visits.

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

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

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

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

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

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

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

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

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

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

(*ii*) Complies with the rules for child caring institutions, except that behavior management rooms, personal

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restraint, mechanical restraint, or seclusion, which is allowed in certain circumstances under licensing rules, are prohibited in a children's therapeutic group home.

(*iii*) Is not a private home.

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

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

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

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

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

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

(h) "Department" means the department of human services or a successor agency or department responsible for licensure and registration under this act.

(i) "Private home" means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group child care home, or a family child care home, as follows:

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

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

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

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

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

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

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

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

(n) "Guardian" means the guardian of the person.

(o) "Minor child" means any of the following:

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

(*ii*) A person who is a resident in a child caring institution, foster family home, or foster family group home, who is at least 18 but less than 21 years of age, and who meets the requirements of the young adult voluntary foster care act.

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

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

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

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

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

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

(p) "Registrant" means a person who has been issued a certificate of registration under this act to operate a family child care home.

(q) "Registration" means the process by which the department regulates family child care homes, and includes the requirement that a family child care home certify to the department that the family child care home has complied with and will continue to comply with the rules promulgated under this act.

(r) "Certificate of registration" means a written document issued under this act to a family child care home through registration.

(s) "Related" means in the relationship of parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin, great aunt, great uncle, or stepgrandparent by marriage, blood, or adoption.

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

(u) "School-age child" means a child who is eligible to be enrolled in a grade of kindergarten or above, but is less than 13 years of age.

(v) "Licensee designee" means the individual designated in writing by the board of directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing matters. All license applications must be signed by the licensee in the case of the individual or by a member of the corporation, company, or organization.

(2) A facility or program for school-age children that is currently operated and has been in operation and licensed or approved as provided in this act for a minimum of 2 years may apply to the department to be exempt from inspections and on-site visits required under section 5. The department shall respond to a facility or program requesting exemption from inspections and on-site visits required under section 5 as provided under this subsection within 45 days from the date the completed application is received. The department may grant exemption from inspections and on-site visits required under section 5 to a facility or program that meets all of the following criteria:

(a) The facility or program has been in operation and licensed or approved under this act for a minimum of 2 years immediately preceding the application date.

(b) During the 2 years immediately preceding the application date, the facility or program has not had a substantial violation of this act, rules promulgated under this act, or the terms of a licensure or an approval under this act.

(c) The school board, board of directors, or governing body adopts a resolution supporting the application

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for exemption from inspections and on-site visits required under section 5 as provided for in this subsection.

(3) A facility or program granted exemption from inspections and on-site visits required under section 5 as provided under subsection (2) is required to maintain status as a licensed or approved program under this act and must continue to meet the requirements of this act, the rules promulgated under this act, or the terms of a license or approval under this act. A facility or program granted exemption from inspections and on-site visits required under section 5 as provided under subsection (2) is subject to an investigation by the department if a violation of this act or a violation of a rule promulgated under this act is alleged.

(4) A facility or program granted exemption from inspections and on-site visits required under section 5 as provided under subsection (2) is not subject to interim or annual licensing reviews. Such a facility or program is required to submit documentation annually demonstrating compliance with the requirements of this act, the rules promulgated under this act, or the terms of a license or approval under this act.

(5) An exemption provided under subsection (2) may be rescinded by the department if the facility or program willfully and substantially violates this act, the rules promulgated under this act, or the terms of a license or approval granted under this act.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1978, Act 438, Imd. Eff. Oct. 5, 1978;—Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980;—Am. 1980, Act 232, Imd. Eff. July 20, 1980;—Am. 1980, Act 510, Imd. Eff. Jan. 26, 1981;—Am. 1981, Act 126, Imd. Eff. July 23, 1981;—Am. 1984, Act 139, Imd. Eff. June 1, 1984;—Am. 1991, Act 162, Imd. Eff. Dec. 9, 1991;—Am. 1994, Act 205, Eff. Jan. 1, 1995;—Am. 2002, Act 696, Eff. Mar. 31, 2003;—Am. 2005, Act 202, Imd. Eff. Nov. 10, 2005;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007;—Am. 2009, Act 155, Imd. Eff. Nov. 24, 2009;—Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010;—Am. 2011, Act 228, Imd. Eff. Nov. 22, 2011;—Am. 2014, Act 65, Imd. Eff. Mar. 28, 2014.

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v Emmanuel Baptist Preschool, 434 Mich 380; 455 NW2d 1 (1990).

Compiler's note: For transfer of powers and duties of child welfare licensing from the department of social services to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.111a Concurrent licensing as adult foster care family home; additional children; combined licensed capacity; definitions.

Sec. 1a. (1) A private residence licensed as a foster family home or foster family group home may be concurrently licensed as an adult foster care family home. Additional children not related to a resident of the foster family home or foster family group home shall not be received in the foster family home or foster family group home after the filing of an application for an adult foster care family home license.

(2) A child caring institution with a licensed capacity of 6 or fewer residents may be concurrently licensed as an adult foster care small group home. Additional children not related to a resident of the child caring institution shall not be received in the child caring institution after the filing of an application for an adult foster care small group home license. The combined licensed capacity shall not exceed a combination of 6 children and adults.

(3) As used in this section:

(a) “Adult foster care family home” means that term as defined in section 3 of the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being section 400.703 of the Michigan Compiled Laws.

(b) “Adult foster care small group home” means that term as defined in section 3 of the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being section 400.703 of the Michigan Compiled Laws.

History: Add. 1984, Act 139, Imd. Eff. June 1, 1984.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.112 Rules; ad hoc committee; review.

Sec. 2. (1) The department of human services, referred to in this act as the "department", is responsible for the development of rules for the care and protection of children in organizations covered by this act and for the promulgation of these rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL

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24.201 to 24.328.

(2) The department shall establish an ad hoc committee for each type of child care organization as defined in this act when it is formulating or amending rules under this act. The committee shall consist of not less than 12 members, and shall include representatives of the following groups and agencies:

(a) Department of community health.

(b) Department of labor and economic growth, bureau of fire services, and state fire safety board.

(c) Department of education.

(d) Representatives of organizations affected by this act.

(e) Parents of children affected by this act.

(3) A majority of the members appointed to the committee established by subsection (2) shall be representatives of organizations affected by this act and parents of children affected by this act. The committee shall serve during the period of the formulation of rules, shall have responsibility for making recommendations on the content of rules, and shall recommend to the department revisions in proposed rules at any time before their promulgation.

(4) The rules promulgated under this act shall be restricted to the following:

(a) The operation and conduct of child care organizations and the responsibility the organizations assume for child care.

(b) The character, suitability, training, and qualifications of applicants and other persons directly responsible for the care and welfare of children served.

(c) The general financial ability and competence of applicants to provide necessary care for children and to maintain prescribed standards.

(d) The number of individuals or staff required to insure adequate supervision and care of the children received.

(e) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire prevention and health standards to provide for the physical comfort, care, and well being of the children received. However, the rules with respect to fire prevention and fire safety shall not apply to a child care center established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a state approved nonpublic school, if the child care center is located in a school building that is approved by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or other similar authority as provided in section 3 of 1937 PA 306, MCL 388.853, for school purposes and is in compliance with the school fire safety rules, R 29.1901 to R 29.1934 of the Michigan administrative code, as determined by the bureau of fire services or a fire inspector certified pursuant to section 2b of the fire prevention code, 1941 PA 207, MCL 29.2b.

(f) Provisions for food, clothing, educational opportunities, programs, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of children served.

(g) Provisions to safeguard the legal rights of children served.

(h) Maintenance of records pertaining to admission, progress, health, and discharge of children.

(i) Filing of reports with the department.

(j) Discipline of children.

(k) Transportation safety.

(5) Rules once promulgated are subject to major review by an ad hoc committee not less than once every 5 years and shall be reviewed biennially by the department. The ad hoc committee shall be established by the department, shall consist of not less than 12 members, and shall include representatives of the groups and agencies indicated in subsection (2). The ad hoc committee shall hold at least 2 public hearings regarding the review of rules and shall report its recommendations regarding rules to the appropriate committees of the legislature.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1983, Act 150, Imd. Eff. July 18, 1983;—Am. 2006, Act 206, Imd. Eff. June 19, 2006.

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v Emmanuel Baptist Preschool, 434 Mich 380; 455 NW2d 1 (1990).

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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Administrative rules: R 400.1 et seq.; R 400.1301 et seq.; R 400.4101 et seq.; R 400.5101 et seq.; R 400.5106 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; R 400.12101 et seq.; and R 400.16001 of the Michigan Administrative Code.

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722.112a Child caring institution, child care center, or group child care home; person certified in first aid and CPR; applicability of MCL 722.125.

Sec. 2a. (1) A child caring institution, child care center, or group child care home shall have on duty at all times while the institution, center, or home is providing care to 1 or more children at least 1 person who has been certified within the preceding 36 months in first aid and within the preceding 12 months in age-appropriate cardiopulmonary resuscitation by the American red cross, the American heart association, or an equivalent organization or institution approved by the department.

(2) Section 15 does not apply to this section.

History: Add. 1994, Act 349, Eff. Dec. 16, 1995;—Am. 1998, Act 440, Imd. Eff. Dec. 30, 1998;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.112b Definitions; scope.

Sec. 2b. (1) As used in this section and sections 2c, 2d, and 2e, unless the context requires otherwise:

(a) "Adaptive device" means a mechanical device incorporated in the individual plan of services that is intended to provide anatomical support or to assist the minor child with adaptive skills.

(b) "Chemical restraint" means a drug that meets all of the following criteria:

(*i*) Is administered to manage a minor child's behavior in a way that reduces the safety risk to the minor child or others.

(*ii*) Has the temporary effect of restricting the minor child's freedom of movement.

(*iii*) Is not a standard treatment for the minor child's medical or psychiatric condition.

(c) "Emergency safety intervention" means use of personal restraint or seclusion as an immediate response to an emergency safety situation.

(d) "Emergency safety situation" means the onset of an unanticipated, severely aggressive, or destructive behavior that places the minor child or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention.

(e) "Individual plan of services" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(f) "Licensed practitioner" means an individual who has been trained in the use of personal restraint and seclusion, who is knowledgeable of the risks inherent in the implementation of personal restraint and seclusion, and who is 1 of the following:

(*i*) A physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(*ii*) An individual who has been issued a specialty certification as a nurse practitioner under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(*iii*) A physician's assistant licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(*iv*) A registered nurse licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(*v*) A psychologist and a limited licensed psychologist licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(*vi*) A counselor and a limited licensed counselor licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(*vii*) A licensed master's social worker licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(g) "Mechanical restraint" means a device attached or adjacent to the minor child's body that he or she cannot easily remove and that restricts freedom of movement or normal access to his or her body. Mechanical restraint does not include the use of a protective or adaptive device or a device primarily intended to provide anatomical support. Mechanical restraint does not include use of a mechanical device to ensure security precautions appropriate to the condition and circumstances of a minor child placed in the child caring institution as a result of an order of the family division of circuit court under section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(h) "Personal restraint" means the application of physical force without the use of a device, for the purpose of restraining the free movement of a minor child's body. Personal restraint does not include:

(*i*) The use of a protective or adaptive device.

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(*ii*) Briefly holding a minor child without undue force in order to calm or comfort him or her.

(*iii*) Holding a minor child's hand, wrist, shoulder, or arm to safely escort him or her from 1 area to another.

(*iv*) The use of a protective or adaptive device or a device primarily intended to provide anatomical support.

(i) "Protective device" means an individually fabricated mechanical device or physical barrier, the use of which is incorporated in the individualized written plan of service. The use of a protective device is intended to prevent the minor child from causing serious self-injury associated with documented, frequent, and unavoidable hazardous events.

(j) "Seclusion" means the involuntary placement of a minor child in a room alone, where the minor child is prevented from exiting by any means, including the physical presence of a staff person if the sole purpose of that staff person's presence is to prevent the minor child from exiting the room. Seclusion does not include the use of a sleeping room during regular sleeping hours to ensure security precautions appropriate to the condition and circumstances of a minor child placed in the child caring institution as a result of an order of the family division of circuit court under section 2(a) and (b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, if the minor child's individual case treatment plan indicates that the security precautions would be in the minor child's best interest.

(k) "Serious injury" means any significant impairment of the physical condition of the minor child as determined by qualified medical personnel that results from an emergency safety intervention. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

(2) The provisions of this section and sections 2c, 2d, and 2e only apply to a child caring institution that contracts with or receives payment from a community mental health services program or prepaid inpatient health plan for the care, treatment, maintenance, and supervision of a minor child in that child caring institution.

History: Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.112c Personal restraint and seclusion; use in child caring institution contracting with community mental health services program or prepaid inpatient health plan; education, training, and knowledge.

Sec. 2c. (1) If a child caring institution contracts with and receives payment from a community mental health services program or prepaid inpatient health plan for the care, treatment, maintenance, and supervision of a minor child in a child caring institution, the child caring institution may place a minor child in personal restraint or seclusion only as provided in this section and sections 2d and 2e but shall not use mechanical restraint or chemical restraint.

(2) Not later than 180 days after the effective date of the amendatory act that added this section, a child caring institution shall require its staff to have ongoing education, training, and demonstrated knowledge of all of the following:

(a) Techniques to identify minor children's behaviors, events, and environmental factors that may trigger emergency safety situations.

(b) The use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods to prevent emergency safety situations.

(c) The safe use of personal restraint or seclusion, including the ability to recognize and respond to signs of physical distress in minor children who are in personal restraint or seclusion or who are being placed in personal restraint or seclusion.

(3) A child caring institution's staff shall be trained in the use of personal restraint and seclusion, shall be knowledgeable of the risks inherent in the implementation of personal restraint and seclusion, and shall demonstrate competency regarding personal restraint or seclusion before participating in the implementation of personal restraint or seclusion. A child caring institution's staff shall demonstrate their competencies in these areas on a semiannual basis. The state agency licensing child caring institutions shall review and determine the acceptability of the child caring institutions' staff education, training, knowledge, and competency requirements required by this subsection and the training and knowledge required of a licensed practitioner in the use of personal restraint and seclusion.

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History: Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.112d Personal restraint or seclusion; use; limitations; requirements.

Sec. 2d. (1) Personal restraint or seclusion shall not be imposed as a means of coercion, discipline, convenience, or retaliation by a child caring institution's staff.

(2) An order for personal restraint or seclusion shall not be written as a standing order or on an as-needed basis.

(3) Personal restraint or seclusion must not result in harm or injury to the minor child and shall be used only to ensure the minor child's safety or the safety of others during an emergency safety situation. Personal restraint or seclusion shall only be used until the emergency safety situation has ceased and the minor child's safety and the safety of others can be ensured even if the order for personal restraint or seclusion has not expired. Personal restraint and seclusion of a minor child shall not be used simultaneously.

(4) Personal restraint or seclusion shall be performed in a manner that is safe, appropriate, and proportionate to the severity of the minor child's behavior, chronological and developmental age, size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of physical or sexual abuse.

(5) Except as provided in subsection (6), at the time a minor child is admitted to a child caring institution, the child caring institution shall do all of the following:

(a) Inform the minor child and his or her parent or legal guardian of the provider's policy regarding the use of personal restraint or seclusion during an emergency safety situation that may occur while the minor child is under the care of the child caring institution.

(b) Communicate the provider's personal restraint and seclusion policy in a language that the minor child or his or her parent or legal guardian will understand, including American sign language, if appropriate. The provider shall procure an interpreter or translator, if necessary to fulfill the requirement of this subdivision.

(c) Obtain a written acknowledgment from the minor child's parent or legal guardian that he or she has been informed of the provider's policy on the use of personal restraint and seclusion during an emergency safety situation. The child caring institution's staff shall file the acknowledgment in the minor child's records.

(d) Provide a copy of the policy to the minor child's parent or legal guardian.

(6) The child caring institution is not required to inform, communicate, and obtain the written acknowledgment from a minor child's parent or legal guardian as specified in subsection (5) if the minor child is within the care and supervision of the child caring institution as a result of an order of commitment of the family division of circuit court to a state institution, state agency, or otherwise, and has been adjudicated to be a dependent, neglected, or delinquent under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, if the minor child's individual case treatment plan indicates that notice would not be in the minor child's best interest.

(7) An order for personal restraint or seclusion shall only be written by a licensed practitioner.

(8) A licensed practitioner shall order the least restrictive emergency safety intervention measure that is most likely to be effective in resolving the emergency safety situation based on consultation with staff. Consideration of less restrictive emergency safety intervention measures shall be documented in the minor child's record.

(9) If the order for personal restraint or seclusion is verbal, it must be received by a child caring institution staff member who is 1 of the following:

(a) A licensed practitioner.

(b) A social services supervisor as described in R 400.4118 of the Michigan administrative code.

(c) A supervisor of direct care workers as described in R 400.4120 of the Michigan administrative code.

(d) A practical nurse licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(10) A verbal order must be received while personal restraint or seclusion is being initiated by child caring institution staff or immediately after the emergency safety situation begins. The licensed practitioner shall be available to staff for consultation, at least by telephone, throughout the period of personal restraint or seclusion. The licensed practitioner shall verify the verbal order in signed written form in the minor child's record.

(11) An order for personal restraint or seclusion shall meet both of the following criteria:

(a) Be limited to no longer than the duration of the emergency safety situation.

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(b) Not exceed 4 hours for a minor child 18 years of age or older; 2 hours for a minor child 9 to 17 years of age; or 1 hour for a minor child under 9 years of age.

(12) If more than 2 orders for personal restraint or seclusion are ordered for a minor child within a 24-hour period, the director of the child caring institution or his or her designated management staff shall be notified to determine whether additional measures should be taken to facilitate discontinuation of personal restraint or seclusion.

(13) If personal restraint continues for less than 15 minutes or seclusion continues for less than 30 minutes from the onset of the emergency safety intervention, the child caring institution staff qualified to receive a verbal order for personal restraint or seclusion, in consultation with the licensed practitioner, shall evaluate the minor child's psychological well-being immediately after the minor child is removed from seclusion or personal restraint. Staff shall also evaluate the minor child's physical well-being or determine if an evaluation is needed by a licensed practitioner authorized to conduct a face-to-face assessment under subsection (14).

(14) A face-to-face assessment shall be conducted if the personal restraint continues for 15 minutes or more from the onset of the emergency safety intervention or if seclusion continues for 30 minutes or more from the onset of the emergency safety intervention. This face-to-face assessment shall be conducted by a licensed practitioner who is 1 of the following:

(a) A physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(b) An individual who has been issued a speciality certification as a nurse practitioner under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(c) A physician's assistant licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(d) A registered nurse licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(15) The face-to-face assessment shall be conducted within 1 hour of the onset of the emergency safety intervention and immediately after the minor child is removed from personal restraint or seclusion. The face-to-face assessment of the physical and psychological well-being of the minor child shall include, but is not limited to, all of the following:

(a) The minor child's physical and psychological status.

(b) The minor child's behavior.

(c) The appropriateness of the intervention measures.

(d) Any complications resulting from the intervention.

History: Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.112e Personal restraint or seclusion; release; documentation; record; notification; debriefing; report of serious occurrence; annual report.

Sec. 2e. (1) A minor child shall be released from personal restraint or seclusion whenever the circumstance that justified the use of personal restraint or seclusion no longer exists.

(2) Each instance of personal restraint or seclusion requires full justification for its use, and the results of the evaluation immediately following the use of personal restraint or seclusion shall be placed in the minor child's record.

(3) Each order for personal restraint or seclusion shall include all of the following:

(a) The name of the licensed practitioner ordering personal restraint or seclusion.

(b) The date and time the order was obtained.

(c) The personal restraint or seclusion ordered, including the length of time for which the licensed practitioner ordered its use.

(4) The child caring institution staff shall document the use of the personal restraint or seclusion in the minor child's record. That documentation shall be completed by the end of the shift in which the personal restraint or seclusion occurred. If the personal restraint or seclusion does not end during the shift in which it began, documentation shall be completed during the shift in which the personal restraint or seclusion ends. Documentation shall include all of the following:

(a) Each order for personal restraint or seclusion.

(b) The time the personal restraint or seclusion actually began and ended.

(c) The time and results of the 1-hour assessment.

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(d) The emergency safety situation that required the resident to be personally restrained or secluded.

(e) The name of the staff involved in the personal restraint or seclusion.

(5) The child caring institution staff trained in the use of personal restraint shall continually assess and monitor the physical and psychological well-being of the minor child and the safe use of personal restraint throughout the duration of its implementation.

(6) The child caring institution staff trained in the use of seclusion shall be physically present in or immediately outside the seclusion room, continually assessing, monitoring, and evaluating the physical and psychological well-being of the minor. Video monitoring shall not be exclusively used to meet this requirement.

(7) The child caring institution staff shall ensure that documentation of staff monitoring and observation is entered into the minor child's record.

(8) If the emergency safety intervention continues beyond the time limit of the order for use of personal restraint or seclusion, child caring institution staff authorized to receive verbal orders for personal restraint or seclusion shall immediately contact the licensed practitioner to receive further instructions.

(9) The child caring institution staff shall notify the minor child's parent or legal guardian and the appropriate state or local government agency that has responsibility for the minor child if the minor child is under the supervision of the child caring institution as a result of an order of commitment by the family division of circuit court to a state institution or otherwise as soon as possible after the initiation of personal restraint or seclusion. This notification shall be documented in the minor child's record, including the date and time of the notification, the name of the staff person providing the notification, and the name of the person to whom notification of the incident was reported. The child caring institution is not required to notify the parent or legal guardian as provided in this subsection if the minor child is within the care and supervision of the child caring institution as a result of an order of commitment of the family division of circuit court to a state institution, state agency, or otherwise, and has been adjudged to be dependent, neglected, or delinquent under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, if the minor child's individual case treatment plan indicates that the notice would not be in the minor child's best interest.

(10) Within 24 hours after the use of personal restraint or seclusion, child caring institution staff involved in the emergency safety intervention and the minor child shall have a face-to-face debriefing session. The debriefing shall include all staff involved in the seclusion or personal restraint except if the presence of a particular staff person may jeopardize the well-being of the minor child. Other staff members and the minor child's parent or legal guardian may participate in the debriefing if it is considered appropriate by the child caring institution.

(11) The child caring institution shall conduct a debriefing in a language that is understood by the minor child. The debriefing shall provide both the minor child and the staff opportunity to discuss the circumstances resulting in the use of personal restraint or seclusion and strategies to be used by staff, the minor child, or others that could prevent the future use of personal restraint or seclusion.

(12) Within 24 hours after the use of personal restraint or seclusion, all child caring institution staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, shall conduct a debriefing session that includes, at a minimum, all of the following:

(a) Discussion of the emergency safety situation that required personal restraint or seclusion, including a discussion of precipitating factors that led up to the situation.

(b) Alternative techniques that might have prevented the use of personal restraint or seclusion.

(c) The procedures, if any, that child caring institution staff are to implement to prevent a recurrence of the use of personal restraint or seclusion.

(d) The outcome of the emergency safety intervention, including any injury that may have resulted from the use of personal restraint or seclusion.

(13) The child caring institution staff shall document in the minor child's record that both debriefing sessions took place and shall include the names of staff who were present for the debriefings, names of staff that were excused from the debriefings, and changes to the minor child's treatment plan that result from the debriefings.

(14) Each child caring institution subject to this section and sections 2c and 2d shall report each serious occurrence to the state agency licensing the child caring institution. The state agency licensing the child caring institution shall make the reports available to the designated state protection and advocacy system upon request of the designated state protection and advocacy system. Serious occurrences to be reported include a minor child's death, a serious injury to a minor child, and a minor child's suicide attempt. Staff shall report any serious occurrence involving a minor child by no later than close of business of the next business day after a serious occurrence. The report shall include the name of the minor child involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the child

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caring institution. The child caring institution shall notify the minor child's parent or legal guardian and the appropriate state or local government agency that has responsibility for the minor child if the minor child is under the supervision of the child caring institution as a result of an order of commitment by the family division of circuit court to a state institution or otherwise as soon as possible and not later than 24 hours after the serious occurrence. Staff shall document in the minor child's record that the serious occurrence was reported to both the state agency licensing the child caring institution and the state-designated protection and advocacy system, including the name of the person to whom notification of the incident was reported. A copy of the report shall be maintained in the minor child's record, as well as in the incident and accident report logs kept by the child caring institution.

(15) Each child caring institution subject to this section and sections 2c and 2d shall maintain a record of the incidences in which personal restraint or seclusion was used for all minor children. The record shall include all of the following information:

(a) Whether personal restraint or seclusion was used.

(b) The setting, unit, or location in which personal restraint or seclusion was used.

(c) Staff who initiated the process.

(d) The duration of each use of personal restraint or seclusion.

(e) The date, time, and day of the week restraint or seclusion was initiated.

(f) Whether injuries were sustained by the minor child or staff.

(g) The age and gender of the minor child.

(16) Each child caring institution subject to this section and sections 2c and 2d shall submit a report annually to the state agency that licenses the child caring institution containing the aggregate data from the record of incidences for each 12-month period as directed by the state licensing agency. The state licensing agency shall prepare reporting forms to be used by the child caring institution, shall aggregate the data collected from each child caring institution, and shall annually report the data to each child caring institution and the state-designated protection and advocacy system.

History: Add. 2004, Act 531, Imd. Eff. Jan. 3, 2005.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.113 Inspection of child care organizations; contract; provisional license; investigation and certification of foster family home or group home; inspection reports; final determination as to license; report of findings; license limitations.

Sec. 3. (1) The rules promulgated by the department under this act shall be used by the department of community health, the bureau of fire services, and local authorities in the inspection of and reporting on child care organizations covered by this act. The inspection of the health and fire safety of child care organizations shall be completed by department staff or by the department of community health, the bureau of fire services, or local authorities upon request of the department, or pursuant to subsection (2).

(2) If an inspection is not conducted pursuant to subsection (1), a person owning or operating or who proposes to own or operate a child care organization may enter a contract with a local authority or other person qualified to conduct an inspection pursuant to subsection (1) and pay for that inspection after an inspection is completed pursuant to this subsection. A person may receive a provisional license if the proposed child care organization passes the inspection, and the other requirements of this act are met.

(3) The rules promulgated by the department for foster family homes and foster family group homes shall be used by a licensed child placing agency or an approved governmental unit when investigating and certifying a foster family home or a foster family group home.

(4) Inspection reports completed by state agencies, local authorities, and child placing agencies shall be furnished to the department and shall become a part of its evaluation for licensing of organizations covered by this act. After careful consideration of the reports and consultation where necessary, the department shall assume responsibility for the final determination of the issuance, denial, revocation, or provisional nature of licenses issued to nongovernmental organizations. A report of findings shall be furnished to the licensee. A license shall be issued to a specific person or organization at a specific location, shall be nontransferable, and shall remain the property of the department.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980;—Am. 1980, Act 232, Imd. Eff. July 20, 1980;—Am. 2006, Act 206, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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Popular name: Act 116

Popular name: Child Care Licensing Act

722.113a Visiting child at child care center or day care center; effect of court order.

Sec. 3a. (1) A parent or legal guardian of a child at a child care center or day care center may visit the child at the center at any time.

(2) A parent or legal guardian who wishes to enroll a child at a child care center or day care center may visit the center before the child's enrollment at the times the center establishes.

(3) This section shall not be construed to permit parenting time with a child in violation of a court order.

History: Add. 1986, Act 140, Imd. Eff. July 1, 1986;—Am. 1997, Act 165, Eff. Mar. 31, 1998.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.113b Smoking prohibited; "smoke" defined.

Sec. 3b. (1) An individual shall not smoke in a child caring institution or child care center or on real property that is under the control of a child caring institution or child care center and upon which the child caring institution or child care center is located, including other related buildings.

(2) As used in this section, "smoke" means that term as defined in section 12601 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being section 333.12601 of the Michigan Compiled Laws.

History: Add. 1993, Act 211, Imd. Eff. Oct. 22, 1993.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.113c Smoking on premises of family child care home during hours of operation prohibited; notice to parents of smoking during other hours; definitions.

Sec. 3c. (1) An individual shall not smoke on the premises of a family child care home during the hours of operation of the family child care home. The operator of a family child care home may permit smoking on the premises during a period other than the hours of operation of that family child care home if the operator has provided to a parent or legal guardian of each child participating in a family child care home activity notice that smoking on the premises occurs or may occur when the family child care home is not in operation.

(2) As used in this section and section 3d:

(a) "Child" means an individual less than 18 years of age who is not related to an adult member of the family child care home or group child care home operator.

(b) "Smoke" and "smoking" mean those terms as defined in section 12601 of the public health code, 1978 PA 368, MCL 333.12601.

History: Add. 1993, Act 219, Eff. Apr. 1, 1994;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.113d Smoking on premises of group child care home during hours of operation prohibited; posting notice; notice to parents of smoking during other hours.

Sec. 3d. (1) An individual shall not smoke on the premises of a group child care home during the hours of operation of the group child care home. The operator of a group child care home shall conspicuously post on the premises a notice that specifies that smoking on the premises is prohibited during the hours of operation of the group child care home.

(2) A group child care home operator may permit smoking on the premises during a period other than the hours of operation of that group child care home if the operator has provided to a parent or legal guardian of each child participating in a group child care home activity notice that smoking on the premises occurs or may occur when the group child care home is not in operation.

History: Add. 1993, Act 218, Eff. Apr. 1, 1994;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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Popular name: Act 116

Popular name: Child Care Licensing Act

722.113e Criminal history check required; posting notice; rules.

Sec. 3e. The operator of a child care center or child caring institution shall conspicuously post on the premises a notice stating whether or not that child care center or child caring institution requires a criminal history check on its employees or volunteers. The department shall promulgate rules to implement this section under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 2002, Act 717, Eff. Mar. 31, 2003;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.113f Child care organization receiving notice of special investigation classified as high risk; notification to parent or legal guardian; requirements; noncompliance; determination of substantial rule violations; availability of information to public; exceptions; "special investigation" defined.

Sec. 3f. (1) Except as provided in subsection (6), within 24 hours after a child care organization receives notice that a special investigation that the department classifies as high risk is being conducted, the child care organization shall make a good faith effort to make oral notification to each parent or legal guardian of 1 or more of the following:

(a) Children who were under the child care organization's care at the site and the time the incident being investigated occurred.

(b) If the individual being investigated is still present at the child care organization at the time of the investigation, children who have or will come into contact with the individual being investigated as long as that individual is present at the child care organization.

(2) The child care organization shall send written notification within 1 business day after the initial good faith attempt under subsection (1) at oral notification. For the purpose of this subsection, written notification shall be given by 1 of the following:

(a) Mail service.

(b) Facsimile transmission.

(c) Electronic mail.

(3) If the department determines that a child care organization is not complying with either notification requirement in subsection (1) or (2), the department may suspend the child care organization's license issued under this act pending review.

(4) If, upon completion of the special investigation described in subsection (1), the department makes a determination that there are no substantiated rule violations, the department shall provide the child care organization with written notification of that determination that the child care organization may share with the parents or legal guardians of the children in the child care organization's care who received the notification required under subsections (1) and (2).

(5) The department shall make the information provided in subsection (4) available to the public on the department website.

(6) This section does not apply to a child caring institution, child placing agency, foster family home, or foster family group home.

(7) For the purpose of this section, "special investigation that the department classifies as high risk" means an investigation in which the department becomes aware that 1 or more of the conditions listed in section 8(3)(a) to (c) of the child protection law, 1975 PA 238, MCL 722.628, exist.

History: Add. 2008, Act 15, Eff. June 1, 2008.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.113g Licensing notebook.

Sec. 3g. (1) The operator of a child care center, group child care home, or family child care home shall maintain a licensing notebook on its premises. The licensing notebook shall be made available for review to parents or guardians of children under the care of, and parents or guardians considering placing their children in the care of, the child care center, group child care home, or family child care home.

(2) The licensing notebook described in subsection (1) shall include the reports from all licensing or

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registration inspections, renewal inspections, special investigations, and corrective action plans. The licensing notebook shall also include a summary sheet outlining the reports described in this subsection. The information in the licensing notebook shall be updated as provided by the department and must be made available to parents, guardians, and prospective parents or guardians at all times during the child care center's, group child care home's, or family child care home's normal hours of operation.

(3) The department shall include on its "Child in Care/Receipt" form or any successor form used instead of that form a check box allowing the parent or guardian to acknowledge that he or she is aware of the information available in the licensing notebook available for his or her review on the premises of the child care center, group child care home, or family child care home and that the information is available on the department's website. The "Child in Care/Receipt" form or successor form shall contain in bold print the department's website address where the information may be located.

History: Add. 2010, Act 85, Imd. Eff. May 27, 2010.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.114 Consultation and assistance to organizations.

Sec. 4. The department shall provide consultation to organizations covered by this act to assist them in meeting the requirements of this act and the rules promulgated under this act. The department shall offer assistance, training, and education, within fiscal limitations, upon request, in developing methods for the improvement of service.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1980, Act 232, Imd. Eff. July 20, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.115 License or certificate of registration required; application; forms; investigations; on-site visit; issuance or renewal of license; issuance of certificate of registration; certifying compliance, services, and facilities; conditions; orientation session; limitations on certificate; investigation and certification of foster family home or group home; placement of children in foster family home, family group home, unlicensed residence, adult foster care family home, or adult foster care small group home; certification; supervisory responsibility; records; exceptions; receipt of completed application; issuance of license within certain period of time; inspections; report; criminal history check or criminal records check; definitions.

Sec. 5. (1) A person, partnership, firm, corporation, association, or nongovernmental organization shall not establish or maintain a child care organization unless licensed or registered by the department. Application for a license or certificate of registration shall be made on forms provided, and in the manner prescribed, by the department. Before issuing or renewing a license, the department shall investigate the applicant's activities and proposed standards of care and shall make an on-site visit of the proposed or established organization. Except as otherwise provided in this subsection, if the department is satisfied as to the need for a child care organization, its financial stability, the applicant's good moral character, and that the services and facilities are conducive to the welfare of the children, the department shall issue or renew the license. If a county juvenile agency as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622, certifies to the department that it intends to contract with an applicant for a new license, the department shall issue or deny the license within 60 days after it receives a complete application as provided in section 5b. The department shall not issue a license to or renew a license of an applicant if any of the following persons have been convicted of child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145:

(a) The individual applicant.

(b) The owner, partner, or director of the applying organization, if other than an individual.

(2) The department shall issue a certificate of registration to a person who has successfully completed an orientation session offered by the department and who certifies to the department that the family child care home has complied with and will continue to comply with the rules promulgated under this act and will provide services and facilities, as determined by the department, conducive to the welfare of children. The department shall make available to applicants for registration an orientation session regarding this act, the rules promulgated under this act, and the needs of children in family child care before issuing a certificate of

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registration. The department shall issue a certificate of registration to a specific person at a specific location. A certificate of registration is nontransferable and remains the property of the department. Within 90 days after initial registration, the department shall make an on-site visit of the family child care home.

(3) The department may authorize a licensed child placing agency or an approved governmental unit to investigate a foster family home or a foster family group home according to subsection (1) and to certify that the foster family home or foster family group home meets the licensing requirements prescribed by this act. Before certifying to the department that a foster family home or foster family group home meets the licensing requirements prescribed by this act, the licensed child placing agency or approved governmental unit shall receive and review a medical statement for each member of the household indicating that he or she does not have a known condition that would affect the care of a foster child. The medical statement required under this section shall be signed and dated by a physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, a physician's assistant licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a certified nurse practitioner licensed as a registered professional nurse under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242, who has been issued a specialty certification as a nurse practitioner by the board of nursing under section 17210 of the public health code, 1978 PA 368, MCL 333.17210, within the 12 months immediately preceding the date of the initial evaluation. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered. A foster family home or a foster family group home shall be certified for licensing by the department by only 1 child placing agency or approved governmental unit. Other child placing agencies may place children in a foster family home or foster family group home only upon the approval of the certifying agency or governmental unit.

(4) The department may authorize a licensed child placing agency or an approved governmental unit to place a child who is at least 16 but less than 21 years of age in his or her own unlicensed residence, or in the unlicensed residence of an adult who has no supervisory responsibility for the child, if a child placing agency or governmental unit retains supervisory responsibility for the child. If the child is at least 18 but less than 21 years of age, he or she must meet the requirements of the young adult voluntary foster care act.

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

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

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

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

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

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

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

(a) The adult is a person with a developmental disability as defined by section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a person who is otherwise neurologically disabled and is also physically limited to a degree that requires complete physical assistance with mobility and activities of daily living.

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

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

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

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

(8) On an exception basis, the director of the department, or his or her designee, may authorize a licensed

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child placing agency or an approved governmental unit to place a child in an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if the licensed child placing agency or approved governmental unit certifies to the department all of the following:

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

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

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

(d) The child's psychosocial and clinical needs are compatible with those of other residents of the adult foster care family home or small group home.

(e) The clinical treatment of the child's condition is similar to that of the other residents of the adult foster care family home or small group home.

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

(g) The child is neurologically disabled and is also physically limited to a degree that requires complete physical assistance with mobility and activities of daily living.

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

(9) Except as provided in subsection (1) and section 5b, the department shall issue an initial or renewal license or registration under this act for child care centers, group child care homes, and family child care homes not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. This subsection does not affect the time period within which an on-site visit to a family child care home shall be made. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

(a) Upon notification by the department of a deficiency, until the date the requested information is received by the department.

(b) Upon notification by the department that a corrective action plan is required, until the date the department determines the requirements of the corrective action plan have been met.

(10) The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility on an applicant determined otherwise ineligible for issuance of a license.

(11) Except as provided in subsection (1) and section 5b, if the department fails to issue or deny a license or registration to a child care center, group child care home, or family child care home within the time required by this section, the department shall return the license or registration fee and shall reduce the license or registration fee for the applicant's next renewal application, if any, by 15%. Failure to issue or deny a license to a child care center, group child care home, or family child care home within the time period required under this section does not allow the department to otherwise delay the processing of the application. A completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(12) If, on a continual basis, inspections performed by a local health department delay the department in issuing or denying licenses or registrations for child care centers, group day care homes, and family child care homes under this act within the 6-month period, the department may use department staff to complete the inspections instead of the local health department causing the delays.

(13) The department director shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with human services and children's issues. The department director shall include in the report all of the following information regarding applications for licenses and registrations only for child care centers, group child care homes, and family child care homes filed under this act during the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 6-month time period described in subsection (9).

(b) The number of applications requiring a request for additional information.

(c) The number of applications rejected.

(d) The number of licenses and registrations not issued within the 6-month period.

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(e) The average processing time for initial and renewal licenses and registrations granted after the 6-month period.

(14) Except as provided in section 5c(8), the department shall not issue to or renew the license of a child care organization under this act without requesting a criminal history check and criminal records check as required by section 5c. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license under this act has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license under this act has been convicted of a listed offense, the department shall not renew that license. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that a current licensee has been convicted of a listed offense, the department shall revoke the license of that licensee.

(15) Except as provided in section 5f(13), the department shall not issue or renew a certificate of registration to a family child care home or a license to a group child care home under this act without requesting a criminal history check and criminal records check as required by sections 5f and 5g. If a criminal history check or criminal records check performed under section 5f or 5g or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a certificate of registration or license under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not issue a certificate of registration or license to that applicant. If a criminal history check or criminal records check performed under section 5f or 5g or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a certificate of registration or license under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not renew a certificate of registration or license to that applicant. If a criminal history check or criminal records check performed under section 5f or 5g or information obtained as a result of notification from the department of state police under section 5k reveals that a current registrant or licensee under this act or a person over 18 years of age residing in that registrant's or licensee's home has been convicted of a listed offense, the department shall revoke that registrant's certificate of registration or licensee's license.

(16) Except as provided in section 5h(7), the department shall not issue or renew a license to operate a foster family home or foster family group home under this act without requesting a criminal history check and criminal records check as required by sections 5h and 5j. If a criminal history check or criminal records check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license to operate a foster family home or foster family group home under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history check or criminal records check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license to operate a foster family home or foster family group home under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not renew a license to that applicant. If a criminal history check or criminal records check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that a current licensee under this act of a foster family home or foster family group home or a person over 18 years of age residing in that licensee's foster family home or foster family group home has been convicted of a listed offense, the department shall revoke that licensee's license.

(17) As used in this section:

(a) "Completed application" means an application complete on its face and submitted with any applicable licensing or registration fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state. A completed application does not include a health inspection performed by a local health department.

(b) "Good moral character" means that term as defined in and determined under 1974 PA 381, MCL 338.41 to 338.47.

(c) "Member of the household" means any individual, other than a foster child, who resides in a foster family home or foster family group home on an ongoing or recurrent basis.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1974, Act 191, Imd. Eff. July 2, 1974;—Am. 1978, Act 309, Imd. Eff. July 10,

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1978;—Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980;—Am. 1980, Act 232, Imd. Eff. July 20, 1980;—Am. 1980, Act 498, Imd. Eff. Jan. 21, 1981;—Am. 1980, Act 510, Imd. Eff. Jan. 26, 1981;—Am. 1981, Act 126, Imd. Eff. July 23, 1981;—Am. 1982, Act 329, Imd. Eff. Dec. 14, 1982;—Am. 1984, Act 421, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 169, Imd. Eff. July 7, 1986;—Am. 1989, Act 72, Imd. Eff. June 16, 1989;—Am. 1991, Act 162, Imd. Eff. Dec. 9, 1991;—Am. 1995, Act 81, Imd. Eff. June 15, 1995;—Am. 1998, Act 34, Imd. Eff. Mar. 18, 1998;—Am. 1998, Act 519, Imd. Eff. Jan. 12, 1999;—Am. 2004, Act 315, Eff. Oct. 1, 2007;—Am. 2005, Act 133, Eff. Jan. 1, 2006;—Am. 2006, Act 51, Imd. Eff. Mar. 9, 2006;—Am. 2006, Act 580, Imd. Eff. Jan. 3, 2007;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007;—Am. 2007, Act 218, Eff. Jan. 1, 2008;—Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010;—Am. 2011, Act 228, Imd. Eff. Nov. 22, 2011.

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v Emmanuel Baptist Preschool, 434 Mich 380; 455 NW2d 1 (1990).

Compiler's note: For transfer of powers and duties of child welfare licensing from the department of social services to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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Administrative rules: R 400.1 et seq.; R 400.1301 et seq.; R 400.4101 et seq.; R 400.5101 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; and R 400.12101 et seq. the Michigan Administrative Code.

722.115a Providing records to children's ombudsman.

Sec. 5a. A child placing agency shall provide the children's ombudsman created in section 3 of the children's ombudsman act with those records requested by the ombudsman pertaining to a matter under investigation by the ombudsman.

History: Add. 1994, Act 205, Eff. Jan. 1, 1995.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.115b Contract with license applicant; review of application; issuance or denial of license; county juvenile agency as party to proceeding.

Sec. 5b. (1) If a county juvenile agency as defined in section 2 of the county juvenile agency act certifies that it intends to contract with a license applicant as provided in section 5(1), the department shall review the application and advise the applicant and the county juvenile agency within 10 days after receiving the application what further information or material is necessary to complete the application.

(2) If the department fails to issue or deny the license within 60 days after receiving the information it determined was necessary to complete the application, the county juvenile agency or the applicant may bring an action for mandamus to require the department to issue or deny the license.

(3) The county juvenile agency is a party for purposes of any hearing, review, or other proceeding on a license application described in this section or section 5(1) for which the county juvenile agency certifies to the department that it intends to contract with the applicant. The county juvenile agency or applicant may challenge the department's determination concerning what further information or material is necessary to complete the application.

History: Add. 1998, Act 519, Imd. Eff. Jan. 12, 1999.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.115c Applicant for child care organization license; criminal history check and criminal records check; requirements; fee; definitions.

Sec. 5c. (1) Except as provided in subsection (8), when a person or partnership, or licensee designee if the applicant is a limited liability corporation, firm, corporation, association, or nongovernmental organization applies for or applies to renew a license for a child care organization under section 5, the department shall request the department of state police to perform both of the following on the person, licensee designee, chief administrator, and program director of a child care organization:

(a) Conduct a criminal history check on the person.

(b) Conduct a criminal records check through the federal bureau of investigation on the person.

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(2) Except as provided in subsection (7), each person applying for a license to operate a child care organization shall give written consent at the time of the license application for the department of state police to conduct the criminal history check and criminal records check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsection (1).

(3) The department shall request a criminal history check and criminal records check required under this section on a form and in the manner prescribed by the department of state police.

(4) Within a reasonable time after receiving a complete request by the department for a criminal history check on a person under this section, the department of state police shall conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police.

(5) Within a reasonable time after receiving a proper request by the department for a criminal records check on a person under this section, the department of state police shall initiate the criminal records check. After receiving the results of the criminal records check from the federal bureau of investigation, the department of state police shall provide a report of the results to the department.

(6) The department of state police may charge the department a fee for a criminal history check or a criminal records check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass along to the licensee or applicant the actual cost or fee charged by the department of state police for performing a criminal history check or a criminal records check required under this section.

(7) When a person, partnership, firm, corporation, association, or nongovernmental organization applies for or renews a license under section 5 for a child care center or day care center that is established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a state-approved nonpublic school, the criminal history check and criminal records check required under subsection (1) shall be performed in compliance with the provisions of sections 1230 to 1230h of the revised school code, 1976 PA 451, MCL 380.1230 to 380.1230h. Before issuing or renewing a license to a child care center or day care center described in this subsection, the department shall verify that the intermediate school board, the board of a local school district, or the board or governing body of a state-approved nonpublic school has obtained the required criminal history checks and criminal records checks.

(8) If a person, licensee designee, chief administrator, or program director of a child care organization applying to renew a license to operate a child care organization has previously undergone a criminal history check and criminal records check required under subsection (1) and has remained continuously licensed after the criminal history check and criminal records check have been performed, that person, licensee designee, chief administrator, or program director of a child care organization is not required to submit to another criminal history check or criminal records check upon renewal of the license obtained under section 5.

(9) As used in this section and sections 5, 5d, 5e, 5f, and 5g:

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

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

History: Add. 2005, Act 133, Eff. Jan. 1, 2006;—Am. 2006, Act 580, Imd. Eff. Jan. 3, 2007;—Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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722.115d Offer of employment to person at child care organization; criminal history check; current employees; cost.

Sec. 5d. (1) Before a child care organization makes an offer of employment to a person or allows a person to regularly and continuously work under contract at the child care organization, the child care organization shall perform a criminal history check on that person using the department of state police's internet criminal history access tool (ICHAT) or equivalent check on that person from the state or province of residence.

(2) If a search of the department of state police's ICHAT or equivalent check on the person from the state or province of residence reveals that the person described in subsection (1) has been convicted of a listed offense, the child care organization shall not make an offer of employment to that person or allow that person to regularly and continuously work under contract at the child care organization. If a search of the department

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of state police's ICHAT reveals that a current employee has been convicted of a listed offense, the child care organization shall not continue to employ that person. If a search of the department of state police's ICHAT or equivalent check on that person from the state or province of residence reveals that a person who regularly and continuously works under contract at the child care organization has been convicted of a listed offense, the child care organization shall not allow that person to regularly or continuously work under contract at the child care organization.

(3) Not later than 1 year after the effective date of the 2010 amendatory act that amended this section, the child care organization shall conduct a criminal history check on all current employees using the department of state police's ICHAT or equivalent check on the person from the state or province of residence.

(4) A child care organization may pass along the actual cost of a search of the department of state police's ICHAT or equivalent check on that person from the state or province of residence to the employee or applicant on whom the search is being performed.

History: Add. 2005, Act 133, Eff. Jan. 1, 2006;—Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.115e Arraignment of licensee or employee; report; crimes; licensee or employee not convicted of crime; deletion of information from records; notice requirements.

Sec. 5e. (1) A child care center or day care center licensee shall report to the department and an employee of a child care center or day care center shall report to that child care center or day care center within 3 business days after he or she has been arraigned for 1 or more of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

(*i*) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.

(*ii*) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.

(*iii*) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.

(*iv*) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(*v*) A violation of section 115, 141a, 145a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.

(*vi*) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.

(*vii*) Any misdemeanor that is a listed offense.

(c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(b) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) The department shall delete from the licensee's records all information relating to an arraignment required to be reported under subsection (1) if the department receives documentation that the licensee is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(4) A child care center or day care center shall delete from the employee's records all information relating to an arraignment required to be reported under subsection (1) if it receives documentation that the employee is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(5) Not later than 30 days after the effective date of the amendatory act that added this section, the department shall inform all licensees and applicants for licenses of the requirement under this section to report when he or she is arraigned for certain crimes and the penalty for not reporting.

(6) Not later than 30 days after the effective date of the amendatory act that added this section, a child care

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center or day care center shall inform all current employees and all persons who work regularly and continuously under contract at the child care center or day care center of the requirement under this section to report when he or she is arraigned for certain crimes and the penalty for not reporting.

(7) At the time a child care center or day care center makes an offer of employment to a person or allows a person to regularly and continuously work under contract at the child care center or day care center, the child care center or day care center shall notify that person of the requirement under this section to report when he or she is arraigned for certain crimes and the penalty for not reporting.

History: Add. 2005, Act 133, Eff. Jan. 1, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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722.115f Operation of family or group child care home; conduct of criminal history check and criminal records check by department of state police; fee; arraignment of registrant or licensee for certain crimes; report required; violation; penalty; deletion of arraignment information from records; notice; criminal history check and criminal records check on current licensees and registrants; exception.

Sec. 5f. (1) Except as provided in subsection (13), when a person applies for or to renew a certificate of registration to operate a family child care home or a license to operate a group child care home under section 5, the department shall request the department of state police to perform both of the following on that person:

(a) Conduct a criminal history check on the person.

(b) Conduct a criminal records check through the federal bureau of investigation on the person.

(2) Each person applying for a certificate of registration to operate a family child care home or a license to operate a group child care home shall give written consent at the time of application for the department of state police to conduct a criminal history check and a criminal records check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsection (1).

(3) The department shall request a criminal history check and criminal records check required under this section on a form and in the manner prescribed by the department of state police.

(4) Within a reasonable time after receiving a complete request by the department for a criminal history check on a person under this section, the department of state police shall conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police.

(5) Within a reasonable time after receiving a proper request by the department for a criminal records check on a person under this section, the department of state police shall initiate the criminal records check. After receiving the results of the criminal records check from the federal bureau of investigation, the department of state police shall provide a report of the results to the department.

(6) The department of state police may charge the department a fee for a criminal history check or a criminal records check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass along to the registrant, licensee, or applicant the actual cost or fee charged by the department of state police for performing a criminal history check or a criminal records check required under this section.

(7) A person to whom a certificate of registration or license has been issued under this act shall report to the department within 3 business days after he or she has been arraigned for 1 or more of the following crimes and within 3 business days after he or she knows or should reasonably know that an employee or a person over 18 years of age residing in the home has been arraigned for 1 or more of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

(*i*) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.

(*ii*) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.

(*iii*) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.

(*iv*) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(*v*) A violation of section 115, 141a, 145a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d

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of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.

(*vi*) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.

(*vii*) Any misdemeanor that is a listed offense.

(c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(8) A person who violates subsection (7) is guilty of a crime as follows:

(a) If the person violates subsection (7) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(b) If the person violates subsection (7) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(9) The department shall delete from the registrant's or licensee's records all information relating to an arraignment required to be reported under this section if the department receives documentation that the person arraigned for the crime is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(10) Not later than January 31, 2006, the department shall inform all persons currently issued a certificate of registration or license and all applicants for a certificate of registration or license of the requirement to report certain arraignments as required in this section and the penalty for not reporting those arraignments.

(11) At the time the department issues a certificate of registration to operate a family child care home or a license to operate a group child care home under this act, the department shall notify the registrant or licensee of the requirement to report certain arraignments as required in this section and the penalty for not reporting those arraignments.

(12) Not later than January 1, 2007, the department shall conduct a criminal history check and criminal records check on all persons currently issued a certificate of registration under this act to operate a family child care home or a license under this act to operate a group child care home.

(13) Beginning January 1, 2006, if a person applying to renew a certificate of registration to operate a family child care home under section 5 or a license to operate a group child care home under section 5 has previously undergone a criminal history check and criminal records check required under subsection (1) and has continuously maintained a certificate of registration to operate a family child care home or license to operate a group child care home after the criminal history check and criminal records check have been performed, that person is not required to submit to another criminal history check or criminal records check upon renewal of the certificate of registration or license obtained under section 5.

History: Add. 2005, Act 128, Eff. Jan. 1, 2006;—Am. 2006, Act 580, Imd. Eff. Jan. 3, 2007;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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722.115g Performance of criminal history check.

Sec. 5g. (1) When a person applies for a certificate of registration to operate a family child care home or a license to operate a group child care home under section 5, the department shall perform a criminal history check with the department of state police on all persons over 18 years of age residing in the home in which the family child care home or group child care home is operated. This section does not apply to a person residing in the home for a period of not more than 14 days.

(2) Not later than January 1, 2007, the department shall perform a criminal history check on all persons over 18 years of age residing in the home in which a family child care home or group child care home is currently operated.

(3) If a criminal history check reveals that a person over 18 years of age residing in the home has been convicted of a listed offense, the department shall not issue a certificate of registration or license to the applicant, shall not renew a certificate of registration to the registrant or license to the licensee applying for renewal, or shall revoke a current registrant's certificate of registration or current licensee's license.

History: Add. 2005, Act 128, Eff. Jan. 1, 2006;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.115h Application for or to renew license to operate foster family home or foster family group home; criminal history check required; procedures.

Sec. 5h. (1) Except as provided in subsection (7), when a person applies for or to renew a license to operate a foster family home or foster family group home under this act, the department shall request the department of state police to perform both of the following on that person:

(a) Conduct a criminal history check on the person.

(b) Conduct a criminal records check through the federal bureau of investigation on the person.

(2) Each person applying for a license to operate a foster family home or foster family group home shall give written consent at the time of application for the department of state police to conduct a criminal history check and a criminal records check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsection (1).

(3) The department shall request a criminal history check and criminal records check required under this section on a form and in the manner prescribed by the department of state police.

(4) Within a reasonable time after receiving a complete request by the department for a criminal history check on a person under this section, the department of state police shall conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police.

(5) Within a reasonable time after receiving a proper request by the department for a criminal records check on a person under this section, the department of state police shall initiate the criminal records check. After receiving the results of the criminal records check from the federal bureau of investigation, the department of state police shall provide a report of the results to the department.

(6) The department of state police may charge the department a fee for a criminal history check or a criminal records check required under this section that does not exceed the actual and reasonable cost of conducting the check.

(7) Beginning January 1, 2008, if a person applying to renew a license to operate a foster family home or foster family group home under this act has previously undergone a criminal history check and criminal records check required under subsection (1) and has continuously maintained a license to operate a foster family home or foster family group home under this act after the criminal history check and criminal records check have been performed, that person is not required to submit to another criminal history check or criminal records check upon renewal of the license obtained to operate a foster family home or foster family group home under this act.

(8) The department shall provide written notice to all persons currently issued a license to operate a foster family home or foster family group home and all applicants applying for a license to operate a foster family home or foster family group home, that upon renewal all licensees will be required to submit fingerprints and undergo a criminal history check and a criminal records check before their licenses will be renewed. The notice provided under this subsection shall include information to the licensee that he or she may submit his or her fingerprints in advance of the time his or her license is up for renewal.

History: Add. 2007, Act 218, Eff. Jan. 1, 2008.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.115i Licensee or resident arraigned for certain crimes; report; violation; penalty; person not convicted; notice.

Sec. 5i. (1) A person to whom a license to operate a foster family home or foster family group home has been issued under this act shall report to the department within 3 business days after he or she has been arraigned for 1 or more of the following crimes and within 3 business days after he or she knows or should reasonably know that a person over 18 years of age residing in the home has been arraigned for 1 or more of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

(*i*) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.

(*ii*) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.

(*iii*) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.

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(*iv*) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(*v*) A violation of section 115, 141a, 145a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.

(*vi*) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.

(*vii*) Any misdemeanor that is a listed offense.

(c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(b) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) The department shall delete from the licensee's records all information relating to an arraignment required to be reported under this section if the department receives documentation that the person arraigned for the crime is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(4) Not later than January 1, 2008, the department shall inform all persons currently issued a license to operate a foster family home or foster family group home and all applicants for a license to operate a foster family home or foster family group home of the requirement to report certain arraignments as required in this section and the penalty for not reporting those arraignments.

(5) At the time the department issues a license to operate a foster family home or foster family group home under this act, the department shall notify the licensee of the requirement to report certain arraignments as required in this section and the penalty for not reporting those arraignments.

History: Add. 2007, Act 218, Eff. Jan. 1, 2008.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.115j Criminal history check performed by department.

Sec. 5j. (1) When a person applies for or to renew a license to operate a foster family home or foster family group home under this act, the department shall perform a criminal history check with the department of state police on all persons over 18 years of age residing in the home in which the foster family home or foster family group home is operated. This section does not apply to a person residing in the home for a period of not more than 14 days.

(2) Not later than January 1, 2009, the department shall perform a criminal history check with the department of state police on all persons over 18 years of age residing in the home in which a foster family home or foster family group home is currently operated.

(3) If a criminal history check reveals that a person over 18 years of age residing in the foster family home or foster family group home has been convicted of a listed offense, the department shall not issue a license to the applicant, shall not renew a license to the licensee applying for renewal, or shall revoke a current licensee's license.

History: Add. 2007, Act 218, Eff. Jan. 1, 2008.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.115k Storage and maintenance of fingerprints; automated fingerprint identification system database.

Sec. 5k. The department of state police shall store and maintain all fingerprints submitted under this act in an automated fingerprint identification system database that provides for an automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted in accordance with this act. Upon such notification, the department of state police shall immediately notify the department and the department shall immediately contact the respective child care center, day care center, family child care home, group child care home, licensed child placing agency or approved governmental unit, foster family home, or foster family group home with which that individual is associated. Information in the database maintained under this subsection is confidential, is not subject to

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disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

History: Add. 2007, Act 218, Eff. Jan. 1, 2008.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.115/ Intentional false report as crime; penalties.

Sec. 5*l*. A person who intentionally makes a false report to the department regarding a child care organization that causes the department to initiate a special investigation for which the child care organization is required to send notice under section 3f is guilty of a crime as follows:

(a) If the incident reported would not constitute a crime or would constitute a misdemeanor if the report were true, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(b) If the incident reported would constitute a felony if the report were true, the person is guilty of a felony punishable by the lesser of the following:

(*i*) The penalty for the incident falsely reported.

(*ii*) Imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

History: Add. 2008, Act 15, Eff. June 1, 2008.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.116 Evaluation of local and state government child care organizations; report; state funds.

Sec. 6. Local and state government child care organizations similar to those nongovernmental organizations required to be licensed pursuant to this act shall be evaluated and approved at least once every 2 years, using this act and rules promulgated thereunder for similar nongovernmental organizations licensed under this act. A report of the evaluation shall be furnished to the funding body for each child care organization. Unless child care organizations are approved, or provisionally approved, as meeting the appropriate administrative rules, state funds shall not be appropriated for their continued operation.

History: 1973, Act 116, Eff. Mar. 29, 1974.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.117 Provisional license.

Sec. 7. A provisional license shall be issued to a new organization during the first 6 months of operation. At the end of the 6 months of operation, the department shall either issue a regular license or renew or refuse to renew the provisional license as provided in section 11. A provisional license may be issued to a child care organization which is temporarily unable to conform to the rules. A provisional license shall expire 6 months from the date of issuance and may be issued not more than 4 times. The issuance of a provisional license shall be contingent upon the submission to the department of an acceptable plan to overcome the deficiency present in the child care organization within the time limitations of the provisional licensing period.

History: 1973, Act 116, Eff. Mar. 29, 1974.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.118 Regular license; duration; reinstatement; contents.

Sec. 8. A regular license shall be effective for 2 years after the date of issuance unless revoked pursuant to section 11 or modified to a provisional status based on evidence of noncompliance with this act or the rules promulgated under this act. The license shall be reinstated biennially on application and approval. A license shall specify in general terms the kind of child care program the licensee may undertake, and the number, and ages of children that can be received and maintained.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980;—Am. 1980, Act 232, Imd. Eff. July 20, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of

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construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.118a Assessment of foster family home or group home; certification; on-site evaluation.

Sec. 8a. (1) The department shall periodically assess a child care organization's continued compliance with this act and the rules promulgated under this act. The department shall make an on-site evaluation of a child care organization at least once a year.

(2) The department may authorize a licensed child placing agency or an approved governmental unit to periodically assess a licensed foster family home or a licensed foster family group home pursuant to subsection (1) and to certify that the foster family home or the foster family group home continues to comply with this act and the rules promulgated under this act. A periodic assessment of a licensed foster family home or a licensed foster family group home pursuant to this subsection may include an on-site evaluation of the child care organization.

History: Add. 1980, Act 32, Imd. Eff. Mar. 10, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.118b Regulation of foster family homes or foster family group homes; variance.

Sec. 8b. (1) Upon the recommendation of a local foster care review board under section 7a of 1984 PA 422, MCL 722.137, or of a child placing agency, the department may grant a variance to 1 or more licensing rules or statutes regulating foster family homes or foster family group homes to allow the child and 1 or more siblings to remain or be placed together. If the department determines that such a placement would be in the child's best interests and that the variance from the particular licensing rules or statutes would not jeopardize the health or safety of a child residing in the foster family home or foster family group home, the department may grant the variance.

(2) The department's grant of a variance does not change a private home's licensure status.

History: Add. 1997, Act 165, Eff. Mar. 31, 1998.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.119 Child care organization; presence of certain individuals prohibited; conditions; contact by certain individuals prohibited; conditions; documentation that individual not named in central registry; policy regarding supervision of volunteers; children's camps or campsites.

Sec. 9. (1) A licensee or registrant, adult household member, licensee designee, chief administrator, or program director of a child care organization shall not be present in a child care organization if he or she has been convicted of either of the following:

(a) Child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment.

(2) A staff member or unsupervised volunteer shall not have contact with children who are in the care of a child care organization if he or she has been convicted of either of the following:

(a) Child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment.

(3) Except as provided in subsection (5), a licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or unsupervised volunteer may not have contact with a child who is in the care of a child care organization, until the licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or volunteer provides the child care organization with documentation from the department that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. Upon request by the department, the licensee, registrant, adult household member, licensee

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designee, chief administrator, staff member, or unsupervised volunteer shall provide the department with an updated authorization for central registry clearance. If an updated central registry clearance documents that a licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or unsupervised volunteer is named as a perpetrator in a central registry case, he or she may not be present in the child care organization. A child care organization shall comply with this subsection not later than the date on which that child care organization's license or certificate of registration is issued or first renewed after the effective date of the 2010 amendatory act that amended this section. As used in this subsection, "child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(4) Each child care organization shall establish and maintain a policy regarding supervision of volunteers including volunteers who are parents of a child receiving care at the child care organization.

(5) Staff members or unsupervised volunteers in children's camps or children's campsites who are 21 years of age or older may not have contact with a child who is in the care of a children's camp until the staff member or volunteer provides the children's camp with documentation from the department that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect.

History: Add. 2002, Act 674, Eff. Mar. 31, 2003;—Am. 2010, Act 379, Imd. Eff. Dec. 22, 2010.

Compiler's note: Former MCL 722.119, which pertained to registration of family day care homes, was repealed by Act 232 of 1980, Imd. Eff. July 20, 1980.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.119a Certificate of registration; duration; renewal; contents; assessing compliance; on-site visits.

Sec. 9a. (1) A certificate of registration shall be in force for 3 years unless revoked under section 11. Until September 30, 2007, a renewal certificate of registration shall be issued in the same manner as provided in section 5(2) for initially issuing the certificate, except that an on-site visit of the family child care home and the orientation session are not required. Beginning October 1, 2007, a renewal certificate of registration shall be issued in the same manner as provided in section 5(2), (9), and (11) for the initial issuance of the certificate, except that an on-site visit of the family child care home and the orientation session are not required. The certificate shall state that the registrant may operate a family child care home and the number and the ages of the children that may be received and maintained.

(2) This section does not limit the right or the duty of the department to assess periodically, randomly, or at the time of renewal, the continued compliance with this act and rules promulgated under this act. The department shall make on-site visits as provided in this act to a 10% sample of the family child care homes in each county each year, or when a complaint about a family child care home or registrant is received by the department.

History: Add. 1980, Act 232, Imd. Eff. July 20, 1980;—Am. 2004, Act 315, Eff. Oct. 1, 2007;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.120 Investigation and examination of conditions, books, records, and reports; visits regarding health or fire protection; records; report; forms; confidentiality; disclosure of information; availability of confidential records.

Sec. 10. (1) The department may investigate and examine conditions of a child care organization in which a licensee receives, maintains, or places out children, and may investigate and examine the books and records of the licensee. The licensee shall admit members of the department and furnish all reasonable facilities for thorough examination of its books, records, and reports. The department of community health, the bureau of fire services, or local authorities, in carrying out the provisions of this act, may visit a child care organization to advise in matters affecting the health or fire protection of children.

(2) A licensee shall keep the records the department prescribes regarding each child in its control and care and shall report to the department, when requested, the facts the department requires with reference to the children upon forms furnished by the department. Except as otherwise provided in this subsection, records regarding children and facts compiled about children and their parents and relatives are confidential and

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disclosure of this information shall be properly safeguarded by the child care organization, the department, and any other entity in possession of the information. Records that are confidential under this section are available to both of the following:

(a) A standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over protective services matters for children, pursuant to section 7 of the child protection law, 1975 PA 238, MCL 722.627.

(b) The children's ombudsman established in section 3 of the children's ombudsman act, 1994 PA 204, MCL 722.923.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1980, Act 498, Imd. Eff. Jan. 21, 1981;—Am. 1994, Act 205, Eff. Jan. 1, 1995;—Am. 2006, Act 206, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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Administrative rules: R 400.1 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; and R 400.12101 et seq. of the Michigan Administrative Code.

722.120a Contribution.

Sec. 10a. (1) A child placing agency shall not solicit or accept a contribution from a prospective adoptive parent unless the contribution is equivalent in value to the cost of, and tendered as payment for, an adoption service actually performed for the prospective adoptive parent by the child placing agency.

(2) A child placing agency shall not give or offer to give an individual preferential treatment in connection with an adoption service in return for a contribution from or on behalf of that individual.

(3) As used in this section, “contribution” means the payment of money or donation of goods or services.

History: Add. 1994, Act 243, Eff. July 5, 1994.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.121 Denial, revocation, or refusal to renew license or certificate of registration; modifying provisional status of license; grounds; notice; appeal; hearing; decision; protest; denial of license for noncompliance; complaint by legislative body of city, village, or township; procedure; previous revocation of license or certificate of registration.

Sec. 11. (1) An original license shall not be granted under this act if the issuance of the license would substantially contribute to an excessive concentration of community residential facilities within a city, village, township, or county of this state.

(2) The department may deny, revoke, or refuse to renew a license or certificate of registration of a child care organization when the licensee, registrant, or applicant falsifies information on the application or willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license or certificate of registration. The department may modify to a provisional status a license of a child care organization when the licensee willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license. A license or a certificate of registration shall not be revoked, a renewal of a license or certificate of registration shall not be refused, an application for a license or a certificate of registration shall not be denied, or a regular license shall not be modified to a provisional status unless the licensee, registrant, or applicant is given notice in writing of the grounds of the proposed revocation, denial, modification, or refusal. If revocation, denial, modification, or refusal is appealed within 30 days after receipt of the notice by writing addressed to the department director, the director or a designated representative of the director shall conduct a hearing at which the licensee, registrant, or applicant may present testimony and confront witnesses. Notice of the hearing shall be given to the licensee, registrant, or applicant by personal service or delivery to the proper address by certified mail not less than 2 weeks before the date of the hearing. The decision of the director shall be made not more than 30 days after the hearing, and forwarded to the protesting party by certified mail not more than 10 days after that. If the proposed revocation, denial, modification, or refusal is not protested, the license or certificate of registration may be revoked or the application or the renewal of the license or certificate of registration refused.

(3) The department shall deny a license to a child caring institution or foster family group home that does not comply with section 206 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3206.

(4) The legislative body of a city, village, or township in which a child caring institution or foster family

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group home is located may file a complaint with the department to have the organization's license suspended, denied, or revoked according to the procedures outlined in this act and the rules promulgated under this act. The department director shall resolve the issues of the complaint within 45 days after the receipt of the complaint. Notice of the resolution of the issues shall be mailed by certified mail to the complainant and the licensee. Failure of the department director to resolve the issues of the complaint within 45 days after receipt of the complaint shall serve as a decision by the director to suspend, deny, or revoke the organization's license. If the decision to suspend, deny, or revoke the license or the resolution of the issues is protested by written objection of the complainant or licensee to the department director within 30 days after the suspension, denial, or revocation of the license or the receipt of the notice of resolution, the department director or a designated representative of the director shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, at which the complainant and licensee may present testimony and cross-examine witnesses. The department director's decision shall be mailed by certified mail to the complainant and the licensee. If the resolution of the issues by the department director is not protested within 30 days after receipt of the notice of the resolution, the resolution by the department director is final.

(5) The department shall not issue or renew a license or certificate of registration of a child care center, group child care home, or family child care home if the licensee, registrant, or applicant has had a previous license or certificate of registration revoked due to a violation of this act, the rules promulgated under this act, or the terms of the license or certificate of registration that resulted in the serious injury or death of a child while under its care.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1976, Act 398, Eff. Mar. 31, 1977;—Am. 1980, Act 232, Imd. Eff. July 20, 1980;—Am. 2010, Act 85, Imd. Eff. May 27, 2010.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.121a Notice of location of new and existing licensed child caring institutions or foster family group homes.

Sec. 11a. The director of the department shall notify the clerk of the city, village, or township and the legislature of the location of new and existing licensed child caring institution or foster family group home within the boundaries of the cities, villages, and townships in this state. The notification for existing licensed organizations shall be given within 90 days after the effective date of this amendatory act and within 30 days after the licensing of a new organization.

History: Add. 1976, Act 398, Eff. Mar. 31, 1977.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.121b Database on child care options.

Sec. 11b. (1) The department shall establish and maintain a database of child care centers, family child care homes, and group child care homes as a central clearinghouse for persons seeking information on child care options. The database shall include, at a minimum, all of the following information:

(a) The name, address, and telephone number of the child care center, family child care home, or group child care home.

(b) The days and general hours of operation of the child care center, family child care home, or group child care home.

(c) The license or registration number, effective date, and expiration date of the child care center, family child care home, or group child care home.

(d) The number and nature of any adverse action taken against the child care center, family child care home, or group child care home by the department.

(e) The number and nature of any special investigations regarding the child care center, family child care home, or group child care home conducted by the department that the department classifies as high risk. This information shall remain in the database as long as the licensee or registrant is licensed or registered under this act. For the purpose of this subdivision, "special investigation that the department classifies as high risk" means an investigation in which the department becomes aware that 1 or more of the conditions listed in section 8(3)(a) to (c) of the child protection law, 1975 PA 238, MCL 722.628, exist.

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(f) Information that, upon completion of a special investigation as described in subdivision (e), the department made a determination that there were no substantiated rule violations. This information may be included in the same manner as information provided under section 3f(5).

(2) The department shall make the database available to the public on the internet, without charge, through that department's website.

(3) The department shall inform the public, through press releases or other media avenues, of the information available in the database established under subsection (1) and how to access that database.

History: Add. 2002, Act 645, Imd. Eff. Dec. 23, 2002;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007;—Am. 2010, Act 86, Imd. Eff. May 27, 2010.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.122 Appeal.

Sec. 12. A person aggrieved by the decision of the director following a hearing under section 11 may, within 30 days after receipt of the decision, take an appeal to the circuit court for the county in which the person resides by filing with the clerk of the court an affidavit setting forth the substance of the proceedings before the department and the errors of law upon which the person relies, and serving the director of the department with a copy of the affidavit. The circuit court shall have jurisdiction to hear and determine the questions of law involved in the appeal. If the department prevails, the circuit court shall affirm the decision of the department; if the licensee, registrant, or applicant prevails, the circuit court shall set aside the revocation, or order the issuance or renewal of the license or certificate of registration.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1980, Act 232, Imd. Eff. July 20, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.123 Injunction.

Sec. 13. When there is a violation of this act or a rule promulgated thereunder, and the unlawful activity or condition of the child care organization is likely to result in serious harm to the children under care, the department may seek injunctive action against the child care organization in the circuit court through proceedings instituted by the attorney general on behalf of the department.

History: 1973, Act 116, Eff. Mar. 29, 1974.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.124 Persons authorized to place child.

Sec. 14. Only a parent, guardian of the person of a child, a person related to a child by blood, marriage, or adoption, a licensed child placing agency, or a governmental unit may place a child in the control and care of a person. This section shall not be construed to prevent foster parents from placing foster children in temporary care pursuant to rules promulgated by the department.

History: 1973, Act 116, Eff. Mar. 29, 1974.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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Administrative rules: R 400.1 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; and R 400.12101 et seq. of the Michigan Administrative Code.

722.124a Consent to medical and surgical treatment of minor child; "routine, nonsurgical medical care" defined.

Sec. 14a. (1) A probate court, a child placing agency, or the department may consent to routine, nonsurgical medical care, or emergency medical and surgical treatment of a minor child placed in out-of-home care pursuant to Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to

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400.121 of the Michigan Compiled Laws, Act No. 288 of the Public Acts of 1939, as amended, being sections 710.21 to 712A.28 of the Michigan Compiled Laws, or this act. If the minor child is placed in a child care organization, then the probate court, the child placing agency, or the department making the placement shall execute a written instrument investing that organization with authority to consent to emergency medical and surgical treatment of the child. The department may also execute a written instrument investing a child care organization with authority to consent to routine, nonsurgical medical care of the child. If the minor child is placed in a child care institution, the probate court, the child placing agency, or the department making the placement shall in addition execute a written instrument investing that institution with authority to consent to the routine, nonsurgical medical care of the child.

(2) A parent or guardian of a minor child who voluntarily places the child in a child care organization shall execute a written instrument investing that organization with authority to consent to emergency medical and surgical treatment of the child. The parent or guardian shall consent to routine, nonsurgical medical care.

(3) Only the minor child's parent or legal guardian shall consent to nonemergency, elective surgery for a child in foster care. If parental rights have been permanently terminated by court action, consent for nonemergency, elective surgery shall be given by the probate court or the agency having jurisdiction over the child.

(4) As used in this section, "routine, nonsurgical medical care" does not include contraceptive treatment, services, medication or devices.

History: Add. 1974, Act 191, Imd. Eff. July 2, 1974;—Am. 1984, Act 396, Eff. Mar. 29, 1985.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.124b Definitions used in MCL 722.124b, 722.124c, and 722.124d.

Sec. 14b. As used in this section and sections 14c and 14d:

(a) “Adoption attorney” means that term as defined in section 22 of the adoption code, being section 710.22 of the Michigan Compiled Laws.

(b) “Adoption code” means chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws.

(c) “Adoption facilitator” means a child placing agency or an adoption attorney who assists biological parents or guardians or prospective adoptive parents with adoptions pursuant to the adoption code.

(d) “Primary adoption facilitator” means the adoption facilitator in an adoption who files the court documents on behalf of the prospective adoptive parent.

(e) “Public information form” means a form described in section 14d that is completed by a primary adoption facilitator and maintained in a central clearinghouse by the department of social services for distribution pursuant to section 14d to individuals seeking information about adoption.

History: Add. 1994, Act 209, Eff. Jan. 1, 1995.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.124c Filing of public information form by primary adoption facilitator; contents; authentication; applicability of section to certain adoptions.

Sec. 14c. (1) Not later than 10 days after the entry of an order of adoption pursuant to section 56 of the adoption code, being section 710.56 of the Michigan Compiled Laws, the primary adoption facilitator for that adoption shall file with the probate court a completed public information form setting forth information including costs connected with the adoption as prescribed by section 14d. The public information form shall be authenticated by verification under oath by the primary adoption facilitator, or, in the alternative, contain the following statement immediately above the date and signature of the facilitator: “I declare that this public information form has been examined by me and that its contents are true to the best of my information, knowledge, and belief.”

(2) This section does not apply to a stepparent adoption, the adoption of a child related to the petitioner within the fifth degree by blood, marriage, or adoption, or an adoption in which the consent of a court or the department is required.

(3) Except as provided in subsection (2), this section applies to adoptions in which the order of adoption under section 56 of the adoption code is entered after the effective date of this section, including adoptions

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pending on the effective date of this section.

History: Add. 1994, Act 209, Eff. July 1, 1995.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.124d Public information form; reporting nonconfidential information; detachable section; distribution of blank forms; acceptance and maintenance of completed forms; individual requests for information about adoption facilitators; sending nonconfidential portion in response to individual's request; fee.

Sec. 14d. (1) The department shall develop a public information form for the reporting of the following nonconfidential information:

(a) The name and address of the primary adoption facilitator.

(b) The type of adoption, as follows:

(*i*) Direct placement or agency placement.

(*ii*) Intrastate, interstate, or intercountry.

(c) The name of the agency and individual who performed the preplacement assessment or the investigation required under section 46 of the adoption code, being section 710.46 of the Michigan Compiled Laws, and the cost of the assessment or investigation.

(d) The name of each individual who performed counseling services for a biological parent, a guardian, or the adoptee; the individual's agency affiliation, if any; the number of hours of counseling performed; and the cost of that counseling.

(e) The name of each individual who performed counseling services for an adoptive parent, the individual's agency affiliation, if any, the number of hours of counseling performed, and the cost of that counseling.

(f) The total amount paid by an adoptive parent for hospital, nursing, or pharmaceutical expenses incurred by a biological parent or the adoptee in connection with the birth or any illness of the adoptee.

(g) The total amount paid by an adoptive parent for a biological mother's living expenses.

(h) The total amount paid by an adoptive parent for expenses incurred in ascertaining the information required under section 27 of the adoption code, being section 710.27 of the Michigan Compiled Laws.

(i) The name of any attorney representing an adoptive parent, the number of hours of service performed in connection with the adoption, and the total cost of the attorney's services performed for the adoptive parent.

(j) The name of any attorney representing a biological parent, the number of hours of service performed in connection with the adoption, and the total cost of the attorney's services performed for the biological parent.

(k) The name of any agency assisting a biological parent or adoptive parent, and the cost of all services provided by the agency other than services specifically described in subdivisions (c), (d), and (e).

(*l*) The total amount paid by an adoptive parent for a biological parent's travel expenses.

(m) Any fees or expenses sought but disallowed by the court.

(n) The total amount of all expenses connected with the adoption that were paid for by the adoptive parent.

(o) An explanation of any special circumstances that made costs of the adoption higher than would normally be expected.

(2) The public information form prescribed by subsection (1) shall contain a detachable section for the reporting of all of the following confidential information:

(a) The age, sex, and race of each biological parent.

(b) The age, sex, and race of the adoptee.

(c) The name, age, sex, and race of each adoptive parent.

(d) The county in which the final order of adoption was entered.

(e) The county, state, and country of origin of the adoptee.

(f) The legal residence of biological parents.

(g) The legal residence of adoptive parents.

(h) The dates of the following actions related to the adoption:

(*i*) The first contact of the birth parent with the primary adoption facilitator.

(*ii*) The first contact of the adoptive parent with the primary adoption facilitator.

(*iii*) The temporary placement, if applicable.

(*iv*) The formal placement.

(*v*) The order of the court finalizing the adoption.

(3) The department of social services shall distribute blank public information forms to adoption

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facilitators, courts, and other interested individuals and organizations.

(4) Beginning on July 1, 1995, the department of social services shall accept from the probate court of each county and maintain in a central clearinghouse completed public information forms for each adoption completed in this state. Upon the request of an individual seeking information about adoption facilitators serving a particular county or counties, the department shall send the individual a list of all adoption facilitators serving that county or those counties, the number of adoptions each person facilitated in the county or counties during the preceding 12 months, and the fees the department charges for transmitting copies of public information forms. Upon the individual's request for public information forms for a particular adoption facilitator or facilitators and payment of the required fees, the department shall send the individual copies of the nonconfidential portions of the public information forms completed by that adoption facilitator or those adoption facilitators during the preceding 12 months. If the number of adoptions facilitated by a particular adoption facilitator in a particular county or counties is insufficient to protect the confidentiality of the participants in an adoption, the department shall send the nonconfidential portions of additional public information forms for adoptions facilitated by that adoption facilitator in earlier years or in other counties. The additional forms required to protect confidentiality shall be sent without charge to the individual requesting the information.

(5) If the department receives public information forms completed by a probate register containing only the primary adoption facilitator's name and confidential information, the department shall send the nonconfidential portion of those public information forms completed by the probate register in response to an individual's request for public information forms for that adoption facilitator.

(6) The department may charge a fee for transmitting public information forms to individuals requesting them. The fee shall be sufficient to reimburse the department for the costs of copying, postage or facsimile, and labor.

History: Add. 1994, Act 209, Eff. Jan. 1, 1995;—Am. 1995, Act 107, Imd. Eff. June 23, 1995.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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722.124e Legislative findings and declaration; requirement to provide services that conflict with child placing agency's religious beliefs prohibited; adverse action against child placing agency prohibited; information to be provided to applicant; defense in administrative or judicial proceeding; ability of another child placing agency to provide services not limited; definitions.

Sec. 14e. (1) The legislature finds and declares all of the following:

(a) When it is necessary for a child in this state to be placed with an adoptive or foster family, placing the child in a safe, loving, and supportive home is a paramount goal of this state.

(b) As of the effective date of the amendatory act that added this section, there are 105 licensed adoption and foster care agencies in this state that are authorized to participate in and assist families with adoption and foster parent placements of children.

(c) Having as many possible qualified adoption and foster parent agencies in this state is a substantial benefit to the children of this state who are in need of these placement services and to all of the citizens of this state because the more qualified agencies taking part in this process, the greater the likelihood that permanent child placement can be achieved.

(d) As of the effective date of the amendatory act that added this section, the adoption and foster care licensees of this state represent a broad spectrum of organizations and groups, some of which are faith based and some of which are not faith based.

(e) Private child placing agencies, including faith-based child placing agencies, have the right to free exercise of religion under both the state and federal constitutions. Under well-settled principles of constitutional law, this right includes the freedom to abstain from conduct that conflicts with an agency's sincerely held religious beliefs.

(f) Faith-based and non-faith-based child placing agencies have a long and distinguished history of providing adoption and foster care services in this state.

(g) Children and families benefit greatly from the adoption and foster care services provided by faith-based and non-faith-based child placing agencies. Ensuring that faith-based child placing agencies can continue to provide adoption and foster care services will benefit the children and families who receive publicly funded services.

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(h) Under well-established department contracting practices, a private child placing agency does not receive public funding with respect to a particular child or particular individuals referred by the department unless that agency affirmatively accepts the referral.

(i) Under well-settled principles of constitutional law distinguishing "private action" from "state action", a private child placing agency does not engage in state action when the agency performs private-adoption or direct-placement services. Similarly, a private child placing agency does not engage in state action relative to a referral for services under a contract with the department before the agency accepts the referral.

(2) To the fullest extent permitted by state and federal law, a child placing agency shall not be required to provide any services if those services conflict with, or provide any services under circumstances that conflict with, the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency.

(3) To the fullest extent permitted by state and federal law, the state or a local unit of government shall not take an adverse action against a child placing agency on the basis that the child placing agency has declined or will decline to provide any services that conflict with, or provide any services under circumstances that conflict with, the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency.

(4) If a child placing agency declines to provide any services under subsection (2), the child placing agency shall provide in writing information advising the applicant of the department's website, the Michigan adoption resource exchange or similar subsequently utilized websites, and a list of adoption or foster care service providers with contact information and shall do at least 1 of the following:

(a) Promptly refer the applicant to another child placing agency that is willing and able to provide the declined services.

(b) Promptly refer the applicant to the webpage on the department's website that identifies other licensed child placement agencies.

(5) A child placing agency may assert a defense in an administrative or judicial proceeding based on this section.

(6) If a child placing agency declines to provide any services under subsection (2), the child placing agency's decision does not limit the ability of another child placing agency to provide those services.

(7) For the purpose of this section:

(a) "Adverse action" includes, but is not limited to, denying a child placing agency's application for funding, refusing to renew the child placing agency's funding, canceling the child placing agency's funding, declining to enter into a contract with the child placing agency, refusing to renew a contract with the child placing agency, canceling a contract with the child placing agency, declining to issue a license to the child placing agency, refusing to renew the child placing agency's license, canceling the child placing agency's license, taking an enforcement action against a child placing agency, discriminating against the child placing agency in regard to participation in a government program, and taking any action that materially alters the terms or conditions of the child placing agency's funding, contract, or license.

(b) "Services" includes any service that a child placing agency provides, except foster care case management and adoption services provided under a contract with the department.

History: Add. 2015, Act 53, Eff. Sept. 9, 2015.

Compiler's note: Enacting section 1 of Act 53 of 2015 provides:

"Enacting section 1. It is the intent of the legislature to protect child placing agencies' free exercise of religion protected by the United States constitution and the state constitution of 1963. This amendatory act is not intended to limit or deny any person's right to adopt a child or participate in foster care."

722.124f Decision to accept or not referral; defense in administrative or judicial proceeding; "adverse action" defined.

Sec. 14f. (1) If the department makes a referral to a child placing agency for foster care case management or adoption services under a contract with the child placing agency, the child placing agency may decide not to accept the referral if the services would conflict with the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency. Before accepting a referral for services under a contract with the department, the child placing agency has the sole discretion to decide whether to engage in activities and perform services related to that referral. The department shall not control the child placing agency's decision whether to engage in those activities or perform those services. For purposes of this subsection, a child placing agency accepts a referral by doing either of the following:

(a) Submitting to the department a written agreement to perform the services related to the particular child or particular individuals that the department referred to the child placing agency.

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(b) Engaging in any other activity that results in the department being obligated to pay the child placing agency for the services related to the particular child or particular individuals that the department referred to the child placing agency.

(2) The state or a local unit of government shall not take an adverse action against a child placing agency on the basis that the child placing agency has decided to accept or not accept a referral under subsection (1).

(3) If a child placing agency decides not to accept a referral under subsection (1), that occurrence shall not be a factor in determining whether a placement in connection with the referral is in the best interest of the child.

(4) A child placing agency may assert a defense in an administrative or judicial proceeding based on this section.

(5) For the purpose of this section, "adverse action" includes, but is not limited to, denying a child placing agency's application for funding, refusing to renew the child placing agency's funding, canceling the child placing agency's funding, declining to enter into a contract with the child placing agency, refusing to renew a contract with the child placing agency, canceling a contract with the child placing agency, declining to issue a license to the child placing agency, refusing to renew the child placing agency's license, canceling the child placing agency's license, taking an enforcement action against a child placing agency, discriminating against the child placing agency in regard to participation in a government program, and taking any action that materially alters the terms or conditions of the child placing agency's funding, contract, or license.

History: Add. 2015, Act 53, Eff. Sept. 9, 2015.

Compiler's note: Enacting section 1 of Act 53 of 2015 provides:

"Enacting section 1. It is the intent of the legislature to protect child placing agencies' free exercise of religion protected by the United States constitution and the state constitution of 1963. This amendatory act is not intended to limit or deny any person's right to adopt a child or participate in foster care."

722.125 Violation as misdemeanor; penalty; conviction as ground for revocation of license or certificate of registration; effect of revocation, denial, or refusal to renew.

Sec. 15. (1) A person, child care organization, agency, or representative or officer of a firm, corporation, association, or organization who violates this act is guilty of a misdemeanor, punishable by the following:

(a) A fine of not less than $100.00 or more than $1,000.00 for a violation of section 3b, 3c, or 3d.

(b) For a violation not described in subdivision (a), a fine of not less than $100.00 or more than $1,000.00, or imprisonment for not more than 90 days, or both.

(2) If a person, child care organization, agency, or representative or officer of a firm, corporation, association, or organization is convicted under this act, the conviction is sufficient ground for the revocation of its license or certificate of registration, and the person, child care organization, agency, or representative or officer of a firm, corporation, association, or organization convicted shall not be granted a license or certificate of registration, or be permitted to be connected, directly or indirectly, with a licensee or a registrant for a period of not less than 2 years after the conviction.

(3) A person, child care organization, agency, or representative or officer of a firm, corporation, association, or organization who has a license or certificate of registration revoked, application denied, or renewal refused, may be refused a license or certificate of registration, or be prohibited from being connected, directly or indirectly, with a licensee or a registrant for a period of not less than 2 years after the revocation, denial, or refusal to renew.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1980, Act 232, Imd. Eff. July 20, 1980;—Am. 1993, Act 218, Eff. Apr. 1, 1994.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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722.126 Education of public.

Sec. 16. The department shall provide continuous education of the public in regard to the requirements of this act through the ongoing use of mass media and other methods as are deemed appropriate.

History: 1973, Act 116, Eff. Mar. 29, 1974.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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722.127 Objection on religious grounds to medical examination, immunization, or treatment

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of child.

Sec. 17. Nothing in the rules adopted pursuant to this act shall authorize or require medical examination, immunization, or treatment for any child whose parent objects thereto on religious grounds.

History: 1973, Act 116, Eff. Mar. 29, 1974.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

722.127a Use of inhaler or epinephrine auto-injector by child at children's camp.

Sec. 17a. (1) If the conditions prescribed in subsection (2) are met, notwithstanding any children's camp policy to the contrary, a minor child may possess and use 1 or more of the following at the children's camp, on camp-sponsored transportation, or at any activity, event, or program sponsored by the children's camp or in which the minor child is participating:

(a) A metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms or for use before exercise to prevent the onset of asthmatic symptoms.

(b) An epinephrine auto-injector or epinephrine inhaler to treat anaphylaxis.

(2) Subsection (1) applies to a minor child if all of the following conditions are met:

(a) The minor child has written approval to possess and use the inhaler or epinephrine auto-injector as described in subsection (1) from the minor child's physician or other health care provider authorized by law to prescribe an inhaler or epinephrine auto-injector and from the minor child's parent or legal guardian.

(b) The director or other chief administrator of the minor child's camp has received a copy of each written approval required under subdivision (a) for the minor child.

(c) There is on file at the children's camp a written emergency care plan that contains specific instructions for the minor child's needs, that is prepared by a licensed physician in collaboration with the minor child and the minor child's parent or legal guardian, and that is updated as necessary for changing circumstances.

(3) A children's camp or an owner, director, or employee of a children's camp is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from either of the following:

(a) An employee of the children's camp having prohibited a minor child from using an inhaler or epinephrine auto-injector because the conditions prescribed in subsection (2) had not been satisfied.

(b) An employee of the children's camp having permitted a minor child to use or possess an inhaler or epinephrine auto-injector because the conditions prescribed in subsection (2) had been satisfied.

(4) This section does not eliminate, limit, or reduce any other immunity or defense that a camp or an owner, director, or employee of a camp may have under other state law.

(5) A children's camp may request a minor child's parent or legal guardian to provide an extra inhaler or epinephrine auto-injector to designated camp personnel for use in case of emergency. A parent or legal guardian is not required to provide an extra inhaler or epinephrine auto-injector to camp personnel.

(6) A director or other chief administrator of a children's camp who is aware that a minor child possesses an inhaler or epinephrine auto-injector as authorized under this section shall notify each camp employee who supervises the minor child of that fact and of the provisions of this section.

History: Add. 2005, Act 120, Imd. Eff. Sept. 22, 2005.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

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722.128 Repeal.

Sec. 18. Act No. 47 of the Public Acts of 1944, being sections 722.101 to 722.108 of the Compiled Laws of 1970, is repealed.

History: 1973, Act 116, Eff. Mar. 29, 1974.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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