

INTERSTATE COMPACT ON PLACEMENT OF CHILDREN (EXCERPT)
Act 114 of 1984

3.711 Interstate compact on placement of children; enactment; form; contents.

Sec. 1.

The interstate compact on the placement of children is enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

The contracting states solemnly agree:

ARTICLE I — Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II — Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(b) "Sending agency" means a party state, or officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective, or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III — Conditions for Placement

(1) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(2) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(a) The name, date, and place of birth of the child.

(b) The identity and address or addresses of the parents or legal guardian.

(c) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.

(d) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(3) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to subsection (2) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(4) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV — Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V — Retention of Jurisdiction

(1) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(2) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of 1 or more services in respect of such case by the latter as agent for the sending agency.

(3) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in subsection (1) of this article.

ARTICLE VI — Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his or her being sent to such other party jurisdiction for institutional care and the court finds that:

(a) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(b) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII — Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in the officer's jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

This compact shall not apply to:

ARTICLE VIII — Limitations

(a) The sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending, or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX — Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until 2 years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X — Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability

thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History: 1984, Act 114, Imd. Eff. May 29, 1984

EXECUTIVE REORGANIZATION ORDER (EXCERPT)
E.R.O. No. 2009-39

18.441 Renaming department of management and budget to department of technology, management, and budget; transfer of powers and duties of department of information technology to department of technology, management, and budget by type III transfer; abolishment of department of information technology; designation of chief information officer; renaming of office of state budget director to state budget office; transfer of certain powers and duties of department of technology, management, and budget to state budget office; office of the state employer as autonomous entity within department of technology, management, and budget; transfer of certain powers and duties of principal departments relating to labor relations to office of the state employer; transfer of Michigan public safety communication system advisory board from department of information technology to department of technology, management, and budget; renaming to public safety communications interoperability board; abolishment of position of director of department of information technology.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Department of Information Technology was created as a principal department of state government by Executive Order 2001-3, MCL 18.41;

WHEREAS, the Department of Information Technology is focused on promoting a unified approach to information technology management for departments and agencies in the executive branch of state government;

WHEREAS, the Department of Management and Budget was created as a principal department of state government under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121;

WHEREAS, the Department of Management and Budget is focused on providing centralized administration of services for state departments and agencies including audit services, budgeting, employee resources, financial services, fleet management, mail, printing, property management, purchasing services, records management, and retirement services;

WHEREAS, improvements in the organization of state government and reductions in the number of principal state departments are necessary to provide Michigan residents and job providers with improved delivery of state services using fewer resources;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power vested in the Governor by the Michigan Constitution of 1963 and Michigan law order the following:

I. DEFINITIONS

As used in this Order:

A. "Chief Information Officer for the State of Michigan" or "State CIO" means the individual within the Department of Technology, Management, and Budget designated by the Governor under Section III.B.1 as the Chief Information Officer for the State of Michigan.

B. "Civil Service Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963 and includes the State Personnel Director.

C. "Department of Information Technology" means the principal department of state government created by Executive Order 2001-3, MCL 18.41.

D. "Department of Management and Budget" means the principal department of state government created by Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

E. "Department of Technology, Management, and Budget" or "Department" means the principal department of state government created by Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121, and

renamed the Department of Technology, Management, and Budget under this Order.

F. "Information technology services" means services involving all aspects of managing and processing information including, but not limited to, all of the following:

1. Application development and maintenance.
2. Desktop computer support and management.
3. Mainframe computer support and management.
4. Server support and management.
5. Local area network support and management, including, but not limited to, wireless networking.
6. Information technology project management.
7. Information technology planning and budget management.
8. Telecommunication services, security, infrastructure, and support.

G. "Office of the State Budget Director" means the office created within the Department of Management and Budget under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

H. "Office of the State Employer" means the autonomous office created within the Department of Management and Budget by Executive Order 1979-5, whose duties include, but are not limited to, those assigned by Executive Orders 1979-5, 1981-3, 1988-6, 2002-18, 2004-31, 2007-30, and 2008-22.

I. "State Budget Director" means the individual appointed by the Governor under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

J. "State Personnel Director" means the administrative and principal executive officer of the Civil Service Commission provided for under Section 5 of Article XI of the Michigan Constitution of 1963 and Section 204 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.304.

K. "Type II transfer" means that phrase as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

L. "Type III transfer" means that phrase as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. DEPARTMENT OF MANAGEMENT AND BUDGET

A. The Department of Management and Budget is renamed the Department of Technology, Management, and Budget.

B. Any and all statutory and other legal references to the Department of Management and Budget shall be deemed references to the Department of Technology, Management, and Budget.

III. DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET

A. Transfers to the Department of Technology, Management, and Budget

1. Except as otherwise provided in this Order, any and all of the authority, powers, duties, functions, responsibilities, records, rule-making authority, records, personnel, real property, personal property, equipment, unexpended balances of appropriations, allocations, or other funds of the Department of Information Technology are transferred by Type III transfer to the Department of Technology, Management, and Budget, including, but not limited to, authority, powers, duties, functions, responsibilities, rule-making authority, records, personnel, real property, personal property, equipment, unexpended balances of appropriations, allocations, or other funds under all of the following:

- a. Executive Order 2001-3, MCL 18.41.
- b. Executive Order 2005-2, MCL 18.42.
- c. Executive Order 2006-19, MCL 18.43.
- d. Executive Order 2002-14, MCL 18.62.
- e. Section 4 of the Records Reproduction Act, 1992 PA 116, MCL 24.404.
- f. Section 2 of the C.J.I.S. Policy Council Act, 1974 PA 163, MCL 28.212.
- g. Executive Order 2002-19, MCL 38.1173.
- h. Executive Order 2004-2, MCL 211.281.
- i. Section 59 of the Driver Education Provider and Instructor Act, 2006 PA 384, MCL 256.679.
- j. Section 134a of the Mental Health Code, 1974 PA 258, MCL 330.1134a.
- k. Section 2505 of the Public Health Code, 1978 PA 368, MCL 333.2505.
- l. Section 20173a of the Public Health Code, 1978 PA 368, MCL 333.20173a.
- m. Sections 1230d and 1230f of The Revised School Code of 1976, 1976 PA 451, MCL 380.1230d and 380.1230f.
- n. Sections 1535a and 1539b of The Revised School Code of 1976, 1976 PA 451, MCL 380.1535a and 380.1539b.
- o. Executive Order 2003-20, MCL 388.997.
- p. Executive Order 2009-36, MCL 399.752.
- q. Section 34b of the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.734b.

- r. Executive Order 2008-20, MCL 445.2025.
- s. Section 8 of The Children's Ombudsman Act, 1994 PA 204, MCL 722.928.
- t. Executive Order 2009-18.

2. The Information Privacy Protection Council created by Executive Order 2009-18 is transferred by Type II transfer from the Department of Information Technology to the Department of Technology, Management, and Budget.

3. The position of the Director of the Department of Information Technology or his or her designee as a member of the Health Information Technology Commission created under Section 2503 of the Public Health Code, 1978 PA 368, MCL 333.2503, is transferred to the Director of the Department of Technology, Management, and Budget, or his or her designee from within the Department.

B. Chief Information Officer for the State of Michigan

1. The Governor shall designate an individual within the Department of Technology, Management, Budget, including, but not limited to, the Director of the Department, to serve as the Chief Information Officer for the State of Michigan. The Director of the Department may serve concurrently as the State CIO. The State CIO shall report to and advise the Governor on matters relating to information technology services and related technology. The individual designated as the State CIO also shall serve as a member of the Governor's Cabinet. Under direction and guidance of the State CIO, the Department shall continue to do all of the following related to information technology services:

- a. Lead state efforts to reengineer the information technology infrastructure of this state to achieve the use of common technology across the executive branch of state government.
- b. Coordinate a unified executive branch strategic information technology plan, identify best practices from executive branch agencies and other public and private sector entities, and develop and implement processes to replicate information technology best practices and standards throughout the executive branch of state government.
- c. Oversee the expanded use and implementation of project management principles related to information technology services within the executive branch of state government. Funded projects within all executive branch departments and agencies shall continue to use project management methodologies specified by the Chief Information Officer for the State of Michigan.
- d. Serve as a general contractor between information technology users within the executive branch and private-sector providers of information technology products and services while working to build stronger partnering relationships with providers.
- e. Develop and periodically update service-level agreements with executive branch departments and agencies to ensure quality information technology services are delivered on schedule and within budget.
- f. Develop standards for application development including, but not limited to, a standard methodology and cost-benefit analysis that all executive branch departments and agencies shall utilize for application development activities.
- g. Determine and implement statewide efforts to standardize data elements, formats, and standards and determine data and information ownership or control issues among departments and agencies in the executive branch of state government with the full cooperation of executive branch departments and agencies.
- h. Develop systems and methodologies to review, evaluate, and prioritize existing information technology services projects within the executive branch of state government.
- i. Assist the Office of the State Budget Director with the development of information technology services budgets for the executive branch of state government. All information technology budget requests from the executive branch must continue to be submitted to the Office of the State Budget Director and the State CIO. The Office of the State Budget Director and the State CIO will continue to jointly review and recommend for funding consideration only those proposals that fit into the overall strategic information technology management plan of this state and that provide a reasonable return on investment, subject to available resources.

2. The State CIO shall continue to have the full cooperation of executive branch departments and agencies in developing and implementing the sharing of data and information throughout the executive branch. The State CIO shall continue to determine and implement statewide efforts to standardize data elements and shall continue to determine data ownership assignments among executive branch departments and agencies.

C. Office of the State Budget Director

1. The Office of the State Budget Director is renamed the State Budget Office. Any and all statutory and other legal references to the Office of the State Budget Director or the Office of the State Budget shall be deemed references to the State Budget Office.

2. The authority, powers, duties, functions, and responsibilities of the Department of Technology, Management, and Budget under any of the following are transferred to the State Budget Office:

- a. Subdivisions (a), (d), and (e) of Section 141 of The Management and Budget Act, 1984 PA 431, MCL 18.1141.
- b. Subsections (3), (5), and (7) of Section 242 of The Management and Budget Act, 1984 PA 431, MCL 18.1242.
- c. Sections 283 and 283a of The Management and Budget Act, 1984 PA 431, MCL 18.1283 and 18.1283a.

- d. Sections 350 to 350e of The Management and Budget Act, 1984 PA 431, MCL 18.1350 to 1350e.
 - e. Subsection (1) of Section 384 of The Management and Budget Act, 1984 PA 431, MCL 18.1384.
 - f. Section 395 of The Management and Budget Act, 1984 PA 431, MCL 18.1395.
 - g. Article 4 of The Management and Budget Act, 1984 PA 431, MCL 18.1401 to 18.1499.
3. The authority, powers, duties, functions, and responsibilities of the Director of the Department of Technology, Management, and Budget, under any of the following are transferred to the State Budget Director:
- a. Section 246 of The Management and Budget Act, 1984 PA 431, MCL 18.1246.
 - b. Section 363 of The Management and Budget Act, 1984 PA 431, MCL 18.1363.
 - c. Section 371 of The Management and Budget Act, 1984 PA 431, MCL 18.1371.
 - d. Section 391 of The Management and Budget Act, 1984 PA 431, MCL 18.1391.
 - e. Article 4 of The Management and Budget Act, 1984 PA 431, MCL 18.1401 to 18.1499.
4. Unless the State Budget Director serves concurrently as the Director of the Department of Technology, Management, and Budget as provided under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321, the State Budget Office shall exercise its prescribed authority, powers, duties, functions, and responsibilities independently of the Director of the Department of Technology, Management, and Budget. The authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds of the State Budget Office, including, but not limited to, budgeting, procurement, personnel, and related management functions, shall be retained by the State Budget Office, and the State Budget Office shall be an autonomous entity within the Department in the same manner as the Michigan Employment Security Commission was designated an autonomous entity within the Department of Labor under Section 379 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.479.
5. The State Budget Director may establish administrative units within the State Budget Office.
6. The Director of the State Budget Office shall provide executive direction and supervision for the implementation of all transfers to the State Budget Office under this Section III.C.
7. The Director of the State Budget Office shall immediately initiate coordination with affected departments and agencies to facilitate the transfers to the State Budget Office under this Section III.C and shall develop and issue a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved prior to the transfers to the State Budget Office under this Section III.C.
8. The Director of the State Budget Office shall administer the assigned functions transferred under this Section III.C in such ways as to promote efficient administration and shall make internal organizational changes within the State Budget Office as may be administratively necessary to complete the realignment of responsibilities under this Section III.C.
9. State departments, agencies, and officers shall fully and actively cooperate with and assist the Director of the State Budget Office in the implementation of this Section III.C. The Director of the State Budget Office may request the assistance of other state departments, agencies, and officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other management-related functions, and the departments, agencies, and officers shall provide such assistance.
10. The Director of the State Budget Office may delegate within the State Budget Office a duty or power conferred on the Director of the State Budget Office, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director of the State Budget Office.
11. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Section III.C to the State Budget Office are transferred to the State Budget Office.
- D. Office of the State Employer**
1. The Office of the State Employer is continued as an autonomous entity within the Department of Technology, Management, and Budget. The Director of the Office of the State Employer shall continue to be the head of the Office of the State Employer.
2. Except as otherwise provided in this Section III.D, all of the authority, powers, duties, functions, responsibilities, records, personnel, property, unexpended balances of appropriations, allocations, and other funds of the principal departments of the executive branch of state government related to the performance of labor relations functions on behalf of the State of Michigan as an employer, including, but not limited to, Civil Service Commission staff, are transferred to the Office of the State Employer.
3. The duties of the Office of the State Employer, shall include, without limitation, all of the following:
- a. Performing the obligations and exercising the rights of the Office of the State Employer under the employee relations rules and regulations of the Civil Service Commission, including, but not limited to, all of the following:
 - i. Developing, directing, and coordinating the employee relations policy of the principal departments of the executive branch of state government as employer.
 - ii. Negotiating with exclusive representatives of employees of the principal departments of the executive branch

of state government within the classified state civil service.

iii. Recommending to the Civil Service Commission, in consultation with the principal department heads and the Governor, a comprehensive plan for rates of compensation and other conditions of employment for non-exclusively represented employees of the principal departments of the executive branch of state government within the classified state civil service.

iv. Directing primary negotiations and coordinating secondary negotiations of collective bargaining agreements.

b. Formulating, executing, and administering on behalf of the principal departments of the executive branch of state government as employer, labor-management relations and employee and labor relations policies for employees of the principal departments of the executive branch of state government within the classified state civil service. The Office of the State Employer shall only represent the interests of the principal departments of the executive branch of state government as employer.

c. Representing the principal departments of the executive branch of state government before the Civil Service Coordinated Compensation Panel, or any successor entity established by the Civil Service Commission to address issues for non-exclusively represented employees.

d. Determining the policy of the principal departments of the executive branch of state government as employer with respect to matters subject to the collective bargaining negotiations.

e. Representing the principal departments of the executive branch of state government as employer in negotiations with exclusive representatives, with assistance to the Office of the State Employer provided by departmental bargaining team members nominated by the principal departments, subject to the approval of the Director of the Office of the State Employer.

f. Entering into collective bargaining agreements with exclusive representatives concerning negotiable matters.

g. Determining the issues that will be the subject of primary negotiations and those that will be the subject of secondary negotiations for the principal departments of the executive branch of state government as employer.

h. Participating in secondary negotiations at the departmental level and approving all secondary collective bargaining agreements.

i. Representing the principal departments of the executive branch of state government as employer in dispute resolution conferences and mediation.

j. Initiating requests for modifications in the employee relations policies, rules, and regulations of the Civil Service Commission.

k. Coordinating responses of the principal departments of the executive branch of state government as employer to personnel policy, rule, or regulation changes considered by the Civil Service Commission.

l. Initiating, or approving the initiation of, prohibited practice charges against employees or employee organizations and responding to and representing the principal departments of the executive branch of state government as employer with respect to prohibited practice charges filed by employees or employee organizations.

m. Exercising final authority for administration of collective bargaining agreements and grievance settlements on behalf of the principal departments of state government as employer and approving all collective bargaining agreement interpretation documents and letters of understanding.

n. Making management determinations on behalf of the principal departments of state government as employer regarding which grievance cases should go to arbitration or be afforded a hearing by the Civil Service Commission after consultation with the affected principal department; and approving the management advocate on behalf of the principal departments of state government as employer in the presentation of all arbitrations and grievance hearings under the rules or regulations of the Civil Service Commission.

o. Supervising the training of all management personnel involved in the labor relations process for the principal departments of the executive branch of state government as employer with the full cooperation and training of affected principal departments.

p. Performing duties vested in the Office of the State Employer under Executive Order 2004-31.

q. Serving as a member of the State Equal Opportunity and Diversity Council created by Executive Order 2008-22, or any successor entity.

r. Appointing and supervising clerical and professional staff as the Director of the Office of the State Employer deems necessary.

s. Entering into consulting contracts for personal and professional services related to the functions of the Office of State Employer as the Director of the Office of the State Employer deems necessary in accordance with the relevant statutes, and procedures, rules, and regulations of the Civil Service Commission and the Department.

t. Doing such other things as are necessary for the principal departments of the executive branch of state government as employer to meet responsibilities to recognized employee organizations and foster responsible labor-management relations.

4. The duties of the Office of the State Employer include employee and labor relations matters affecting state classified civil service employees of principal departments within the executive branch of state government covered by employee relations policies, rules, and regulations of the Civil Service Commission, as well as matters affecting Michigan State Police troopers and sergeants who exercise collective bargaining rights under Section 5 of Article XI of the Michigan Constitution of 1963.

5. Nothing in this Section III.D shall be construed to diminish or limit the power of the Civil Service Commission to exercise authority granted to the Commission under Section 5 of Article XI of the Michigan Constitution of 1963. Consistent with Civil Service Commission Rule 6-3.7, the Office of the State Employer shall participate as an advocate on behalf of management in the collective bargaining process as the State Personnel Director and other employees of the Civil Service Commission are prohibited from participating as advocates on behalf of either management or employees in the collective bargaining process.

6. In performing duties relating to collective bargaining and labor relations functions under this Section III.D, the Office of the State Employer shall consult with the Governor and the elected heads of principal departments of the executive branch of state government.

7. The Director of the Office of the State Employer shall provide executive direction and supervision for the implementation of all transfers to the Office of the State Employer under this Section III.D.

8. The Director of the Office of the State Employer shall immediately initiate coordination with affected departments and agencies to facilitate the transfers to the Office of the State Employer under this Section III.D and shall develop and issue a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved prior to the transfers to the Office of the State Employer under this Section III.D.

9. The Director of the Office of the State Employer shall administer the assigned functions transferred under this Section III.D in such ways as to promote efficient administration and shall make internal organizational changes within the Office of the State Employer as may be administratively necessary to complete the realignment of responsibilities under this Section III.D.

10. State departments, agencies, and officers shall fully and actively cooperate with and assist the Director of the Office of the State Employer in the implementation of this Section III.D. The Director of the Office of the State Employer may request the assistance of other state departments, agencies, and officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other management-related functions, and the departments, agencies, and officers shall provide such assistance.

11. The Director of the Office of the State Employer may delegate within the Office of the State Employer a duty or power conferred on the Director of the Office of the State Employer, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director of the Office of the State Employer.

12. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Section III.D to the Office of the State Employer are transferred to the Office of the State Employer.

E. Michigan Public Safety Communications System Advisory Board

1. The Michigan Public Safety Communications System Advisory Board created by Executive Order 2005-8 is transferred by Type II transfer from the Department of Information Technology to the Department of Technology, Management, and Budget.

2. The Michigan Public Safety Communications System Advisory Board is renamed the Public Safety Communications Interoperability Board.

3. The Public Safety Communications Interoperability Board shall consist of 16 members, including 9 members appointed by the Governor as provided under Section II.B.1 of Executive Order 2005-8 and the following voting ex officio members:

a. The employee within the Department of Technology, Management, and Budget with principal administrative responsibilities for the Michigan Public Safety Communications System, as designated by the Director of the Department.

b. The officer or employee within the Department of State Police with principal responsibility for this state's emergency management operations, as designated by the Director of the Department of State Police.

c. The State Fire Marshal.

d. The Director of the Department of Community Health, or his or her designee from within the Department of Community Health.

e. The Adjutant General or his or her designee from within the Department of Military and Veterans Affairs.

f. The Director of the Department of Natural Resources and Environment, or his or her designee from within the Department of Natural Resources and Environment.

g. The Director of the Department of Transportation, or his or her designee from within the Department of Transportation.

4. The Public Safety Communications Interoperability Board may establish advisory workgroups or task forces composed of persons representing law enforcement or other governmental or tribal public safety agencies or organizations that operate or utilize public safety communications systems in this state, including, but not limited to, a task force on communications interoperability. The Interoperability Board also may invite the participation of federal homeland security, law enforcement, emergency management, or communications agency officials and personnel, including, but not limited to, federal officials or personnel serving as liaisons to the Interoperability

Board. The Interoperability Board may adopt, reject, or modify any recommendations proposed by an advisory workgroup or task force.

5. The Public Safety Communications Interoperability Board may serve as the regional public safety frequency coordination committee to the extent required for this state's compliance with rules or regulations of the Federal Communications Commission or other federal agency.

6. The Public Safety Communications Interoperability Board also may recommend best practices and oversight mechanisms for the implementation of public safety communications systems interoperability and standards in this state.

IV. DEPARTMENT OF INFORMATION TECHNOLOGY

A. The position of the Director of the Department of Information Technology as a member of the advisory committee under Section II of Executive Order 2002-19, MCL 38.1173, is abolished.

B. The position of the Director of the Department of Information Technology, or his or her authorized representative, as a member of the Interagency Council on Spanish-Speaking Affairs under Section III.E.1 of Executive Order 2003-18, MCL 445.2011, and Executive Order 2009-45, is abolished.

C. The position of Director of Department of Information Technology is abolished.

D. The Department of Information Technology is abolished.

V. IMPLEMENTATION OF TRANSFERS TO DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET

A. Except as otherwise provided in this Order, the Director of the Department of Information Technology shall provide executive direction and supervision for the implementation of all transfers to the Department of Technology, Management, and Budget under this Order.

B. The Director of the Department of Information Technology shall immediately initiate coordination with the Department of Management and Budget to facilitate the transfers to the Department of Technology, Management, and Budget under this Order and shall develop and issue a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Information Technology prior to the transfers under this Order.

C. The Director of the Department of Technology, Management, and Budget may establish administrative units within the Department.

D. State departments, agencies, and state officers shall fully and actively cooperate with and assist the Director of the Department of Technology, Management, and Budget in the implementation of this Order. The Director of the Department may request the assistance of other state departments, agencies, and officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other management-related functions, and the departments, agencies, and officers shall provide such assistance.

E. The Director of the Department of Technology, Management, and Budget may hire or retain such contractors, sub-contractors, advisors, consultants and agents as the Director of the Department may deem advisable and necessary, in accordance with the relevant statutes and procedures, rules, and regulations of the Civil Service Commission and the Department and may make and enter into contracts necessary or incidental to the exercise of the powers and performance of the duties of the Department and the Director of the Department. Under this provision, the Director of the Department specifically may hire or retain such contractors, sub-contractors, advisors, consultants, and agents as the Director of the Department may deem advisable and necessary to provide legal advice or legal services, to provide for research and development activity, or to provide strategic planning services.

F. The Department of Technology, Management, and Budget shall administer the assigned functions transferred to the Department under this Order in such ways as to promote efficient administration and the Director of the Department shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

G. The Director of the Department of Technology, Management, and Budget may delegate within the Department a duty or power conferred on the Director of the Department by this Order or by other law, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director of the Department.

H. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Department of Technology, Management, and Budget are transferred to the Department of Technology, Management, and Budget.

VI. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in this state's financial management system necessary to implement this Order.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this

Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. All rules, regulations, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

D. This Order shall not abate any criminal action commenced by this state prior to the effective date of this Order.

E. The invalidity of any portion of this Order shall not affect the validity of the remainder of this Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective March 21, 2010 at 12:01 a.m.

History: 2009, E.R.O. No. 2009-39, Eff. Mar. 21, 2010

Compiler's Notes: For transfer of the office of good government, housed within the department of technology, management, and budget, to the office of performance and transformation, see E.R.O. No. 2016-2, compiled at MCL 18.446. For transfer of powers and duties of office of state employer related to administration of state employee long-term disability plan and employee service program from office of state employer to Michigan civil service commission, see E.R.O. No. 2016-5, compiled at MCL 38.1175.

FIRE PREVENTION CODE (EXCERPT)

Act 207 of 1941

29.3b State fire safety board; creation; appointment, qualifications, terms, and removal of members; quorum; voting; hearing; chairperson; regular and special meetings; conducting business at public meeting; expenses; appropriation; minutes; record; availability of certain writings to public; confidentiality; reports, analyses, or summaries.

Sec. 3b.

(1) The state fire safety board is created in the bureau and shall consist of 17 members who are residents of this state. Of the members:

- (a) Three shall be representatives of organized fire departments in the Lower Peninsula.
 - (b) One shall be a representative of organized fire departments in the Upper Peninsula.
 - (c) One shall be a representative of hospital administration.
 - (d) One shall be a registered professional engineer.
 - (e) One shall be a registered architect.
 - (f) One shall be a representative of the nursing home industry.
 - (g) One shall be an individual who meets any of the following criteria:
 - (i) The individual is a member of the governing board of a school district, public school academy, or intermediate school district.
 - (ii) The individual is employed by a school district, a public school academy, or an intermediate school district in an administrative capacity.
 - (iii) The individual is a member of, or is employed by, a statewide association representing school board members or school administrators.
 - (h) One shall be a representative of the building trades.
 - (i) One shall be a representative of persons who own a place of public assemblage.
 - (j) One shall be a representative of the flammable liquids industry.
 - (k) One shall be a representative of the liquefied petroleum gas industry or the flammable compressed gases industry.
 - (l) One shall be a representative of the chemical manufacturing industry.
 - (m) One shall be a licensed electrical contractor or master electrician.
 - (n) One shall be a representative of persons who own adult foster care facilities.
 - (o) One shall be the state fire marshal or an employee of the bureau designated by the state fire marshal.
- (2) Board members, other than the state fire marshal or the state fire marshal's designee, shall be appointed by the governor with the advice and consent of the senate. The members appointed by the governor shall have the qualifications the governor considers essential to enable them to competently decide matters of fire prevention and fire safety for the establishments or facilities specified in section 3c(1).
- (3) Each member appointed by the governor before January 1, 2007 shall be appointed for a term of 3 years. Each member appointed by the governor after December 31, 2006 shall be appointed for a term of 4 years.

Continued absence of a member appointed by the governor from regular or special meetings of the board makes the member subject to immediate removal by the governor.

(4) A majority of the members appointed to and serving on the board constitutes a quorum. Affirmative votes of at least a majority of the members appointed to and serving on the board is required to decide any question, action, or business of the board, except that a hearing of a contested case may be conducted before 3 board members who, after hearing the facts and considering the evidence and testimony, shall recommend the action the board should take.

(5) The governor shall designate 1 of the members of the board to serve as chairperson of the board at the pleasure of the governor. Annually, the board may elect from its members a vice-chairperson of the board. Each year, the board shall hold not fewer than 4 regular meetings. Special meetings may be called by the chairperson or upon written request of 5 board members. Meetings shall be held at a location in this state designated by the chairperson.

(6) The business of the board shall be conducted at a public meeting that complies with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(7) Each appointed member of the board is entitled to actual and necessary expenses incurred in the performance of his or her duties as a member of the board, subject to available appropriations.

(8) The board shall keep minutes of its proceedings, showing the vote of each member on each proposition or question, or indicating if a member is absent or fails to vote. A record of board action and business shall be made and maintained.

(9) Except as provided in subsections (10) and (11), a writing prepared, owned, used, in the possession of, or retained by the board, the department, their agents, or others in the performance of an official function under this act is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) A person regulated under this act may designate a report or other information furnished to or obtained by the department, its agents, or others under this act as being only for confidential use by the department, its agents, or others in the performance of an official function. If the department, its agents, or others receive a request under section 5 of the freedom of information act, 1976 PA 442, MCL 15.235, for a public record that includes information designated as confidential or information obtained under section 4, the department, its agents, or others shall notify the person regulated under this act. The person regulated under this act has 30 days after receipt of the notice to demonstrate to the department, its agents, or others, that the information designated as confidential or information obtained under section 4 constitutes a trade secret or confidential business information that, if disclosed, may cause a competitive disadvantage. The department, its agents, or others shall grant the request for the information unless the person regulated under this act makes a satisfactory demonstration to the department, its agents, or others that disclosure of the information may cause a competitive disadvantage. If a dispute occurs between the person regulated under this act and the person requesting the information, the board shall make a final decision to grant or deny the request.

(11) This act does not prevent the use of a record or information by the department to compile or publish reports, analyses, or summaries of general conditions for the prevention of fire, or the use of a record or information to administer or enforce federal, state, or local fire prevention laws. However, a report, analysis, summary, or use shall not directly or indirectly publicly reveal information otherwise confidential under this section.

History: Add. 1965, Act 200, Imd. Eff. July 16, 1965 ;-- Am. 1968, Act 321, Imd. Eff. July 3, 1968 ;-- Am. 1970, Act 212, Imd. Eff. Sept. 29, 1970 ;-- Am. 1978, Act 3, Imd. Eff. Feb. 7, 1978 ;-- Am. 1980, Act 247, Eff. Oct. 1, 1980 ;-- Am. 1996, Act 152, Imd. Eff. Mar. 25, 1996 ;-- Am. 2006, Act 189, Imd. Eff. June 19, 2006

Compiler's Notes: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the 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.

EXECUTIVE REORGANIZATION ORDER (EXCERPT)

E.R.O. No. 1997-2

29.451 Transfer of certain inspection and administrative functions of the fire marshal division of the department of state police to department of consumer and industry services by type II transfer; transfer of state fire safety board from department of state police to department of consumer and industry services by type I transfer; transfer of certain functions related to the above ground storage tank program and the inspection of dry cleaning establishments from the department of state police to the department of environmental quality by type II transfer.

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2 of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Fire Marshal Division of the Michigan Department of State Police performs certain inspection functions which are duplicative of or similar to those performed by the Department of Consumer and Industry Services and the Department of Environmental Quality; and

WHEREAS, the Department of Consumer and Industry Services is the primary state department with inspection and licensing responsibilities; and

WHEREAS, in Executive Orders 1995-18 and 1996-1 the Michigan Department of Environmental Quality assumed certain responsibilities for dry cleaning programs and underground storage tanks; and

WHEREAS, certain functions, duties and responsibilities assigned to the Fire Marshal Division of the Michigan Department of State Police can be more effectively organized and carried out under the supervision and direction of the Michigan Department of Consumer & Industry Services and Michigan Department of Environmental Quality; and

WHEREAS, it is in the best interest of Michigan citizens to have the Department of State Police concentrate its efforts and functions on its primary role of criminal investigations, arson investigations, and arson-related training activities; and

WHEREAS, by relieving the Fire Marshal Division of certain inspection and administrative functions, state police resources will be made available to perform core functions of the Department of State Police; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

A. Department of Consumer and Industry Services.

1. All of the authority, powers, duties, functions and responsibilities, including but not limited to the functions of budgeting, procurement and management related functions of the following Fire Marshal Division programs:

a) Fire safety inspections of adult foster care (MCL §400.711), correctional (MCL §791.762), and health care facilities (MCL §§330.1138 and 333.20156); and

b) Plan review and construction inspections of schools, colleges, universities, school dormitories (MCL §388.853), as well as adult foster care (MCL §400.711), correctional (MCL §791.762), and health care facilities (MCL §§330.1138 and 333.21056); and

c) Coordination of fire inspector training programs, including State Certified Fire Inspector School (SCFIS) and the biennial recertification of fire inspectors (MCL §29.2b); and

d) Fire alarm and fire suppression system installation, documentation and certification (MCL 29.26 - 33); and

e) Federally required fire inspections of certain health and mental care facilities, and

f) Inspection and certification of places of public assemblage (MCL 29.21c and 29.21d); and

g) Federal inspection requirements pursuant to the Hotel/Motel Fire Safety Act of 1990 (PL 101-391 of 1990); and

h) Fire drills in schools, colleges, universities and school dormitories (MCL §29.19); and

i) Fire extinguishing compound use approval (MCL §29.21b(b)); and

j) Hazardous chemicals in the workplace (MCL §29.29p),

are hereby transferred from the Department of State Police to the Department of Consumer & Industry Services by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, powers, duties, functions and responsibilities granted to the Director of the State Police in Section 2 of Act No. 207 of the Public Acts of 1941, as amended, being Sections 29.2 of the Michigan Compiled Laws, which are related to the functions transferred by this Order, are hereby transferred from the Director of the Michigan Department of State Police to the Director of the Department of Consumer and Industry Services by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All of the statutory authority, powers, duties, functions and responsibilities of the State Fire Safety Board, including but not limited to those set forth in Act No. 207 of the Public Acts of 1941, as amended, being Section 29.1 et. seq. of the Michigan Compiled Laws, are hereby transferred from the Department of State Police to the Department of Consumer and Industry Services by a Type I transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. The Director of the Department of Consumer & Industry Services shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Consumer & Industry Services and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the Director of the Department of Consumer & Industry Services.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Fire Marshal Division and State Fire Safety Board for the activities transferred to the Department of Consumer & Industry Services by this Order are hereby transferred to the Department of Consumer & Industry Services.

6. The Director of the Department of Consumer & Industry Services shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

7. The Director of the Department of State Police and the Director of the Department of Consumer & Industry Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations to be resolved by the Fire Marshal Division.

8. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

9. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

10. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

B. Department of Environmental Quality.

1. All of the statutory authority, powers, duties, functions and responsibilities, including but not limited to the functions of budgeting, procurement and related management functions of the following Fire Marshal Division programs:

- a. The Above Ground Storage Tank Program (MCL §29.5c); and
- b. The inspection of dry cleaning establishments (MCL §29.5i),

are hereby transferred from the Department of State Police to the Department of Environmental Quality by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Michigan Department of Environmental Quality shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Environmental Quality, and all related prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, are transferred to the Director of the Michigan Department of Environmental Quality.

3. The Director of the Department of Environmental Quality shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available to or to be made available to the activities, powers, duties, functions and responsibilities transferred to the Michigan Department of Environmental Quality by this Order are transferred to the Michigan Department of Environmental Quality.

5. The Director of the Michigan Department of Environmental Quality shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. The Director of the Michigan Department of State Police and the Director of the Michigan Department of Environmental Quality shall immediately initiate coordination to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Environmental Quality.

7. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Order shall become effective September 30, 1997.

History: 1997, E.R.O. No. 1997-2, Eff. Sept. 30, 1997

Compiler's Notes: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the 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 authority of fire safety board to designate 1 of its members as chairperson to the governor, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of department of environmental quality to department of natural resources and environment, and abolishment of the department of environmental quality, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

COUNTY MEDICAL EXAMINERS (EXCERPT)
Act 181 of 1953

52.201c County medical examiner; powers and duties; establishment of elderly and vulnerable adult death review team.

Sec. 1c.

(1) The county medical examiner is in charge of the office of the county medical examiner and may promulgate rules relative to the conduct of that office. The county medical examiner may delegate any functions of that office to a duly appointed deputy county medical examiner if the deputy county medical examiner is a licensed physician. If the deputy county medical examiner is not a licensed physician, his or her functions are limited as provided by law.

(2) The county medical examiner may establish an elderly and vulnerable adult death review team. The county medical examiner may develop protocols to be used by the elderly and vulnerable adult death review team in conducting a review of the matter. If established, the county medical examiner or deputy county medical examiner, physicians and other health care professionals specializing in geriatric medicine, physicians and other health care professionals employed by long-term care facilities, members of relevant state and local law enforcement agencies, the county prosecutor's office, and members representing the department of human services who are involved with issues regarding adult protective services, adult foster care homes, and homes for the aged shall be allowed to participate on the elderly and vulnerable adult death review team. The elderly and vulnerable adult death review team may allow participation by others as designated by the team, including, but not limited to, members representing the long-term care ombudsman program, community mental health, and the department of licensing and regulatory affairs who are involved with the licensing and regulation of long-term care facilities.

History: Add. 1969, Act 92, Imd. Eff. July 24, 1969 ;-- Am. 2012, Act 171, Imd. Eff. June 19, 2012

MICHIGAN ZONING ENABLING ACT (EXCERPT)
Act 110 of 2006

125.3102 Definitions.

Sec. 102.

As used in this act:

(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

(b) "Airport" means an airport licensed under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.

(c) "Airport approach plan" and "airport layout plan" mean a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) "Airport manager" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(e) "Airport zoning regulations" means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(f) "Conservation easement" means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(g) "Coordinating zoning committee" means a coordinating zoning committee as described under section 307.

(h) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.

(i) "Development rights ordinance" means an ordinance, which may comprise part of a zoning ordinance, adopted under section 507.

(j) "Family child care home" and "group child care home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.

(k) "Greenway" means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(l) "Improvements" means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

(m) "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(n) "Legislative body" means the county board of commissioners of a county, the board of trustees of a township, or the council or other similar elected governing body of a city or village.

(o) "Local unit of government" means a county, township, city, or village.

(p) "Other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

(q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(r) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is later.

(s) "Qualified residential treatment program" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(t) "Site plan" includes the documents and drawings required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

(u) "State licensed residential facility" means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.

(v) "Undeveloped state" means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

(w) "Zoning commission" means a zoning commission as described under section 301.

(x) "Zoning jurisdiction" means the area encompassed by the legal boundaries of a city or village or the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to a township zoning ordinance.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007 ;-- Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008 ;-- Am. 2022, Act 206, Imd. Eff. Oct. 7, 2022

MICHIGAN ZONING ENABLING ACT (EXCERPT)

Act 110 of 2006

125.3206 Residential use of property; adult foster care facilities; family, group child care homes, or qualified residential treatment programs.

Sec. 206.

(1) Except as provided in subsection (2), each of the following is a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or

procedure different from those required for other dwellings of similar density in the same zone:

- (a) A state licensed residential facility.
- (b) A facility in use as described in section 3(4)(k) of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.
- (c) A qualified residential treatment program that provides services for 10 or fewer individuals.
- (2) Subsection (1) does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
- (3) For a county or township, a family child care home is a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.
- (4) For a county or township, a group child care home shall be issued a special use permit, conditional use permit, or other similar permit if the group child care home meets all of the following standards:
 - (a) Is located not closer than 1,500 feet to any of the following:
 - (i) Another licensed group child care home.
 - (ii) An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
 - (iii) A facility offering substance use disorder services to 7 or more people that is licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251.
 - (iv) A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the department of corrections.
 - (b) Has appropriate fencing for the safety of the children in the group child care home as determined by the local unit of government.
 - (c) Maintains the property consistent with the visible characteristics of the neighborhood.
 - (d) Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group child care home between the hours of 10 p.m. and 6 a.m.
 - (e) Meets regulations, if any, governing signs used by a group child care home to identify itself.
 - (f) Meets regulations, if any, requiring a group child care home operator to provide off-street parking accommodations for his or her employees.
- (5) For a city or village, a group child care home may be issued a special use permit, conditional use permit, or other similar permit.
- (6) A licensed or registered family or group child care home that operated before March 30, 1989 is not required to comply with this section.
- (7) This section does not prohibit a local unit of government from inspecting a family or group child care home for the home's compliance with and enforcing the local unit of government's zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a family or group child care home than 1973 PA 116, MCL 722.111 to 722.128.
- (8) The establishment of any of the facilities listed under subsection (4)(a) after issuance of a special use permit, conditional use permit, or other similar permit pertaining to the group child care home does not affect renewal of that permit.
- (9) This section does not prohibit a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed group child care home that does not meet the standards listed under subsection (4).
- (10) The distances required under subsection (4)(a) shall be measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.

History: 2006, Act 110, Eff. July 1, 2006 ;-- Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007 ;-- Am. 2018, Act 513, Eff. Mar. 28, 2019 ;-- Am. 2022, Act 206, Imd. Eff. Oct. 7, 2022

MICHIGAN ELECTION LAW (EXCERPT)

Act 116 of 1954

168.19 "Physical disability" defined.

Sec. 19.

As used in this act, "physical disability" means that term as defined in section 6 of the adult foster care facility

licensing act, 1979 PA 218, MCL 400.706.

History: Add. 2014, Act 79, Imd. Eff. Mar. 28, 2014

Popular Name: Election Code

INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967

206.527a Credit for heating fuel costs for homestead; home weatherization assistance; study; rules; direct vendor payments by department of health and human services; federal appropriation; methods of improving processing of claims; reporting requirements; definitions.

Sec. 527a.

(1) Subject to subsections (18) and (19), a claimant may claim a credit for heating fuel costs for the claimant's homestead in this state. An adult foster care home, nursing home, home for the aged, or substance abuse center is not a homestead for purposes of this section. The credit shall be determined in the following manner:

(a) Subject to subsections (18) and (19), the following table shall be used for the computation of a credit as computed under subdivision (c):

Exemptions	0 or 1	2	3	4	5	6 or more
Credit	\$272	\$326	\$379	\$450	\$525	\$601 + \$76 for each exemption over 6

(b) The amounts in the table in subdivision (a) shall be adjusted each year as necessary by the department so that a claimant with total household resources of less than 110% of the federal poverty income standards as defined and determined annually by the United States Office of Management and Budget is not denied a credit.

(c) A claimant shall receive the greater of the credit amount as determined in subparagraph (i) or (ii):

(i) Subtract 3.5% of the claimant's total household resources from the amount specified in subdivision (a) that corresponds with the number of exemptions claimed in the return filed under this part, except that the number of exemptions for purposes of this subdivision shall not exceed the actual number of individuals living in the household plus the additional personal exemptions allowed under section 30, and any dependency exemptions for individuals living in the household under a custodial arrangement, even if the exemptions may not be claimed for other income tax purposes. For a claimant whose heating costs are included in his or her rent, multiply the result of the preceding calculation by 50%.

(ii) Subject to subsection (2), for a claimant whose total household resources do not exceed the maximum specified in the following table, as adjusted, that corresponds with the number of exemptions claimed in the return filed under this part, subtract 11% of claimant's total household resources from the total cost incurred by a claimant for heating fuel from a heating fuel provider during the 12 consecutive monthly billing periods ending in October of the tax year, and multiply the resulting amount by 70%:

Exemptions	0 or 1	2	3	4	5	For each exemption over 5, add \$2,441.00 to the maximum total household resources
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Maximum

Total

Household

Resources \$7,060 \$9,501 \$11,943 \$14,382 \$16,824

(d) The maximum cost incurred by a claimant for heating fuel during a tax year shall be adjusted by multiplying the maximum cost for the immediately preceding tax year by the percentage by which the average all urban Detroit Consumer Price Index for fuels and other utilities for the 12 months ending August 31 of the tax year for which the

credit is claimed exceeds that index's average for the 12 months ending on August 31 of the previous tax year, but not more than 10%. That product shall be added to the maximum cost of the immediately preceding tax year and then rounded to the nearest whole dollar. That dollar amount is the new maximum cost for the current tax year. If the claimant received any credits to his or her heating bill during the tax year, as provided for in subsection (6), the credits shall be treated as costs incurred by the claimant.

(e) The maximum total household resources specified in subdivision (c)(ii) shall be adjusted by multiplying the respective maximum total household resources for the immediately preceding tax year by the percentage by which the average all urban Detroit Consumer Price Index for all items for the 12 months ending August 31 of the tax year for which the credit is claimed exceeds that index's average for the 12 months ending on August 31 of the immediately preceding tax year, but not more than 10%. That product shall be added to the immediately preceding tax year's respective maximum total household resources and then rounded to the nearest whole dollar. That dollar amount is the new maximum level for total household resources for the then current tax year.

(2) An enrolled heating fuel provider shall notify each of its customers, not later than December 15 of each year, of the availability, upon request, of the information necessary for determining the credit under this section. For a claimant for whom, at the time of filing, the department of health and human services is making direct vendor payments to an enrolled heating fuel provider, the enrolled heating fuel provider that accepts the direct payments shall provide the information necessary to determine the credit before February 1 of each year. If an enrolled heating fuel provider refuses or fails to provide to a customer the information required to determine the credit, or if the claimant is not a customer of an enrolled heating fuel provider, a claimant may determine the credit provided in subsection (1)(c)(ii) based on his or her own records.

(3) A credit claimed on a return that covers a period of less than 12 months shall be calculated based on subsection (1)(c)(i) and shall be reduced proportionately.

(4) The allowable amount of the credit under this section shall be remitted to the claimant, other than a claimant whose heating costs are included in his or her rent, in the form of an energy draft that states the name of the claimant and is issued by the department. For a claimant for whom, at the time of filing, the department of health and human services has identified the enrolled heating fuel provider or is making direct vendor payments to an enrolled heating fuel provider, the department shall send the energy draft directly to the claimant's enrolled heating fuel provider, as identified by the claimant. If the department establishes a program or pilot program for the direct payment of energy drafts to enrolled heating fuel providers, enrolled heating fuel providers may submit to the department, in a manner prescribed by the department, the names of their customers who are claimants. If a claimant whose name has been submitted meets the standards established by the department, the department shall send that claimant's energy draft directly to the claimant's enrolled heating fuel provider. If the enrolled heating fuel provider submits names of claimants who are not its customers and the energy drafts of any of those claimants are sent to the enrolled heating fuel provider, the enrolled heating fuel provider shall return the energy drafts or pay the value of the energy drafts to the department plus interest on the amount of the energy drafts at the rate calculated under section 23 of 1941 PA 122, MCL 205.23, for deficiencies in tax payments. Except as provided in subsection (5), after July 31, a refundable credit for a prior tax year may be paid in the form of a negotiable warrant. The energy draft shall be negotiable only through the claimant's enrolled heating fuel provider upon remittance by the claimant.

(5) If a claimant received home heating assistance from the department of health and human services, a governmental agency, or a nonprofit organization 12 months prior to remitting an energy draft to the claimant's enrolled heating fuel provider and the amount of the energy draft is greater than the total of outstanding bills incurred by the claimant with the enrolled heating fuel provider as of the date that the energy draft was remitted to the enrolled heating fuel provider, the enrolled heating fuel provider shall first apply the full amount of the energy draft to the claimant's outstanding bills and then apply any remaining amount to subsequent bills of the claimant until the full amount of the energy draft is used up or the expiration of 9 months after the date on which the energy draft was first applied to cover the claimant's outstanding bills. If there is any remaining energy draft amount at the end of the 9-month period, or if before the end of the 9-month period the claimant is no longer a customer of the enrolled heating fuel provider, the enrolled heating fuel provider shall remit the remaining amount to the claimant in the form of a fully negotiable check within 14 days after the end of the 9-month period or 14 days after the termination of services, whichever occurs sooner. If the claimant did not receive home heating assistance from the department of health and human services, a governmental agency, or a nonprofit organization 12 months prior to remitting an energy draft, the claimant, by checking the appropriate box to be included on the energy draft or application for participation with an enrolled heating fuel provider, may request from the enrolled heating fuel provider a payment equal to the amount of the energy draft less the amount of the outstanding bills. The enrolled heating fuel provider shall issue the payment within 14 days after the claimant's request. For purposes of this subsection, home heating assistance does not include the credit allowed under this section.

(6) If a claimant whose energy draft exceeds his or her outstanding bills does not request a payment from an enrolled heating fuel provider under subsection (5), an energy draft remitted to an enrolled heating fuel provider shall be applied upon receipt to the claimant's designated account. The energy draft may be used to cover outstanding bills that the claimant has incurred with the enrolled heating fuel provider and to cover subsequent

heating costs until the full amount of the energy draft is used or until 1 year after the date on which the energy draft is first applied to the claimant's designated account. If a credit amount remains from this energy draft after the 1-year period, or if prior to the end of the 1-year period a claimant is no longer a customer of the enrolled heating fuel provider, the heating fuel provider shall remit the remaining unused portion to the claimant in the form of a fully negotiable check within 14 days after the end of the 1-year period or within 14 days after termination of service, whichever is sooner.

(7) A claimant who is no longer a resident of this state, who is not a customer of an enrolled heating fuel provider, or whose heating fuel provider refuses to accept an energy draft shall return the energy draft to the department and request the issuance of a negotiable warrant. A claimant may return an energy draft to the department and request issuance of a negotiable warrant if the energy draft is impractical because the claimant has already purchased his or her energy supply for the year and does not have an outstanding obligation to an enrolled heating fuel provider. The department may honor that request if it agrees that the use of the energy draft is impractical. The department shall issue the warrant within 14 days after receiving the energy draft from the claimant.

(8) The enrolled heating fuel provider shall bill the department for credit amounts that have been applied to claimant accounts pursuant to subsection (6), and the department shall pay the bills within 14 days of receipt. The billing shall be accompanied by the energy drafts for which reimbursement is claimed.

(9) A claimant whose heating fuel is provided by a utility regulated by the Michigan public service commission is protected against the discontinuance of his or her heating fuel service from the date of filing a claim for the credit under this section through the date of issuance of an energy draft and during a period beginning December 1 of the tax year for which the credit is claimed and ending March 31 of the following year if the claimant participates in the winter protection program set forth in R 460.131 of the Michigan Administrative Code or if the utility accepts the claimant's energy draft. The acceptance of an energy draft by a utility is considered a request by the claimant for the winter protection program. The energy draft shall be coded by the department to denote claimants who are 65 years of age or older. If the claimant is a claimant whose heating cost is included in his or her rent payments, the amount of the claim not used as an offset against the state income tax, after examination and review, shall be approved for payment, without interest, to the claimant.

(10) If an enrolled heating fuel provider does not issue a payment or a negotiable check within 14 days or as otherwise provided in subsection (5) or (6), beginning on the fifteenth day or the fifteenth day after the expiration of the 9-month period under subsection (5), the amount due to the claimant is increased by adding interest computed on the basis of the rate of interest prescribed for delayed refunds of excess tax payments in section 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel provider shall pay the interest and shall not bill the interest to or be reimbursed for the interest by the department.

(11) Only the renter or lessee shall claim a credit on property that is rented or leased as a homestead. Only 1 credit may be claimed for a household. The credit under this section is in addition to other credits to which the claimant is entitled under this part. An individual who is a full-time student at a school, community college, or college or university and who is claimed as a dependent by another individual is not eligible for the credit provided by this section. A claimant who shares a homestead with other eligible claimants shall prorate the credit by the number of claimants sharing the homestead.

(12) A claimant who is eligible for the credit provided by this section shall be referred by the department to the appropriate state agency for determination of eligibility for home weatherization assistance and shall accept weatherization assistance if eligible and if assistance is available. A heating fuel provider that is required by the Michigan public service commission to participate in the residential conservation services home energy analysis program shall annually contact each claimant to whom it provides heating fuel, and whose usage exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt hours of electricity annually, and shall offer to provide a home energy analysis at no cost to the claimant. A heating fuel provider that is not required to participate in the residential conservation services program shall not be required to conduct a home energy analysis for its customers. For all rental properties that are weatherized pursuant to this section, each agency that determines eligibility for weatherization assistance shall require that not less than 25% of the total cost of the weatherization services for that property shall be contributed by the property owner unless the property owner is also eligible for weatherization assistance or is a nonprofit organization, governmental agency, or municipal corporation.

(13) If an enrolled heating fuel provider is regulated by the Michigan public service commission, the Michigan public service commission may use an enforcement method authorized by law or rule to enforce the requirements prescribed by this section on the enrolled heating fuel provider. If an enrolled heating fuel provider is not regulated by the Michigan public service commission, the department of health and human services may use an enforcement method authorized by law or rule to enforce the requirements prescribed by this section on the enrolled heating fuel provider.

(14) The department shall mail a home heating credit return to every individual who received assistance through the department of health and human services pursuant to the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, during the tax year.

(15) The department shall complete a study by August 1 of each year, of the actual heating costs of each

claimant who received a credit from the department under this section for the immediately preceding tax year.

(16) The department may promulgate rules necessary to administer this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(17) The department shall provide a simplified procedure for claiming the credit under this section for claimants for whom, at the time of filing, the department of health and human services is making direct vendor payments to an enrolled heating fuel provider.

(18) The credit under this section is allowed only if there has been a federal appropriation for the federal fiscal year beginning in the tax year of federal low income home energy assistance program block grant funds of any amount. If the amount of federal low income home energy assistance program block grant funds available for the home heating credit is less than the full home heating credit amount, each individual credit claimed under this section shall be reduced by multiplying the credit amount by a fraction, the numerator of which is the amount available for the home heating credit and the denominator of which is the full home heating credit amount. As used in this subsection, "amount available for the home heating credit" means the sum of the federal low income home energy assistance program block grant allotment for this state for the federal fiscal year beginning in the tax year and the amount as certified by the director of the department of health and human services carried forward from the immediately preceding fiscal year for the low income home energy assistance program block grant minus the sum of the amount certified by the director of the department of health and human services for administration of the low income home energy assistance program block grant, the amount certified by the director of the department of health and human services for crisis assistance programs, and the amount certified by the director of the department of health and human services for weatherization. For the 2014-2015 fiscal year and continuing through the 2026-2027 fiscal year, the amount used for weatherization each fiscal year shall be determined as provided under this subsection. If the total federal low income home energy assistance program block grant received for the current fiscal year is greater than or equal to 90% of the amount of block grant funds received in the immediately preceding fiscal year, then the amount of federal low income home energy assistance program block grant funds used for weatherization for that fiscal year shall be at least \$6,000,000.00 but not greater than 15% of the total federal low income home energy assistance program block grant funds received for that fiscal year. If the total federal low income home energy assistance block grant received for the current fiscal year is less than 90% of the amount of block grant funds received in the immediately preceding fiscal year, then the amount of federal low income home energy assistance program block grant funds used for weatherization for that fiscal year shall be at least \$5,000,000.00 but not greater than 15% of the total federal low income home energy assistance program block grant funds received for that fiscal year. The amounts under this subsection that require certification by the director of the department of health and human services or by the state treasurer and the director of the department of technology, management, and budget shall be certified on or before December 30 of the tax year and each tax year thereafter. As used in this subsection, "full home heating credit amount" means the amount certified by the state treasurer and the director of the department of technology, management, and budget to be the estimated amount of the credits that would have been provided under this section for the tax year if no reduction as provided in this subsection were made for that tax year.

(19) A claimant who claims a credit under this section shall not report the credit amount on the claimant's income tax return filed under this part as an offset against the tax imposed by this part, but shall claim the credit on a separate form prescribed by the department. A credit claimed under this section shall not be allowed unless the claim for the credit is filed with the department on or before the September 30 immediately following the tax year for which the credit is claimed. For tax years after the 2017 tax year, a credit claimed under this section is not allowed unless the claimant provides the department with all of the information, as requested by the department of health and human services, necessary to comply with the requirements of the federal appropriation of the federal low income home energy assistance program block grant. The department shall disclose the information provided under this subsection to the department of health and human services or the United States Department of Health and Human Services or its successor. The confidentiality restrictions provided in section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to the disclosure required by this subsection.

(20) Notwithstanding section 30a of 1941 PA 122, MCL 205.30a, the credit allowed under this section is exempt from interception, execution, levy, attachment, garnishment, or other legal process to collect a debt. No portion of the credit allowed or any rights existing under this section shall be applied as an offset to any liability of the claimant under section 30a of 1941 PA 122, MCL 205.30a, or any arrearage or other debt of the claimant.

(21) The department shall meet with interested parties including enrolled heating fuel providers and advocacy groups to identify and implement methods of improving the processing of claims for the credit allowed under this section and payments attributable to those credits.

(22) By July 1, 2018 and by each July 1 thereafter, the department of health and human services shall submit a report on the operation and effectiveness of the home heating and weatherization assistance programs under this section and any recommendations regarding the home heating and weatherization assistance programs to all of the following:

- (a) The chairpersons and vice-chairpersons of the senate and house of representatives appropriations committees.
- (b) The senate and house of representatives committees on taxation and finance related issues.

(c) The senate and house of representatives committees on energy and technology related issues.

(23) As used in this section:

(a) "Claimant whose heating costs are included in his or her rent" means a claimant whose rent includes the cost of heat at the time the claim for the credit under this section is filed.

(b) "Enrolled heating fuel provider" means a heating fuel provider that is enrolled with the department of health and human services as a heating fuel provider.

(c) "Heating fuel provider" means an individual or entity that provides a claimant with heating fuel or electricity for heating purposes.

History: Add. 1979, Act 126, Imd. Eff. Oct. 23, 1979 ;-- Am. 1981, Act 152, Imd. Eff. Nov. 19, 1981 ;-- Am. 1984, Act 36, Eff. Apr. 12, 1984 ;-- Am. 1985, Act 158, Imd. Eff. Nov. 15, 1985 ;-- Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987 ;-- Am. 1988, Act 516, Imd. Eff. Dec. 30, 1988 ;-- Am. 1989, Act 75, Imd. Eff. June 20, 1989 ;-- Am. 1991, Act 181, Imd. Eff. Dec. 26, 1991 ;-- Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995 ;-- Am. 1996, Act 484, Eff. Jan. 1, 1996 ;-- Am. 2001, Act 169, Imd. Eff. Nov. 27, 2001 ;-- Am. 2004, Act 335, Imd. Eff. Sept. 23, 2004 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012 ;-- Am. 2014, Act 523, Imd. Eff. Jan. 14, 2015 ;-- Am. 2018, Act 161, Imd. Eff. May 23, 2018 ;-- Am. 2018, Act 309, Imd. Eff. June 29, 2018 ;-- Am. 2022, Act 266, Imd. Eff. Dec. 22, 2022

Compiler's Notes: Section 2 of Act 181 of 1991 provides: "This amendatory act shall be effective for the 1991 tax year and each tax year after 1991." Subsection (1) of Section 3 of Act 484 provides: "Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996." Enacting section 1 of Act 335 of 2004 provides: "Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2003."

THE GENERAL PROPERTY TAX ACT (EXCERPT)

Act 206 of 1893

211.7d Housing exemption for elderly or disabled families; definitions.

Sec. 7d.

(1) Housing owned and operated by a nonprofit corporation or association, by a limited dividend housing corporation, or by this state, a political subdivision of this state, or an instrumentality of this state, for occupancy or use solely by elderly or disabled families is exempt from the collection of taxes under this act. For purposes of this section, housing is considered occupied solely by elderly or disabled families even if 1 or more of the units is occupied by service personnel, such as a custodian or nurse.

(2) An owner of property may claim an exemption under this section by simultaneously filing a form prescribed by the department of treasury with both the assessor of the local tax collecting unit and the department of treasury no later than October 31. The assessor of the local tax collecting unit in which the property is located shall approve or disapprove a claim for exemption under this section within 60 days of the receipt of the claim for exemption. The assessor shall notify the owner and the department of treasury in writing of the exemption's approval or disapproval by December 31 following the initial filing. The department of treasury may deny an exemption under this section. The department of treasury may grant an exemption under this section for 2012 and the 3 immediately preceding years for property that would have qualified for the exemption under this section if an owner of that property had timely filed in 2010 the form required under this subsection. The department of treasury may grant an exemption under this section, effective December 31, 2011, for property that would have qualified for the exemption under this section if an application had been timely filed in 2011. If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest. If a claim for exemption under this section is filed by October 31 and is approved, that exemption shall begin on December 31 of the year in which the facility is fully and finally completed and the owner of the property properly submitted a claim for exemption to the assessor of the local tax collecting unit under this subsection and shall continue until the property is no longer used for occupancy or use solely by elderly or disabled families. The owner of property exempt under this section shall notify the local tax collecting unit in which the property is located and the department of treasury of any change in the property that would affect the exemption under this section.

(3) If property for which an exemption is claimed under this section would have been subject to the collection of taxes under this act if an exemption had not been granted under this section, the state treasurer, upon verification, shall make a payment in lieu of taxes, which shall be in the following amount:

(a) For property exempt under this section before January 1, 2009, the amount of taxes paid on that property for the 2008 tax year, excluding any mills that would have been levied under all of the following:

(i) Section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

- (ii) The state education tax act, 1993 PA 331, MCL 211.901 to 211.906.
- (b) For property not exempt under this section before January 1, 2009 and for new construction to property exempt under this section before January 1, 2009, the local tax collecting unit shall calculate, on a form prescribed by the department of treasury, a payment calculated by multiplying the taxable value of the property in the first year for which the exemption is valid by the number of mills levied in that year by all taxing units in the local tax collecting unit, excluding any mills that would have been levied under all of the following:
 - (i) Section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.
 - (ii) The state education tax act, 1993 PA 331, MCL 211.901 to 211.906.
- (4) All payments under subsection (3) shall be forwarded to the local tax collecting unit by December 15 each year. The department of treasury may require that the local tax collecting units receive payments under this section through electronic funds transfer.
- (5) The local tax collecting unit shall distribute the amount received under subsection (4) in the same manner and in the same proportions as general ad valorem taxes collected under this act, excluding any distribution that would have been made under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.
- (6) The state treasurer shall estimate the amount necessary to meet the expense of administering the provisions of this section in each year, and the legislature shall appropriate an amount sufficient to meet that expense in each year. If insufficient funds are appropriated to fully pay all payments, the department of treasury shall prorate the payments made under this section.
- (7) Property that is used for occupancy or use solely by elderly or disabled families that is exempt under this section is not subject to forfeiture, foreclosure, and sale for taxes returned as delinquent under this act for any year in which the property was exempt under this section.
- (8) The department of treasury has standing to appeal the assessed value, taxable value, state equalized valuation, exempt status, classification, and all other issues concerning tax liability for property exempt under this section in the Michigan tax tribunal and all courts of this state.
- (9) As used in this section:
 - (a) "Disabled person" means a person with disabilities.
 - (b) "Elderly or disabled families" means families consisting of 2 or more persons if the head of the household, or his or her spouse, is 62 years of age or over or is a disabled person, and includes a single person who is 62 years of age or over or is a disabled person.
 - (c) "Elderly person" means that term as defined in section 202 of title II of the housing act of 1959, Public Law 86-372.
 - (d) "Housing" means new or rehabilitated structures with 8 or more residential units in 1 or more of the structures for occupancy and use by elderly or disabled persons, including essential contiguous land and related facilities as well as all personal property of the corporation, association, or limited dividend housing corporation used in connection with the facilities.
 - (e) "Limited dividend housing corporation" means a corporation incorporated or qualified under the laws of this state and chapter 6 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1481 to 125.1486, or a limited dividend housing association organized and qualified under chapter 7 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1491 to 125.1496, that will rehabilitate and own a housing facility or project previously qualified, built, or financed under section 202 of title II of the housing act of 1959, Public Law 86-372, section 236 of title II of the national housing act, chapter 847, 82 Stat 498, or section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act, Public Law 101-625.
 - (f) "New construction" means that term as defined in section 34d.
 - (g) "Nonprofit corporation or association" means a nonprofit corporation or association incorporated under the laws of this state not otherwise exempt from the collection of taxes under this act, operating a housing facility or project qualified, built, or financed under section 202 of title II of the housing act of 1959, Public Law 86-372, section 236 of title II of the national housing act, chapter 847, 82 Stat 498, or section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act, Public Law 101-625.
 - (h) "Person with disabilities" means that term as defined in section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act, Public Law 101-625.
 - (i) "Residential units" includes 1-bedroom units licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, for persons who share dining, living, and bathroom facilities and who have a mental illness, developmental disability, or a physical disability, as those terms are defined in the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or individual self-contained dwellings in an unlicensed facility. At the time of construction or rehabilitation, both self-contained dwellings and 1-bedroom units must be financed either under section 202 of title II of the housing act of 1959, Public Law 86-372, or under section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act, Public Law 101-625.

History: Add. 1966, Act 312, Imd. Eff. July 14, 1966 ;-- Am. 1978, Act 54, Imd. Eff. Mar. 10, 1978 ;-- Am. 1987, Act 200, Imd. Eff. Dec.

16, 1987 ;-- Am. 1998, Act 39, Eff. Dec. 19, 1998 ;-- Am. 1998, Act 469, Imd. Eff. Jan. 4, 1999 ;-- Am. 2008, Act 585, Imd. Eff. Jan. 20, 2009 ;-- Am. 2010, Act 8, Eff. Dec. 31, 2009 ;-- Am. 2012, Act 66, Imd. Eff. Mar. 27, 2012 ;-- Am. 2016, Act 78, Eff. July 11, 2016
Compiler's Notes: For transfer of senior citizen's cooperative housing tax exemption payments program to the Michigan State Housing Development Authority, Department of Commerce, see E.R.O. No. 1989-2, compiled at MCL 125.1391 of the Michigan Compiled Laws. Enacting section 1 of Act 585 of 2008 provides: "Enacting section 1. It is the intent of the legislature that this amendatory act confirm that the department of treasury has standing to appeal the assessed value, taxable value, state equalized valuation, exempt status, classification, and all other issues concerning tax liability in the Michigan tax tribunal and all courts of this state for property exempt under section 7d of the general property tax act, 1893 PA 206, MCL 211.7d." Enacting section 1 of Act 8 of 2010 provides: "Enacting section 1. This amendatory act is effective December 31, 2009."

Popular Name: Act 206

THE GENERAL PROPERTY TAX ACT (EXCERPT)

Act 206 of 1893

211.7o Nonprofit charitable institution; exemption; definitions.

Sec. 7o.

(1) Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated is exempt from the collection of taxes under this act.

(2) Real or personal property owned and occupied by a charitable trust while occupied by that charitable trust solely for the charitable purposes for which that charitable trust was established is exempt from the collection of taxes under this act.

(3) Real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to another nonprofit charitable institution or charitable trust or to a nonprofit hospital or a nonprofit educational institution that is occupied by that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution solely for the purposes for which that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution was organized or established and that would be exempt from taxes collected under this act if the real or personal property were occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established is exempt from the collection of taxes under this act.

(4) For taxes levied after December 31, 1997, real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to a governmental entity is exempt from the collection of taxes under this act if all of the following conditions are satisfied:

(a) The real or personal property would be exempt from the collection of taxes under this act under section 7m if the real or personal property were owned or were being acquired pursuant to an installment purchase agreement by the lessee governmental entity.

(b) The real or personal property would be exempt from the collection of taxes under this act if occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established.

(5) Real property owned by a qualified conservation organization that is held for conservation purposes and that is open to all residents of this state for educational or recreational use, including, but not limited to, low-impact, nondestructive activities such as hiking, bird watching, cross-country skiing, or snowshoeing is exempt from the collection of taxes under this act. As used in this subsection, "qualified conservation organization" means a nonprofit charitable institution or a charitable trust that meets all of the following conditions:

(a) Is organized or established, as reflected in its articles of incorporation or trust documents, for the purpose of acquiring, maintaining, and protecting nature sanctuaries, nature preserves, and natural areas in this state, that predominantly contain natural habitat for fish, wildlife, and plants.

(b) Is required under its articles of incorporation, bylaws, or trust documents to hold in perpetuity property acquired for the purposes described in subdivision (a) unless both of the following conditions are satisfied:

(i) That property is no longer suitable for the purposes described in subdivision (a).

(ii) The sale of the property is approved by a majority vote of the members or trustees.

(c) Its articles of incorporation, bylaws, or trust documents prohibit any officer, shareholder, board member, employee, or trustee or the family member of an officer, shareholder, board member, employee, or trustee from benefiting from the sale of property acquired for the purposes described in subdivision (a).

(6) If authorized by a resolution of the local tax collecting unit in which the real or personal property is located, real or personal property owned by a nonprofit charitable institution that is occupied and used by the nonprofit charitable institution's chief executive officer as his or her principal residence as a condition of his or her

employment and that is contiguous to real property that contains the nonprofit charitable institution's principal place of business is exempt from the collection of taxes under this act.

(7) A charitable home of a fraternal or secret society, or a nonprofit corporation whose stock is wholly owned by a religious or fraternal society that owns and operates facilities for the aged and chronically ill and in which the net income from the operation of the corporation does not inure to the benefit of any person other than the residents, is exempt from the collection of taxes under this act.

(8) Real and personal property owned and occupied by a nonprofit corporation that meets all of the following conditions is exempt from the collection of taxes under this act:

(a) The nonprofit corporation is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 USC 501.

(b) The nonprofit corporation meets 1 of the following conditions:

(i) Is a skilled nursing facility or home for the aged, licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, or is an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737. As used in this subparagraph:

(A) "Adult foster care facility" means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(B) "Home for the aged" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(C) "Skilled nursing facility" means that term as defined in section 20109 of the public health code, 1978 PA 368, MCL 333.20109.

(ii) Provides housing, rehabilitation services, diagnostic services, medical services, or therapeutic services to 1 or more disabled persons. As used in this subparagraph, "disabled person" means that term as defined in section 7d.

(c) The nonprofit corporation meets either of the following conditions:

(i) The real and personal property of the nonprofit corporation was being treated as exempt from the collection of all taxes under this act on the effective date of the amendatory act that added this subsection.

(ii) The real and personal property of the nonprofit corporation had been treated as exempt from the collection of all taxes under this act on December 31, 2004 and there has been no transfer of ownership of that property during the period of time beginning the last day the property was treated as exempt until the effective date of the amendatory act that added this subsection. As used in this sub-subparagraph, "transfer of ownership" means that term as defined in section 27a.

(9) If real or personal property owned and occupied by a nonprofit corporation is not eligible for an exemption under subsection (8), that nonprofit corporation is not precluded from applying for exemption under subsection (1).

(10) As used in this section:

(a) "Charitable trust" means a charitable trust registered under the supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.

(b) "Governmental entity" means 1 or more of the following:

(i) The federal government or an agency, department, division, bureau, board, commission, council, or authority of the federal government.

(ii) This state or an agency, department, division, bureau, board, commission, council, or authority of this state.

(iii) A county, city, township, village, local or intermediate school district, or municipal corporation.

(iv) A public educational institution, including, but not limited to, a local or intermediate school district, a public school academy, a community college or junior college established pursuant to section 7 of article VIII of the state constitution of 1963, or a state 4-year institution of higher education located in this state.

(v) Any other authority or public body created under state law.

(c) "Public school academy" means a public school academy organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

History: Add. 1980, Act 142, Imd. Eff. June 2, 1980 ;-- Am. 1996, Act 469, Imd. Eff. Dec. 26, 1996 ;-- Am. 1998, Act 536, Imd. Eff. Jan. 19, 1999 ;-- Am. 2000, Act 309, Imd. Eff. Oct. 17, 2000 ;-- Am. 2004, Act 576, Imd. Eff. Jan. 4, 2005 ;-- Am. 2006, Act 681, Imd. Eff. Jan. 10, 2007

Popular Name: Act 206

MENTAL HEALTH CODE (EXCERPT)

Act 258 of 1974

330.1100a Definitions; A to E.

Sec. 100a.

(1) "Abilities" means the qualities, skills, and competencies of an individual that reflect the individual's talents and acquired proficiencies.

(2) "Abuse" means nonaccidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or by an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

(3) "Adaptive skills" means skills in 1 or more of the following areas:

- (a) Communication.
- (b) Self-care.
- (c) Home living.
- (d) Social skills.
- (e) Community use.
- (f) Self-direction.
- (g) Health and safety.
- (h) Functional academics.
- (i) Leisure.
- (j) Work.

(4) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(5) "Alcohol and drug abuse counseling" means the act of counseling, modification of substance use disorder related behavior, and prevention techniques for individuals with substance use disorder, their significant others, and individuals who could potentially develop a substance use disorder.

(6) "Applicant" means an individual or his or her legal representative who makes a request for mental health services.

(7) "Approved service program" means a substance use disorder services program licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use disorder treatment and rehabilitation services by the department-designated community mental health entity and approved by the federal government to deliver a service or combination of services for the treatment of incapacitated individuals.

(8) "Assisted outpatient treatment" or "AOT" means the categories of outpatient services ordered by the court under section 468 or 469a. Assisted outpatient treatment may include a case management plan and case management services to provide care coordination under the supervision of a psychiatrist and developed in accordance with person-centered planning under section 712. Assisted outpatient treatment may also include 1 or more of the following categories of services: medication; periodic blood tests or urinalysis to determine compliance with prescribed medications; individual or group therapy; day or partial day programming activities; vocational, educational, or self-help training or activities; assertive community treatment team services; alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder; supervision of living arrangements; and any other services within a local or unified services plan developed under this act that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior. The medical review and direction included in an assisted outpatient treatment plan shall be provided under the supervision of a psychiatrist.

(9) "Board" means the governing body of a community mental health services program.

(10) "Board of commissioners" means a county board of commissioners.

(11) "Center" means a facility operated by the department to admit individuals with developmental disabilities and provide habilitation and treatment services.

(12) "Certification" means formal approval of a program by the department in accordance with standards developed or approved by the department.

(13) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(14) "Child and adolescent psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in child and adolescent psychiatry approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who has completed 12 months of child and adolescent psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract as a child and adolescent psychiatrist with the department or a community mental health services program on March 28, 1996, who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance.

(c) A psychiatrist who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance who is approved by the director.

(15) "Children's diagnostic and treatment service" means a program operated by or under contract with a community mental health services program, that provides examination, evaluation, and referrals for minors, including emergency referrals, that provides or facilitates treatment for minors, and that has been certified by the department.

(16) "Community mental health authority" means a separate legal public governmental entity created under section 205 to operate as a community mental health services program.

(17) "Community mental health organization" means a community mental health services program that is organized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(18) "Community mental health services program" means a program operated under chapter 2 as a county community mental health agency, a community mental health authority, or a community mental health organization.

(19) "Consent" means a written agreement executed by a recipient, a minor recipient's parent, a recipient's legal representative with authority to execute a consent, or a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the authority to consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

(20) "Conversion therapy" means any practice or treatment by a mental health professional that seeks to change an individual's sexual orientation or gender identity, including, but not limited to, efforts to change behavior or gender expression or to reduce or eliminate sexual or romantic attractions or feelings toward an individual of the same gender. Conversion therapy does not include counseling that provides assistance to an individual undergoing a gender transition, counseling that provides acceptance, support, or understanding of an individual or facilitates an individual's coping, social support, or identity exploration and development, including sexual orientation-neutral intervention to prevent or address unlawful conduct or unsafe sexual practices, as long as the counseling does not seek to change an individual's sexual orientation or gender identity. As used in this subsection:

(a) "Gender identity" means "gender identity or expression" as that term is defined in section 103 of the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2103.

(b) "Sexual orientation" means that term as defined in section 103 of the Elliot-Larsen civil rights act, 1976 PA 453, MCL 37.2103.

(21) "County community mental health agency" means an official county or multicounty agency created under section 210 that operates as a community mental health services program and that has not elected to become a community mental health authority or a community mental health organization.

(22) "Crisis stabilization unit" means a prescreening unit established under section 409 or a facility certified under chapter 9A that provides unscheduled clinical services designed to prevent or ameliorate a behavioral health crisis or reduce acute symptoms on an immediate, intensive, and time-limited basis in response to a crisis situation.

(23) "Department" means the department of health and human services.

(24) "Department-designated community mental health entity" means the community mental health authority, community mental health organization, community mental health services program, county community mental health agency, or community mental health regional entity designated by the department to represent a region of community mental health authorities, community mental health organizations, community mental health services programs, or county community mental health agencies.

(25) "Dependent living setting" means all of the following:

(a) An adult foster care facility.

(b) A nursing home licensed under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

(c) A home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

(26) "Designated representative" means any of the following:

(a) A registered nurse or licensed practical nurse licensed or otherwise authorized under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(b) A paramedic licensed or otherwise authorized under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979.

(c) A physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097 and 333.17501 to 333.17556.

(d) An individual qualified by education, training, and experience who performs acts, tasks, or functions under the supervision of a physician.

(27) "Developmental disability" means either of the following:

(a) If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:

(i) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.

(ii) Is manifested before the individual is 22 years old.

(iii) Is likely to continue indefinitely.

(iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity:

- (A) Self-care.
- (B) Receptive and expressive language.
- (C) Learning.
- (D) Mobility.
- (E) Self-direction.
- (F) Capacity for independent living.
- (G) Economic self-sufficiency.
- (v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.
- (b) If applied to a minor from birth to 5 years of age, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.
- (28) "Director" means the director of the department or his or her designee.
- (29) "Discharge" means an absolute, unconditional release of an individual from a facility by action of the facility or a court.
- (30) "Eligible minor" means an individual less than 18 years of age who is recommended in the written report of a multidisciplinary team under rules promulgated by the department of education to be classified as 1 of the following:
 - (a) Severely mentally impaired.
 - (b) Severely multiply impaired.
 - (c) Autistic impaired and receiving special education services in a program designed for the autistic impaired under R 340.1758 of the Michigan Administrative Code or in a program designed for the severely mentally impaired or severely multiply impaired.
- (31) "Emergency situation" means a situation in which an individual is experiencing a serious mental illness or a developmental disability, or a minor is experiencing a serious emotional disturbance, and 1 of the following applies:
 - (a) The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.
 - (b) The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.
 - (c) The individual has mental illness that has impaired his or her judgment so that the individual is unable to understand his or her need for treatment and presents a risk of harm.
- (32) "Executive director" means an individual appointed under section 226 to direct a community mental health services program or his or her designee.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 1998, Act 497, Eff. Mar. 1, 1999 ;-- Am. 2004, Act 499, Eff. Mar. 30, 2005 ;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012 ;-- Am. 2016, Act 320, Eff. Feb. 14, 2017 ;-- Am. 2018, Act 593, Eff. Mar. 28, 2019 ;-- Am. 2018, Act 595, Eff. Mar. 28, 2019 ;-- Am. 2020, Act 402, Eff. Mar. 24, 2021 ;-- Am. 2023, Act 118, Eff. Feb. 13, 2024

MENTAL HEALTH CODE (EXCERPT)

Act 258 of 1974

330.1100b Definitions; F to N.

Sec. 100b.

- (1) Except as otherwise provided in this subsection, "facility" means a residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability that is either a state facility or a licensed facility. Facility includes a preadmission screening unit established under section 409 that is operating a crisis stabilization unit.
- (2) "Family" as used in sections 156 to 161 means an eligible minor and his or her parent or legal guardian.
- (3) "Family member" means a parent, stepparent, spouse, sibling, child, or grandparent of a primary consumer, or an individual upon whom a primary consumer is dependent for at least 50% of his or her financial support.
- (4) "Federal funds" means funds received from the federal government under a categorical grant or similar program and does not include federal funds received under a revenue sharing arrangement.
- (5) "Functional impairment" means both of the following:
 - (a) With regard to serious emotional disturbance, substantial interference with or limitation of a minor's

achievement or maintenance of 1 or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills.

(b) With regard to serious mental illness, substantial interference or limitation of role functioning in 1 or more major life activities including basic living skills such as eating, bathing, and dressing; instrumental living skills such as maintaining a household, managing money, getting around the community, and taking prescribed medication; and functioning in social, vocational, and educational contexts.

(6) "Guardian" means a person appointed by the court to exercise specific powers over an individual who is a minor, legally incapacitated, or developmentally disabled.

(7) "Hospital" or "psychiatric hospital" means an inpatient program operated by the department for the treatment of individuals with serious mental illness or serious emotional disturbance or a psychiatric hospital or psychiatric unit licensed under section 137.

(8) "Hospital director" means the chief administrative officer of a hospital or his or her designee.

(9) "Hospitalization" or "hospitalize" means to provide treatment for an individual as an inpatient in a hospital.

(10) "Incapacitated" means that an individual, as a result of the use of alcohol or other drugs, is unconscious or has his or her mental or physical functioning so impaired that he or she either poses an immediate and substantial danger to his or her own health and safety or is endangering the health and safety of the public.

(11) "Individual plan of services" or "plan of services" means a written individual plan of services developed with a recipient as required by section 712.

(12) "Individual representative" means a recipient's legal guardian, minor recipient's parent, or other person authorized by law to represent the recipient in decision-making related to the recipient's services and supports.

(13) "Intellectual disability" means a condition manifesting before the age of 18 years that is characterized by significantly subaverage intellectual functioning and related limitations in 2 or more adaptive skills and that is diagnosed based on the following assumptions:

(a) Valid assessment considers cultural and linguistic diversity, as well as differences in communication and behavioral factors.

(b) The existence of limitation in adaptive skills occurs within the context of community environments typical of the individual's age peers and is indexed to the individual's particular needs for support.

(c) Specific adaptive skill limitations often coexist with strengths in other adaptive skills or other personal capabilities.

(d) With appropriate supports over a sustained period, the life functioning of the individual with an intellectual disability will generally improve.

(14) "Licensed facility" means a facility licensed by the department under section 137 or an adult foster care facility.

(15) "Licensed psychologist" means a doctoral level psychologist licensed under section 18223(1) of the public health code, 1978 PA 368, MCL 333.18223.

(16) "Mediation" means a confidential process in which a neutral third party facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable resolution. A mediator does not have authoritative decision-making power.

(17) "Medicaid" means the program of medical assistance established under section 105 of the social welfare act, 1939 PA 280, MCL 400.105.

(18) "Medical director" means a psychiatrist appointed under section 231 to advise the executive director of a community mental health services program.

(19) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(a) A physician.

(b) A psychologist.

(c) A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(d) A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.

(e) A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(f) A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under part 169 of the public health code, 1978 PA 368, MCL 333.16901 to 333.16915.

(20) "Minor" means an individual under the age of 18 years.

(21) "Multicultural services" means specialized mental health services for multicultural populations such as African-Americans, Hispanics, Native Americans, Asian and Pacific Islanders, and Arab/Chaldean-Americans.

(22) "Neglect" means an act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, a community mental health services program, or a licensed hospital; or an employee or volunteer of a service provider under contract with the department, a community mental health services program, or a licensed

hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2004, Act 499, Eff. Mar. 30, 2005 ;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012 ;-- Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014 ;-- Am. 2014, Act 200, Imd. Eff. June 24, 2014 ;-- Am. 2020, Act 55, Imd. Eff. Mar. 3, 2020 ;-- Am. 2020, Act 285, Eff. Mar. 24, 2021 ;-- Am. 2020, Act 402, Eff. Mar. 24, 2021

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1100d Definitions; S to W.

Sec. 100d.

(1) "Security transport officer" means an officer employed by a private security company under contract with a county under section 170.

(2) "Service" means a mental health service or a substance use disorder service.

(3) "Serious emotional disturbance" means a diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

(a) A substance use disorder.

(b) A developmental disorder.

(c) "V" codes in the Diagnostic and Statistical Manual of Mental Disorders.

(4) "Serious mental illness" means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance. Serious mental illness does not include any other dementia unless the dementia occurs in conjunction with another diagnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:

(a) A substance use disorder.

(b) A developmental disorder.

(c) A "V" code in the Diagnostic and Statistical Manual of Mental Disorders.

(5) "Special compensation" means payment to an adult foster care facility to ensure the provision of a specialized program in addition to the basic payment for adult foster care. Special compensation does not include payment received directly from the Medicaid program for personal care services for a resident, or payment received under the supplemental security income program.

(6) "Specialized program" means a program of services, supports, or treatment that are provided in an adult foster care facility to meet the unique programmatic needs of individuals with serious mental illness or developmental disability as set forth in the resident's individual plan of services and for which the adult foster care facility receives special compensation.

(7) "Specialized residential service" means a combination of residential care and mental health services that are expressly designed to provide rehabilitation and therapy to a recipient, that are provided in the recipient's residence, and that are part of a comprehensive individual plan of services.

(8) "State administered funds" means revenues appropriated by the legislature exclusively for the purposes provided for in regard to substance use disorder services and prevention.

(9) "State facility" means a center or a hospital operated by the department.

(10) "State recipient rights advisory committee" means a committee appointed by the director under section 756 to advise the director and the director of the department's office of recipient rights.

(11) "Substance abuse" means the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs,

endangers public health, morals, safety, or welfare, or a combination thereof.

(12) "Substance use disorder" means chronic disorder in which repeated use of alcohol, drugs, or both, results in significant and adverse consequences. Substance use disorder includes substance abuse.

(13) "Substance use disorder prevention services" means services that are intended to reduce the consequences of substance use disorders in communities by preventing or delaying the onset of substance abuse and that are intended to reduce the progression of substance use disorders in individuals. Substance use disorder prevention is an ordered set of steps that promotes individual, family, and community health, prevents mental and behavioral disorders, supports resilience and recovery, and reinforces treatment principles to prevent relapse.

(14) "Substance use disorder treatment and rehabilitation services" means providing identifiable recovery-oriented services including the following:

(a) Early intervention and crisis intervention counseling services for individuals who are current or former individuals with substance use disorder.

(b) Referral services for individuals with substance use disorder, their families, and the general public.

(c) Planned treatment services, including chemotherapy, counseling, or rehabilitation for individuals physiologically or psychologically dependent upon or abusing alcohol or drugs.

(15) "Supplemental security income" means the program authorized under title XVI of the social security act, 42 USC 1381 to 1383f.

(16) "Telemedicine" means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a health insurance portability and accountability act of 1996, Public Law 104-191 compliant, secure interactive audio or video, or both, telecommunications system, or through the use of store and forward online messaging.

(17) "Transfer facility" means a facility selected by the department-designated community mental health entity, which facility is physically located in a jail or lockup and is staffed by at least 1 designated representative when in use according to chapter 2A.

(18) "Transition services" means a coordinated set of activities for a special education student designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, or community participation.

(19) "Treatment" means care, diagnostic, and therapeutic services, including administration of drugs, and any other service for treatment of an individual's serious mental illness, serious emotional disturbance, or substance use disorder.

(20) "Urgent situation" means a situation in which an individual is determined to be at risk of experiencing an emergency situation in the near future if he or she does not receive care, treatment, or support services.

(21) "Wraparound services" means an individually designed set of services provided to minors with serious emotional disturbance or serious mental illness and their families that includes treatment services and personal support services or any other supports necessary to foster education preparedness, employability, and preservation of the child in the family home. Wraparound services are to be developed through an interagency collaborative approach and a minor's parent or guardian and a minor age 14 or older are to participate in planning the services.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012 ;-- Am. 2014, Act 200, Imd. Eff. June 24, 2014 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015 ;-- Am. 2020, Act 99, Imd. Eff. June 24, 2020 ;-- Am. 2022, Act 146, Eff. (sine die) ;-- Am. 2022, Act 214, Imd. Eff. Oct. 14, 2022

MENTAL HEALTH CODE (EXCERPT)

Act 258 of 1974

330.1134a Employing, contracting, or granting clinical privileges to individuals; prohibitions; written consent; criminal history check; conditional employment or granting clinical privileges; false information; use of information obtained under subsection (3) or (4); condition of continued employment; failure to conduct criminal history check; establishment of automated fingerprint identification system database; electronic web-based system; definitions.

Sec. 134a.

(1) Except as otherwise provided in subsection (2), a psychiatric facility or other facility defined in 42 USC 1396d(d) shall not employ, independently contract with, or grant clinical privileges to an individual who regularly

has direct access to or provides direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7(a).

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subdivision, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(ii) A felony involving cruelty or torture.

(iii) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iv) A felony involving criminal sexual conduct.

(v) A felony involving abuse or neglect.

(vi) A felony involving the use of a firearm or dangerous weapon.

(vii) A felony involving the diversion or adulteration of a prescription drug or other medications.

(c) Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(d) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(ii) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iii) A misdemeanor involving criminal sexual conduct.

(iv) A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).

(v) A misdemeanor involving abuse or neglect.

(e) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(ii) A misdemeanor involving home invasion.

(iii) A misdemeanor involving embezzlement.

(iv) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle code, 1940 PA 300, MCL 257.601d.

(v) A misdemeanor involving larceny unless otherwise provided under subdivision (g).

(vi) A misdemeanor of retail fraud in the second degree unless otherwise provided under subdivision (g).

(vii) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivision (d), (f), or (g).

(f) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(ii) A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).

(iii) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided under subdivision (g).

(g) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, if the

individual, at the time of conviction, is under the age of 18.

(ii) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(h) Is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(i) Engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency according to an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) Except as otherwise provided in this subsection or subsection (5), a psychiatric facility or other facility defined in 42 USC 1396d(d) shall not employ, independently contract with, or grant privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) until the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency has conducted a criminal history check in compliance with this section or received criminal history record information in compliance with subsection (3) or (10). This subsection and subsection (1) do not apply to any of the following:

(a) An individual who is employed by, under independent contract to, or granted clinical privileges in a psychiatric facility or other facility defined in 42 USC 1396d(d) before April 1, 2006. On or before April 1, 2011, an individual who is exempt under this subdivision and who has not been the subject of a criminal history check conducted in compliance with this section shall provide the department of state police with a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (13). An individual who is exempt under this subdivision is not limited to working within the psychiatric facility or other facility defined in 42 USC 1396d(d) with which he or she is employed by, under independent contract to, or granted clinical privileges on April 1, 2006 but may transfer to another psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility. If an individual who is exempt under this subdivision is subsequently convicted of a crime described under subsection (1)(a) through (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under subsection (1)(a), then he or she is no longer exempt and shall be terminated from employment or denied employment or clinical privileges.

(b) An individual who is under an independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) if he or she is not under the facility's control and the services for which he or she is contracted is not directly related to the provision of services to a patient or resident or if the services for which he or she is contracted allows for direct access to the patients or residents but is not performed on an ongoing basis. This exception includes, but is not limited to, an individual who is under an independent contract with the psychiatric facility or other facility defined in 42 USC 1396d(d) to provide utility, maintenance, construction, or communications services.

(3) An individual who applies for employment either as an employee or as an independent contractor or for clinical privileges with a psychiatric facility or other facility defined in 42 USC 1396d(d) or a staffing agency and who has not been the subject of a criminal history check conducted in compliance with this section shall give written consent at the time of application for the department of state police to conduct a criminal history check under this section, along with identification acceptable to the department of state police. If the applicant has been the subject of a criminal history check conducted in compliance with this section, the applicant shall give written consent at the time of application for the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency to obtain the criminal history record information as prescribed in subsection (4) from the relevant licensing or regulatory department and for the department of state police to conduct a criminal history check under this section if the requirements of subsection (10) are not met and a request to the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant is necessary, along with identification acceptable to the department of state police. Upon receipt of the written consent to obtain the criminal history record information and identification required under this subsection, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant shall request the criminal history record information from the relevant licensing or regulatory department and shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries in the manner required in subsection (4). If the requirements of subsection (10) are not met and a request to the federal bureau of investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is necessary, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall proceed in the manner required in subsection (4). A staffing agency that employs an applicant who regularly has direct access to or provides direct services to patients or residents under an independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) shall submit information regarding the criminal history check conducted by the staffing agency to the psychiatric facility or other facility defined in 42 USC 1396d(d) that has made a good-faith offer of independent contract to that applicant.

(4) Upon receipt of the written consent to conduct a criminal history check and identification required under subsection (3), a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant shall make a request to the department of state police to conduct a criminal history check on the applicant, to input the applicant's fingerprints into the automated fingerprint identification system database, and to forward the applicant's fingerprints to the federal bureau of investigation. The department of state police shall request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The applicant shall provide the department of state police with a set of fingerprints. The request shall be made in a manner prescribed by the department of state police. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall make the written consent and identification available to the department of state police. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries established under federal and state law and regulations for any substantiated findings of abuse, neglect, or misappropriation of property. If the department of state police or the federal bureau of investigation charges a fee for conducting the criminal history check, the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall pay the cost of the charge. The psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall not seek reimbursement for a charge imposed by the department of state police or the federal bureau of investigation from the individual who is the subject of the criminal history check. A prospective employee or a prospective independent contractor covered under this section may not be charged for the cost of a criminal history check required under this section. The department of state police shall conduct a criminal history check on the applicant named in the request. The department of state police shall provide the department with a written report of the criminal history check conducted under this subsection. The report shall contain any criminal history record information on the applicant maintained by the department of state police. The department of state police shall provide the results of the federal bureau of investigation determination to the department within 30 days after the request is made. If the requesting psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency is not a state department or agency and if criminal history record information is disclosed on the written report of the criminal history check or the federal bureau of investigation determination that resulted in a conviction, the department shall notify the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency and the applicant in writing of the type of crime disclosed on the written report of the criminal history check or the federal bureau of investigation determination without disclosing the details of the crime. Any charges imposed by the department of state police or the federal bureau of investigation for conducting a criminal history check or making a determination under this subsection shall be paid in the manner required under this subsection. The notice shall include a statement that the applicant has a right to appeal the information relied upon by the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency regarding his or her employment eligibility based on the criminal history check. The notice shall also include information regarding where to file and describing the appellate procedures established under section 20173b of the public health code, 1978 PA 368, MCL 333.20173b.

(5) If a psychiatric facility or other facility defined in 42 USC 1396d(d) determines it necessary to employ or grant clinical privileges to an applicant before receiving the results of the applicant's criminal history check or criminal history record information under this section, the psychiatric facility or other facility defined in 42 USC 1396d(d) may conditionally employ or grant conditional clinical privileges to the individual if all of the following apply:

(a) The psychiatric facility or other facility defined in 42 USC 1396d(d) requests the criminal history check or criminal history record information under this section upon conditionally employing or conditionally granting clinical privileges to the individual.

(b) The individual signs a statement in writing that indicates all of the following:

(i) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) through (g) within the applicable time period prescribed by each subdivision respectively.

(ii) That he or she is not the subject of an order or disposition described in subsection (1)(h).

(iii) That he or she has not been the subject of a substantiated finding as described in subsection (1)(i).

(iv) The individual agrees that, if the information in the criminal history check conducted under this section does not confirm the individual's statements under subparagraphs (i) through (iii), his or her employment or clinical privileges will be terminated by the psychiatric facility or other facility defined in 42 USC 1396d(d) as required under subsection (1) unless and until the individual appeals and can prove that the information is incorrect.

(v) That he or she understands the conditions described in subparagraphs (i) through (iv) that result in the termination of his or her employment or clinical privileges and that those conditions are good cause for termination.

(c) Except as otherwise provided in this subdivision, the psychiatric facility or other facility defined in 42 USC 1396d(d) does not permit the individual to have regular direct access to or provide direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) without supervision until the criminal history check or criminal history record information is obtained and the individual is eligible for that employment or clinical privileges. If required under this subdivision, the psychiatric facility or other facility defined

in 42 USC 1396d(d) shall provide on-site supervision of an individual in the facility on a conditional basis under this subsection by an individual who has undergone a criminal history check conducted in compliance with this section. A psychiatric facility or other facility defined in 42 USC 1396d(d) may permit an individual in the facility on a conditional basis under this subsection to have regular direct access to or provide direct services to patients or residents in the psychiatric facility or other facility defined in 42 USC 1396d(d) without supervision if all of the following conditions are met:

(i) The psychiatric facility or other facility defined in 42 USC 1396d(d), at its own expense and before the individual has direct access to or provides direct services to patients or residents of the psychiatric facility or other facility defined in 42 USC 1396d(d), conducts a search of public records on that individual through the internet criminal history access tool maintained by the department of state police and the results of that search do not uncover any information that would indicate that the individual is not eligible to have regular direct access to or provide direct services to patients or residents under this section.

(ii) Before the individual has direct access to or provides direct services to patients or residents of the psychiatric facility or other facility defined in 42 USC 1396d(d), the individual signs a statement in writing that he or she has resided in this state without interruption for at least the immediately preceding 12-month period.

(iii) If applicable, the individual provides to the department of state police a set of fingerprints on or before the expiration of 10 business days following the date the individual was conditionally employed or granted conditional clinical privileges under this subsection.

(6) The department shall develop and distribute a model form for the statements required under subsection (5)(b) and (c). The department shall make the model form available to psychiatric facilities or other facility defined in 42 USC 1396d(d) subject to this section upon request at no charge.

(7) If an individual is employed as a conditional employee or is granted conditional clinical privileges under subsection (5), and the information under subsection (3) or report under subsection (4) does not confirm the individual's statement under subsection (5)(b)(i) through (iii), the psychiatric facility or other facility defined in 42 USC 1396d(d) shall terminate the individual's employment or clinical privileges as required by subsection (1).

(8) An individual who knowingly provides false information regarding his or her identity, criminal convictions, or substantiated findings on a statement described in subsection (5)(b)(i) through (iii) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(9) A psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall use criminal history record information obtained under subsection (3) or (4) only for the purpose of evaluating an applicant's qualifications for employment, an independent contract, or clinical privileges in the position for which he or she has applied and for the purposes of subsections (5) and (7). A psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency or an employee of the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency shall not disclose criminal history record information obtained under subsection (3) or (4) to a person who is not directly involved in evaluating the applicant's qualifications for employment, an independent contract, or clinical privileges. An individual who knowingly uses or disseminates the criminal history record information obtained under subsection (3) or (4) in violation of this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both. Except for a knowing or intentional release of false information, a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency has no liability in connection with a criminal history check conducted in compliance with this section or the release of criminal history record information under this subsection.

(10) Upon consent of an applicant as required in subsection (3) and upon request from a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency that has made a good-faith offer of employment or an independent contract or clinical privileges to the applicant, the relevant licensing or regulatory department shall review the criminal history record information, if any, and notify the requesting psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency of the information in the manner prescribed in subsection (4). Until the federal bureau of investigation implements an automatic notification system similar to the system required of the state police under subsection (13) and federal regulations allow the federal criminal record to be used for subsequent authorized uses, as determined in an order issued by the department, a covered health or staffing agency facility may rely on the criminal history record information provided by the relevant licensing or regulatory department under this subsection and a request to the federal bureau of investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 12-month period.

(b) The applicant has been continuously employed by a psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility or the staffing agency since the criminal history check was conducted in compliance with this section or meets the continuous employment requirement of this subdivision other than being on layoff status for less than 1 year from a psychiatric facility or other facility defined in 42 USC 1396d(d), covered health facility, or adult foster care facility.

(c) The applicant can provide evidence acceptable to the relevant licensing or regulatory department that he or she has been a resident of this state for the immediately preceding 12-month period.

(11) As a condition of continued employment, each employee, independent contractor, or individual granted clinical privileges shall do each of the following:

(a) Agree in writing to report to the psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency immediately upon being arraigned for 1 or more of the criminal offenses listed in subsection (1)(a) through (g), upon being convicted of 1 or more of the criminal offenses listed in subsection (1)(a) through (g), upon becoming the subject of an order or disposition described under subsection (1)(h), and upon being the subject of a substantiated finding of neglect, abuse, or misappropriation of property as described in subsection (1)(i). Reporting of an arraignment under this subdivision is not cause for termination or denial of employment.

(b) If a set of fingerprints is not already on file with the department of state police, provide the department of state police with a set of fingerprints.

(12) In addition to sanctions set forth in this act, a licensee, owner, administrator, or operator of a psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency who knowingly and willfully fails to conduct the criminal history checks as required under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.

(13) In collaboration with the department of state police, the department of technology, management, and budget shall establish and maintain an automated fingerprint identification system database that would allow the department of state police to store and maintain all fingerprints submitted under this section and would provide for an automatic notification if and when a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted under this section. Upon notification, the department of state police shall immediately notify the department and the department shall immediately contact each respective psychiatric facility or other facility defined in 42 USC 1396d(d) or staffing agency with which that individual is associated. Information in the database established under this subsection is confidential, is not subject to 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.

(14) The department shall maintain an electronic web-based system to assist psychiatric facilities or other facility defined in 42 USC 1396d(d) and staffing agencies required to check relevant registries and conduct criminal history checks of its employees and independent contractors, and individuals granted privileges and to provide for an automated notice to those psychiatric facilities or other facility defined in 42 USC 1396d(d) and staffing agencies for those individuals inputted in the system who, since the initial criminal history check, have been convicted of a disqualifying offense or have been the subject of a substantiated finding of abuse, neglect, or misappropriation of property. The department may charge a staffing agency a 1-time set-up fee of up to \$100.00 for access to the electronic web-based system under this section.

(15) As used in this section:

(a) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(b) "Convicted" means either of the following:

(i) For a crime that is not a relevant crime, a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(ii) For a relevant crime described under 42 USC 1320a-7(a), convicted means that term as defined in 42 USC 1320a-7.

(c) "Covered health facility" means a nursing home, county medical care facility, hospice, hospital that provides swing bed services, or home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or home health agency.

(d) "Criminal history check conducted in compliance with this section" includes a criminal history check conducted under this section, under section 20173a of the public health code, 1978 PA 3658, MCL 333.20173a, or under section 34b of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b.

(e) "Direct access" means access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information.

(f) "Home health agency" means a person certified by medicare whose business is to provide to individuals in their places of residence other than in a hospital, nursing home, or county medical care facility 1 or more of the following services: nursing services, therapeutic services, social work services, homemaker services, home health aide services, or other related services.

(g) "Independent contract" means a contract entered into by a health facility or agency with an individual who provides the contracted services independently or a contract entered into by a health facility or agency with a staffing agency that complies with the requirements of this section to provide the contracted services to the psychiatric facility or other facility defined in 42 USC 1396d(d) on behalf of the staffing agency.

(h) "Medicare" means benefits under the federal medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395kkk-1.

(i) "Staffing agency" means an entity that recruits candidates and provides temporary and permanent qualified

staffing for psychiatric facilities or other facility defined in 42 USC 1396d(d), including independent contractors.

(j) "Under the facility's control" means an individual employed by or under independent contract with a psychiatric facility or other facility defined in 42 USC 1396d(d) for whom the psychiatric facility or other facility defined in 42 USC 1396d(d) does both of the following:

(i) Determines whether the individual who has access to patients or residents may provide care, treatment, or other similar support service functions to patients or residents served by the psychiatric facility or other facility defined in 42 USC 1396d(d).

(ii) Directs or oversees 1 or more of the following:

(A) The policy or procedures the individual must follow in performing his or her duties.

(B) The tasks performed by the individual.

(C) The individual's work schedule.

(D) The supervision or evaluation of the individual's work or job performance, including imposing discipline or granting performance awards.

(E) The compensation the individual receives for performing his or her duties.

(F) The conditions under which the individual performs his or her duties.

History: Add. 2006, Act 27, Eff. Apr. 1, 2006 ;-- Am. 2008, Act 445, Imd. Eff. Jan. 9, 2009 ;-- Am. 2008, Act 446, Eff. Oct. 31, 2010 ;-- Am. 2010, Act 293, Imd. Eff. Dec. 16, 2010 ;-- Am. 2014, Act 72, Imd. Eff. Mar. 28, 2014

Compiler's Notes: Enacting section 1 of Act 27 of 2006 provides: "Enacting section 1. Section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, as added by this amendatory act, takes effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state." In subsection (15) (d), the citation "1978 PA 3658, MCL 333.20173a" evidently should read "1978 PA 368, MCL 333.20173a".

MENTAL HEALTH CODE (EXCERPT)

Act 258 of 1974

330.1135 Rules; MCL 330.1134 to 330.1150 inapplicable to adult foster care facilities or child care organizations.

Sec. 135.

(1) Subject to section 114a, the director shall promulgate rules to define psychiatric hospitals and psychiatric hospital services to clearly differentiate between the active intensive care expected in psychiatric hospitals or psychiatric units and that care which is characteristically expected in general hospitals, long-term care facilities, or residential facilities.

(2) Sections 134 to 150 do not cover adult foster care facilities or child care organizations licensed under 1973 PA 116, MCL 722.111 to 722.128.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1994, Act 137, Eff. June 1, 1994 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

Admin Rule: R 330.1001 et seq. of the Michigan Administrative Code.

MENTAL HEALTH CODE (EXCERPT)

Act 258 of 1974

330.1138 Original or annual license; inspection and approval by bureau of fire services.

Sec. 138.

Before the issuance of an original or annual license, a psychiatric hospital or psychiatric unit shall be inspected by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b. A license shall not be issued until the bureau of fire services approves the hospital or unit.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2006, Act 207, Imd. Eff. June 19, 2006 ;-- Am. 2015, Act 59, Eff. Oct. 1, 2015

Compiler's Notes: For transfer of powers and duties of the fire marshal division on programs relating to fire safety inspections of adult foster care, correctional, and health care facilities from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws. For transfer of powers and duties of the fire marshal division programs relating to plan review and construction inspections of schools, colleges, universities, school dormitories, as well as adult foster care, correctional, and health care facilities, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled MCL 29.451 of the Michigan Compiled Laws.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1152 Adult foster care facility; noncompliance with contract, agreement, or arrangement; notice; suspension, revocation, or cancellation.

Sec. 152.

The director, after notice to the operator or owner of an adult foster care facility may suspend, revoke, or cancel a contract, agreement, or arrangement entered into under section 116(3)(e) if he or she finds that there has been a substantial failure to comply with the requirements as set forth in the contract, agreement, or arrangement. The notice shall be by certified mail or personal service, setting forth the particular reasons for the proposed action and fixing a date, not less than 30 days from the date of service, on which the operator or owner shall be afforded a hearing before the director or his or her designee. The contract, agreement, or arrangement shall not be suspended, revoked, or canceled until the director notifies the operator or owner in writing of his or her findings of fact and conclusions following such hearing.

History: 1974, Act 258, Eff. Aug. 6, 1975 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 1996, Act 588, Imd. Eff. Jan. 21, 1997

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1153 Rules for placement of mentally ill or developmentally disabled adults into community based dependent living settings or programs; rules for certification of specialized programs; inspection of facility; inspection report and certification, denial of certification, revocation, or certification with limited terms; reinspection; notice; contracts; licensure or placement pending promulgation of rules.

Sec. 153.

(1) Subject to section 114a, the department shall promulgate rules for the placement of adults who have serious mental illness or developmental disability into community based dependent living settings by department agencies, community mental health services programs, and by agencies under contract to the department or to a community mental health services program. The rules shall include, but not be limited to, the criteria to be used to determine a suitable placement and the specific agencies responsible for making decisions regarding a placement.

(2) Subject to section 114a, the department shall promulgate rules for the certification of specialized programs offered in an adult foster care facility to individuals with serious mental illness or developmental disability. The rules shall provide for an administrative appeal to the department of a denial or limitation of the terms of certification under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

(3) Upon receipt of a request from an adult foster care facility for certification of a specialized program, the department shall inspect the facility to determine whether the proposed specialized program conforms with the requirements of this section and rules promulgated under this section. The department shall provide the department of social services with an inspection report and a certification, denial of certification, revocation, or certification with limited terms for the proposed specialized program. The department shall reinspect a certified specialized program not less than once biennially and notify the department of social services in the same manner as for the initial certification. In carrying out this subsection, the department may contract with a community mental health services program or any other agency.

(4) This section does not prevent licensure of an adult foster care facility or the placement of individuals with serious mental illness or developmental disability into community based dependent living settings pending the promulgation by the department of rules under subsection (1) or (2).

History: Add. 1986, Act 256, Imd. Eff. Dec. 9, 1986 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996
Admin Rule: R 330.1001 et seq. of the Michigan Administrative Code.

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1161 Annual evaluation of program.

Sec. 161.

In conjunction with community mental health services programs, the department must conduct annually and forward to the governor and the house of representatives and senate appropriations committees, and the senate and house of representatives committees with legislative oversight of human services and mental health, an evaluation of the family support subsidy program that shall include, but is not limited to, all of the following:

- (a) The impact of the family support subsidy program upon children covered by this act in facilities and residential care programs including, to the extent possible, sample case reviews of families who choose not to participate.
- (b) Case reviews of families who voluntarily terminate participation in the family support subsidy program for any reason, particularly if the eligible minor is placed out of the family home, including the involvement of the department and community mental health services programs in offering suitable alternatives.
- (c) Sample assessments of families receiving family support subsidy payments including adequacy of subsidy and need for services not available.
- (d) The efforts to encourage program participation of eligible families.
- (e) The geographic distribution of families receiving subsidy payments and, to the extent possible, eligible minors presumed to be eligible for family support subsidy payments.
- (f) Programmatic and legislative recommendations to further assist families in providing care for eligible minors.
- (g) Problems that arise in identifying eligible minors through diagnostic evaluations performed under rules promulgated by the department of education.
- (h) The number of beds reduced in state facilities and foster care facilities serving severely mentally, multiply, and autistic impaired children when the children return home to their natural families as a result of the family support subsidy program.
- (i) Caseload figures by eligibility category as described in section 100a(29).

History: Add. 1983, Act 249, Imd. Eff. Dec. 15, 1983 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 1998, Act 497, Eff. Mar. 1, 1999 ;-- Am. 2004, Act 499, Eff. Mar. 30, 2005 ;-- Am. 2012, Act 500, Imd. Eff. Dec. 28, 2012 ;-- Am. 2020, Act 402, Eff. Mar. 24, 2021
Compiler's Notes: Section 2 of Act 249 of 1983 provides: "This amendatory act shall take effect January 1, 1984, for the purpose of promulgating rules pursuant to section 157, and July 1, 1984, for the purpose of accepting written application."

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1241 Adult foster care facilities; expenses eligible for state financial support.

Sec. 241.

Expenditures for the maintenance and repair of adult foster care facilities owned or leased by a community mental health services program are eligible for state financial support. Expenses incurred in renovating an adult foster care facility that is leased or owned by a community mental health services program are also eligible for state financial support if the expenses are incurred for 1 or more of the following purposes:

- (a) To correct physical plant deficiencies cited by the department of social services under state licensing rules.
- (b) To purchase and install fire safety equipment or make physical plant changes that measurably assure a reasonable level of fire protection for all of the residents who live in the facility.
- (c) To correct physical plant deficiencies in accordance with state and federal certification standards.

(d) To restore the facility to its prelease condition, if the facility's lease contains a clause stipulating that renovation is the lessee's responsibility at the time the lease expires or is terminated.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1500 Definitions.

Sec. 500.

As used in this chapter, unless the context requires otherwise:

(a) "Administrative admission" means the admission of an individual with a developmental disability to a facility under section 509.

(b) "Alternative program of care and treatment" means an outpatient program of care and treatment suitable to the individual's needs under the supervision of a psychiatrist that is developed in accordance with person-centered planning under section 712.

(c) "Court" means the probate court or the court with responsibility with regard to mental health matters for the county in which an individual with a developmental disability resides or was found.

(d) "Criteria for treatment" means the criteria specified in section 515 for admission of an adult with an intellectual disability to a facility, private facility, or alternative program of care and treatment under section 518.

(e) "Private facility" means an adult foster care facility operated under contract with a community mental health services program or on a private pay basis that agrees to do both of the following:

(i) Accept the admission of an individual with developmental disability.

(ii) Fulfill the duties of a facility as described in this chapter.

(f) "Treatment" means admission into an appropriate treatment facility or an outpatient program of care and treatment suitable to the individual's needs under the supervision of a psychiatrist that is developed in accordance with person-centered planning under section 712.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1978, Act 166, Imd. Eff. May 26, 1978 ;-- Am. 1986, Act 264, Imd. Eff. Dec. 9, 1986 ;-- Am. 1987, Act 76, Imd. Eff. June 29, 1987 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996 ;-- Am. 2018, Act 596, Eff. Mar. 28, 2019

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1800 Definitions.

Sec. 800.

As used in this chapter, unless the context requires otherwise:

(a) "Ability to pay" means the ability of a responsible party to pay for the cost of services, as determined by the department under sections 818 and 819.

(b) "Cost of services" means the total operating and capital costs incurred by the department or a community mental health services program with respect to, or on behalf of, an individual. Cost of services does not include the cost of research programs or expenses of state or county government unrelated to the provision of mental health services.

(c) "Individual" means the individual, minor or adult, who receives services from the department or a community mental health services program or from a provider under contract with the department or a community mental health services program.

(d) "Inpatient services" means 24-hour care and treatment services provided by a state facility or a licensed hospital.

(e) "Insurance benefits" means payments made in accordance with insurance coverage for the cost of health care services provided to an individual.

(f) "Insurance coverage" means any policy, plan, program, or fund established or maintained for the purpose of providing for its participants or their dependents medical, surgical, or hospital benefits. Insurance coverage

includes, but is not limited to, medicaid or medicare; policies, plans, programs, or funds maintained by nonprofit hospital service and medical care corporations, health maintenance organizations, and prudent purchaser organizations; and commercial, union, association, self-funded, and administrative service policies, plans, programs, and funds.

(g) "Nonresidential services" means care or treatment services that are not inpatient or residential services.

(h) "Parents" means the legal father and mother of an unmarried individual who is less than 18 years of age.

(i) "Residential services" means 24-hour dependent care and treatment services provided by adult foster care facilities under contract to the department or a community mental health services program or provided directly by a community mental health services program.

(j) "Responsible party" means a person who is financially liable for services furnished to the individual.

Responsible party includes the individual and, as applicable, the individual's spouse and parent or parents of a minor.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

EXECUTIVE REORGANIZATION ORDER (EXCERPT)

E.R.O. No. 1996-1

330.3101 Renaming of department of mental health as department of community health; transfer of powers and duties among various departments and agencies; renaming of department of public health as community public health agency.

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963, empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Article V, Section 8, of the Constitution of the State of Michigan of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, Article IV, Section 51, states that the public health and general welfare of the people of the state are matters of public concern; and

WHEREAS, Article VIII, Section 8, states that institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported; and

WHEREAS, the State of Michigan plays a fundamental role in the protection of the health and safety of its citizens in guiding policy for improving the health status of Michigan citizens, improving access to health care services, and preventing disease; and

WHEREAS, the State of Michigan finances the purchase or provision of health care services for at least 1.5 million persons, including Medicaid recipients, individuals with unique health care needs, persons with acute substance abuse needs, persons who are mentally ill and/or developmentally disabled; and

WHEREAS, the future in state-funded and administered health and behavioral services lies in integrating administrative systems and pooling state purchasing power for more efficient use of resources; and

WHEREAS, the administration of health-related programs is fragmented throughout state government in at least eight state departments, causing duplication of services, and waste of resources; and

WHEREAS, these health services can and should be better coordinated for the basic protection of the health of Michigan citizens; and

WHEREAS, the state's role will increasingly focus on quality assurance and purchasing quality outcomes rather than on regulation; and

WHEREAS, the state will continue to move toward community-based systems for the delivery and administration of health care services; and

WHEREAS, the protection of the health and safety of the citizens of Michigan can more effectively and efficiently be carried out by aligning health-related administrative functions in state government; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

I. DEPARTMENT OF COMMUNITY HEALTH

A. General

1. Consistent with Article V, Section 2, of the Constitution of the State of Michigan of 1963, which limits the number of principal departments to twenty (20), the Department of Mental Health is hereby renamed the Department of Community Health and will continue as a principal department within the Executive Branch.

2. Any authority, duties, powers, functions and responsibilities that are transferred in this section by this Order, that are not statutorily mandated, can in the future be reorganized by the Director of the Department of Community Health to promote efficient administration.

3. The Director of the Department of Community Health shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. The Director of the Department of Community Health shall provide executive direction and supervision for the implementation of the transfers to the Department of Community Health described in this Order. The functions transferred to the Department of Community Health by this Order, except the power to appoint the director, shall be administered under the direction and supervision of the Director of the Department of Community Health, and all prescribed functions of rule making, licensing, and registration, including the prescription of rules, regulations, standards, and adjudications, shall be transferred to the Director of the Department of Community Health.

5. The Director of the Department of Community Health shall, in addition to the other duties and responsibilities given to the Director herein as assigned or transferred to the Director as head of the Department of Community Health by statute or executive order, be responsible for the oversight and supervision of employees of the Department of Community Health and for the operations of the Department of Community Health. The Director shall also perform such other duties and exercise such other powers as the Governor may prescribe.

6. The Director of the Department of Community Health may perform a duty or exercise a power conferred by law or this Order upon the Director of the Department of Community Health at the time and to the extent the duty or power is delegated to the Director of the Department of Community Health by law or by this Order.

7. The Director of the Department of Community Health may by written instrument delegate a duty or power conferred by law or this Order and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director of the Department of Community Health.

8. All rules, orders, contracts, and agreements relating to the functions transferred to the Department of Community Health which were lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

9. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

10. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor or any entity affected by this Order.

B. Department of Social Services

Medical Services Administration

1. All the authority, powers, duties, functions and responsibilities of the Department of Social Services, or the Director of the Department of Social Services, currently housed in the Medical Services Administration, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the relevant portions of Act No. 280 of 1939, as amended, being Section 400.1 et seq. of the Michigan Compiled Laws, and Title XIX of the Social Security Act, 42 U.S.C.A. Section 1396 et seq., are hereby transferred from the Department of Social Services to the Department of Community Health by a Type I transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, powers, duties, functions and responsibilities of the Department of Social Services, or the Director of the Department of Social Services, currently performed by the Medical Assistance Program (commonly known as the Medicaid program), set forth in the relevant portions of Act No. 280 of 1939, as amended, being Section 400.1 et seq. of the Michigan Compiled Laws and Title XIX of the Social Security Act of 1965, 42 U.S.C.A. Section 1396 et seq., are hereby transferred from the Department of Social Services to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All the statutory authority, powers, duties, functions and responsibilities of the support functions for the Medical Assistance Program, commonly known as the Medicaid program, currently in the Department of Social Services, including but not limited to management information systems, accounting, procurement, internal audit, contract management, personnel, labor relations, provider hearings, provider support, facility support, and eligibility policy support are hereby transferred from the Department of Social Services to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. All the authority, powers, duties, functions and responsibilities of the State Medical Program are hereby transferred from the Department of Social Services to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. The Director of the Department of Community Health shall administer the budget, procurement and management-related functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. The Director of the Department of Community Health shall provide executive direction and supervision for the implementation of the transfer. The Chief Executive of the Medical Services Administration shall exercise the prescribed statutory powers, duties, and functions independently of the Director of the Department of Community Health. The budgeting, procurement, and related management functions of the Medical Services Administration shall be performed under the direction and supervision of the Director of the Department of Community Health.

7. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Social Services for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

8. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

9. The Directors of the Department of Community Health and the Department of Social Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

C.Liquor Control Commission

1. All the authority, powers, duties, functions and responsibilities of alcohol prevention education are hereby transferred from the Liquor Control Commission in the Department of Commerce to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All records, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Liquor Control Commission for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

3. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

4. The Directors of the Departments of Community Health and Commerce, and the Chairman of the Liquor Control Commission shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

II.DEPARTMENT OF AGRICULTURE

1. All the authority, powers, duties, functions and responsibilities of the Food Service Sanitation program, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being Section 333.12901 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Agriculture by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Agriculture shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Agriculture, in cooperation with the Director of the Department of Public Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Agriculture, and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Agriculture.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Agriculture.

5. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the

fiscal year.

6. The Directors of the Department of Agriculture and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Agriculture.

7. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

8. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

III. DEPARTMENT OF COMMERCE

A. Department of Community Health

1. All the authority, powers, duties, functions and responsibilities of Licensing, Monitoring and Accreditation, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the relevant parts of Chapter 1 of the Mental Health Code, Act No. 258 of the Public Acts of 1974 as amended and Act No. 290 of the Public Acts of 1995, being Section 330.1100 et seq. of the Michigan Compiled Laws, with the exception of the Clinical Services Team, are hereby transferred from the Department of Community Health to the Director of the Michigan Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Commerce shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Commerce, in cooperation with the Director of the Department of Community Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Commerce and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Michigan Department of Commerce.

4. Any authority, duties, powers, functions and responsibilities of the Director of the Department of Community Health that are transferred in this section by this Order and that are not statutorily mandated can in the future be reorganized by the Director the Department of Commerce to promote efficient administration.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Community Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Commerce.

6. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

7. The Directors of the Department of Commerce and the Department of Community Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Commerce.

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

B. Department of Public Health

1. All the authority, powers, duties, functions and responsibilities of the Licensing of Substance Abuse Programs and the Certification of Substance Abuse Workers in the Division of Program Standards, Evaluation and Data Services of the Center for Substance Abuse Services, including the authority, powers, duties, functions and responsibilities set forth in the relevant parts of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.6231 to 333.6251 of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of the Bureau of Health Systems, including but not limited to the authority, powers, duties, functions and responsibilities:

a. Of the Division of Health Facility Licensing and Certification in the Bureau of Health Systems set forth in Article 17, Parts 201, 205, 208, 213, 214, 215 and 217 of Act No. 368 of the Public Acts of 1978, being Section 333.20101 et seq., Section 333.20501 et seq., Section 333.20801 et seq., Section 333.21301 et seq., Section 333.21401 et seq., Section 333.21501 et seq., and Section 333.21701 et seq., of the Michigan Compiled Laws,

Titles XVIII and XIX of the federal Social Security Act of 1965 and the federal Clinical Laboratory Improvement Act Amendments of 1988;

b. Of the Division of Federal Support Services;

c. Of the Division of Emergency Medical Services set forth in Part 209 of Act No. 332 of the Public Acts of 1988 as amended, being Section 333.20901 et seq. and of the Michigan Compiled Laws, with the exception of the Division of Managed Care and the Division of Health Facility Development, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All the authority, powers, duties, functions and responsibilities of management support in the Bureau of Finance and Administration and the Office of Management Support Services for programs being transferred in the Bureau of Health Systems, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. All the authority, powers, duties, functions and responsibilities of the radiation machine licensing and registration program in the Division of Radiological Health in the Bureau of Environmental and Occupational Health, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in the relevant parts of Part 135 of the Public Health Code, Act No. 368 of the Public Acts of 1978 as amended, being Section 333.13501 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. The Directors of the Departments of Commerce and Public Health shall negotiate regarding the transfer of the support and personnel for the programs being transferred from the Bureau of Health Systems to the Department of Commerce such that the transfers occur in the most efficient manner possible.

6. All the authority, powers, duties, functions and responsibilities of management support for the Bureau of Health Systems programs being transferred to the Department of Commerce, are hereby transferred from the Department of Public Health to the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

7. The Director of the Michigan Department of Commerce shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

8. The Director of the Michigan Department of Commerce shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Commerce and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Michigan Department of Commerce.

9. Any authority, duties, powers, functions and responsibilities of the Director of the Department of Public Health that are transferred in this section by this Order and that are not statutorily mandated can in the future be reorganized by the Director the Department of Commerce to promote efficient administration.

10. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Michigan Department of Commerce.

11. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

12. The Directors of the Michigan Department of Commerce and the Michigan Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Commerce.

13. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

14. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

C.Department of Social Services

1. All the authority, powers, duties, functions and responsibilities of Adult Foster Care Licensing, including the authority, powers, duties, functions and responsibilities set forth in the relevant parts of Act No. 218 of the Public Acts of 1979, as amended, Act No. 280 of the Public Acts of 1939, Act No. 294 of the Public Acts of 1978, as amended, and Act No. 306 of the Public Acts of 1969, being Section 400.701 et seq., Section 400.1 et seq., Section 338.41 et seq., and Section 24.201 et seq. of the Michigan Compiled Laws, are hereby transferred from the

Department of Social Services to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of the Adult Foster Care Licensing Advisory Council, including the authority, powers, duties, functions and responsibilities set forth in the relevant parts of Act No. 218 of the Public Acts of 1979, as amended, and Act No. 280 of the Public Acts of 1939 being Section 400.708, and Section 400.1 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Social Services to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All the authority, powers, duties, functions and responsibilities of Child Welfare Licensing, including the authority, powers, duties, functions and responsibilities set forth in Act No. 116 of the Public Acts of 1973, as amended, Act No. 218 of the Public Acts of 1979 as amended, Act No. 223 of the Public Acts of 1995, Act No. 294 of the Public Acts of 1978 as amended, and Act No. 306 of the Public Acts of 1969, being Section 722.111 et seq., Section 400.701 et seq., Section 400.1 et seq., Section 722.115 and Section 24.201 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Social Services to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. All the authority, powers, duties, functions and responsibilities relating to the management support functions for the Bureau of Regulatory Services, including but not limited to management information systems, licensing hearings and facility support, are hereby transferred from the Department of Social Services to the Director of the Department of Commerce by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

5. The Director of the Department of Commerce shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. Any authority, duties, powers, functions and responsibilities of the Director of the Department of Social Services that are transferred in this section by this Order and that are not statutorily mandated can in the future be reorganized by the Director of the Department of Commerce to promote efficient administration.

7. The Director of the Department of Commerce, in cooperation with the Director of the Department of Social Services, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Commerce and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Commerce.

8. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Social Services for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Commerce.

9. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

10. The Directors of the Department of Commerce and the Department of Social Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Commerce.

11. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

12. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

IV. DEPARTMENT OF LABOR

Bureau of Environmental and Occupational Health

1. All the authority, powers, duties, functions and responsibilities of the Division of Occupational Health in the Bureau of Environmental and Occupational Health, set forth in Act No. 154 of Public Acts of 1974 as amended, Parts 22 and 56 of Act No. 368 of the Public Acts of 1978, Act No. 135 of the Public Acts of 1986, as amended, and Act No. 440 of the Public Acts of 1988, being Section 408.1001 et seq., 333.2201 et seq., 333.5601 et seq., 338.3101 et seq. and Section 338.3401 et seq. of the Michigan Compiled Laws, and Section 21 (c) and 7 (c) (1) of the federal Occupational Safety and Health Act of 1970, P.L. 91 - 596, with the exception of the Dry Cleaning Unit, are hereby transferred from the Department of Public Health to the Director of the Department of Labor by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of the Occupational Health Standards

Commission in the Bureau of Environmental and Occupational Health, set forth in Sections 9, 14, 23, and 24 of Act No. 154 of the Public Acts of 1974, as amended, being Section 408.1024 of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Labor by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. The Director of the Michigan Department of Labor shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. The Director of the Michigan Department of Labor shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Labor and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Michigan Department of Labor.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Michigan Department of Labor.

6. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

7. The Directors of the Michigan Department of Labor and the Michigan Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Commerce.

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

V. DEPARTMENT OF ENVIRONMENTAL QUALITY

Environmental Health Programs

1. All the authority, powers, duties, functions and responsibilities of the Bureau of Environmental and Occupational Health, including but not limited to the authority, powers, duties, functions and responsibilities:

a. Of the Division of Upper Peninsula;

b. Of the Division of Environmental Health set forth in the relevant parts of Parts 121, 124, 125, and 127 of the Public Health Code, Act No. 368 of the Public Acts of 1978, and Act No. 96 of the Public Acts of 1987, being Section 333.12101 et seq., 333.12401 et seq., 333.12501 et seq., and 333.12701 et seq., and Section 125.2301 et seq. of Michigan Compiled Laws, with the exception of the Food Service Sanitation Program and the Shelter Environment program;

c. Of the Division of Water Supply set forth in Part 127 of Act No. 368 of the Public Acts of 1978, being Sections 333.12701 et seq.;

d. Of the Division of Radiological Health set forth in the relevant parts of Parts 135 and 137 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being Section 333.13501 et seq., Section 333.13702 et seq. of the Michigan Compiled Laws, with the exception of the radiation machine licensing and registration program;

e. Of the Dry Cleaning program in the Division of Occupational Health set forth in Part 133 of Act No. 368 of the Public Acts of 1978 being Section 333.13301 et seq. of the Michigan Compiled Laws;

with the exception of the Division of Health Risk Assessment and the Division of Occupational Health; are hereby transferred from the Director of the Department of Public Health to the Director of the Department of Environmental Quality by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of management support in the Bureau of Finance and Administration and Office of Management Support Services for the Bureau of Environmental and Occupational Health programs being transferred to the Department of Environmental Quality, are hereby transferred from the Department of Public Health to the Department of Environmental Quality by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. The placement of laboratory support for the Division of Water Supply and the water supply and sewer systems programs, and any necessary contractual relationships related to these laboratory services will be negotiated by the Directors of the Departments of Public Health and Environmental Quality by the effective date of this Order.

4. The placement of the Site Assessment Program related to the Superfund Program in the Division of Health Risk Assessment in the Bureau of Occupational and Environmental Health will be negotiated by the Directors of

the Departments of Public Health and Environmental Quality by the effective date of this Executive Order.

5. All authority to make decisions regarding administrative appeals associated with the transfers referred to in paragraphs V. A. 1 - 2 above are transferred to the Director of the Department of Environmental Quality. In the event the Director of the Department of Environmental Quality is directly involved in an initial decision which is subsequently appealed, the Director shall appoint an individual within or outside the Department of Environmental Quality to decide the appeal.

6. The Director of the Department of Environmental Quality shall administer the assigned functions transferred above in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

7. The Director of the Department of Environmental Quality, in cooperation with the Director of the Department of Public Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Environmental Quality and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Environmental Quality.

8. The Director of the Michigan Department of Environmental Quality may perform a duty or exercise a power conferred by law or this Order upon the Director of the Michigan Department of Environmental Quality at the time and to the extent the duty or power is delegated to the Director of the Michigan Department of Environmental Quality by law or by this Order.

9. The Director of the Michigan Department of Environmental Quality may by written instrument delegate a duty or a power conferred by law or this Order, and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director.

10. Decisions made by the Director of the Michigan Department of Environmental Quality or persons to whom the Director has lawfully delegated decision-making authority, pursuant to this Order relating to environmental health, shall be final when reduced to writing and delivered to all affected persons, unless otherwise provided by law.

11. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Environmental Quality.

12. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

13. The Directors of the Department of Environmental Quality and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Environmental Quality.

14. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

15. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

VI. DEPARTMENT OF MANAGEMENT AND BUDGET

Physical Plant Management

1. All the authority, powers, duties, functions and responsibilities of the Physical Plant Section and other portions of the Division of General Services necessary for building security, maintenance, administration and operation of the public health facilities located on North Martin Luther King Boulevard, City of Lansing, are hereby transferred from the Department of Public Health to the Director of the Department of Management and Budget by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Management and Budget shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Management and Budget, in cooperation with the Director of the Department of Public Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Management and Budget and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Management and Budget.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used,

held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Management and Budget.

5. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

6. The Directors of the Department of Management and Budget and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Management and Budget.

7. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

8. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

VII. DEPARTMENT OF SOCIAL SERVICES

Special Supplemental Food Program for Women, Infants and Children

1. All the authority, powers, duties, functions and responsibilities of the Special Supplemental Food Program for Women, Infants and Children (WIC program) pursuant to the federal Child Nutrition Act of 1966, as amended, Public Law 92-433, are hereby transferred from the Department of Public Health to the Director of the Department of Social Services by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the authority, powers, duties, functions and responsibilities of the management support functions in the Bureau of Finance and Administrative Services and the Office of Management Support Services for the Special Supplemental Food Program for Women, Infants and Children (WIC program), are hereby transferred from the Department of Public Health to the Director of the Department of Social Services by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. The Director of the Department of Social Services shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. The Director of the Department of Social Services, in cooperation with the Director of the Department of Public Health, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Social Services and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Social Services.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Social Services.

6. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

7. The Directors of the Department of Social Services and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Social Services.

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

VIII. DEPARTMENT OF PUBLIC HEALTH

General

1. All the statutory authority, duties, powers, functions and responsibilities of the Department of Public Health, that have not been previously transferred in prior sections of this Order, including but not limited to the statutory authority, duties, powers, functions and responsibilities:

a. Set forth in Act No. 368 of the Public Acts of 1978, as amended;

b. Of the Chief Medical Executive, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Act No. 368 of the Public Acts of 1978 as amended, being Section 333.2202 of the Michigan Compiled Law;

- c. Of the Internal Auditor;
- d. Of the Office of Management Support Services, including the Administrative Services Section, with the exception of the Division of General Services, with the exception of support functions being transferred with programs in the Bureau of Health Systems, with programs in the Bureau of Occupational and Environmental Health, and with the WIC program;
- e. Of the Bureau of Finance and Administrative Services, with the exception of support functions being transferred with programs in the Bureau of Health Systems, with programs in the Bureau of Occupational and Environmental Health, and with the WIC program;
- f. Of the Center for Health Promotion and Chronic Disease Prevention, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Parts 26, 54, 55, 59, 95 and 126 of Act No. 368 of the Public Acts of 1978 as amended, being Section 333.2601 et seq., 333.5401 et seq., 333.5501 et seq., 333.5901 et seq., 333.9501 et seq. and 333.12601 et seq. of the Michigan Compiled Laws;
- g. Of the Office of Policy, Planning and Evaluation, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Parts 22, 26 and 28 of Act No. 368 of the Public Acts of 1978 as amended, being Section 333.2201 et seq., Section 333.2601 et seq. and Section 333.2801 et seq. of the Michigan Compiled Laws;
- h. Of the Center for Substance Abuse Services, with the exception of Quality Assurance and Licensing in the Program Standards, Evaluation and Data Services Division, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 62 of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.6201 et seq. of the Michigan Compiled Laws;
- i. Of the Bureau of Child and Family Services, with the exception of the Women, Infants, and Children Division, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Parts 23, 27, 58, 91, 92, and 93 of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.2301 et seq., Section 333.2701 et seq., Section 333.5801 et seq., Section 333.9101 et seq., Section 333.9201 et seq., and Section 333.9301 et seq. of the Michigan Compiled Laws;
- j. All authority, powers, duties, functions and responsibilities not otherwise transferred from the Division of Health Risk Assessment in the Bureau of Environmental and Occupational Health;
- k. Of the Shelter Environment Program, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 124 of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being Section 333.12901 et seq. of the Michigan Compiled Laws;
- l. Of the Division of Managed Care in the Bureau of Health Systems, including but not limited to the statutory authority, powers duties, functions and responsibilities set forth in Part 27 of Act No. 368 of the Public Acts of 1978, being Section 333.2701 et seq. of the Michigan Compiled Laws;
- m. Of the Division of Health Facility Development in the Bureau of Health Systems, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Part 222 of the Public Act Code, Act No. 332 of the Public Acts of 1988 as amended, being Section 333.22201 et seq. of the Michigan Compiled Laws;
- n. Of the Bureau of Infectious Disease Control, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Parts 51 - 53, 59, 92, and 96 of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.5101 et seq., 333.5201 et seq., 333.5301 et seq., 333.5901 et seq., 333.9201 et seq., and Section 333.9601 et seq. of the Michigan Compiled Laws;
- o. Of the Governor's Council on Physical Fitness, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Executive Order 1992-5;
- p. Of the Agent Orange Commission, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 49 of the Public Acts of 1987 being Section 333.5731 - 333.5745 of the Michigan Compiled Laws;
- q. Of the Michigan Public Health Institute, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 26 of Act No. 368 of the Public Acts of 1978, being Section 333.2611 of the Michigan Compiled Laws;
- r. Of the Center for Rural Health, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Part 26 of Act No. 368 of the Public Acts of 1978, being Sections 333.2223 and 333.361 of the Michigan Compiled Laws; are hereby transferred to the Director of the Department of Community Health by a Type I transfer, as defined by Section 3 Act No. 380 of the Public Acts of 1965, Section 16.103
- 2. All authority, powers, duties, functions and responsibilities of the Risk Reduction and AIDS Policy Commission set forth in Act No. 368 of the Public Acts of 1978 as amended, being Sections 333.5903 - Section 222.5909 of the Michigan Compiled Laws, are hereby transferred to the Director of the Michigan Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.
- 3. All authority, powers, duties, functions and responsibilities of the Crippled Children's Advisory Committee of the Division of Children's Special Health Care Services (renamed the Children's Special Health Care Advisory Committee) of the Bureau of Child and Family Services, set forth in the relevant parts of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.5811 of the Michigan Compiled Laws are hereby transferred to the

Director of the Michigan Department of Community Health by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. The Department of Public Health is hereby renamed the Community Public Health Agency.

5. The Executive Director of the Public Health Agency shall exercise the prescribed statutory powers, duties, and functions of rule-making, licensing, and registration independently of the Director of the Department of Community Health. The budgeting, procurement, and related management functions of the Public Health Agency shall be performed under the direction and supervision of the Director of the Department of Community Health.

6. The Director of the Department of Community Health shall administer the budget, procurement and management related functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

7. Any authority, duties, powers, functions and responsibilities of the Director of the Department of Public Health that are transferred in this section by this Order and that are not statutorily mandated can in the future be reorganized by the Director the Department of Community Health to promote efficient administration.

8. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Public Health for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

9. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

10. The Directors of the Department of Community Health and the Department of Public Health shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

11. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective April 1, 1996.

History: 1996, E.R.O. No. 1996-1, Eff. Apr. 1, 1996

Compiler's Notes: The phrase "states financial management system" that appears throughout this section should evidently read "state's financial management system." The phrase "the Director the Department" that appears throughout this section should evidently read "the Director of the Department." In subsection 1.m. of part VIII, entitled "VIII. Department of Public Health," the reference to "Part 222 of the Public Act Code, Act No. 332 of the Public Acts of 1988 as amended" should evidently read "Part 222 of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended." In subparagraph 2. of part VIII, entitled "VIII. Department of Public Health," the reference to "Sections 333.5903 - Section 222.5909" evidently should read "Sections 333.5903 - 333.5909." For transfer of office of drug control policy to department of community health, and abolishment of the office, see E.R.O. No. 2009-1, compiled at MCL 333.26327. For transfer of powers and duties of department of environmental quality to department of natural resources and environment, and abolishment of the department of environmental quality, see E.R.O. No. 2009-31, compiled at MCL 324.99919. For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties of chief medical executive to the new chief medical executive in the office of chief medical executive created within the department of health and human services, and abolishment of the position of chief medical executive, see E.R.O. No. 2016-4, compiled at MCL 333.26369. For transfer of powers and duties of the medical services administration to the health and aging services administration created within the department of health and human services; and abolishment of the medical services administration, see E.R.O. No. 2021-2, compiled at MCL 400.562.

Admin Rule: R 325.2401 et seq.; R 325.10102 et seq.; R 325.10308b; R 325.10401 et seq.; R 325.10604a et seq.; R 325.10702 et seq.; R 325.11002; R 325.11008; R 325.13101 et seq.; R 325.11502 et seq.; R 325.52501 et seq. R 325.70101 et seq. of the Michigan Administrative Code.

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.5672 Definitions: A to C.

Sec. 5672.

(1) "Actual notice" includes the physical presentation of a POST form or a revoked POST form, or the electronic transmission of a POST form or a revoked POST form if the recipient of the form sends an electronic confirmation to the patient, patient representative, or attending health professional, who sent the electronic transmission, indicating that the POST form or revoked POST form has been received. Actual notice also includes knowledge of a patient's intent to revoke the POST form by a health professional who is treating the patient, by an attending

health professional, or by emergency medical services personnel.

(2) "Adult foster care facility" means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(3) "Advanced illness" means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation.

(4) "Attending health professional" means a physician, physician's assistant, or certified nurse practitioner, who has primary responsibility for the treatment of a patient and is authorized to issue the medical orders on a POST form.

(5) "Certified nurse practitioner" means an individual licensed as a registered professional nurse under part 172 who has been issued a specialty certification as a nurse practitioner by the Michigan board of nursing under section 17210.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.5674 Definitions; M to W.

Sec. 5674.

(1) "Medical control authority" means that term as defined in section 20906.

(2) "Patient" means an adult with an advanced illness or means an adult with another medical condition that, despite available curative therapies or modulation, compromises his or her health so as to make death within 1 year foreseeable though not a specific or predicted prognosis.

(3) "Patient advocate" means an individual presently authorized to make medical treatment decisions on behalf of a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(4) "Patient representative" means a patient advocate or a guardian.

(5) "Person" means that term as defined in section 1106 or a governmental entity.

(6) "Physician" means that term as defined in section 17001 or 17501.

(7) "Physician orders for scope of treatment form" or "POST form" means the standardized POST form described in section 5676. A POST form is not an advance health care directive.

(8) "Physician's assistant" means an individual licensed as a physician's assistant under part 170 or part 175.

(9) "Residential setting" means a setting outside of a hospital, including, but not limited to, an adult foster care facility.

(10) "Ward" means that term as defined in section 1108 of the estates and protected individuals code, 1998 PA 386, MCL 700.1108.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.5675 Advisory committee; appointment; membership; recommendations; abolishment; "committee" defined.

Sec. 5675.

(1) Not later than 90 days after the effective date of the amendatory act that added this part, the director shall appoint members of and convene an ad hoc advisory committee. The committee must consist of 11 members appointed as follows:

(a) Four members of the committee must include 1 individual representing each of the following:

- (i) A health facility or an adult foster care facility, or an organization or professional association representing health facilities or adult foster care facilities.
- (ii) A palliative care provider.
- (iii) Emergency medical services personnel.
- (iv) A medical control authority.
- (b) Seven members of the committee may include, but are not limited to, individuals representing the following:
 - (i) A health professional.
 - (ii) A patient advocacy organization.
- (2) Within 180 days after the committee is convened, the committee shall make recommendations to the department on all of the following:
 - (a) Subject to section 5676, the creation of a standardized POST form.
 - (b) Medical orders to be included on the POST form that relate to emergency and nonemergency situations.
 - (c) Subject to section 5676, the creation of an information form.
 - (d) The procedures for the use of a POST form within a residential setting.
 - (e) The circumstances under which a photocopy, facsimile, or digital image of a completed POST form is considered valid for purposes of a health professional, a health facility, an adult care facility, or emergency medical services personnel complying with the orders for medical treatment on the POST form.
- (3) After the department receives the recommendations from the committee under subsection (2), the committee is abolished.
- (4) As used in this section, "committee" means the ad hoc advisory committee appointed under subsection (1).

History: Add. 2017, Act 154, Eff. Feb. 6, 2018

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.5676 Duties of department; publication of information or materials regarding POST form.

Sec. 5676.

- (1) The department, after considering the recommendations of the advisory committee under section 5675, shall do all of the following:
 - (a) Develop a standardized POST form that has a distinct format and is printed on a specific stock and color of paper to make the form easily identifiable. The department shall include on the POST form at least all of the following:
 - (i) A space for the printed name of the patient, the patient's age, and the patient's diagnosis or medical condition that warrants the medical orders on the POST form.
 - (ii) A space for the signature of the patient or the patient representative who consents to the medical orders indicated on the POST form and a space to indicate the date the patient or the patient representative signed the form.
 - (iii) A space for the printed name and signature of the attending health professional who issues the medical orders on the POST form.
 - (iv) Sections containing medical orders that direct specific types or levels of treatment to be provided in a setting outside of a hospital to which a patient or a patient representative may provide consent.
 - (v) A space for the date and the initials of either the attending health professional and the patient or the attending health professional and the patient representative. The POST form must also include a statement that, by dating and initialing the POST form, the individuals described in this subparagraph confirm that the medical orders on the form remain in effect.
 - (vi) A statement that, within a time frame established by the department by rule, the POST form must be reviewed, dated, and initialed by either the attending health professional and the patient or the attending health professional and the patient representative, if any of the following have occurred:
 - (A) One year has expired since the patient and the attending health professional or the patient representative and the attending health professional have signed or initialed the POST form.
 - (B) There has been an unexpected change in the patient's medical condition.
 - (C) The patient is transferred from 1 care setting or care level to another care setting or care level.
 - (D) The patient's treatment preferences change.
 - (E) The patient's attending health professional changes.

(vii) A statement that a patient or a patient representative has the option of executing a POST form and that consenting to the medical orders on the POST form is voluntary.

(viii) A statement that the POST form is void if any information described in subparagraph (i), (ii), or (iii) is not provided on the form or if a requirement described in subparagraph (vi) is not met.

(ix) A statement that if a section on the POST form regarding a specific type or level of treatment is left blank, the blank section will be interpreted as authorizing full treatment for the patient for that treatment, but a blank section on the POST form regarding a specific type or level of treatment does not invalidate the entire form or other medical orders on the form.

(x) A space for the printed name and contact information of the patient representative, if applicable.

(b) Develop an information form. The department shall include on the information form at least all of the following:

(i) An introductory statement in substantially the following form:

"The POST form is intended to be used as part of an advance care planning process. The POST form is not intended to be used as a stand-alone advance health care directive that unilaterally expresses the patient's medical treatment wishes. The POST form contains medical orders that are jointly agreed to by the patient and the attending health professional or the patient representative and the attending health professional. The medical orders on the POST form reflect both the patient's expressed wishes or best interests and the attending health professional's medical advice or recommendation. An advance care planning process that uses the POST form must recommend that the patient consider designating an individual to serve as the patient's patient advocate to make future medical decisions on behalf of the patient if the patient becomes unable to do so."

(ii) An explanation of who is considered a patient with an advanced illness for purposes of executing a POST form.

(iii) An explanation of how a patient advocate is designated under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(iv) A statement indicating that, by signing the information form, the patient or the patient representative acknowledges that he or she had the opportunity to review the information form before executing a POST form.

(v) A space for the signature of the patient or the patient representative and a space to indicate the date the patient or the patient representative reviewed the information form.

(c) Promulgate rules to implement this part. The rules must include, but are not limited to, the procedures for the use of a POST form within a residential setting and the circumstances under which a photocopy, facsimile, or digital image of a completed POST form will be considered valid for purposes of a health professional, a health facility, an adult foster care facility, or emergency medical services personnel complying with the medical orders on the form.

(2) The department may publish information or materials regarding the POST form on the department's website.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.5679 POST form; use as communication tool; treatment by emergency medical services personnel; exceptions; noncompliance by health professional or health facility.

Sec. 5679.

(1) In an acute care setting, a health professional who is treating the patient may use a completed POST form as a communication tool.

(2) Emergency medical services personnel shall provide or withhold treatment to a patient according to the orders on a POST form unless any of the following apply:

(a) The emergency medical services being provided by the emergency medical services personnel are necessitated by an injury or medical condition that is unrelated to the diagnosis or medical condition that is indicated on the patient's POST form.

(b) The orders on the POST form request medical treatment that is contrary to generally accepted health care standards or emergency medical protocols.

(c) The POST form contains a medical order regarding the initiation of resuscitation if the patient suffers cessation of both spontaneous respiration and circulation, and the emergency medical services personnel has actual notice of a do-not-resuscitate order that was executed under the Michigan do-not-resuscitate procedure act, 1996

PA 193, MCL 333.1051 to 333.1067, after the POST form was validly executed. As used in this subdivision, "actual notice" means that term as defined in section 2 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1052.

(d) The POST form has been revoked in the manner provided in this part and the emergency medical services personnel has actual notice of the revocation.

(3) If a health professional or health facility is unwilling to comply with the medical orders on a validly executed POST form because of a policy, religious belief, or moral conviction, the health professional or health facility shall take all reasonable steps to refer or transfer the patient to another health professional or health facility. If an adult foster care facility is unwilling to comply with the medical orders on a validly executed POST form for the reasons described in this subsection, the adult foster care facility shall take all reasonable steps to refer or transfer the patient to another adult foster care facility as provided in section 26c of the adult foster care facility licensing act, 1979 PA 218, MCL 400.726c.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.20106 Definitions; H.

Sec. 20106.

(1) "Health facility or agency", except as provided in section 20115, means:

(a) An ambulance operation, aircraft transport operation, nontransport prehospital life support operation, or medical first response service.

(b) A county medical care facility.

(c) A freestanding surgical outpatient facility.

(d) A health maintenance organization.

(e) A home for the aged.

(f) A hospital.

(g) A nursing home.

(h) A hospice.

(i) A hospice residence.

(j) A facility or agency listed in subdivisions (a) to (g) located in a university, college, or other educational institution.

(k) A freestanding birth center.

(2) "Health maintenance organization" means that term as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

(3) "Home for the aged" means a supervised personal care facility at a single address, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility that provides room, board, and supervised personal care to 21 or more unrelated, nontransient individuals 55 years of age or older. Home for the aged includes a supervised personal care facility for 20 or fewer individuals 55 years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home. Home for the aged does not include an area excluded from this definition by section 17(3) of the continuing care community disclosure act, 2014 PA 448, MCL 554.917.

(4) "Hospice" means a health care program that provides a coordinated set of services rendered at home or in outpatient or institutional settings for individuals suffering from a disease or condition with a terminal prognosis.

(5) "Hospital" means a facility offering inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily direction or supervision of a physician. Hospital does not include a mental health hospital licensed or operated by the department of health and human services or a hospital operated by the department of corrections.

(6) "Hospital long-term care unit" means a nursing care facility, owned and operated by and as part of a hospital, providing organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 293, Eff. Mar. 31, 1981 ;-- Am. 1981, Act 79, Imd. Eff. June 30, 1981 ;-- Am. 1982, Act 354, Imd. Eff. Dec. 21, 1982 ;-- Am. 1984, Act 311, Eff. Mar. 29, 1985 ;-- Am. 1990, Act 179, Imd. Eff. July 2, 1990 ;-- Am. 1996, Act 267, Imd. Eff. June 12, 1996 ;-- Am. 2000, Act 253, Imd. Eff. June 29, 2000 ;-- Am. 2014, Act 449, Imd. Eff. Jan. 2, 2015 ;-- Am. 2015, Act 104, Eff. Oct. 1, 2015 ;-- Am. 2017, Act 167, Eff. Feb. 11, 2018 ;-- Am. 2024, Act 252, Eff. Apr. 2, 2025
Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.20156 Entering premises of applicant or licensee; enforcement of rules; review and inspection of existing facilities; amendment of rules; verification of existing facilities; certificate of approval from bureau of fire services; applicability of subsections (2), (3), (4), and (5).

Sec. 20156.

(1) A representative of the department or the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, upon presentation of proper identification, may enter the premises of an applicant or licensee at any reasonable time to determine whether the applicant or licensee meets the requirements of this article and the rules promulgated under this article. The director; the director of the department of health and human services; the bureau of fire services; the director of the office of services to the aging; or the director of a local health department; or an authorized representative of the director, the director of the department of health and human services, the bureau of fire services, the director of the office of services to the aging, or the director of a local health department may enter on the premises of an applicant or licensee under part 217 at any time in the course of carrying out program responsibilities.

(2) The bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall enforce rules promulgated by the bureau of fire services for health facilities and agencies to ensure that physical facilities owned, maintained, or operated by a health facility or agency are planned, constructed, and maintained in a manner to protect the health, safety, and welfare of patients.

(3) Beginning on the effective date of the amendatory act that added this subsection, the bureau of fire services shall amend the rules to allow facilities in existence on or before the effective date of the amendatory act that added this subsection and continuously operating up to the time of application for a home for the aged license to be reviewed and inspected to comply with the provisions of chapter 18 or 19 or chapter 32 or 33 of the National Fire Protection Association standard number 101.

(4) An applicant under subsection (3) shall provide information requested by the department that allows the department to verify that the facility was in existence on or before the effective date of the amendatory act that added this subsection and has been continuously operating up to the time of application.

(5) The department shall not issue a license or certificate to a health facility or agency until it receives an appropriate certificate of approval from the bureau of fire services. For purposes of this section, a decision of the bureau of fire services to issue a certificate controls over that of a local fire department.

(6) Subsections (2), (3), (4), and (5) do not apply to a health facility or an agency licensed under part 205 or 209.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 493, Eff. Mar. 30, 1979 ;-- Am. 1982, Act 474, Eff. Mar. 30, 1983 ;-- Am. 1986, Act 78, Imd. Eff. Apr. 7, 1986 ;-- Am. 1990, Act 179, Imd. Eff. July 2, 1990 ;-- Am. 2006, Act 195, Imd. Eff. June 19, 2006 ;-- Am. 2017, Act 167, Eff. Feb. 11, 2018

Compiler's Notes: For transfer of powers and duties of the fire marshal division on programs relating to fire safety inspections of adult foster care, correctional, and health care facilities from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.20173a Covered facility; employees or applicants for employment; prohibitions; criminal history check; procedure; conditional employment or clinical privileges; knowingly providing false information as misdemeanor; prohibited use or dissemination of criminal history information as misdemeanor; review by licensing or regulatory department; conditions of continued employment; failure to conduct criminal

history checks as misdemeanor; storage and retention of fingerprints; notification; electronic web-based system; definitions.

Sec. 20173a.

(1) Except as otherwise provided in subsection (2), a covered facility shall not employ, independently contract with, or grant clinical privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the covered facility if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7(a).

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subdivision, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(ii) A felony involving cruelty or torture.

(iii) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iv) A felony involving criminal sexual conduct.

(v) A felony involving abuse or neglect.

(vi) A felony involving the use of a firearm or dangerous weapon.

(vii) A felony involving the diversion or adulteration of a prescription drug or other medications.

(c) Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(d) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(ii) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iii) A misdemeanor involving criminal sexual conduct.

(iv) A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).

(v) A misdemeanor involving abuse or neglect.

(e) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(ii) A misdemeanor involving home invasion.

(iii) A misdemeanor involving embezzlement.

(iv) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.

(v) A misdemeanor involving larceny unless otherwise provided under subdivision (g).

(vi) A misdemeanor of retail fraud in the second degree unless otherwise provided under subdivision (g).

(vii) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivision (d), (f), or (g).

(f) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(ii) A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).

(iii) A misdemeanor under part 74 unless otherwise provided under subdivision (g).

(g) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(i) A misdemeanor under part 74 if the individual, at the time of conviction, is under the age of 18.

(ii) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(h) Is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(i) Engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency under an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) Except as otherwise provided in this subsection or subsection (5), a covered facility shall not employ, independently contract with, or grant privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the covered facility until the covered facility or staffing agency has a criminal history check conducted in compliance with this section or has received criminal history record information in compliance with subsections (3) and (10). This subsection and subsection (1) do not apply to any of the following:

(a) An individual who is employed by, under independent contract to, or granted clinical privileges in a covered facility before April 1, 2006. On or before April 1, 2011, an individual who is exempt under this subdivision and who has not been the subject of a criminal history check conducted in compliance with this section shall provide the department of state police with a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (13). An individual who is exempt under this subdivision is not limited to working within the covered facility with which he or she is employed by, under independent contract to, or granted clinical privileges on April 1, 2006 but may transfer to another covered facility, adult foster care facility, or mental health facility. If an individual who is exempt under this subdivision is subsequently convicted of a crime described under subsection (1)(a) to (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under 42 USC 1320a-7(a), then he or she is no longer exempt and shall be terminated from employment or denied employment or clinical privileges.

(b) An individual who is under an independent contract with a covered facility if he or she is not under the facility's control and the services for which he or she is contracted are not directly related to the provision of services to a patient or resident or if the services for which he or she is contracted allow for direct access to the patients or residents but are not performed on an ongoing basis. This exception includes, but is not limited to, an individual who is under an independent contract with the covered facility to provide utility, maintenance, construction, or communications services.

(3) An individual who applies for employment either as an employee or as an independent contractor or for clinical privileges with a staffing agency or covered facility and who has not been the subject of a criminal history check conducted in compliance with this section shall give written consent at the time of application for the department of state police to conduct a criminal history check under this section, along with identification acceptable to the department of state police. If the applicant has been the subject of a criminal history check conducted in compliance with this section, the applicant shall give written consent at the time of application for the covered facility or staffing agency to obtain the criminal history record information as prescribed in subsection (4) from the relevant licensing or regulatory department and for the department of state police to conduct a criminal history check under this section if the requirements of subsection (10) are not met and a request to the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the applicant is necessary, along with identification acceptable to the department of state police. Upon receipt of the written consent to obtain the criminal history record information and identification required under this subsection, the staffing agency or covered facility that has made a good faith offer of employment or an independent contract or clinical privileges to the applicant shall request the criminal history record information from the relevant licensing or regulatory department and shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries in the manner required in subsection (4). If the requirements of subsection (10) are not met and a request to the Federal Bureau of Investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is necessary, the covered facility or staffing agency shall proceed in the manner required in subsection (4). A staffing agency that employs an individual who regularly has direct access to or provides direct services to patients or residents under an independent contract with a covered facility shall submit information regarding the criminal history check conducted by the staffing agency to the covered facility that has made a good faith offer of independent contract to that applicant.

(4) Upon receipt of the written consent to conduct a criminal history check and identification required under subsection (3), a staffing agency or covered facility that has made a good faith offer of employment or an

independent contract or clinical privileges to the applicant shall make a request to the department of state police to conduct a criminal history check on the applicant, to input the applicant's fingerprints into the automated fingerprint identification system database, and to forward the applicant's fingerprints to the Federal Bureau of Investigation. The department of state police shall request the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The applicant shall provide the department of state police with a set of fingerprints. The request shall be made in a manner prescribed by the department of state police. The staffing agency or covered facility shall make the written consent and identification available to the department of state police. The staffing agency or covered facility shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries established according to federal and state law and regulations for any substantiated findings of abuse, neglect, or misappropriation of property. If the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the staffing agency or covered facility shall pay the cost of the charge. Except as otherwise provided in this subsection, if the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the department shall pay the cost of or reimburse the charge for a covered facility that is a home for the aged. After October 1, 2018, if the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the department shall pay the cost of the charge up to 40 criminal history checks per year for a covered facility that is a home for the aged with fewer than 100 beds and 50 criminal history checks per year for a home for the aged with 100 beds or more. The staffing agency or covered facility shall not seek reimbursement for a charge imposed by the department of state police or the Federal Bureau of Investigation from the individual who is the subject of the criminal history check. A prospective employee or a prospective independent contractor covered under this section may not be charged for the cost of a criminal history check required under this section. The department of state police shall conduct a criminal history check on the applicant named in the request. The department of state police shall provide the department with a written report of the criminal history check conducted under this subsection. The report shall contain any criminal history record information on the applicant maintained by the department of state police. The department of state police shall provide the results of the Federal Bureau of Investigation determination to the department within 30 days after the request is made. If the requesting staffing agency or covered facility is not a state department or agency and if criminal history record information is disclosed on the written report of the criminal history check or the Federal Bureau of Investigation determination that resulted in a conviction, the department shall notify the staffing agency or covered facility and the applicant in writing of the type of crime disclosed on the written report of the criminal history check or the Federal Bureau of Investigation determination without disclosing the details of the crime. Any charges imposed by the department of state police or the Federal Bureau of Investigation for conducting a criminal history check or making a determination under this subsection shall be paid in the manner required under this subsection. The notice shall include a statement that the applicant has a right to appeal the information relied upon by the staffing agency or covered facility in making its decision regarding his or her employment eligibility based on the criminal history check. The notice shall also include information regarding where to file and describing the appellate procedures established under section 20173b.

(5) If a covered facility determines it necessary to employ or grant clinical privileges to an applicant before receiving the results of the applicant's criminal history check or criminal history record information under this section, the covered facility may conditionally employ or grant conditional clinical privileges to the individual if all of the following apply:

- (a) The covered facility requests the criminal history check or criminal history record information under this section upon conditionally employing or conditionally granting clinical privileges to the individual.
- (b) The individual signs a statement in writing that indicates all of the following:
 - (i) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) to (g) within the applicable time period prescribed by each subdivision respectively.
 - (ii) That he or she is not the subject of an order or disposition described in subsection (1)(h).
 - (iii) That he or she has not been the subject of a substantiated finding as described in subsection (1)(i).
 - (iv) That he or she agrees that, if the information in the criminal history check conducted under this section does not confirm the individual's statements under subparagraphs (i) to (iii), his or her employment or clinical privileges will be terminated by the covered facility as required under subsection (1) unless and until the individual appeals and can prove that the information is incorrect.
 - (v) That he or she understands that the conditions described in subparagraphs (i) to (iv) may result in the termination of his or her employment or clinical privileges and that those conditions are good cause for termination.
- (c) Except as otherwise provided in this subdivision, the covered facility does not permit the individual to have regular direct access to or provide direct services to patients or residents in the covered facility without supervision until the criminal history check or criminal history record information is obtained and the individual is eligible for that employment or clinical privileges. If required under this subdivision, the covered facility shall provide on-site supervision of an individual in the covered facility on a conditional basis under this subsection by an individual who has undergone a criminal history check conducted in compliance with this section. A covered facility may permit an individual in the covered facility on a conditional basis under this subsection to have regular direct access to or

provide direct services to patients or residents in the covered facility without supervision if all of the following conditions are met:

(i) The covered facility, at its own expense and before the individual has direct access to or provides direct services to patients or residents of the covered facility, conducts a search of public records on that individual through the internet criminal history access tool maintained by the department of state police and the results of that search do not uncover any information that would indicate that the individual is not eligible to have regular direct access to or provide direct services to patients or residents under this section.

(ii) Before the individual has direct access to or provides direct services to patients or residents of the covered facility, the individual signs a statement in writing that he or she has resided in this state without interruption for at least the immediately preceding 12-month period.

(iii) If applicable, the individual provides to the department of state police a set of fingerprints on or before the expiration of 10 business days following the date the individual was conditionally employed or granted conditional clinical privileges under this subsection.

(6) The department shall develop and distribute a model form for the statements required under subsection (5)(b) and (c). The department shall make the model form available to covered facilities upon request at no charge.

(7) If an individual is employed as a conditional employee or is granted conditional clinical privileges under subsection (5), and the information under subsection (3) or report under subsection (4) does not confirm the individual's statement under subsection (5)(b)(i) to (iii), the covered facility shall terminate the individual's employment or clinical privileges as required by subsection (1).

(8) An individual who knowingly provides false information regarding his or her identity, criminal convictions, or substantiated findings on a statement described in subsection (5)(b)(i) to (iii) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(9) A staffing agency or covered facility shall use criminal history record information obtained under subsection (3) or (4) only for the purpose of evaluating an applicant's qualifications for employment, an independent contract, or clinical privileges in the position for which he or she has applied and for the purposes of subsections (5) and (7). A staffing agency or covered facility or an employee of the staffing agency or covered facility shall not disclose criminal history record information obtained under subsection (3) or (4) to a person who is not directly involved in evaluating the applicant's qualifications for employment, an independent contract, or clinical privileges. An individual who knowingly uses or disseminates the criminal history record information obtained under subsection (3) or (4) in violation of this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both. Except for a knowing or intentional release of false information, a staffing agency or covered facility has no liability in connection with a criminal history check conducted in compliance with this section or the release of criminal history record information under this subsection.

(10) Upon consent of an applicant as required in subsection (3) and upon request from a staffing agency or covered facility that has made a good faith offer of employment or an independent contract or clinical privileges to the applicant, the relevant licensing or regulatory department shall review the criminal history record information, if any, and notify the requesting staffing agency or covered facility of the information in the manner prescribed in subsection (4). Until the department of state police can participate with the Federal Bureau of Investigation's automatic notification system similar to the system required of the state police under subsection (13) and federal regulations allow the federal criminal record to be used for subsequent authorized uses, as determined in an order issued by the department, a staffing agency or covered facility may rely on the criminal history record information provided by the relevant licensing or regulatory department under this subsection and a request to the Federal Bureau of Investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 12-month period.

(b) The applicant has been continuously employed by the staffing agency or a covered facility, adult foster care facility, or mental health facility since the criminal history check was conducted in compliance with this section or meets the continuous employment requirement of this subdivision other than being on layoff status for less than 1 year from a covered facility, adult foster care facility, or mental health facility.

(c) The applicant can provide evidence acceptable to the relevant licensing or regulatory department that he or she has been a resident of this state for the immediately preceding 12-month period.

(11) As a condition of continued employment, each employee, independent contractor, or individual granted clinical privileges shall do each of the following:

(a) Agree in writing to report to the staffing agency or covered facility immediately upon being arraigned for 1 or more of the criminal offenses listed in subsection (1)(a) to (g), upon being convicted of 1 or more of the criminal offenses listed in subsection (1)(a) to (g), upon becoming the subject of an order or disposition described under subsection (1)(h), and upon being the subject of a substantiated finding of neglect, abuse, or misappropriation of property as described in subsection (1)(i). Reporting of an arraignment under this subdivision is not cause for termination or denial of employment.

(b) If a set of fingerprints is not already on file with the department of state police, provide the department of

state police with a set of fingerprints.

(12) In addition to sanctions set forth in section 20165, a licensee, owner, administrator, or operator of a staffing agency or covered facility who knowingly and willfully fails to conduct the criminal history checks as required under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.

(13) The department of state police and the Federal Bureau of Investigation shall store and retain all fingerprints submitted under this section and provide for an automatic notification if and when subsequent criminal information submitted into the system matches a set of fingerprints previously submitted under this section. Upon such notification, the department of state police shall immediately notify the department and the department shall immediately contact each respective staffing agency or covered facility with which that individual is associated. Information in the database established under this subsection is confidential, is not subject to 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.

(14) The department shall maintain an electronic web-based system to assist staffing agencies and covered facilities required to check relevant registries and conduct criminal history checks of its employees, independent contractors, and individuals granted privileges and to provide for an automated notice to those staffing agencies and covered facilities for those individuals inputted in the system who, since the initial criminal history check, have been convicted of a disqualifying offense or have been the subject of a substantiated finding of abuse, neglect, or misappropriation of property. The department may charge a staffing agency a 1-time set-up fee of up to \$100.00 for access to the electronic web-based system under this section.

(15) As used in this section:

(a) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(b) "Convicted" means either of the following:

(i) For a crime that is not a relevant crime, a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(ii) For a relevant crime described under 42 USC 1320a-7(a), convicted means that term as defined in 42 USC 1320a-7.

(c) "Covered facility" means a health facility or agency that is a nursing home, county medical care facility, hospice, hospital that provides swing bed services, home for the aged, or home health agency.

(d) "Criminal history check conducted in compliance with this section" includes a criminal history check conducted under this section, under section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, or under section 34b of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b.

(e) "Direct access" means access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information.

(f) "Home health agency" means a person certified by Medicare whose business is to provide to individuals in their places of residence other than in a hospital, nursing home, or county medical care facility 1 or more of the following services: nursing services, therapeutic services, social work services, homemaker services, home health aide services, or other related services.

(g) "Independent contract" means a contract entered into by a covered facility with an individual who provides the contracted services independently or a contract entered into by a covered facility with a staffing agency that complies with the requirements of this section to provide the contracted services to the covered facility on behalf of the staffing agency.

(h) "Medicare" means benefits under the federal Medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395III.

(i) "Mental health facility" means a psychiatric facility or other facility defined in 42 USC 1396d(d) as described under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(j) "Staffing agency" means an entity that recruits candidates and provides temporary and permanent qualified staffing for covered facilities, including independent contractors.

(k) "Under the facility's control" means an individual employed by or under independent contract with a covered facility for whom the covered facility does both of the following:

(i) Determines whether the individual who has access to patients or residents may provide care, treatment, or other similar support service functions to patients or residents served by the covered facility.

(ii) Directs or oversees 1 or more of the following:

(A) The policy or procedures the individual must follow in performing his or her duties.

(B) The tasks performed by the individual.

(C) The individual's work schedule.

(D) The supervision or evaluation of the individual's work or job performance, including imposing discipline or granting performance awards.

- (E) The compensation the individual receives for performing his or her duties.
- (F) The conditions under which the individual performs his or her duties.

History: Add. 2006, Act 28, Eff. Apr. 1, 2006 ;-- Am. 2008, Act 123, Imd. Eff. May 9, 2008 ;-- Am. 2008, Act 443, Imd. Eff. Jan. 9, 2009 ;-- Am. 2008, Act 444, Eff. Oct. 31, 2010 ;-- Am. 2010, Act 291, Imd. Eff. Dec. 16, 2010 ;-- Am. 2014, Act 66, Imd. Eff. Mar. 28, 2014 ;-- Am. 2017, Act 167, Eff. Feb. 11, 2018

Compiler's Notes: Enacting section 1 of Act 28 of 2006 provides: "Enacting section 1. (1) Section 20173 of the public health code, 1978 PA 368, MCL 333.20173, is repealed effective April 1, 2006." (2) Section 20173a of the public health code, 1978 PA 368, MCL 333.20173a, as added by this amendatory act, takes effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state. The department shall issue a medicaid policy bulletin regarding the payment and reimbursement for the criminal history checks by April 1, 2006." (3) Section 20173b of the public health code, 1978 PA 368, MCL 333.20173b, as added by this amendatory act, takes effect the date this amendatory act is enacted."

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.21313 Owner, operator, and governing body of home for aged; responsibilities and duties; good moral character; issuance of license by department; criminal history check and criminal records check required; renewal of license; storage of fingerprints in automated fingerprint identification system database; convictions.

Sec. 21313.

(1) The owner, operator, and governing body of a home for the aged are responsible for all phases of the operation of the home and shall assure that the home maintains an organized program to provide room and board, protection, supervision, assistance, and supervised personal care for its residents.

(2) The owner, operator, and governing body shall assure the availability of emergency medical care required by a resident.

(3) The owner, operator, or member of the governing body of a home for the aged and the authorized representative shall be of good moral character.

(4) The department of human services shall not issue a license to or renew the license of an owner, operator, or member of the governing body, who has regular direct access to residents or who has on-site facility operational responsibilities, or an applicant, if an individual or the authorized representative, if any of those individuals have been convicted of 1 or more of the following:

(a) A felony under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(b) A misdemeanor under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, within the 10 years immediately preceding the application.

(c) A misdemeanor involving abuse, neglect, assault, battery, or criminal sexual conduct or involving fraud or theft against a vulnerable adult as that term is defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or federal crime that is substantially similar to a misdemeanor described in this subdivision within the 10 years immediately preceding the application.

(5) The applicant for a license for a home for the aged, if an individual, shall give written consent at the time of license application and the authorized representative shall give written consent at the time of appointment, for the department of state police to conduct both of the following:

(a) A criminal history check.

(b) A criminal records check through the federal bureau of investigation.

(6) Unless already submitted under subsection (5), an owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities for a home for the aged shall give written consent at the time of license application for the department of state police to conduct both of the following:

(a) A criminal history check.

(b) A criminal records check through the federal bureau of investigation.

(7) The department of human services shall require the applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsections (5) and (6).

(8) Not later than 1 year after the effective date of the 2012 amendatory act that amended this subsection, all

owners, operators, and members of the governing body of homes for the aged who have regular direct access to residents or who have on-site facility operational responsibilities and all authorized representatives shall comply with the requirements of this section.

(9) The department of human services shall request a criminal history check and criminal records check in the manner prescribed by the department of state police. The department of state police shall conduct the criminal history check and provide a report of the results to the licensing or regulatory bureau of the department of human services. The report shall contain any criminal history information on the person maintained by the department of state police and the results of the criminal records check from the federal bureau of investigation. The department of state police may charge the person on whom the criminal history check and criminal records check are performed under this section a fee for the checks required under this section that does not exceed the actual cost and reasonable cost of conducting the checks.

(10) Beginning the effective date of the 2012 amendatory act that added this subsection, if an applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities applies for a license or to renew a license to operate a home for the aged and previously underwent a criminal history check and criminal records check required under subsection (5) or (6) or under section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, and has remained continuously licensed or continuously employed under section 20173a or under section 34b of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b, after the criminal history check and criminal records check have been performed, the applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities is not required to submit to another criminal history check or criminal records check upon renewal of the license obtained under this section.

(11) 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. At the time of that notification, the department of state police shall immediately notify the department of human services. The department of human services shall take the appropriate action upon notification by the department of state police under this subsection.

(12) An applicant, owner, operator, member of a governing body, or authorized representative of a home for the aged shall not be present in a home for the aged if he or she has been convicted of either of the following:

- (a) Vulnerable adult abuse, neglect, or financial exploitation.
- (b) A listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2010, Act 381, Imd. Eff. Dec. 22, 2010 ;-- Am. 2012, Act 51, Imd. Eff. Mar. 13, 2012
Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.21401 Definitions; principles of construction.

Sec. 21401.

(1) As used in this part:

(a) "Home care" means a level of care provided to a patient that is consistent with the categories "routine home care" or "continuous home care" described in 42 C.F.R. 418.302(b)(1) and (2).

(b) "Hospice residence" means a facility that meets all of the following:

(i) Provides 24-hour hospice care to 2 or more patients at a single location.

(ii) Either provides inpatient care directly in compliance with this article and with the standards set forth in 42 C.F.R. 418.100 or provides home care as described in this article.

(iii) Is owned, operated, and governed by a hospice program that is licensed under this article and provides aggregate days of patient care on a biennial basis to not less than 51% of its hospice patients in their own homes. As used in this subparagraph, "home" does not include a residence established by a patient in a health facility or agency licensed under this article or a residence established by a patient in an adult foster care facility licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws.

(c) "Inpatient care" means a level of care provided to a patient that is consistent with the categories "inpatient respite care day" and "general inpatient care day" described in 42 C.F.R. 418.302(b)(3) and (4).

(2) Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

History: Add. 1980, Act 293, Eff. Mar. 31, 1981 ;-- Am. 1996, Act 267, Imd. Eff. June 12, 1996

Compiler's Notes: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health 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 the bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular Name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.21418 Controlled substance disposal policy; requirements; rules; definitions.

Sec. 21418.

(1) Beginning 90 days after the department promulgates rules to implement this section, a hospice or hospice residence that provides services in a patient's private home shall establish and implement a written controlled substance disposal policy establishing procedures to be followed to mitigate the diversion of controlled substances that are prescribed to the patient. The policy must include all of the following:

(a) A procedure for offering to assist with the disposal of a controlled substance that is prescribed to a patient as part of the patient's hospice plan of care.

(b) A requirement that an employee provide the patient or the patient's family education on safe disposal locations for a controlled substance and techniques for the safe disposal of a controlled substance when the controlled substance is no longer needed by the patient or at the time of death.

(c) Procedures for offering assistance with the disposal of a controlled substance to a patient who revokes hospice care and services.

(d) A requirement that an employee document whether the patient or the patient's family accepted or refused an offer to assist with the disposal of a controlled substance when the controlled substance is no longer needed by the patient or at the time of death.

(e) A requirement that if an employee assists with the disposal of a controlled substance, the disposal is performed and witnessed in any of the following ways:

(i) Performed by the employee and witnessed by another competent adult.

(ii) Performed by the patient or the patient's family and witnessed by another competent adult.

(f) A requirement that if an employee assists with the disposal of a controlled substance, the disposal must be performed in the patient's private home.

(2) A hospice or hospice residence that provides services in a patient's private home shall ensure that all of the following are met within 5 days of admission to the hospice or hospice residence and providing hospice care or services to the patient in the patient's private home:

(a) That a copy of the controlled substance disposal policy established under subsection (1) is distributed to the patient or the patient's family and that an offer to discuss the procedures included in the policy is made to the patient and the patient's family.

(b) That the patient and the patient's family are informed that an employee will offer to assist with the disposal of a controlled substance that is included in the patient's hospice plan of care at the time of death or when the controlled substance is no longer needed by the patient.

(3) The department shall promulgate rules to implement this section, including, but not limited to, rules governing the safe disposal of controlled substances in a patient's private home.

(4) As used in this section:

(a) "At the time of death" means within 72 hours after the patient's death.

(b) "Employee" means a registered professional nurse or licensed practical nurse who is employed by the hospice or hospice residence.

(c) "Licensed practical nurse" means an individual who is licensed to engage in the practice of nursing as a licensed practical nurse under article 15.

(d) "Patient's family" means a relative or caregiver who has been designated by the patient.

(e) "Patient's private home" means a patient's home. As used in this subdivision, "home" does not include a residence established by a patient in a health facility or agency or a residence established by a patient in an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to

400.737.

(f) "Registered professional nurse" means that term as defined in section 17201.

History: Add. 2018, Act 396, Eff. Mar. 19, 2019

Popular Name: Act 368

HOUSING-WITH-SERVICES CONTRACT ACT (EXCERPT) **Act 424 of 2002**

333.26502 Definitions.

Sec. 2.

As used in this act:

(a) "Health-related services" means 1 or more of the following:

(i) Nursing services.

(ii) Nursing services delegated to aides or personal care services including, but not limited to, escort services, reminders, and standby assistance related to dressing or grooming.

(iii) Home aide care tasks.

(b) "Housing-with-services establishment" means an establishment regularly providing or offering to provide leased private unit residences accommodating 1 or more adults, and providing or offering to provide for a fee either 1 or more regularly scheduled health-related services or 2 or more regularly scheduled supportive services, whether offered directly by the establishment or by another person by arrangement of the establishment. Housing-with-services establishment does not include an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or a health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) "Resident" means an individual leasing and residing in a housing-with-services establishment.

(d) "Supportive services" means helping with personal laundry, arranging for medical services, health-related services, social services, or transportation to medical or social services appointments, or providing for at least 1 individual awake and alert in the housing-with-services establishment to contact a service provider in an emergency. Supportive services do not include making referrals or assisting a resident in contacting a service provider of the resident's choice.

History: 2002, Act 424, Imd. Eff. June 5, 2002

HOUSING-WITH-SERVICES CONTRACT ACT (EXCERPT) **Act 424 of 2002**

333.26507 Licensure requirements of adult foster care facility licensing act or article 17 of public health code not limited.

Sec. 7.

Nothing in this act limits a facility's responsibilities or obligations to be licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

History: 2002, Act 424, Imd. Eff. June 5, 2002

OCCUPATIONAL LICENSE FOR FORMER OFFENDERS (EXCERPT) **Act 381 of 1974**

338.41 Definitions.

Sec. 1.

(1) The phrase "good moral character", when used as a requirement for an occupational or professional license or when used as a requirement to establish or operate an organization or facility regulated by this state in a statute of this state or administrative rules promulgated under a statute of this state, means the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.

(2) As used in this act:

(a) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law as a felony.

(b) "License" includes a registration.

(c) "Licensing board or agency" means a principal department, or a board or agency within a principal department, that issues occupational or professional licenses.

(d) "Principal department" means a department that has jurisdiction over a licensing board or agency.

History: 1974, Act 381, Eff. Apr. 1, 1975 ;-- Am. 1978, Act 294, Imd. Eff. July 10, 1978 ;-- Am. 2020, Act 368, Eff. Apr. 4, 2021

Compiler's Notes: For transfer of powers and duties of adult foster care 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 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. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

OCCUPATIONAL LICENSE FOR FORMER OFFENDERS (EXCERPT)
Act 381 of 1974

338.42 Judgments in civil actions and criminal convictions as evidence in determining good moral character; consideration of certificate of employability; rebuttal.

Sec. 2.

(1) A licensing board or agency may only consider judgments in civil actions entered against an individual as evidence of his or her lack of good moral character if more than 1 judgment in a civil action has been entered against him or her.

(2) A licensing board or agency shall not consider an individual's criminal conviction, in and of itself, as conclusive proof of his or her lack of good moral character. Except as provided in subsection (3), a licensing board or agency may only consider an individual's criminal conviction as evidence in the determination of his or her good moral character if the licensing board or agency finds that the individual's criminal record includes a conviction for a felony and any of the following apply to that felony:

(a) The licensing board or agency concludes that the specific offense for which the individual was convicted has a direct and specific relationship to the activities authorized by the occupational or professional license.

(b) The specific offense for which the individual was convicted involves a demonstrable risk to the public safety.

(c) The individual, based on the nature of the offense for which he or she was convicted and on any additional information provided by the licensee under subsection (4), is more likely to commit a subsequent offense because he or she has the occupational or professional license than if he or she does not have the occupational or professional license.

(d) A subsequent offense committed with the aid of the occupational or professional license will cause greater harm to the public than it would if the individual did not have the occupational or professional license.

(3) A licensing board or agency shall not consider an individual's criminal conviction, in and of itself, as conclusive proof of his or her lack of good moral character, but may use an individual's criminal conviction as evidence in the determination of his or her good moral character without meeting the requirements of subsection (2) if the licensing board or agency is 1 of the following:

(a) A principal department, or a board or agency within a principal department, to the extent that department, board, or agency is responsible for the licensing and regulation of any of the following:

(i) Child care organizations under 1973 PA 116, MCL 722.111 to 722.128.

(ii) Homes for the aged or nursing homes under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(iii) Adult foster care facilities under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to

400.737.

(b) The Michigan commission on law enforcement standards created in section 3 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.603.

(c) The board of law examiners created in section 922 of the revised judicature act of 1961, 1961 PA 236, MCL 600.922.

(4) A licensing board or agency shall also consider an individual's certificate of employability, if any, under section 34d of the corrections code of 1953, 1953 PA 232, MCL 791.234d, and any additional information about his or her current circumstances, such as how long ago the offense occurred, whether he or she completed the sentence for the offense, other evidence of rehabilitation, testimonials, employment history, and employment aspirations as evidence in the determination of an individual's good moral character under subsection (2) or (3).

(5) If a judgment in a civil action is used under subsection (1) or a criminal conviction is used under subsection (2) or (3) as evidence of an individual's lack of good moral character, the licensing board or agency shall notify the individual and he or she is permitted to rebut the evidence by showing that at the current time he or she has the ability to, and is likely to, serve the public in a fair, honest, and open manner, that he or she is rehabilitated, or that the criteria under subsection (1), (2), or (3) have not been met.

History: 1974, Act 381, Eff. Apr. 1, 1975 ;-- Am. 1978, Act 294, Imd. Eff. July 10, 1978 ;-- Am. 2014, Act 361, Eff. Jan. 1, 2015 ;-- Am. 2020, Act 368, Eff. Apr. 4, 2021

Compiler's Notes: 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. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

OCCUPATIONAL LICENSE FOR FORMER OFFENDERS (EXCERPT)

Act 381 of 1974

338.43 Using, examining, or requesting certain criminal records prohibited; prerequisites for furnishing criminal records; rules.

Sec. 3.

(1) A licensing board or agency shall not use, examine, or request any of the following criminal records in making a determination of good moral character for use as a requirement to establish or operate an organization or facility regulated by this state or for purposes of occupational or professional licensure:

(a) Records of an arrest that is not followed by a conviction.

(b) Records of a conviction that has been reversed or vacated, including the arrest records relevant to that conviction.

(c) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the individual's likelihood to serve the public in a fair, honest, and open manner.

(d) Records of an arrest or conviction for a misdemeanor for the conviction of which an individual may not be incarcerated in a jail or prison.

(2) A criminal record shall not be furnished to a licensing board or agency except by the principal department, and shall be furnished only after the director of the principal department or an individual designated by the director has determined that the information to be provided to the board or agency meets the criteria set forth in this section.

(3) The director or an individual designated by the director of the principal department shall promulgate rules for each licensing board or agency under that department's jurisdiction that prescribe the offenses or categories of offenses that the department considers indicate an individual is not likely to serve the public as a licensee or registrant in a fair, honest, and open manner. Each licensing board or agency may make recommendations to the director regarding the rules described in this subsection. The rules must be consistent with this act and promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Before the promulgation of the rules pertaining to a licensing board or agency, a licensing board or agency shall consider all felonies to be relevant to the ability or likelihood that an individual will serve the public in a fair, honest, and open manner.

History: 1974, Act 381, Eff. Apr. 1, 1975 ;-- Am. 1978, Act 294, Imd. Eff. July 10, 1978 ;-- Am. 2020, Act 368, Eff. Apr. 4, 2021
Compiler's Notes: 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. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

OCCUPATIONAL LICENSE FOR FORMER OFFENDERS (EXCERPT)

Act 381 of 1974

338.44 Use of public records or other sources to determine person's fitness.

Sec. 4.

This act does not prohibit the use by a licensing board or agency in its determination of an individual's good moral character of any other public record that is not related to his or her arrest, prosecution, or conviction or the use of any other source of unbiased and accurate information.

History: 1974, Act 381, Eff. Apr. 1, 1975 ;-- Am. 1978, Act 294, Imd. Eff. July 10, 1978 ;-- Am. 2020, Act 368, Eff. Apr. 4, 2021
Compiler's Notes: 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. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

OCCUPATIONAL LICENSE FOR FORMER OFFENDERS (EXCERPT)

Act 381 of 1974

338.45 Finding person ineligible; statement; rehearing.

Sec. 5.

If a licensing board or agency determines that an individual is not eligible for a license because of a lack of good moral character, the licensing board or agency shall provide the individual with a statement to this effect. The statement shall contain a complete record of the evidence on which the determination was based. A licensing board or agency must provide an individual described in this section an opportunity for a rehearing on the issue before the licensing board or agency if he or she has relevant evidence regarding his or her qualifications that was not previously considered.

History: 1974, Act 381, Eff. Apr. 1, 1975 ;-- Am. 1978, Act 294, Imd. Eff. July 10, 1978 ;-- Am. 2020, Act 368, Eff. Apr. 4, 2021
Compiler's Notes: 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. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

OCCUPATIONAL LICENSE FOR FORMER OFFENDERS (EXCERPT)

Act 381 of 1974

338.46 Judicial review; statement; order.

Sec. 6.

An individual who is aggrieved by a licensing board or agency regarding his or her good moral character, if unsatisfied by his or her administrative remedy under section 5, may bring an action in circuit court for a review of the record. If, in the opinion of the circuit court, the record does not disclose a lack of good moral character, as determined under this act, the court shall order the licensing board or agency to issue the license when the individual meets all other licensing requirements.

History: 1974, Act 381, Eff. Apr. 1, 1975 ;-- Am. 1978, Act 294, Imd. Eff. July 10, 1978 ;-- Am. 2020, Act 368, Eff. Apr. 4, 2021

Compiler's Notes: 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. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

OCCUPATIONAL LICENSE FOR FORMER OFFENDERS (EXCERPT)
Act 381 of 1974

338.47 Power to discipline licensees not affected.

Sec. 7.

This act does not affect the power of a licensing board or agency to discipline licensees under its jurisdiction for prohibited acts of professional misconduct or dishonesty.

History: 1974, Act 381, Eff. Apr. 1, 1975 ;-- Am. 2020, Act 368, Eff. Apr. 4, 2021

Compiler's Notes: 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. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

339.1217 Prohibited conduct; penalties.

Sec. 1217.

A licensee that commits or has committed 1 or more of the following is subject to the penalties set forth in article 6:

- (a) Continued practice by an individual who knows he or she has an infectious or contagious disease.
- (b) Except as otherwise provided in this subdivision, practicing cosmetology on the public outside of the premises of a licensed cosmetology establishment or school of cosmetology. A licensed cosmetologist may perform cosmetology services for a patron at a location that is not on the premises of a licensed cosmetology establishment if the services are performed at any of the following:
 - (i) A special event in which the cosmetology service is required to be performed for an on-site participant of the event.
 - (ii) A nursing home, as that term is defined in section 20109 of the public health code, 1978 PA 368, MCL 333.20109, for a patient or resident of that home.
 - (iii) A home for the aged, as that term is defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, for a patient or resident of that home.
 - (iv) An adult foster care facility, as that term is defined in section 3 of the adult foster care facility licensing act,

1979 PA 218, MCL 400.703, for a patient or resident of that facility.

(v) A hospital, as that term is defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, for a patient of that hospital.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997 ;-- Am. 2020, Act 20, Eff. Apr. 26, 2020

Popular Name: Act 299

OCCUPATIONAL CODE (EXCERPT)

Act 299 of 1980

339.2012 Persons exempted.

Sec. 2012.

(1) The following persons are exempt from the requirements of this article:

(a) A professional engineer employed by a railroad or other interstate corporation, whose employment and practice is confined to the property of the corporation.

(b) A designer of a manufactured product, if the manufacturer of the product assumes responsibility for the quality of the product.

(c) An owner doing architectural, engineering, or surveying work upon or in connection with the construction of a building on the owner's property for the owner's own use to which employees and the public are not generally to have access.

(d) A person not licensed under this article who is planning, designing, or directing the construction of a detached 1- and 2-family residence building not exceeding 3,500 square feet in calculated floor area. For purposes of this subdivision, detached 1- and 2-family residence building does not include an adult foster care home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(e) A person who is licensed to engage in the practice of architecture, professional engineering, or professional surveying in another state while temporarily in this state to present a proposal for services.

(2) As used in this section:

(a) "Calculated floor area" means that portion of the total gross area measured to the outside surfaces of exterior walls intended to be habitable space.

(b) "Habitable space" means space in a building used for living, sleeping, eating, or cooking. Habitable space does not include a heater or utility room, a crawl space, a basement, an attic, a garage, an open porch, a balcony, a terrace, a court, a deck, a bathroom, a toilet room, a closet, a hallway, a storage space, and other similar spaces not used for living, sleeping, eating, or cooking.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980 ;-- Am. 1992, Act 103, Eff. Sept. 1, 1992 ;-- Am. 2002, Act 495, Imd. Eff. July 3, 2002

Popular Name: Act 299

THE REVISED SCHOOL CODE (EXCERPT)

Act 451 of 1976

380.1148 Residence of child placed in licensed home or home of relatives; admission to school; child placed in foster care; enrollment and attendance of child regardless of residence; transfer to another school.

Sec. 1148.

(1) Except as provided in section 1711 and subsection (2), a child whose parents or legal guardians are unable to provide a home for the child and who is placed in a licensed home or in a home of relatives in the school district for the purpose of securing a suitable home for the child and not for an educational purpose shall be considered a resident for education purposes of the school district where the home in which the child is living is located. The child shall be admitted to the school in the district.

(2) If a child who is under court jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is placed in foster care, a school district shall allow the child to enroll in and attend the

appropriate grade in the school selected by the department of human services or a child placing agency without regard to whether or not the child is residing in that school district. If the selection results in a child transferring to another school, the child's school records shall be transferred as provided under section 1135.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;-- Am. 2009, Act 186, Imd. Eff. Dec. 17, 2009

Popular Name: Act 451

CONSTRUCTION OF SCHOOL BUILDINGS (EXCERPT)

Act 306 of 1937

388.853 Inspection by bureau of fire services; notice; exception.

Sec. 3.

(1) Except as provided in subsection (2), the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall inspect a school building to determine whether its construction complies with this act. The bureau of fire services shall inspect each building at least twice during construction, once to inspect the framework of the building before plastering and once on the completion of the building. The person supervising construction of the school building shall notify the bureau of fire services when the building is ready for inspection. In making an inspection under this subsection, the bureau of fire services has the powers set forth in the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(2) The bureau of fire services is not required to inspect or make a determination of fire safety in an existing school building in relation to operation, maintenance, remodeling, or repairs, or to inspect a school building to determine whether its construction complies with this act, if the school building is located in a municipality where both the school board and the governing body of the municipality have certified to the superintendent of public instruction, in a manner prescribed by the superintendent, that the fire safety inspections and fire safety measures for the schools located in the municipality are provided for by a municipal code or ordinance administered and enforced by a full-time fire prevention and safety department, division, or bureau maintained by the municipality and are satisfactory to both the school board and the governing body. Either the school board or the governing body may rescind the certification. A certification under this subsection shall not be submitted to or accepted by the superintendent of public instruction unless the municipality has received from the bureau of fire services written attestation that the municipality has an ordinance or code for fire protection in schools equal to the minimum state requirements and has a full-time fire prevention inspection service with a qualified program of school plan review and inspection. The state fire safety board shall hear and decide an appeal from a decision made under this section as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After a hearing, the board, acting in accordance with its statutory authority and provisions, may vary the application of any school fire safety rule or may modify the ruling or interpretation of the municipal enforcing authority if the board decides that the enforcement would do manifest injustice and would be contrary to the public interest. A decision of the board to vary the application of any fire safety rule, or to modify or change a ruling of the municipal enforcing authority, shall specify in what manner the variation, modification, or change is made, the conditions upon which it is made, and the reasons for the variation, modification, or change.

History: 1937, Act 306, Imd. Eff. July 23, 1937 ;-- Am. 1941, Act 148, Eff. Jan. 10, 1942 ;-- CL 1948, 388.853 ;-- Am. 1949, Act 231, Imd. Eff. May 31, 1949 ;-- Am. 1962, Act 175, Imd. Eff. May 17, 1962 ;-- Am. 1968, Act 239, Eff. Sept. 1, 1968 ;-- Am. 2006, Act 199, Imd. Eff. June 19, 2006

Compiler's Notes: For transfer of powers and duties of the fire marshal division programs relating to plan review and construction inspections of schools, colleges, universities, school dormitories, as well as adult foster care, correctional, and health care facilities, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 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.

EXECUTIVE REORGANIZATION ORDER (EXCERPT)

E.R.O. No. 2023-2

388.1283 Creation of Michigan department of lifelong education, advancement, and potential (MiLEAP); creation of the office of early childhood education, office of higher education, and office of education

partnerships within MiLEAP; transfer of the powers and duties of the Michigan office of great start by type III, and the governor's educator advisory council and the Michigan PreK-12 literacy commission from the department of education to MiLEAP by type II.

Every Michigander deserves a path to prosperity. They deserve to explore, learn, grow, and develop the skills they need to thrive. That's why I am focused on building a bright future for Michigan by making strategic decisions and investments now for the long-term.

For too long, Michigan has fallen behind other states and countries when it comes to student achievement and attainment, impacting the state's workforce and economic growth. We know that today, more than ever, building a skilled workforce is not a matter of a single certificate, course, or credential. It's a generational project that will require a shared vision, effective decision-making, and strategic resource allocation to ensure that each and every person has the best opportunity to thrive.

In other words—we must support lifelong education, achievement, and potential. Consolidating various programs from across state government into a single department will enhance our ability to create a path to prosperity for every Michigander and support the long-term economic health of our state with a coordinated strategy.

Establishing the Michigan Department of Lifelong Education, Advancement, and Potential, or MiLEAP, ensures all available resources, data, and dollars are aligned around a single vision—building an education system from preschool through postsecondary that can support our kids, families, and the economy of the future by ensuring anyone can make it in Michigan. MiLEAP will achieve this goal by establishing clear metrics, collaborating with cross-sector leaders at the local, regional, and state level, and developing a shared action plan for everyone to work toward.

The new department will partner with the Department of Education and the State Board of Education, complementing their existing long-term planning efforts. MiLEAP will also work with the recently launched Growing Michigan Together Council as it looks at ways to strengthen preschool to postsecondary learning while growing the state's economy and population.

With bold goals, a united vision, a shared action plan, the capacity to deliver, and clear metrics, MiLEAP can build a brighter future for Michigan from preschool to postsecondary to paycheck.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

Section 2 of article 5 of the Michigan Constitution of 1963 empowers the governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the governor considers necessary for efficient administration.

Acting pursuant to the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Creation of the Michigan Department of Lifelong Education, Advancement, and Potential

(a) The Michigan Department of Lifelong Education, Advancement, and Potential ("MiLEAP") is created as a principal department within the executive branch. MiLEAP will establish and implement a statewide vision for life-long education from preschool to postsecondary. Its responsibilities include expanding equitable access to quality, affordable programs and services and improving outcomes for all Michiganders in early learning and care and higher education. It is also charged with building partnerships beyond the classroom to improve student learning and coordinating among state departments and agencies to achieve the best outcomes for Michiganders.

(b) MiLEAP will be led by a Director ("Director"), who will be appointed by the Governor. The Director will be a member of the Governor's cabinet.

(c) Office of Early Childhood Education

(1) The Office of Early Childhood Education is created within MiLEAP. The Office of Early Childhood Education will lead statewide efforts to ensure that all young children meet their developmental milestones and enter kindergarten with the tools and ability to succeed in school. This includes overseeing programs and policies statewide related to early learning and care, family engagement and education, pre-kindergarten, and child care. The Office will collaborate with the Department of Health and Human Services and the Department of Education to coordinate services and supports for young children and families.

(d) Office of Higher Education

(1) The Office of Higher Education is created within MiLEAP. The Office of Higher Education will lead statewide efforts to ensure that every Michigander has the skill certificate or degree they need to prosper, and employers can hire the talent they need to succeed. The Office will lead administration of state student financial aid to lower the cost of college and assist prospective students in making decisions about postsecondary education. In collaboration with elected and appointed governing boards of higher education, the boards of public community and junior colleges, the boards of private not-for-profit colleges and universities, statewide postsecondary education associations, and other key stakeholders, the Office of Higher Education will work to increase college enrollment, graduation, and attainment rates to put more Michiganders on a path to prosperity. The Office of Higher Education will collaborate with the Department of Labor and Economic Opportunity, the Department of Treasury, and the Michigan Economic Development Corporation to coordinate services and supports for workforce development.

(e) Office of Education Partnerships

(1) The Office of Education Partnerships is created within MiLEAP. The Office of Education Partnerships will lead statewide efforts to build and sustain partnerships that enhance educational opportunities and outcomes throughout the state from preschool through postsecondary education. The Office will lead authentic stakeholder engagement to broaden the perspectives represented in decision-making, including by providing staffing and support to commissions appointed by the Governor. The Office will expand access to programs that extend learning beyond the classroom, including before school, after school, summer programming, and employer-partnerships. The Office of Education Partnerships will collaborate with other departments and entities, as needed, to achieve these goals, including the Department of Education, the Community Service Commission, and the Office of Foundation Liaison.

2. Transfers from the Department of Education

(a) Michigan Office of Great Start

(1) The Michigan Office of Great Start, created by Executive Order 2011-8, MCL 388.1281, within the Michigan Department of Education, is transferred to MiLEAP by Type III transfer. The transfer includes the civil service personnel and the programs, records, property, and allocations or other funds of the Office of Great Start, except any policy-making authority retained by the State Board of Education.

(2) All the authorities, powers, duties, functions, and responsibilities vested in the Michigan Office of Great Start, created by Executive Order 2011-8, MCL 388.1281, are transferred by Type III transfer to MiLEAP. This transfer includes the Child Development and Care Program, the Head Start State Collaboration Office, and Early Intervention & Early Childhood Special Education, transferred from the Department of Human Services to the Michigan Department of Education under Executive Order 2011-8, as well as the Great Start Readiness Program, the Great Start Collaboratives and Parent Coalitions & Home Visitation, Out of School Time & Summer Learning programs, and the Preschool Development Grant Birth through Five.

(b) Governor's Educator Advisory Council

(1) The Governor's Educator Advisory Council, created by Executive Order 2019-9 within the Michigan Department of Education, is transferred to MiLEAP by Type II transfer.

(c) Michigan PreK-12 Literacy Commission

(1) The Michigan PreK-12 Literacy Commission, created by Executive Order 2016-18 within the Michigan Department of Education, is transferred to MiLEAP by Type II transfer.

3. Transfers from the Department of Labor and Economic Opportunity

(a) Office of Sixty by 30

(1) Responsibility for Michigan's Sixty by 30 initiative is hereby transferred to MiLEAP. The transfer includes the civil service personnel and the programs, records, property, and allocations or other funds of the Sixty by 30 initiative.

(2) Responsibility for the Michigan Reconnect program is hereby transferred to MiLEAP. The transfer includes the civil service personnel and the programs, records, property, and allocations or other funds of the Michigan

Reconnect program.

(3) Responsibility for the Future for Frontliners program is hereby transferred to MiLEAP. The transfer includes the civil service personnel and the programs, records, property, and allocations or other funds of the Future for Frontliners program.

(b) Tri-Share Child Care Program

(1) All authority, powers, duties, functions, and responsibilities related to the administration of the child care facilitator pilot project, also known as the Tri-Share Child Care Program, established pursuant to 2020 PA 166, are hereby transferred to MiLEAP.

4. Transfers from the Department of Licensing and Regulatory Affairs

(a) Child Care Licensing Bureau and Bureau of Community and Health Systems

(1) All authority, powers, duties, functions, and responsibilities of the Department of Licensing and Regulatory Affairs related to child care, including those outlined in XIII(A) of Executive Order 2015-01, MCL 400.227, are hereby transferred to MiLEAP. This transfer includes licensing and regulation of children's camps, child care centers, day care centers, family child care homes, and group child care homes under 1973 PA 116, MCL 722.111 et seq. The transfer includes the civil service personnel and the programs, records, property, and allocations or other funds.

(2) The transfer does not include any authority, powers, duties, functions, and responsibilities related to foster care, including children's therapeutic group homes, foster family homes, and foster family group homes, as defined in under MCL 722.111, the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122.

5. Transfers from the Department of Treasury

(a) Scholarship Administration

(1) Responsibility for administration of all scholarships located within the Office of Postsecondary Financial Planning, also known as MI Student Aid, and all the authority, powers, duties, functions, and responsibilities of the Office of Postsecondary Financial Planning related to the scholarships are hereby transferred from the Department of Treasury to the Director of MiLEAP. This transfer includes responsibility for the following:

- i. Public Act 208 of 1964, MCL 390.971 to 390.981 (State Competitive Scholarships);
 - ii. Public Act 313 of 1966, MCL 390.991 to 390.999 (Tuition Grants);
 - iii. Public Act 591 of 2002, MCL 390.1181 to 390.1189 (Michigan Nursing Scholarship);
 - iv. Public Act 195 of 1996, MCL 390.1241 to 390.1246 (Police Officer's and Fire Fighter's Survivor Tuition Grant);
 - v. Public Act 541 of 1998, MCL 390.1261 to 390.1266 (Correction Officer's Survivor Tuition Grant);
 - vi. Public Act 105 of 1978, MCL 390.1271 to 390.1278 (Tuition Differential Grants);
 - vii. Public Act 102 of 1986, MCL 390.1281 to 390.1288 (Part-Time, Independent Student Grants);
 - viii. Public Act 228 of 1976, MCL 390.1301 to 390.1307 (Legislative Merit Awards);
 - ix. Public Act 203 of 1986, MCL 390.1321 to 390.1332 (Michigan Work-Study Program),
 - x. Public Act 248 of 2005, MCL 390.1341 to 390.1346 (Children of Veterans Tuition Grant);
 - xi. Public Act 479 of 2006, MCL 390.1621 to 390.1628 (Michigan Promise Grant);
 - xii. Public Act 288 of 1986, MCL 390.1371 to 390.1382 (Michigan Work-Study Program for Graduate and Professional Schools);
 - xiii. Public Act 273 of 1986, MCL 390.1401 to 390.1409 (Michigan Educational Opportunity Grant Program);
- and
- xiv. 20 USC 1070d-31 to 1070d-41 (Robert C. Byrd Honors Scholarship Program).

(2) For any of the above scholarships for which the Department of Treasury holds or invests funds pursuant to statutory authorization, the Treasurer shall retain the authority to hold and invest funds. This includes authority granted under MCL 722.1023(3).

(3) Maintenance of the "Paying for College in Michigan" website and all associated authority, powers, duties, functions, and responsibilities under MCL 388.1860 is hereby transferred to MiLEAP.

(4) The above transfers include the civil service personnel and the records, property, and allocations or other funds associated with the transferred functions.

(b) Michigan Student Scholarship and Grants

(1) Responsibility for the Michigan Student Scholarship and Grants portal ("MiSSG"), located within the Office of Postsecondary Financial Planning, also known as MI Student Aid, and all the authority, powers, duties, functions, and responsibilities of the Office related to MiSSG are hereby transferred from the Department of Treasury to the Director of MiLEAP. The transfer includes the civil service personnel and the records, property, and allocations or other funds associated with scholarship administration.

6. Transfers from the Department of Agriculture and Rural Development

(a) Office of Rural Development

(1) The Michigan Office of Rural Development, created by Executive Directive 2022- 1, within the Michigan Department of Agriculture and Rural Development, is transferred to the Department of Labor and Economic Opportunity by Type II transfer. The transfer includes the civil service personnel and the programs, records, property, and allocations or other funds of the Office.

(2) The Michigan Office of Rural Development shall be renamed the Michigan Office of Rural Prosperity.

7. Transfers from the Department of Natural Resources

(a) State Archives of Michigan

(1) All of the authority, powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the state archives program, vested in the Department of Natural Resources by Executive Order 2009-36, MCL 399.752, are transferred by Type II transfer to the Department of Technology, Management & Budget, including, but not limited to, any authority, powers, duties, functions, and responsibilities for state archives under the following statutes:

- i. Sections 288 and 289 of The Management and Budget Act, Public Act 431 of 1984, MCL 18.1288 and 18.1289.
- ii. The Michigan Historical Commission Act, Public Act 271 of 1913, MCL 399.1 to 399.10.
- iii. The Michigan History Center Act, Public Act 470 of 2016, MCL 399.801 to 399.812.
- iv. Section 2137 of the Revised Judicature Act of 1961, Public Act 236 of 1961, MCL 600.2137.
- v. Section 2 of Public Act 8 of 1897, MCL 35.232.
- vi. Section 1 of Public Act 54 of 1927, MCL 399.51.
- vii. Section 1 of Public Act 55 of 1927, MCL 399.61.
- viii. Section 491 of the Michigan Penal Code, Public Act 328 of 1931, MCL 750.491.

(2) The transfer includes the civil service personnel and the programs, records, property, and allocations or other funds of the state archives program.

8. Coordination with the Department of Technology, Management, and Budget

(a) Consistent with applicable laws, regulations, and directives, MiLEAP will coordinate with the Department of Technology, Management, and Budget to use data from ongoing programs to increase efficiency and improve outcomes. This includes data held by the Michigan Center for Data and Analytics and the Center for Educational Performance and Information.

9. Reserved Authority

(a) Nothing in this Executive Order should be construed to diminish the constitutional authority of the State Board of Education to provide leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, and its authority to serve as the general planning and coordinating body for all public education including higher education, and to advise the legislature as to the financial requirements in connection therewith.

(b) Nothing in this Executive Order should be construed to diminish the constitutional authority of the boards of institutions of higher education to supervise their respective institutions and control and direct the expenditure of the institutions' funds.

10. Implementation of Transfers

(a) The Director shall provide executive direction and supervision for the implementation of all transfers of authority under this Order.

(b) The Director shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

(c) The Director and the directors of all other state departments and agencies having authority transferred under this Order shall immediately initiate coordination to facilitate the transfers and develop memoranda of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved related to the authority to be transferred.

(d) All records, property, and unexpended balances of appropriations, allocations, or other funds used, held, employed, available to be made for activities, powers, duties, functions, and responsibilities transferred to MiLEAP under this Order are hereby transferred to MiLEAP.

(e) The Director of MiLEAP may delegate a duty or power conferred by law or this Order and the person to whom such duty or power is delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director of MiLEAP.

(f) All rules, orders, contracts, and agreements related to the functions transferred to MiLEAP by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended, or rescinded.

(g) Any suit, action or other proceeding lawfully commenced against, or before any entity transferred to MiLEAP by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

(h) If any portion of this order is found to be unenforceable, the unenforceable provision should be disregarded, and the rest of the order should remain in effect as issued.

(i) Consistent with section 2 of article 5 of the Michigan Constitution of 1963, this order is effective December 1, 2023, at 12:01 a.m.

History: 2023, E.R.O. No. 2023-2, Eff. Dec. 1, 2023

Compiler's Notes: Executive Reorganization Order No. 2023-2 was promulgated July 12, 2023, as Executive Order No. 2023-6, Eff. Dec. 1, 2023. For transfer of the growing Michigan together council to the department of labor and economic opportunity by type III transfer, and the abolishment of the council, see E.R.O. No. 2024-2, compiled at MCL 16.735.

THE STATE SCHOOL AID ACT OF 1979 (EXCERPT) Act 94 of 1979

388.1631a Allocations to eligible districts and eligible public school academies; proficiencies; funding eligibility; early literacy and numeracy; multi-tiered system of supports; weighted foundation per-pupil payment for economically disadvantaged pupils; school breakfast program; primary health care services; hearing and vision screenings; report; audit; implementation of schoolwide reform in schools with at-risk pupils; research based professional development; pre-kindergarten instructional and noninstructional services; dissolved district; anti-bullying or crisis intervention program; assignment of Pathways to Potential success coaches; health care services and health center programs; definitions.

Sec. 31a.

(1) There is allocated for 2023-2024 an amount not to exceed \$1,035,150,000.00 from the state school aid fund money appropriated in section 11 and an amount not to exceed \$1,500,000.00 from the general fund money

appropriated in section 11, and there is allocated for 2024-2025 an amount not to exceed \$1,078,074,000.00 from the state school aid fund money appropriated in section 11 and an amount not to exceed \$1,500,000.00 from the general fund money appropriated in section 11 for payments to eligible districts and eligible public school academies for the purposes of ensuring that pupils are proficient in English language arts by the end of grade 3, that pupils are proficient in mathematics by the end of grade 8, that pupils are attending school regularly, that high school graduates are career and college ready, and for the purposes under subsections (7), (8), (23), and (24).

(2) For a district or public school academy to be eligible to receive funding under this section, other than funding under subsection (7), (8), (23), or (24), the district or public school academy, for grades K to 12, must comply with the requirements under section 1280f of the revised school code, MCL 380.1280f, and must use resources to address early literacy and numeracy, and for at least grades K to 12 or, if the district or public school academy does not operate all of grades K to 12, for all of the grades it operates, must implement a multi-tiered system of supports that is an evidence-based framework that uses data driven problem solving to integrate academic and behavioral instruction and that uses intervention delivered to all pupils in varying intensities based on pupil needs. The multi-tiered system of supports described in this subsection must provide at least all of the following essential components:

- (a) Team-based leadership.
- (b) A tiered delivery system.
- (c) Selection and implementation of instruction, interventions, and supports.
- (d) A comprehensive screening and assessment system.
- (e) Continuous data-based decision making.

(3) From the state school aid fund money allocated under subsection (1), there is allocated for 2023-2024 an amount not to exceed \$952,000,000.00, and there is allocated for 2024-2025 an amount not to exceed \$1,034,924,000.00 to continue a weighted foundation per pupil payment for districts and public school academies enrolling economically disadvantaged pupils. The department shall pay under this subsection to each eligible district or eligible public school academy an amount per pupil equal to a percentage calculated under subsection (4) multiplied by the target foundation allowance for the following, as applicable:

(a) Except as otherwise provided under subdivision (b), (c), or (d) the greater of the following:

(i) The number of membership pupils in the district or public school academy who are determined to be economically disadvantaged, as reported to the center in the form and manner prescribed by the center not later than the fifth Wednesday after the pupil membership count day of the immediately preceding fiscal year.

(ii) If the district or public school academy is in the community eligibility program, the number of pupils determined to be eligible based on the product of the identified student percentage multiplied by the total number of pupils in the district or public school academy, as reported to the center in the form and manner prescribed by the center not later than the fifth Wednesday after the pupil membership count day of the immediately preceding fiscal year. These calculations must be made at the building level. This subparagraph only applies to an eligible district or eligible public school academy for the fiscal year immediately following the first fiscal year in which it is in the community eligibility program. As used in this subparagraph, "identified student percentage" means the quotient of the number of pupils in an eligible district or eligible public school academy who are determined to be economically disadvantaged, as reported to the center in a form and manner prescribed by the center, not later than the fifth Wednesday after the pupil membership count day in the fiscal year preceding the first fiscal year in which the eligible district or eligible public school academy is in the community eligibility program, divided by the total number of pupils counted in an eligible district or eligible public school academy on the pupil membership count day in the fiscal year preceding the first fiscal year in which the eligible district or eligible public school academy is in the community eligibility program.

(b) If the district or public school academy began operations as a district or public school academy after the pupil membership count day of the immediately preceding school year, the number of membership pupils in the district or public school academy who are determined to be economically disadvantaged, as reported to the center in the form and manner prescribed by the center not later than the fifth Wednesday after the pupil membership count day of the current fiscal year.

(c) If the district or public school academy began operations as a district or public school academy after the pupil membership count day of the current fiscal year, the number of membership pupils in the district or public school academy who are determined to be economically disadvantaged, as reported to the center in the form and manner prescribed by the center not later than the fifth Wednesday after the supplemental count day of the current fiscal year.

(d) If, for a particular fiscal year, the number of membership pupils in a district or public school academy who are determined under subdivision (a) to be economically disadvantaged or to be eligible based on the identified student percentage varies by more than 20 percentage points from the number of those pupils in the district or public school academy as calculated under subdivision (a) for the immediately preceding fiscal year caused by an egregious reporting error by the district or public school academy, the department may choose to have the calculations under subdivision (a) instead be made using the number of membership pupils in the district or public school academy who are determined to be economically disadvantaged, as reported to the center in the form and

manner prescribed by the center not later than the fifth Wednesday after the supplemental count day of the immediately preceding fiscal year.

(4) Each district or public school academy must be assigned an opportunity index score each fiscal year, the value of which is the quotient of the number of economically disadvantaged pupils as determined under subsection (3) for the district or public school academy and the total number of pupils in the district or public school academy in the immediately preceding fiscal year, multiplied by 100 and rounded up to the nearest whole number. Each district or public school academy must be assigned an opportunity index band as follows:

(a) A district or public school academy with an opportunity index score greater than or equal to 0 but less than 20 must be assigned to band 1 and shall receive reimbursement under subsection (3) at a rate of at least 35.0% and less than 36.0%. The reimbursement rate under this subdivision must be an amount equal to the district's opportunity index score minus 1, multiplied by the band adjustment factor applicable to this subdivision, plus 35.0%.

(b) A district or public school academy with an opportunity index score greater than or equal to 20 but less than 44 must be assigned to band 2 and shall receive reimbursement under subsection (3) at a rate of at least 36.0% and less than 37.5%. The reimbursement rate under this subdivision must be an amount equal to the district's opportunity index score minus 20, multiplied by the band adjustment factor applicable to this subdivision, plus 36.0%.

(c) A district or public school academy with an opportunity index score greater than or equal to 44 but less than 59 must be assigned to band 3 and shall receive reimbursement under subsection (3) at a rate of at least 37.5% and less than 39.0%. The reimbursement rate under this subdivision must be an amount equal to the district's opportunity index score minus 44, multiplied by the band adjustment factor applicable to this subdivision, plus 37.5%.

(d) A district or public school academy with an opportunity index score greater than or equal to 59 but less than 73 must be assigned to band 4 and shall receive reimbursement under subsection (3) at a rate of at least 39.0% and less than 42.0%. The reimbursement rate under this subdivision must be an amount equal to the district's opportunity index score minus 59, multiplied by the band adjustment factor applicable to this subdivision, plus 39.0%.

(e) A district or public school academy with an opportunity index score greater than or equal to 73 but less than 85 must be assigned to band 5 and shall receive reimbursement under subsection (3) at a rate of at least 42.0% and less than 47.0%. The reimbursement rate under this subdivision must be an amount equal to the district's opportunity index score minus 73, multiplied by the band adjustment factor applicable to this subdivision, plus 42.0%.

(f) A district or public school academy with an opportunity index score greater than or equal to 85 must be assigned to band 6 and shall receive reimbursement under subsection (3) at a rate of 47.0%.

(g) As used in this subsection, "band adjustment factor" means an amount equal to the difference between the lowest and highest reimbursement bounds for each band, divided by the number of possible opportunity index scores in that band.

(5) Except as otherwise provided in this section, a district or public school academy receiving funding under this section shall use that money only to provide instructional programs and direct noninstructional services, including, but not limited to, medical, mental health, or counseling services, for at-risk pupils; for school health clinics; and for the purposes of subsection (6), (7), (8), (23), or (24). In addition, a district that is a school district of the first class or a district or public school academy in which at least 50% of the pupils in membership were determined to be economically disadvantaged in the immediately preceding state fiscal year, as determined and reported as described in subsection (3), may use the funds it receives under this section for school security or school parent liaison personnel. The uses of the funds described in the immediately preceding sentence must align to the needs assessment and the multi-tiered system of supports model and, for funds spent on parent liaison personnel, must connect parents to the school community. A district or public school academy shall not use any of the money received under this section for administrative costs. The instruction or direct noninstructional services provided under this section may be conducted before or after regular school hours or by adding extra school days to the school year.

(6) A district or public school academy that receives funds under this section and that operates a school breakfast program under section 1272a of the revised school code, MCL 380.1272a, shall use from the funds received under this section an amount, not to exceed \$10.00 per pupil for whom the district or public school academy receives funds under this section, necessary to pay for costs associated with the operation of the school breakfast program.

(7) From the state school aid fund money allocated under subsection (1), there is allocated for 2023-2024 an amount not to exceed \$33,000,000.00, and there is allocated for 2024-2025 an amount not to exceed \$33,000,000.00 to support primary health care services provided to children and adolescents up to age 21. These funds must be expended in a form and manner determined jointly by the department and the department of health and human services. When making funding decisions for new adolescent health centers under this subsection, the department and department of health and human services shall prioritize support for primary health care services in unserved and underserved counties as determined by the department of health and human services. For 2023-2024,

an amount not to exceed 4% of the funds allocated for 2023-2024 under this subsection, and for 2024-2025, an amount equal to 4% of the funds allocated for 2024-2025 under this subsection must be made available for technical support and coordination services from a nonprofit organization exclusively dedicated to serving adolescent health centers in this state and that has a membership that includes federally qualified health centers, local public health departments, hospital systems, and public school districts. As a requirement of being awarded the funds under this subsection as prescribed under this subsection, a nonprofit organization described in this subsection shall make readily available technical support and coordination services to all child and adolescent health centers in this state. Funds appropriated under this subsection for 2023-2024 only are a work project appropriation and any unexpended funds for 2023-2024 are carried forward into 2024-2025. The purpose of the work project is to continue to improve child and adolescent health center program sites and improve delivery of patient care. The estimated completion date of the work project is September 30, 2025.

(8) From the state school aid fund money allocated under subsection (1), there is allocated for 2023-2024 an amount not to exceed \$5,150,000.00 and for 2024-2025 an amount not to exceed \$10,150,000.00 for the state portion of the hearing and vision screenings as described in part 93 of the public health code, 1978 PA 368, MCL 333.9301 to 333.9329, and, from the general fund money allocated under subsection (1), there is allocated for 2023-2024 an amount not to exceed \$1,500,000.00 and for 2024-2025 an amount not to exceed \$1,500,000.00 for the state portion of the dental screenings as described in part 93 of the public health code, 1978 PA 368, MCL 333.9301 to 333.9329. A local public health department shall pay at least 50% of the total cost of the screenings. The frequency of the vision screenings must be as required under R 325.13091 to R 325.13096 of the Michigan Administrative Code and the frequency of the hearing screenings must be as required under R 325.3271 to R 325.3276 of the Michigan Administrative Code. Funds must be awarded in a form and manner approved jointly by the department and the department of health and human services. Notwithstanding section 17b, the department shall make payments to eligible entities under this subsection on a schedule determined by the department.

(9) Each district or public school academy receiving funds under this section shall submit to the department by July 15 of each fiscal year a report, in the form and manner prescribed by the department, that includes a brief description of each program conducted or services performed by the district or public school academy using funds under this section, the amount of funds under this section allocated to each of those programs or services, the total number of at-risk pupils served by each of those programs or services, and the data necessary for the department and the department of health and human services to verify matching funds for the temporary assistance for needy families program. In prescribing the form and manner of the report, the department shall ensure that districts are allowed to expend funds received under this section on any activities that are permissible under this section. If a district or public school academy does not comply with this subsection, the department shall withhold an amount equal to the August payment due under this section until the district or public school academy complies with this subsection. If the district or public school academy does not comply with this subsection by the end of the fiscal year, the withheld funds are forfeited to the school aid fund.

(10) To receive funds under this section, a district or public school academy must allow access for the department or the department's designee to audit all records related to the program for which it receives those funds. The district or public school academy shall reimburse the state for all disallowances found in the audit.

(11) Subject to subsections (6), (7), (8), (23), and (24), for schools in which more than 40% of pupils are identified as at-risk, a district or public school academy may use the funds it receives under this section to implement tier 1, evidence-based practices in schoolwide reforms that are guided by the district's comprehensive needs assessment and are included in the district improvement plan. Schoolwide reforms must include parent and community supports, activities, and services, that may include the pathways to potential program created by the department of health and human services or the communities in schools program. As used in this subsection, "tier 1, evidence-based practices" means research based instruction and classroom interventions that are available to all learners and effectively meet the needs of most pupils.

(12) A district or public school academy that receives funds under this section may use those funds to provide research based professional development and to implement a coaching model that supports the multi-tiered system of supports framework. Professional development may be provided to district and school leadership and teachers and must be aligned to professional learning standards; integrated into district, school building, and classroom practices; and solely related to the following:

(a) Implementing the multi-tiered system of supports required in subsection (2) with fidelity and utilizing the data from that system to inform curriculum and instruction.

(b) Implementing section 1280f of the revised school code, MCL 380.1280f, as required under subsection (2), with fidelity.

(13) A district or public school academy that receives funds under subsection (3) may use funds received under subsection (3) for support staff providing services to at-risk pupils.

(14) Beginning in 2024-2025, a district or public school academy may use up to 60% of the funds it receives under this section for the following purposes:

(a) Up to 30% to reduce the teacher to pupil ratio in grades K to 3 in schools for which the percentage of pupils in membership who were determined to be economically disadvantaged in the immediately preceding fiscal year is

equal to or greater than the minimum percentage for a district or public school academy to be assigned to opportunity index band 5.

(b) Up to 30% to support retention and recruitment efforts that help reduce staff turnover and vacancies of instructional and support staff if the district or public school academy is assigned to opportunity index band 5 or 6.

(15) Funds used as described in subsection (14) must align with the needs assessment and the multi-tiered system of supports model. A district or public school academy shall not use any of the money described in subsection (14) for administrative costs or to supplant existing funding, including, but not limited to, maintaining existing salaries or costs. A district or public school academy shall report its intent to use funds described in subsection (14) to the department by not later than November 1 of the current fiscal year.

(16) A district or public school academy determined to be eligible to use a portion of funds received under subsection (3) for the purposes described in subsection (14) retains the ability to use funding for the purposes described in subsection (14) for the fiscal year in which eligibility was determined plus 2 additional fiscal years beyond that fiscal year.

(17) By August 1 of each fiscal year, the department must provide a report to districts and public school academies that lists the eligible schools under subsection (14)(a) for the upcoming fiscal year.

(18) A district or public school academy that receives funds under this section may use up to 10% of the funds received under this section to provide evidence-based instruction for pre-kindergarten instructional and noninstructional services to children who meet at least 1 of the criteria in subsection (25)(a)(i) to (x).

(19) Except as otherwise provided in this subsection, if necessary, the department shall prorate payments under this section, except payments under subsection (7), (8), (23), or (24), by reducing the amount of the allocation as otherwise calculated under this section by an equal percentage per district. Subject to the availability of funds, if proration is necessary under this subsection, the department must ensure that no district receives an amount less than 11.5% of the target foundation for each economically disadvantaged pupil enrolled in the district.

(20) If a district is dissolved pursuant to section 12 of the revised school code, MCL 380.12, the intermediate district to which the dissolved district was constituent shall determine the estimated number of pupils that are economically disadvantaged and that are enrolled in each of the other districts within the intermediate district and provide that estimate to the department for the purposes of distributing funds under this section within 60 days after the district is declared dissolved.

(21) A district or public school academy that receives funds under this section may use funds received under this section to provide an anti-bullying or crisis intervention program.

(22) The department shall collaborate with the department of health and human services to prioritize assigning Pathways to Potential success coaches to elementary schools that have a high percentage of pupils in grades K to 3 who are not proficient in English language arts, based upon state assessments for pupils in those grades.

(23) From the state school aid fund money allocated under subsection (1), there is allocated for 2023-2024 only an amount not to exceed \$35,000,000.00 to support primary health care services provided to children and adolescents up to age 21 and for the provision of space upgrades in child and adolescent health center programs. All of the following apply to this allocation:

(a) The funds must be used for only the following purposes:

(i) Modernizing antiquated medical equipment.

(ii) Improving security and patient safety measures.

(iii) Investing in new patient-centered technologies.

(iv) Renovating physical spaces to improve patient privacy and the care setting.

(b) The funds must be expended in a form and manner determined jointly by the department and the department of health and human services.

(c) To be eligible to receive funding under this subsection, a child and adolescent health center program that serves students in the current fiscal year must submit an application in a form and manner determined by the department and the department of health and human services.

(d) An amount equal to 4% of the funds allocated for 2023-2024 under this subsection must be made available for technical support and coordination services from a nonprofit organization exclusively dedicated to serving adolescent health centers in this state and that has a membership that includes federally qualified health centers, local public health departments, hospital systems, and public school districts. As a requirement of being awarded the funds under this subsection as prescribed under this subsection, a nonprofit organization described in this subsection shall make readily available technical support and coordination services to all child and adolescent health centers in this state.

(e) Funds appropriated under this subsection are a work project appropriation and any unexpended funds for 2023-2024 are carried forward into 2024-2025. The purpose of the work project is to continue to improve child and adolescent health center program sites and improve delivery of patient care. The estimated completion date of the work project is September 30, 2025.

(24) From the state school aid fund money appropriated under section 11, there is allocated for 2023-2024 only an amount not to exceed \$10,000,000.00 for an electronic patient data and health care analytic system to be made available to each child and adolescent health center program. The department of health and human services shall

collaborate on system implementation with a nonprofit organization exclusively dedicated to serving child and adolescent health center programs in this state and that has a membership that includes federally qualified health centers, local public health departments, hospital systems, and public school districts, including, but not limited to, technology assessment, design, coordination, and system implementation with child and adolescent health center programs. Funds appropriated under this subsection are a work project appropriation and any unexpended funds for 2023-2024 are carried forward into 2024-2025. The purpose of the work project is to continue to implement an electronic patient data and health care analytic system. The estimated completion date of the work project is September 30, 2028.

(25) As used in this section:

(a) "At-risk pupil" means a pupil in grades pre-K to 12 for whom the district has documentation that the pupil meets any of the following criteria:

(i) The pupil is economically disadvantaged.

(ii) The pupil is an English language learner.

(iii) The pupil is chronically absent as defined by and reported to the center.

(iv) The pupil is a victim of child abuse or neglect.

(v) The pupil is a pregnant teenager or teenage parent.

(vi) The pupil has a family history of school failure, incarceration, or substance abuse.

(vii) The pupil is an immigrant who has immigrated within the immediately preceding 3 years.

(viii) The pupil did not complete high school in 4 years and is still continuing in school as identified in the Michigan cohort graduation and dropout report.

(ix) For pupils for whom the results of the state summative assessment have been received, is a pupil who did not achieve proficiency on the English language arts, mathematics, science, or social studies content area assessment.

(x) Is a pupil who is at risk of not meeting the district's or public school academy's core academic curricular objectives in English language arts or mathematics, as demonstrated on local assessments.

(b) "Economically disadvantaged" means a pupil who has been determined eligible for free or reduced-price meals as determined under the Richard B. Russell national school lunch act, 42 USC 1751 to 1769j; who is in a household receiving supplemental nutrition assistance program or temporary assistance for needy families assistance; or who is homeless, migrant, or in foster care, as reported to the center.

(c) "English language learner" means limited English proficient pupils who speak a language other than English as their primary language and have difficulty speaking, reading, writing, or understanding English as reported to the center.

History: Add. 1993, Act 336, Eff. Oct. 1, 1994 ;-- Am. 1994, Act 283, Imd. Eff. July 12, 1994 ;-- Am. 1994, Act 360, Imd. Eff. Dec. 22, 1994 ;-- Am. 1995, Act 130, Eff. Oct. 1, 1995 ;-- Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996 ;-- Am. 1996, Act 300, Eff. Oct. 1, 1996 ;-- Am. 1997, Act 24, Imd. Eff. June 16, 1997 ;-- Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997 ;-- Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998 ;-- Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999 ;-- Am. 1999, Act 119, Imd. Eff. July 20, 1999 ;-- Am. 2000, Act 297, Imd. Eff. July 26, 2000 ;-- Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001 ;-- Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002 ;-- Am. 2002, Act 521, Imd. Eff. July 25, 2002 ;-- Am. 2003, Act 158, Eff. Oct. 1, 2003 ;-- Am. 2004, Act 351, Eff. Oct. 1, 2004 ;-- Am. 2004, Act 593, Imd. Eff. Jan. 5, 2005 ;-- Am. 2005, Act 155, Eff. Oct. 1, 2005 ;-- Am. 2006, Act 121, Imd. Eff. Apr. 14, 2006 ;-- Am. 2006, Act 342, Eff. Oct. 1, 2006 ;-- Am. 2007, Act 6, Imd. Eff. Apr. 30, 2007 ;-- Am. 2007, Act 137, Imd. Eff. Nov. 8, 2007 ;-- Am. 2008, Act 268, Eff. Oct. 1, 2008 ;-- Am. 2009, Act 73, Imd. Eff. July 9, 2009 ;-- Am. 2009, Act 121, Imd. Eff. Oct. 19, 2009 ;-- Am. 2010, Act 110, Eff. Oct. 1, 2010 ;-- Am. 2011, Act 62, Eff. Oct. 1, 2011 ;-- Am. 2012, Act 201, Eff. Oct. 1, 2012 ;-- Am. 2013, Act 60, Eff. Oct. 1, 2013 ;-- Am. 2014, Act 196, Eff. Oct. 1, 2014 ;-- Am. 2015, Act 85, Eff. Oct. 1, 2015 ;-- Am. 2015, Act 139, Eff. Oct. 7, 2015 ;-- Am. 2016, Act 249, Eff. Oct. 1, 2016 ;-- Am. 2017, Act 108, Eff. Oct. 1, 2017 ;-- Am. 2017, Act 143, Imd. Eff. Nov. 2, 2017 ;-- Am. 2018, Act 265, Eff. Oct. 1, 2018 ;-- Am. 2018, Act 586, Imd. Eff. Dec. 28, 2018 ;-- Am. 2019, Act 58, Eff. Oct. 1, 2019 ;-- Am. 2019, Act 162, Imd. Eff. Dec. 20, 2019 ;-- Am. 2020, Act 165, Eff. Oct. 1, 2020 ;-- Am. 2021, Act 48, Eff. Oct. 1, 2021 ;-- Am. 2022, Act 144, Imd. Eff. July 14, 2022 ;-- Am. 2023, Act 103, Eff. Oct. 1, 2023 ;-- Am. 2023, Act 320, Eff. Feb. 13, 2024 ;-- Am. 2024, Act 120, Imd. Eff. July 23, 2024

Compiler's Notes: In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase "and for 2002-2003 an amount not to exceed \$319,095,200.00" was vetoed by the governor September 28, 2001. Enacting section 3 of Act 521 of 2002 provides: "Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963." For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002. Enacting section 1 of Act 351 of 2004 provides: "Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2004-2005 is estimated at \$11,173,900,000.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at \$11,113,650,400.00." Enacting section 1 of 2005 PA 155 provides: "Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act and in House Bill No. 4831 of the 93rd Legislature from state sources for fiscal year 2005-2006 is estimated at \$11,364,814,000.00 and state appropriations to be paid to local units of government for fiscal year 2005-2006 are estimated at \$11,341,913,100.00." Enacting section 1 of Act 342 of 2006 provides: "Enacting section 1. (1) In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2006-2007 is estimated at \$11,682,508,200.00 and state appropriations to be paid to local units of government for fiscal year 2006-2007 are estimated at \$11,536,597,200.00. (2) In accordance with section 30 of article I of the state constitution of 1963, total state spending from state sources for fiscal year 2005-2006 in this amendatory act and 2005 PA

155 is estimated at \$11,308,027,200.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at \$11,285,376,300.00."Enacting section 1 of Act 137 of 2007 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2007-2008 is estimated at \$11,527,973,800.00 and state appropriations to be paid to local units of government for fiscal year 2007-2008 are estimated at \$11,458,493,300.00."Enacting section 1 of Act 268 of 2008 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2008-2009 is estimated at \$11,816,898,200.00 and state appropriations to be paid to local units of government for fiscal year 2008-2009 are estimated at \$11,602,465,900.00."Enacting section 1 of Act 73 of 2009 provides:"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2008 PA 268 from state sources for fiscal year 2008-2009 is estimated at \$11,097,798,200.00 and state appropriations to be paid to local units of government for fiscal year 2008-2009 are estimated at \$10,890,765,900.00."Enacting section 1 of Act 121 of 2009 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2009-2010 is estimated at \$10,825,754,100.00 and state appropriations to be paid to local units of government for fiscal year 2009-2010 are estimated at \$10,718,801,700.00."

Compiler's Notes: Enacting section 1 of Act 476 of 2014 provides:"Enacting section 1. Section 31a of the state school aid act of 1979, 1979 PA 94, MCL 388.1631a, as amended by this amendatory act, does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 476 of 2014 does not go into effect.Enacting section 1 of Act 139 of 2015 provides:"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending from state sources on state school aid under article I of the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, as amended by 2015 PA 85 and this amendatory act for fiscal year 2015-2016 is estimated at \$12,124,885,100.00 and state appropriations for school aid to be paid to local units of government for fiscal year 2015-2016 are estimated at \$11,967,255,600.00."

THE STATE SCHOOL AID ACT OF 1979 (EXCERPT)

Act 94 of 1979

388.1632d Great start readiness programs; use of funds; eligibility; competitive grant; longitudinal evaluation; comprehensive part-day programs, school-day programs, GSRP extended programs, GSRP/Head Start school-day blended programs, or GSRP/Head Start extended blended programs; application for funding; form and manner; counting enrolled pupils; blended program; designation of early childhood coordinator; retention of funds for administrative services; outreach, recruiting, and public awareness; household income; contract process; contract with community-based providers for percentage of total allocation; submission of satisfactory evidence; report; definitions; tuition rate sliding scale; reimbursement of transportation costs; classroom level quality assessments; supplemental curriculum; professional development and training materials for educators; use of AmeriCorps Pre-K Reading Corps members; classroom start up grants; "child care center" and "licensed child care center" defined.

Sec. 32d.

(1) From the state school aid fund money appropriated in section 11, there is allocated to eligible intermediate districts and consortia of intermediate districts for great start readiness programs an amount not to exceed \$609,720,000.00 for 2024-2025. It is the intent of the legislature that this section will support universal great start readiness programs in a future fiscal year. An intermediate district or consortium shall use funds allocated under this section for great start readiness programs to provide part-day programs, school-day programs, GSRP extended programs, GSRP/Head Start school-day blended programs, or GSRP/Head Start extended blended programs that are comprehensive, free, compensatory classroom programs designed to improve the readiness and subsequent achievement of children who meet the participant eligibility and prioritization guidelines as defined by the department of lifelong education, advancement, and potential. For a child to be eligible to participate in a program under this section, the child must be at least 4, but less than 5, years of age as of September 1 of the school year in which the program is offered and must meet those eligibility and prioritization guidelines. After eligible children who will be 4 years of age as of September 1 are enrolled, a child who is not 4 years of age as of September 1, but who will be 4 years of age by not later than December 1, is eligible to participate if both of the following are met:

(a) The child's parent or legal guardian seeks a waiver from the September 1 eligibility date by submitting a request for enrollment in a program to the responsible intermediate district.

(b) The child meets eligibility and prioritization guidelines.

(2) From the state school aid fund money allocated under subsection (1), an amount not to exceed \$607,720,000.00 for 2024-2025 is allocated to intermediate districts or consortia of intermediate districts based on the formula in section 39. An intermediate district or consortium of intermediate districts receiving funding under this section shall act as the fiduciary for the great start readiness programs. An intermediate district or consortium of intermediate districts receiving funding under this section may collaborate with local governments to identify children eligible for programs funded under this section and may contract with local governments to provide services. To be eligible to receive funds allocated under this subsection from an intermediate district or consortium

of intermediate districts, a district, a consortium of districts, a local government, or a public or private for-profit or nonprofit legal entity or agency must comply with this section and section 39. If, due to the number of GSRP extended program or GSRP/Head Start extended blended program slots awarded, the amount allocated in this subsection is insufficient to award at least the same number of part-day program and school-day program slots as awarded in the immediately preceding fiscal year, there is appropriated from the great start readiness program reserve fund the amount necessary to fully award the same number of part-day program and full-day program slots as awarded in the immediately preceding fiscal year.

(3) In addition to the allocation under subsection (1), from the general fund money appropriated under section 11, there is allocated an amount not to exceed \$600,000.00 for 2024-2025 for a competitive grant to continue a longitudinal evaluation of children who have participated in great start readiness programs. It is the intent of the legislature that the allocation under this subsection will be \$350,000.00 for 2025-2026.

(4) Except as otherwise provided in subsection (5), to be eligible for funding under this section, a program must prepare children for success in school through comprehensive part-day programs, school-day programs, GSRP extended programs, GSRP/Head Start school-day blended programs, or GSRP/Head Start extended blended programs that contain all of the following program components, as determined by the department of lifelong education, advancement, and potential:

(a) Participation in a collaborative recruitment and enrollment process to ensure that each child is enrolled in the program most appropriate to the child's needs and to maximize the use of federal, state, and local funds.

(b) An age-appropriate educational curriculum that is in compliance with the early childhood standards of quality for prekindergarten children adopted by the state board, including, at least, the Connect4Learning curriculum.

(c) Nutritional services for all program participants supported by federal, state, and local resources as applicable.

(d) Physical and dental health and developmental screening services for all program participants.

(e) Referral services for families of program participants to community social service agencies, including mental health services, as appropriate.

(f) Active and continuous involvement of the parents or guardians of the program participants.

(g) A plan to conduct and report annual great start readiness program evaluations and continuous improvement plans using criteria approved by the department of lifelong education, advancement, and potential.

(h) Participation in a school readiness advisory committee convened as a workgroup of the great start collaborative that provides for the involvement of classroom teachers, parents or guardians of program participants, and community, volunteer, and social service agencies and organizations, as appropriate. The advisory committee shall annually review and make recommendations regarding the program components listed in this subsection. The advisory committee also shall make recommendations to the great start collaborative regarding other community services designed to improve all children's school readiness.

(i) The ongoing articulation of the kindergarten and first grade programs offered by the program provider.

(j) Participation in this state's great start to quality process with a rating of at least enhancing quality level.

(5) To help expand access to great start readiness programs, the department of lifelong education, advancement, and potential may waive the requirements under subsection (4) and a program may be eligible for funding under this section for new or expanding programs if the program demonstrates to the satisfaction of the department of lifelong education, advancement, and potential that the program meets all of the following:

(a) Is a licensed child care center or is a licensed program.

(b) Provides the minimum instructional time as required by the department of lifelong education, advancement, and potential.

(c) Participates in this state's quality rating system at a level determined by the department of lifelong education, advancement, and potential.

(d) Implements a professional educator preparation plan, as defined by the department of lifelong education, advancement, and potential, for educators not meeting teacher credentialing standards described in subsection (8).

(e) Uses a developmentally appropriate curriculum, as determined by the department of lifelong education, advancement, and potential.

(f) Conducts a developmental screening and referral process, as determined by the department of lifelong education, advancement, and potential.

(g) Commits to participating in program financial review and monitoring, as determined by the department of lifelong education, advancement, and potential.

(h) Provides a plan to implement an approved great start readiness program curriculum and meet additional great start readiness program standards, as determined by the department of lifelong education, advancement, and potential.

(6) A waiver under subsection (5) may be granted for up to 3 years for requirements related to program credentialing and may be granted for up to 2 years for all other requirements, as determined by the department of lifelong education, advancement, and potential.

(7) The department of lifelong education, advancement, and potential shall provide a report to the house and senate appropriations subcommittees on school aid, the state budget director, and the house and senate fiscal agencies that summarizes the number and types of exemptions granted under subsection (5) and progress made by

programs granted waivers under subsection (5) by September 30 of each fiscal year. It is the intent of the legislature to review the waiver allowability under subsection (5) before the fiscal year ending September 30, 2027.

(8) An application for funding under this section must provide for the following, in a form and manner determined by the department of lifelong education, advancement, and potential:

(a) Ensure either of the following:

(i) That the applicant complies with all program components described in subsection (4).

(ii) That the applicant meets the requirements of a waiver under subsection (5).

(b) Except as otherwise provided in this subdivision, ensure that children participating in an eligible great start readiness program for whom the intermediate district is receiving funds under this section are children who live with families with a household income that is equal to or less than 400% of the federal poverty guidelines. If the intermediate district determines that all eligible children are being served and that there are no children on the waiting list who live with families with a household income that is equal to or less than 400% of the federal poverty guidelines, the intermediate district may then enroll children who live with families with a household income that is greater than 400% of the federal poverty guidelines. The enrollment process must consider income and risk factors, such that children determined with higher need are enrolled before children with lesser need. For purposes of this subdivision, all age-eligible children served in foster care or who are experiencing homelessness or who have individualized education programs recommending placement in an inclusive preschool setting are considered to live with families with household income equal to or less than 400% of the federal poverty guidelines regardless of actual family income and are prioritized for enrollment within the lowest quintile. The department of lifelong education, advancement, and potential shall publish the household income thresholds under this subdivision in a clear manner on its website and the great start to quality website.

(c) Ensure that the applicant only uses qualified personnel for this program, as follows:

(i) Teachers possessing proper training. A lead teacher must have a valid Michigan teaching certificate with an early childhood or lower elementary endorsement or a bachelor's or higher degree in child development or early childhood education with specialization in preschool teaching. However, except as otherwise provided in this subparagraph, if an applicant demonstrates to the department of lifelong education, advancement, and potential that it is unable to fully comply with this subparagraph after making reasonable efforts to comply, teachers or paraprofessionals with at least 5 years of experience as a paraprofessional in a great start readiness program, Head Start, or licensed child care center classroom who have significant but incomplete training in early childhood education or child development may be used if the applicant provides to the department of lifelong education, advancement, and potential, and the department of lifelong education, advancement, and potential approves, a plan for each teacher to come into compliance with the standards in this subparagraph. Individuals may qualify with at least 3 years of experience and significant training in early childhood education or child development, based on the recommendation of the intermediate district after a classroom observation. A teacher's compliance plan must be completed within 3 years of the date of employment. Progress toward completion of the compliance plan consists of at least 2 courses per calendar year.

(ii) Paraprofessionals possessing proper training in early childhood education, including an associate degree in early childhood education or child development or the equivalent, or a child development associate (CDA) credential. However, if an applicant demonstrates to the department of lifelong education, advancement, and potential that it is unable to fully comply with this subparagraph after making reasonable efforts to comply, the applicant may use paraprofessionals who have completed at least 1 course that earns college credit in early childhood education or child development or enroll in a child development associate credential with at least 6 months of verified experience in early education and care, if the applicant provides to the department of lifelong education, advancement, and potential, and the department of lifelong education, advancement, and potential approves, a plan for each paraprofessional to come into compliance with the standards in this subparagraph. A paraprofessional's compliance plan must be completed within 3 years of the date of employment. Progress toward completion of the compliance plan consists of at least 2 courses, 60 clock hours, or an equivalent of training per calendar year.

(d) Include a program budget that contains only those costs that are not reimbursed or reimbursable by federal funding, that are clearly and directly attributable to the great start readiness program, and that would not be incurred if the program were not being offered. Eligible costs include transportation costs. The program budget must indicate the extent to which these funds will supplement other federal, state, local, or private funds. An applicant shall not use funds received under this section to supplant any federal funds received by the applicant to serve children eligible for a federally funded preschool program that has the capacity to serve those children.

(9) For a grant recipient that enrolls pupils in a school-day program or GSRP extended program funded under this section, each child enrolled in the school-day program or GSRP extended program is counted as described in section 39 for purposes of determining the amount of the grant award.

(10) For a grant recipient that enrolls pupils in a GSRP/Head Start school-day blended program or GSRP/Head Start extended blended program, the grant recipient shall ensure that all Head Start and GSRP policies and regulations are applied to the blended slots, with adherence to the highest standard from either program, to the extent allowable under federal law. A grant recipient may request a waiver from the department of lifelong

education, advancement, and potential to align GSRP policies and regulations with Head Start national standards for quality, including ratios, and the department of lifelong education, advancement, and potential may approve the waiver. Not later than March 1 of each year, the department of lifelong education, advancement, and potential will report to the legislature and post on a publicly available website a list by intermediate district or consortium with the number and type of each waiver requested and approved.

(11) To help expand access to great start readiness programs, the department may allow great start readiness programs to implement Head Start national performance standards for quality as an alternative to great start readiness program policies and regulations if the great start readiness program demonstrates to the satisfaction of the department that the great start readiness program is meeting the requirements of the Head Start national performance standards.

(12) An intermediate district or consortium of intermediate districts receiving a grant under this section shall designate an early childhood coordinator, and may provide services directly or may contract with 1 or more districts or public or private for-profit or nonprofit providers that meet all requirements of subsections (4) and (8).

(13) An intermediate district or consortium of intermediate districts may retain for administrative services provided by the intermediate district or consortium of intermediate districts an amount not to exceed 4% of the grant amount. Expenses incurred by subrecipients engaged by the intermediate district or consortium of intermediate districts for directly running portions of the program are considered program costs or a contracted program fee for service. Subrecipients operating with a federally approved indirect rate for other early childhood programs may include indirect costs, not to exceed the federal 10% de minimis.

(14) An intermediate district or consortium of intermediate districts may expend not more than 2% of the total grant amount for outreach, recruiting, and public awareness of the program, if the intermediate district or consortium of intermediate districts also participates in related statewide marketing and outreach efforts.

(15) Each grant recipient shall enroll children identified under subsection (8)(b) according to how far the child's household income is below 400% of the federal poverty guidelines by ranking each applicant child's household income from lowest to highest and dividing the applicant children into quintiles based on how far the child's household income is below 400% of the federal poverty guidelines, and then enrolling children in the quintile with the lowest household income before enrolling children in the quintile with the next lowest household income until slots are completely filled. If the grant recipient determines that all eligible children are being served and that there are no children on the waiting list who live with families with a household income that is equal to or less than 400% of the federal poverty guidelines, the grant recipient may then enroll children who live with families with a household income that is greater than 400% of the federal poverty guidelines. The enrollment process must consider income and risk factors, such that children determined with higher need are enrolled before children with lesser need. For purposes of this subsection, all age-eligible children served in foster care or who are experiencing homelessness or who have individualized education programs recommending placement in an inclusive preschool setting are considered to live with families with household income equal to or less than 400% of the federal poverty guidelines regardless of actual family income and are prioritized for enrollment within the lowest quintile.

(16) An intermediate district or consortium of intermediate districts receiving a grant under this section shall allow parents of eligible children who are residents of the intermediate district or within the consortium to choose a program operated by or contracted with another intermediate district or consortium of intermediate districts and shall enter into a written agreement regarding payment, in a manner prescribed by the department of lifelong education, advancement, and potential.

(17) An intermediate district or consortium of intermediate districts receiving a grant under this section shall conduct a local process to contract with interested and eligible public and private for-profit and nonprofit community-based providers that meet all requirements of subsection (4) for at least 30% of its total allocation. For the purposes of this 30% allocation, an intermediate district or consortium of intermediate districts may count children served by a Head Start grantee or delegate in a GSRP/Head Start school-day blended program, GSRP/Head Start extended blended program, GSRP extended program, and great start readiness school-day program. Children served in a program funded only through Head Start are not counted toward this 30% allocation. An intermediate district or consortium shall report to the department of lifelong education, advancement, and potential, in a manner prescribed by the department of lifelong education, advancement, and potential, a detailed list of community-based providers by provider type, including private for-profit, private nonprofit, community college or university, Head Start grantee or delegate, and district or intermediate district, and the number and proportion of its total allocation allocated to each provider as subrecipient. If the intermediate district or consortium is not able to contract for at least 30% of its total allocation, the intermediate district or consortium shall notify the department of lifelong education, advancement, and potential and, if the department of lifelong education, advancement, and potential verifies that the intermediate district or consortium attempted to contract for at least 30% of its total allocation and was not able to do so, the intermediate district or consortium may retain and use all of its allocation as provided under this section. To be able to use this exemption, the intermediate district or consortium shall demonstrate to the department of lifelong education, advancement, and potential that the intermediate district or consortium increased the percentage of its total allocation for which it contracts with a community-based provider and the intermediate district or consortium shall submit evidence

satisfactory to the department of lifelong education, advancement, and potential, and the department of lifelong education, advancement, and potential must be able to verify this evidence, demonstrating that the intermediate district or consortium took measures to contract for at least 30% of its total allocation as required under this subsection, including, but not limited to, at least all of the following measures:

(a) The intermediate district or consortium notified each nonparticipating licensed child care center located in the service area of the intermediate district or consortium regarding the center's eligibility to participate, in a manner prescribed by the department of lifelong education, advancement, and potential.

(b) The intermediate district or consortium provided to each nonparticipating licensed child care center located in the service area of the intermediate district or consortium information regarding great start readiness program requirements and a description of the application and selection process for community-based providers.

(c) The intermediate district or consortium provided to the public and to participating families a list of community-based great start readiness program subrecipients with a great start to quality rating of at least enhancing quality level.

(18) If an intermediate district or consortium of intermediate districts receiving a grant under this section fails to submit satisfactory evidence to demonstrate its effort to contract for at least 30% of its total allocation, as required under subsection (17), the department of lifelong education, advancement, and potential shall reduce the allocation to the intermediate district or consortium by a percentage equal to the difference between the percentage of an intermediate district's or consortium's total allocation awarded to community-based providers and 30% of its total allocation.

(19) To assist intermediate districts and consortia in complying with the requirement to contract with community-based providers, for at least 30% of their total allocation, the department of lifelong education, advancement, and potential shall do all of the following:

(a) Ensure that a great start resource center or the department of lifelong education, advancement, and potential provides each intermediate district or consortium receiving a grant under this section with the contact information for each licensed child care center located in the service area of the intermediate district or consortium by March 1 of each year.

(b) Provide, or ensure that an organization with which the department of lifelong education, advancement, and potential contracts provides, a community-based provider with a validated great start to quality rating within 90 days of the provider's having submitted a request and self-assessment.

(c) Ensure that all intermediate district, district, community college or university, Head Start grantee or delegate, private for-profit, and private nonprofit providers are subject to a single great start to quality rating system. The rating system must ensure that regulators process all prospective providers at the same pace on a first-come, first-served basis and must not allow 1 type of provider to receive a great start to quality rating ahead of any other type of provider.

(d) By not later than March 1 of each year, compile the results of the information reported by each intermediate district or consortium under subsection (17) and report to the legislature and post on a publicly available website a list by intermediate district or consortium with the number and percentage of each intermediate district's or consortium's total allocation allocated to community-based providers by provider type, including private for-profit, private nonprofit, community college or university, Head Start grantee or delegate, and district or intermediate district.

(e) Allow intermediate districts and consortia and eligible community-based providers to utilize materials and supplies purchased for great start readiness programs within their facilities for other early care and education activities, in the following order of priority:

(i) Early care and education activities under a federal award.

(ii) Early care and education activities under other state awards.

(iii) Early care and education activities under local or regional awards.

(20) A recipient of funds under this section shall report to the center in a form and manner prescribed by the center the information necessary to derive the number of children participating in the program who meet the program eligibility criteria under subsection (8)(b), the number of eligible children not participating in the program and on a waitlist, and the total number of children participating in the program by various demographic groups and eligibility factors necessary to analyze equitable and priority access to services for the purposes of subsection (3).

(21) As used in this section:

(a) "Federal poverty guidelines" means the guidelines published annually in the Federal Register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

(b) "GSRP extended program" means a program that operates for at least the same length of day as a district's first grade program for a minimum of 5 days per week, 36 weeks per year.

(c) "GSRP/Head Start extended blended program" means a program funded under this section and a Head Start program that are combined for an extended program.

(d) "GSRP/Head Start school-day blended program" means a part-day program funded under this section and a Head Start program, which are combined for a school-day program.

(e) "Part-day program" means a program that operates at least 4 days per week, 30 weeks per year, for at least 3

hours of teacher-child contact time per day but for fewer hours of teacher-child contact time per day than a school-day program.

(f) "School-day program" means a program that operates for at least the same length of day as a district's first grade program for a minimum of 4 days per week, 30 weeks per year. A classroom that offers a school-day program must enroll all children for the school day to be considered a school-day program.

(22) From the amount allocated in subsection (2), there is allocated for 2024-2025 an amount not to exceed \$10,000,000.00 and, from the great start readiness program reserve fund appropriated in section 11, there is allocated for 2024-2025 an amount not to exceed \$18,000,000.00 for reimbursement of transportation costs for children attending great start readiness programs funded under this section. To receive reimbursement under this subsection, by not later than November 1 of each year, a program funded under this section that provides transportation shall submit to the intermediate district that is the fiscal agent for the program a projected transportation budget. The amount of the reimbursement for transportation under this subsection is no more than the projected transportation budget or \$500.00 multiplied by the number of children funded for the program under this section. If the amount allocated under this subsection is insufficient to fully reimburse the transportation costs for all programs that provide transportation and submit the required information, the department of lifelong education, advancement, and potential shall prorate the reimbursement in an equal amount per child funded. The department of lifelong education, advancement, and potential shall make payments to the intermediate district that is the fiscal agent for each program, and the intermediate district shall then reimburse the program provider for transportation costs as prescribed under this subsection.

(23) Subject to, and from the funds allocated under, subsection (22), the department of lifelong education, advancement, and potential shall reimburse a program for transportation costs related to parent- or guardian-accompanied transportation provided by transportation service companies, buses, or other public transportation services. To be eligible for reimbursement under this subsection, a program must submit to the intermediate district or consortia of intermediate districts all of the following:

(a) The names of families provided with transportation support along with a documented reason for the need for transportation support and the type of transportation provided.

(b) Financial documentation of actual transportation costs incurred by the program, including, but not limited to, receipts and mileage reports, as determined by the department of lifelong education, advancement, and potential.

(c) Any other documentation or information determined necessary by the department of lifelong education, advancement, and potential.

(24) The department of lifelong education, advancement, and potential shall implement a process to review and approve age-appropriate comprehensive classroom level quality assessments for GSRP grantees that support the early childhood standards of quality for prekindergarten children adopted by the state board. The department of lifelong education, advancement, and potential shall make available to intermediate districts at least 2 classroom level quality assessments that were approved in 2018.

(25) An intermediate district that is a GSRP grantee may approve the use of a supplemental curriculum that aligns with and enhances the age-appropriate educational curriculum in the classroom. If the department of lifelong education, advancement, and potential objects to the use of a supplemental curriculum approved by an intermediate district, the director of the department of lifelong education, advancement, and potential shall establish a review committee independent of the department of lifelong education, advancement, and potential. The review committee shall meet within 60 days of the department of lifelong education, advancement, and potential registering its objection in writing and provide a final determination on the validity of the objection within 60 days of the review committee's first meeting.

(26) The department of lifelong education, advancement, and potential shall implement a process to evaluate and approve age-appropriate educational curricula that are in compliance with the early childhood standards of quality for prekindergarten children adopted by the state board.

(27) From the funds allocated under subsection (1), there is allocated for 2024-2025 an amount not to exceed \$2,000,000.00 for payments to intermediate districts or consortia of intermediate districts for professional development and training materials for educators in programs implementing new curricula or child assessment tools approved for use in the great start readiness program.

(28) A great start readiness program, a GSRP extended program, a GSRP/Head Start school-day blended program, or a GSRP/Head Start extended blended program funded under this section is permitted to utilize AmeriCorps Pre-K Reading Corps members in classrooms implementing research-based early literacy intervention strategies.

(29) In addition to the allocation under subsection (1), from the state school aid fund money appropriated under section 11, there is allocated an amount not to exceed \$25,000,000.00 for 2024-2025 only for classroom start up grants to intermediate districts and consortia of intermediate districts for new or expanding great start readiness classrooms. All of the following apply to funding allocated under this subsection:

(a) To receive funding under this subsection, intermediate districts and consortia of intermediate districts must apply for the funding in a form and manner prescribed by the department of lifelong education, advancement, and potential.

(b) The department of lifelong education, advancement, and potential shall pay an amount not to exceed \$50,000.00 for each new or expanded classroom. If funding is insufficient to fully fund all eligible applicants, the department of lifelong education, advancement, and potential must prorate the per-classroom amount on an equal basis. If the allocation is not fully paid in the current fiscal year, the department of lifelong education, advancement, and potential may award any remaining funding during fiscal year 2025-2026 for each new or expanded classroom at an equal amount per classroom, based on remaining available funds, not to exceed \$50,000.00 per classroom.

(c) Funds received under this subsection by intermediate districts and consortia of intermediate districts must be paid in full to the entity operating the classroom and may be used for 1 or more of the following purposes:

(i) Costs associated with attracting, recruiting, retaining, and licensing required classroom education personnel to staff new or expanded classrooms.

(ii) Supporting facility improvements or purchasing facility space necessary to provide a safe, high-quality learning environment for children in each new or expanded classroom.

(iii) Outreach material necessary for public awareness that the great start readiness program has openings in the area and for costs associated with enrolling eligible children in new or expanded classrooms.

(iv) Supporting costs in each new or expanded classroom associated with improving a provider's great start to quality rating.

(d) The funds allocated under this subsection for 2022-2023 are a work project appropriation, and any unexpended funds for 2022-2023 do not lapse to the state school aid fund and are carried forward into 2023-2024. The purpose of the work project is to continue support for new or expanded great start readiness classrooms. The estimated completion date of the work project is September 30, 2024.

(e) The funds allocated under this subsection for 2024-2025 are a work project appropriation, and any unexpended funds for 2024-2025 do not lapse to the state school aid fund and are carried forward into 2025-2026. The purpose of the work project is to continue support for new or expanded great start readiness classrooms. The estimated completion date of the work project is September 30, 2026.

(30) In addition to the funds allocated in subsection (1), there is allocated from the general fund money appropriated under section 11 for 2024-2025 only an amount not to exceed \$1,950,000.00 for an intermediate district or a consortium of intermediate districts to partner with the department of lifelong education, advancement, and potential and community-based organizations to continue implementing statewide outreach and enrollment campaign activities to raise awareness about the availability of services through the great start readiness program and to promote enrollment.

(31) The funds allocated under subsection (30) for 2024-2025 are a work project appropriation, and any unexpended funds for 2024-2025 are carried forward into 2025-2026. The purpose of the work project is to raise awareness of and participation in great start readiness programming. The estimated completion date of the work project is September 30, 2027.

(32) Notwithstanding section 17b, the department of lifelong education, advancement, and potential shall make payments under subsection (30) on a schedule determined by the department of lifelong education, advancement, and potential.

(33) As used in this section:

(a) "Child care center" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) "Licensed child care center" means a child care center that has been issued a license under 1973 PA 116, MCL 722.111 to 722.128, to operate a child care center.

History: Add. 2000, Act 297, Imd. Eff. July 26, 2000 ;-- Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001 ;-- Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002 ;-- Am. 2002, Act 521, Imd. Eff. July 25, 2002 ;-- Am. 2003, Act 158, Eff. Oct. 1, 2003 ;-- Am. 2004, Act 351, Eff. Oct. 1, 2004 ;-- Am. 2005, Act 155, Eff. Oct. 1, 2005 ;-- Am. 2006, Act 342, Eff. Oct. 1, 2006 ;-- Am. 2007, Act 137, Imd. Eff. Nov. 8, 2007 ;-- Am. 2008, Act 268, Eff. Oct. 1, 2008 ;-- Am. 2009, Act 121, Imd. Eff. Oct. 19, 2009 ;-- Am. 2010, Act 110, Eff. Oct. 1, 2010 ;-- Am. 2011, Act 62, Eff. Oct. 1, 2011 ;-- Am. 2012, Act 201, Eff. Oct. 1, 2012 ;-- Am. 2013, Act 60, Eff. Oct. 1, 2013 ;-- Am. 2014, Act 196, Eff. Oct. 1, 2014 ;-- Am. 2015, Act 85, Eff. Oct. 1, 2015 ;-- Am. 2015, Act 139, Eff. Oct. 7, 2015 ;-- Am. 2016, Act 249, Eff. Oct. 1, 2016 ;-- Am. 2017, Act 108, Eff. Oct. 1, 2017 ;-- Am. 2017, Act 143, Imd. Eff. Nov. 2, 2017 ;-- Am. 2018, Act 265, Eff. Oct. 1, 2018 ;-- Am. 2018, Act 586, Imd. Eff. Dec. 28, 2018 ;-- Am. 2019, Act 58, Eff. Oct. 1, 2019 ;-- Am. 2020, Act 146, Imd. Eff. July 31, 2020 ;-- Am. 2020, Act 165, Eff. Oct. 1, 2020 ;-- Am. 2021, Act 48, Eff. Oct. 1, 2021 ;-- Am. 2022, Act 144, Eff. Oct. 1, 2022 ;-- Am. 2023, Act 103, Imd. Eff. July 21, 2023 ;-- Am. 2024, Act 120, Eff. Oct. 1, 2024

Compiler's Notes: In the first and last sentences of subsection (1), as amended by Act 121 of 2001, the phrases "and 2002-2003" and "and for 2002-2003" were vetoed by the governor September 28, 2001. In subsection (2), as amended by Act 121 of 2001, the phrase "and 2002-2003" was vetoed by the governor September 28, 2001. Enacting section 3 of Act 521 of 2002 provides: "Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963." For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002. Enacting section 1 of Act 351 of 2004 provides: "Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2004-2005 is estimated at \$11,173,900,000.00 and state appropriations to be paid to local

units of government for fiscal year 2004-2005 are estimated at \$11,113,650,400.00."Enacting section 1 of 2005 PA 155 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act and in House Bill No. 4831 of the 93rd Legislature from state sources for fiscal year 2005-2006 is estimated at \$11,364,814,000.00 and state appropriations to be paid to local units of government for fiscal year 2005-2006 are estimated at \$11,341,913,100.00."Enacting section 1 of Act 342 of 2006 provides:"Enacting section 1. (1) In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2006-2007 is estimated at \$11,682,508,200.00 and state appropriations to be paid to local units of government for fiscal year 2006-2007 are estimated at \$11,536,597,200.00.(2) In accordance with section 30 of article I of the state constitution of 1963, total state spending from state sources for fiscal year 2005-2006 in this amendatory act and 2005 PA 155 is estimated at \$11,308,027,200.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at \$11,285,376,300.00."Enacting section 1 of Act 137 of 2007 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2007-2008 is estimated at \$11,527,973,800.00 and state appropriations to be paid to local units of government for fiscal year 2007-2008 are estimated at \$11,458,493,300.00."Enacting section 1 of Act 268 of 2008 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2008-2009 is estimated at \$11,816,898,200.00 and state appropriations to be paid to local units of government for fiscal year 2008-2009 are estimated at \$11,602,465,900.00."Enacting section 1 of Act 121 of 2009 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2009-2010 is estimated at \$10,825,754,100.00 and state appropriations to be paid to local units of government for fiscal year 2009-2010 are estimated at \$10,718,801,700.00."Enacting section 1 of Act 139 of 2015 provides:"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending from state sources on state school aid under article I of the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, as amended by 2015 PA 85 and this amendatory act for fiscal year 2015-2016 is estimated at \$12,124,885,100.00 and state appropriations for school aid to be paid to local units of government for fiscal year 2015-2016 are estimated at \$11,967,255,600.00."

PREGNANT AND PARENTING STUDENT SERVICES ACT (EXCERPT)

Act 500 of 2004

390.1595 Establishment and operation of office; criteria and standards; report.

Sec. 5.

(1) An institution of higher education may establish and operate a pregnant and parenting student services office. An office shall meet all of the following:

- (a) Be located on the campus of the institution of higher education.
 - (b) Annually assess the performance of the institution and the office in meeting the following needs of students on campus who are pregnant or who are a custodial parent or legal guardian of a minor:
 - (i) Comprehensive student health care.
 - (ii) Family housing.
 - (iii) Child care.
 - (iv) Flexible or alternative academic scheduling.
 - (v) Education concerning responsible parenting for mothers and fathers.
 - (c) Identify public and private service providers qualified to meet the needs described in subdivision (b), both on campus and within the local community, and establish programs with qualified providers it selects to meet those needs.
 - (d) Assist students in locating and obtaining services that meet 1 or more of the needs described in subdivision (b).
 - (e) If appropriate, provide referrals on prenatal care and delivery, infant or foster care, or adoption, and on family planning, to individual students who request that information.
 - (f) By the date determined by the department, provide the department with an annual report that itemizes the office's expenditures during the preceding fiscal year and contains a review and evaluation of the performance of the office in fulfilling its obligations under this subsection.
- (2) The department shall identify specific performance criteria and standards that the office shall use in preparing the annual report required under subsection (1). The department may establish the form or format of the report. The department may require that an office provide additional information after it has reviewed the report.

History: 2004, Act 500, Eff. Mar. 30, 2005 ;-- Am. 2023, Act 207, Eff. Feb. 13, 2024

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.1 Family independence agency; creation; powers and duties; director, assistants, and employees; rules; successor to juvenile institute commission; other references.

Sec. 1.

(1) A department of state government is created that shall be known and designated as the family independence agency, and that shall possess the powers granted and perform the duties imposed in this act. The family independence agency shall consist of a director and the assistants and employees appointed or employed in the family independence agency.

(2) The family independence agency is responsible for the operation and supervision of the institutions and facilities established within the family independence agency. The institutions and facilities may be operated on a coeducational basis. The family independence agency shall make and enforce its own rules, not inconsistent with the law governing the institutions or facilities under its control, respecting the conduct of the institutions and facilities, discipline in the institutions and facilities, the care of property, and the welfare of the residents.

(3) The family independence agency shall be, in all respects, the legal successor to the powers, duties and responsibilities of the juvenile institute commission.

(4) A reference in this act to "the state department of social services", "the state department", or "department" means the family independence agency.

History: 1939, Act 280, Imd. Eff. June 16, 1939 ;-- Am. 1943, Act 208, Imd. Eff. Apr. 17, 1943 ;-- Am. 1947, Act 224, Imd. Eff. June 17, 1947 ;-- CL 1948, 400.1 ;-- Am. 1957, Act 95, Eff. Sept. 27, 1957 ;-- Am. 1972, Act 301, Eff. Jan. 1, 1973 ;-- Am. 1995, Act 223, Eff. Mar. 28, 1996

Compiler's Notes: For transfer of powers and duties of the medical services administration, medical assistance program and state medical program from the department of social services, or the director, to the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws. For transfer of powers and duties of adult foster care licensing, adult foster care licensing advisory council, and 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 renaming family independence agency to department of human services, see E.R.O. No. 2004-4, compiled at MCL 400.226. 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of adult foster care licensing advisory council from department of human services and director of department of human services to the director of department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For creation of department of health and human services and abolishment of department of human services, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110.

Popular Name: Act 280

Admin Rule: R 400.1 et seq. of the Michigan Administrative Code.

THE SOCIAL WELFARE ACT (EXCERPT) Act 280 of 1939

400.5a Adverse action against child placing agency prohibited; basis.

Sec. 5a.

In accordance with section 23g of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.23g, and sections 14e and 14f of 1973 PA 116, MCL 722.124e and 722.124f, the department 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 services that conflict with, or provide 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.

History: Add. 2015, Act 55, Eff. Sept. 9, 2015

Compiler's Notes: Enacting section 1 of Act 55 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."

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.11b Investigation; purpose; basis; providing licensee with substance of allegations; response to allegations; cooperation of local law enforcement officers; investigation not to be in place of investigation of suspected criminal conduct; scope of investigation; in-person interview; search warrant; availability of protective services; collaboration with other agencies; petition for finding of incapacity and appointment of guardian or temporary guardian; petition for appointment of conservator; report; providing copy of report to state department and prosecuting attorney.

Sec. 11b.

(1) Within 24 hours after receiving a report made or information obtained under section 11a, the county department shall commence an investigation to determine whether the person suspected of being or believed to be abused, neglected, or exploited is an adult in need of protective services. A reasonable belief on the part of the county department that the person is an adult in need of protective services is a sufficient basis for investigation. If an investigation pertains to an adult residing in an adult foster care facility licensed by the department of licensing and regulatory affairs, the county department shall provide the adult foster care licensee with the substance of the abuse or neglect allegations as soon as practicable after the beginning of the investigation. The licensee must have the opportunity to respond to the allegations, and the response must be included in the record.

(2) Upon a request by the county department, local law enforcement officers shall cooperate with the county department in an investigation of suspected abuse, neglect, or exploitation. The investigation required by this section is not in place of an investigation by the appropriate police agency regarding suspected criminal conduct arising from the suspected abuse, neglect, or exploitation.

(3) The investigation must include a determination of the nature, extent, and cause of the abuse, neglect, or exploitation; examination of evidence; identification, if possible, of the person responsible for the abuse, neglect, or exploitation; the names and conditions of other adults in the place of residence; an evaluation of the persons responsible for the care of the adult, if appropriate; the environment of the residence; the relationship of the adult to the person responsible for the adult's care; an evaluation as to whether or not the adult would consent to receiving protective services; and other pertinent data.

(4) The investigation must include an in-person interview with the adult. The county department shall conduct the interview by means of a personal visit with the adult in the adult's dwelling or in the office of the county department. In attempting to conduct a personal visit with the adult in the adult's dwelling, if admission to the dwelling is denied, the county department may seek to obtain a search warrant as provided in 1966 PA 189, MCL 780.651 to 780.659.

(5) The investigation may include a medical, psychological, social, vocational, and educational evaluation and review.

(6) In the course of an investigation, the county department shall determine if the adult is or was abused, neglected, or exploited. The county department shall make available to the adult the appropriate and least restrictive protective services, directly or through the purchase of services from other agencies and professions, and shall take necessary action to safeguard and enhance the adult's welfare, if possible. The county department also shall collaborate with law enforcement officers, courts of competent jurisdiction, and appropriate state and community agencies providing human services, which services are provided in relation to preventing, identifying, and treating adult abuse, neglect, or exploitation. If the abuse, neglect, or exploitation involves substance use disorder, the county department shall collaborate with the local substance use disorder coordinating agency as designated by the office of recovery oriented systems of care in the department for a referral for substance use disorder services. The county department may petition for a finding of incapacity and to have a guardian or temporary guardian appointed as provided in section 5303 or 5312 of the estates and protected individuals code, 1998 PA 386, MCL 700.5303 and 700.5312, and may petition to have a conservator appointed as provided in section 5401 of the estates and protected individuals code, 1998 PA 386, MCL 700.5401, for a vulnerable adult. If a financial institution made the report of suspected abuse, neglect, or exploitation, the county department may inform that financial institution of the status of the investigation.

(7) Upon completion of an investigation, the county department shall prepare a written report of the investigation and its findings. A copy of this written report shall be forwarded to the department upon request.

(8) The county department may provide a copy of the written report to the prosecuting attorney for the county in which the adult suspected of being or believed to be abused, neglected, or exploited resides or is found.

(9) A representative from the department, the department of state police, the department of attorney general, and the office of services to the aging, and an individual who is a representative of long-term care providers and is

designated by the department of attorney general, shall meet and develop a state model protocol for investigating vulnerable adult abuse cases. A county prosecuting attorney, in cooperation with the local county department and local law enforcement agencies, may adopt a local protocol for investigating vulnerable adult abuse cases that is based on the state model protocol.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983 ;-- Am. 1988, Act 422, Imd. Eff. Dec. 27, 1988 ;-- Am. 1990, Act 122, Imd. Eff. June 26, 1990 ;-- Am. 2000, Act 61, Eff. Apr. 1, 2000 ;-- Am. 2012, Act 175, Imd. Eff. June 19, 2012 ;-- Am. 2020, Act 345, Eff. Mar. 24, 2021
Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.11c Confidentiality of identity of person making report; immunity from civil liability; presumption; extent of immunity; abrogation of privileged communication; exception; sharing of information and records.

Sec. 11c.

(1) The identity of a person making a report under section 11a or 11b shall be confidential, subject only to disclosure with the consent of that person or by judicial process. A person acting in good faith who makes a report or who assists in the implementation of sections 11 to 11f is immune from civil liability that might otherwise be incurred by making the report or by assisting in the making of the report. A person making a report or assisting in the implementation of sections 11 to 11f is presumed to have acted in good faith. The immunity from civil liability extends only to an act performed under sections 11 to 11f and does not extend to a negligent act that causes personal injury or death.

(2) Any legally recognized privileged communication, except that between attorney and client and except as specified in section 11a(2), is abrogated and does not constitute grounds for excusing a report otherwise required to be made under this act.

(3) Notwithstanding any other confidentiality provision in this act and sections 5 and 7(2) of the child protection law, 1975 PA 238, MCL 722.625 and 722.627, information or records in the possession of the department or the department of licensing and regulatory affairs may be shared to the extent necessary for the proper functioning of the department or the department of licensing and regulatory affairs in administering child or adult welfare or child or adult foster care facility licensing under this act or in an investigation conducted under section 43b. Information or records shared under this subsection shall not be released by the department or the department of licensing and regulatory affairs unless otherwise permitted under this act or other state or federal law.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983 ;-- Am. 2016, Act 493, Eff. Apr. 6, 2017
Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.18b Repealed. 1975, Act 280, Eff. Jan. 1, 1976.

Compiler's Notes: The repealed section pertained to distribution of moneys for foster care of children.
Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.18c Foster care of children; use of licensed child caring institutions or placement agencies; supervision

by county department; standards of care and service; placement of child at least 16 but less than 21 years of age or at least 18 but less than 21 years of age.

Sec. 18c.

(1) Foster care financed by a county department shall be provided by the use of licensed child caring institutions or placement agencies, in accordance with the needs of the child, or if licensed child caring institutions or placement agencies are not available, or there is a religious conflict, foster care shall be provided under the direct supervision of the county department, which care shall meet the following standards of care and service:

(a) Personnel engaged in placement and supervision of children in foster care shall have qualifying training and experience.

(b) Adequate records shall be maintained with information on the physical and mental health of the child, his or her emotional stability and family background, together with the reasons for the child's placement away from home to aid in planning for any child placed by the department, toward the end that the child may be reunited with his or her family as soon as it appears possible.

(c) Family foster homes used by the department shall be selected with consideration of the religious, racial, and cultural background of the child to be placed and children thus placed shall be visited in these homes at least once a month.

(2) The department may place a child who is at least 16 but less than 21 years of age in an unlicensed residence to live independently, or in the unlicensed residence of an adult who has no supervisory responsibility for the child, if the department maintains supervisory responsibility for that 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.

History: Add. 1955, Act 113, Eff. Oct. 14, 1955 ;-- Am. 2011, Act 230, Imd. Eff. Nov. 22, 2011

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT) Act 280 of 1939

400.18d Foster care of children; county emergency receiving facility for temporary care, standards.

Sec. 18d.

The county department of social welfare, upon authorization of the county board of supervisors, may operate an emergency receiving facility for the temporary care of homeless, dependent or neglected children for whom such care is necessary, pending foster care placement or restoration to their own homes or any other plan deemed best for the health, safety and welfare of such children. The county department operating an emergency receiving facility shall maintain the standards of the state department established in respect to places of detention for juveniles under section 14 of this act.

History: Add. 1958, Act 29, Eff. Sept. 13, 1958

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT) Act 280 of 1939

400.18e State plan for foster care; focus groups; establishment; funds.

Sec. 18e.

(1) The family independence agency shall establish and administer a state plan for foster care according to the provisions of part E of title IV of the social security act, 42 USC 670 to 679b. The state plan shall include programs and services that promote, implement, and support foster care focus groups. When developing and annually reviewing the state plans to carry out foster care policy and services, the family independence agency shall utilize input from locally-based foster care focus groups.

(2) Foster care focus groups shall be composed of youth in foster care or independent living programs, youth

previously in foster care, foster parents or relatives caring for youth in foster care, and adults previously in foster care or independent living programs. The majority of the focus group consists of youth in foster care or independent living programs.

(3) In order to inform the legislature, the executive office, the judiciary, and the public of the needs and interests of youth in foster care, foster parents, and relatives caring for youth in foster care, the foster care focus groups are encouraged to be established in both of the following:

(a) Licensed child placing agencies with which the family independence agency contracts for youth foster care services that have an annual average daily foster care caseload of 150 or more cases or that derives more than 50% of its operating budget from contracts with the family independence agency for youth foster care services.

(b) Counties in which the family independence agency has an annual average daily foster care caseload of 150 or more cases.

(4) State and federal funds appropriated to implement state plans in compliance with part E of title IV of the social security act, 42 USC 670 to 679b and state laws may be used to meet the provisions of this section.

History: Add. 2004, Act 18, Imd. Eff. Mar. 4, 2004

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.55 Administration of public welfare program by county department.

Sec. 55.

The county department shall administer a public welfare program, as follows:

(a) To grant general assistance, including medical care and care in the county medical care facility, but not including hospitalization and infirmary care except for care in the county medical care facility or a county infirmary existing on January 1, 1981, to any person domiciled in the county who has a legal settlement in this state. General assistance may also be granted to a person who has a legal settlement in this state but no domicile in the county and a recoupment may be made when appropriate in the manner provided in cases of emergency hospitalization under this act. In a temporary emergency, general assistance may be given to indigents without a settlement in this state as the county department considers necessary, including, if other funds are not available for the purpose, all necessary expenses in transporting an indigent to his or her domicile in this state, or in another state or nation, when information reasonably tends to show that the person has a home available in his or her place of domicile in this state or a legal residence in another state or nation. A legal settlement in this state is acquired by an emancipated person who has lived continuously in this state for 1 year with the intent to make it his or her home and who, during the 1-year period has not received public assistance, other than assistance received during and as a direct result of a civil defense emergency, or support from relatives. Time spent in a public institution shall not be counted in determining settlement. A legal settlement shall be lost by remaining away from this state for an uninterrupted period of 1 year except that absence from this state for labor or other special or temporary purpose shall not occasion loss of settlement.

(b) To administer categorical assistance including medical care.

(c) To supervise and be responsible for the operation of the county infirmary and county medical care facility. In a county having a population of 1,000,000 or more that maintains a county infirmary or county hospital or a joint infirmary and hospital providing for mental patients, the institution and the admissions to the institution are subject to the control of a board to be known as the board of county institutions. The board shall consist of 5 members appointed by the county board of commissioners, except that in a county having a board of county auditors, 3 members of the board of county institutions shall be appointed by the county board of commissioners and 2 members shall be appointed by the board of county auditors. Each member of the board shall hold office for a term and receive compensation as the county board of commissioners provides by ordinance. In relation to the administration of the institutions the board has and succeeds to all powers and duties formerly vested by law, general, local or special, in the superintendents of the poor in the county and the board of county institutions as constituted on April 13, 1943. The board of county institutions of the county may also maintain outpatient facilities for the treatment of needy persons suffering from mental disorders. The board also has the same powers as are given to the county board in section 78.

(d) To furnish in all cases, insofar as practicable, care and treatment that will tend to restore needy persons to a condition of financial and social independence.

(e) To require that each applicant shall furnish proof satisfactory to the county board that the applicant is entitled to the aid, assistance, or benefit sought.

(f) To investigate, in respect to each application for any form of public aid or assistance, the circumstances of the applicant, both at the time of application and periodically during the receipt of aid or assistance.

(g) To maintain adequate social and financial records pertaining to each recipient of aid or assistance and so far as is practicable engage in the prevention of social disabilities.

(h) Except as otherwise provided in this subdivision, to investigate, when requested by the probate court or the family division of circuit court, matters pertaining to dependent, neglected, and delinquent children and wayward minors under the court's jurisdiction, to provide supervision and foster care as provided by court order, and to furnish the court, on request, investigational service in respect to the hospitalization of children under the program of services for children and youth with special health care needs established under part 58 of the public health code, 1978 PA 368, MCL 333.5801 to 333.5879, which services shall include the follow-up investigation and continuing observations. If the county is a county juvenile agency as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622, the county department's obligations under this subdivision are limited to public wards within the county's jurisdiction under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, and county juvenile agency services as defined in section 117a.

(i) To assist other departments, agencies, and institutions of the federal, state, and county governments, when requested, in performing services in conformity with the purposes of this act.

(j) To assist in the development of sound programs and standards of child welfare, and promote programs and policies looking toward the prevention of dependency, neglect, and delinquency and other conditions affecting adversely the welfare of families and children.

(k) To create within the county department a division of medical care. The county board may appoint a properly qualified and licensed doctor of medicine as the head of the division and an advisory committee. The advisory committee shall consist of 1 doctor of medicine, nominated by the county medical society; 1 dentist, nominated by the district dental society; and 1 pharmacist, nominated by the district pharmaceutical association, to assist in formulating policies of medical care and auditing and reviewing bills. "Medical care" as used in this act means medical care rendered under the supervision of a licensed physician in an organized out-patient department of a hospital licensed by the department of community health under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or home and office attendance by a physician, osteopathic physician and surgeon, or podiatrist licensed or otherwise authorized to engage in practice under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838; and when prescribed by the physician, osteopathic physician and surgeon, or podiatrist, diagnostic services requiring the use of equipment not available in his or her offices, if the services do not require overnight care, dental service, optometric service, bedside nursing service in the home, or pharmaceutical service. The private physician-patient relationship shall be maintained. The normal relationships between the recipients of dental, optometric, nursing, and pharmaceutical services, and the services furnished by a physician, osteopathic physician and surgeon, podiatrist, or a chiropractor licensed or otherwise authorized to engage in practice under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and the persons furnishing these services shall be maintained. This section does not affect the office of a city physician or city pharmacist established under a city charter, a county health officer, or the medical superintendent of a county hospital. This section permits the use of a case management system, a patient care management system, or other alternative system for providing medical care.

(l) To cause to be suitably buried the body of a deceased indigent person who has a domicile in the county, when requested by the person's relative or friend, or of a stranger, when requested by a public official following an inquest.

(m) To administer additional welfare functions as are vested in the department, including hospitalization.

(n) To act as an agent for the state department in matters requested by the state department under the rules of the state department.

(o) To provide temporary general assistance for each family found ineligible for family independence assistance by reason of unsuitable family home as provided in section 56.

History: 1939, Act 280, Imd. Eff. June 16, 1939 ;-- Am. 1941, Act 343, Eff. Jan. 10, 1942 ;-- Am. 1943, Act 85, Eff. July 30, 1943 ;-- CL 1948, 400.55 ;-- Am. 1951, Act 248, Imd. Eff. June 15, 1951 ;-- Am. 1957, Act 292, Eff. Sept. 27, 1957 ;-- Am. 1961, Act 184, Eff. Sept. 8, 1961 ;-- Am. 1962, Act 195, Imd. Eff. June 4, 1962 ;-- Am. 1963, Act 141, Eff. Sept. 6, 1963 ;-- Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965 ;-- Am. 1966, Act 258, Imd. Eff. July 11, 1966 ;-- Am. 1980, Act 486, Imd. Eff. Jan. 20, 1981 ;-- Am. 1987, Act 266, Imd. Eff. Dec. 28, 1987 ;-- Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999 ;-- Am. 2015, Act 90, Imd. Eff. June 25, 2015

Compiler's Notes: For transfer of policymaking, administration, and all related functions for the assistance to disabled persons' portion of the General Assistance Program provided for in MCL 400.55 of the Michigan Compiled Laws from the county departments to the Office of Income Assistance of the Family Services Administration of the Department of Social Services, see E.R.O. No. 1991-14, compiled at MCL 400.222 of the Michigan Compiled Laws.

Former Law: See Act 85 of 1943.

Popular Name: Act 280

Admin Rule: R 400.1 et seq. of the Michigan Administrative Code.

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.57 Definitions.

Sec. 57.

(1) As used in this section and sections 57a to 57z:

(a) "Adult-supervised household" means either of the following:

(i) The place of residence of a parent, stepparent, or legal guardian of a minor parent.

(ii) A living arrangement not described in subparagraph (i) that the department approves as a family setting that provides care and control of a minor parent and his or her child and supportive services including, but not limited to, counseling, guidance, or supervision.

(b) "Caretaker" means an individual who is acting as parent for a child in the absence or because of the disability of the child's parent or stepparent and who is the child's legal guardian, grandparent, great grandparent, great-great grandparent, sibling, stepsibling, aunt, great aunt, great-great aunt, uncle, great uncle, great-great uncle, nephew, niece, first cousin, or first cousin once-removed, a spouse of any person listed above, a parent of the putative father, or an unrelated individual aged 21 or older whose appointment as legal guardian of the child is pending.

(c) "Child" means an individual who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, who lives with a parent or caretaker, and who is either of the following:

(i) Under the age of 18.

(ii) Age 18 and a full-time high school student.

(d) "Family" means 1 or more of the following:

(i) A household consisting of a child and either of the following:

(A) A parent or stepparent of the child.

(B) A caretaker of the child.

(ii) A pregnant woman.

(iii) A parent of a child in foster care.

(e) "Family independence program assistance" means financial assistance provided to a family under the family independence program.

(f) "Family independence program assistance group" means all those members of a program group who receive family independence program assistance.

(g) "Family independence program" means the program of financial assistance established under section 57a.

(h) "Family self-sufficiency plan" means a document described in section 57e that is executed by a family in return for receiving family independence program assistance.

(i) "Medical review team" means the team composed of a disability examiner and a physician as a medical consultant who certifies disability for the purpose of eligibility for assistance under this act.

(j) "Negative action period" means the time frame a client is given notice for a benefit decrease or closure of the family independence program benefit.

(k) "Minor parent" means an individual under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, and who is either the biological parent of a child living in the same household or a pregnant woman.

(l) "PATH program" means the PATH: partnership. accountability. training. hope. work partnership program. A reference to the JET program means the PATH program.

(m) "Payment standard" means the standard upon which family independence program assistance benefits are based.

(n) "Program group" means a family and all those individuals living with a family whose income and assets are considered for purposes of determining financial eligibility for family independence program assistance, except as provided in section 57a(6).

(o) "Recipient" means an individual receiving family independence program assistance.

(p) "Substance abuse" means that term as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(q) "Substance abuse treatment" means outpatient or inpatient services or participation in Alcoholics Anonymous or a similar program.

(r) "Supplemental security income" means the program of supplemental security income provided under title XVI.

(2) A reference in this act to "aid to dependent children" or "aid to families with dependent children" means "family independence program assistance".

History: Add. 1995, Act 223, Eff. Mar. 28, 1996 ;-- Am. 2006, Act 471, Imd. Eff. Dec. 20, 2006 ;-- Am. 2011, Act 131, Eff. Oct. 1, 2011 ;-- Am. 2014, Act 375, Eff. Jan. 1, 2016 ;-- Am. 2018, Act 574, Eff. Jan. 1, 2020

Compiler's Notes: Former MCL 400.57, which pertained to eligibility for aid to blind, was repealed by Act 189 of 1973, Imd. Eff. Jan. 8, 1974.

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.105a Written information setting forth eligibility requirements for participation in program of medical assistance; updating; copies.

Sec. 105a.

(1) The department of community health shall develop written information that sets forth the eligibility requirements for participation in the program of medical assistance administered under this act. The written information shall be updated not less than every 2 years.

(2) The department of community health shall provide copies of the written information described in subsection (1) to all of the following persons, agencies, and health facilities:

(a) A person applying to the department of community health for participation in the program of medical assistance administered under this act who is considering institutionalization for the person or person's family member in a nursing home or home for the aged.

(b) Each nursing home in the state.

(c) Each hospital in the state.

(d) Each adult foster care facility in the state.

(e) Each area agency on aging.

(f) The office of services to the aging.

(g) Local health departments.

(h) Community mental health boards.

(i) Medicaid and medicare certified home health agencies.

(j) County medical care facilities.

(k) Appropriate department of community health personnel.

(l) Any other person, agency, or health facility determined to be appropriate by the department of community health.

History: Add. 1988, Act 438, Eff. Mar. 30, 1989 ;-- Am. 2013, Act 107, Eff. Mar. 14, 2014

Compiler's Notes: Enacting section 1 of Act 107 of 2013 provides: "Enacting section 1. This amendatory act does not do either of the following: "(a) Authorize the establishment or operation of a state-created American health benefit exchange in this state related to the patient protection and affordable care act, Public Law 111-148, as amended by the federal health care and education reconciliation act of 2010, Public Law 111-152."(b) Convey any additional statutory, administrative, rule-making, or other power to this state or an agency of this state that did not exist before the effective date of the amendatory act that added section 105d to the social welfare act, 1939 PA 280, MCL 400.105d, that would authorize, establish, or operate a state-created American health benefit exchange."

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

***** 400.107b THIS SECTION IS REPEALED BY ACT 253 OF 2024 EFFECTIVE APRIL 2, 2025 *****

400.107b Workforce engagement requirements waiver; implementation; survey; compliance review.

Sec. 107b.

(1) No later than October 1, 2018, the department must apply for or apply to amend a waiver under section 1115 of the social security act, 42 USC 1315, and submit subsequent waivers to prohibit and prevent a lapse in the workforce engagement requirements as a condition of receiving medical assistance under section 105d. The waiver must be a request to allow for all of the following:

(a) A requirement of 80 hours average per month of qualifying activities or a combination of any qualifying activities, to count toward the workforce engagement requirement under this section.

(b) A requirement that an able-bodied recipient verifies that he or she is meeting the workforce engagement requirements by the last day of each month for the previous month's qualifying activities through MiBridges or any other subsequent system. If a recipient does not verify that he or she is meeting the workforce engagement requirements by the last day of the month for the previous month, he or she may verify compliance with the workforce engagement requirements up to 60 days after the missed date for reporting. If the recipient verifies compliance within this time period, the month is not a noncompliance month. A recipient is allowed 3 months of noncompliance within a 12-month period. The recipient may use a noncompliance month either by self-reporting that he or she is not in compliance that month or by the default method of not reporting compliance for that month. The department shall notify the recipient after each time a noncompliance month is used. After a recipient uses 3 noncompliance months in a 12-month period, the recipient loses coverage for at least 1 month until he or she becomes compliant under this section.

(c) Allow substance use disorder treatment that is court-ordered, prescribed by a licensed medical professional, or is a Medicaid-funded substance use disorder treatment, to count toward the workforce engagement requirements if the treatment impedes the ability to meet the workforce engagement requirements.

(d) A requirement that community service must be completed with a nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26 USC 501. Community service can only be used as a qualifying activity for up to 3 months in a 12-month period.

(e) A requirement that a recipient who is also a recipient of the supplemental nutrition assistance program or the temporary assistance for needy families program who is in compliance with or exempt from the work requirements of the supplemental nutrition assistance program or the temporary assistance for needy families program is considered to be in compliance with or exempt from the workforce engagement requirements in this section.

(f) An exemption from the reporting requirement if the department is able to verify the recipient's compliance through other data available to the department.

(g) An exemption for a recipient who meets 1 or more of the following conditions:

(i) A recipient who is the caretaker of a family member who is under the age of 6 years. This exemption allows only 1 parent at a time to be a caretaker, no matter how many children are being cared for.

(ii) A recipient who is currently receiving temporary or permanent long-term disability benefits from a private insurer or from the government.

(iii) A recipient who is a full-time student who is not a dependent of a parent or guardian or whose parent or guardian qualifies for Medicaid. This subparagraph includes a student in a postsecondary institution or certificate program.

(iv) A recipient who is pregnant.

(v) A recipient who is the caretaker of a dependent with a disability which dependent needs full-time care based on a licensed medical professional's order. This exemption is allowed 1 time per household.

(vi) A recipient who is the caretaker of an incapacitated individual even if the incapacitated individual is not a dependent of the caretaker.

(vii) A recipient who has proven that he or she has met the good cause temporary exemption.

(viii) A recipient who has been designated as medically frail.

(ix) A recipient who has a medical condition that results in a work limitation according to a licensed medical professional's order.

(x) A recipient who has been incarcerated within the last 6 months.

(xi) A recipient who is receiving unemployment benefits from this state. This exemption applies during the period the recipient received unemployment benefits and ends when the recipient is no longer receiving unemployment benefits.

(xii) A recipient who is under 21 years of age who had previously been in a foster care placement in this state.

(2) After the waiver requested under this section is approved, the department must include, but is not limited to, all of the following, as approved in the waiver, in its implementation of the workforce engagement requirements under this section:

(a) A requirement of 80 hours average per month of qualifying activities or a combination of any qualifying activities counts toward the workforce engagement requirement under this section.

(b) A requirement that an able-bodied recipient verifies that he or she is meeting the workforce engagement requirements by the last day of each month for the previous month's qualifying activities through MiBridges or any other subsequent system. If a recipient does not verify that he or she is meeting the workforce engagement requirements by the last day of the month for the previous month, he or she may verify compliance with the workforce engagement requirements up to 60 days after the missed date for reporting. If the recipient verifies compliance within this time period, the month is not a noncompliance month. A recipient is allowed 3 months of noncompliance within a 12-month period. The recipient may use a noncompliance month either by self-reporting that he or she is not in compliance that month or by the default method of not reporting compliance for that month. The department shall notify the recipient after each time a noncompliance month is used. After a recipient uses 3 noncompliance months in a 12-month period, the recipient loses coverage for at least 1 month until he or she becomes compliant under this section.

(c) Allowing substance use disorder treatment that is court-ordered, is prescribed by a licensed medical professional, or is a Medicaid-funded substance use disorder treatment, to count toward the workforce engagement requirements if the treatment impedes the ability to meet the workforce engagement requirements.

(d) A requirement that community service must be completed with a nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26 USC 501. Community service can only be used as a qualifying activity for up to 3 months in a 12-month period.

(e) A requirement that a recipient who is also a recipient of the supplemental nutrition assistance program or the temporary assistance for needy families program who is in compliance with or exempt from the work requirements of the supplemental nutrition assistance program or the temporary assistance for needy families program is considered to be in compliance with or exempt from the workforce engagement requirements in this section.

(f) An exemption from the reporting requirement if the department is able to verify the recipient's compliance through other data available to the department.

(g) An exemption for a recipient who meets 1 or more of the following conditions:

(i) A recipient who is the caretaker of a family member who is under the age of 6 years. This exemption allows only 1 parent at a time to be a caretaker, no matter how many children are being cared for.

(ii) A recipient who is currently receiving temporary or permanent long-term disability benefits from a private insurer or from the government.

(iii) A recipient who is a full-time student who is not a dependent of a parent or guardian or whose parent or guardian qualifies for Medicaid. This subparagraph includes a student in a postsecondary institution or a certificate program.

(iv) A recipient who is pregnant.

(v) A recipient who is the caretaker of a dependent with a disability which dependent needs full-time care based on a licensed medical professional's order. This exemption is allowed 1 time per household.

(vi) A recipient who is the caretaker of an incapacitated individual even if the incapacitated individual is not a dependent of the caretaker.

(vii) A recipient who has proven that he or she has met the good cause temporary exemption.

(viii) A recipient who has been designated as medically frail.

(ix) A recipient who has a medical condition that results in a work limitation according to a licensed medical professional's order.

(x) A recipient who has been incarcerated within the last 6 months.

(xi) A recipient who is receiving unemployment benefits from this state. This exemption applies during the period the recipient received unemployment benefits and ends when the recipient is no longer receiving unemployment benefits.

(xii) A recipient who is under 21 years of age who had previously been in a foster care placement in this state.

(3) The department may first direct recipients to existing resources for job training or other employment services, child care assistance, transportation, or other supports. The department may develop strategies for assisting recipients to meet workforce engagement requirements under this section.

(4) By October 1 of each year the department submits a waiver to prohibit and prevent a lapse in the workforce engagement requirements, the Medicaid director must submit to the governor, the senate majority leader, and the speaker of the house of representatives a letter confirming the submission of the waiver request required under subsection (1).

(5) Beginning January 1, 2020, the department must execute a survey to obtain the information needed to complete an evaluation of the medical assistance program under section 105d to determine how many recipients have left the Healthy Michigan program as a result of obtaining employment and medical benefits.

(6) The department must execute a survey to obtain the information needed to submit a report to the legislature beginning January 1, 2021, and every January 1 after that, that shows, for medical assistance under section 105d known as Healthy Michigan, the number of exemptions from workforce engagement requirements granted to individuals in that year and the reason the exemptions were granted.

(7) The department shall enforce the provisions of this section by conducting the compliance review process on medical assistance recipients under section 105d who are required to meet the workforce engagement requirements of this section. If a recipient is found, through the compliance review process, to have misrepresented his or her compliance with the workforce engagement requirements in this section, he or she shall not be allowed to participate in the Healthy Michigan program under section 105d for a 1-year period.

(8) The department shall implement the requirements of this section no later than January 1, 2020, and shall notify recipients to whom the workforce engagement requirements described in this section are likely to apply of the workforce engagement requirements 90 days in advance.

(9) The cost of initial implementation of the workforce engagement requirements required under this section shall not be considered when determining the cost-benefit analysis required under section 105d(28)(b). The cost of initial implementation does not include the cost of ongoing administration of the workforce engagement requirements. The ongoing costs of administering the workforce engagement requirements required under this section may have up to a \$5,000,000.00 general fund/general purpose revenue limit that shall not be counted when

determining the cost-benefit analysis required under section 105d(28)(b). Any ongoing costs above \$5,000,000.00 of general fund/general purpose revenue to administer the workforce engagement requirements under this section shall be considered in the cost-benefit analysis required under section 105d(28)(b).

(10) Beginning January 1, 2020, medical assistance recipients who are not exempt from the workforce engagement requirements under this section must be in compliance with this section. Beginning January 1, 2020, a medical assistance applicant who is not exempt from the work engagement requirements under this section must be in compliance with this section not more than 30 days after an eligibility determination is made.

(11) The department shall not withdraw, terminate, or amend any waiver submitted under this section without the express approval of the legislature in the form of a bill enacted by law.

History: Add. 2018, Act 208, Eff. Sept. 20, 2018 ;-- Am. 2019, Act 50, Imd. Eff. Sept. 23, 2019

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.115b Responsibility for children committed by juvenile division of probate court or court of general criminal jurisdiction; children and youth services and programs; services, actions, and rules as to neglect, exploitation, abuse, cruelty to, or abandonment of children; adoption of nonresident children; investigation; parent fees; policy regarding investigations and foster care service; foster care maintenance payments.

Sec. 115b.

(1) The department shall assume responsibility for all children committed to it by the juvenile division of the probate court, the family division of circuit court, or the court of general criminal jurisdiction under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, and 1935 PA 220, MCL 400.201 to 400.214. The department may provide institutional care, supervision in the community, boarding care, halfway house care, and other children and youth services and programs necessary to meet the needs of those children or may obtain appropriate services from other state agencies, local public agencies, or private agencies, subject to section 115o. If the program of another state agency is considered to best serve the needs of the child, the other state agency shall give priority to the child.

(2) The department shall study and act upon a request for service as to, or a report received of, neglect, exploitation, abuse, cruelty, or abandonment of a child by a parent, guardian, custodian, or person serving in loco parentis, or a report concerning a child in need of protection. On the basis of the findings of the study, the department shall assure, if necessary, the provision of appropriate social services to the child, parent, guardian, custodian, or person serving in loco parentis, to reinforce and supplement the parental capabilities, so that the behavior or situation causing the problem is corrected or the child is otherwise protected. In assuring the provision of services and providing the services, the department shall encourage participation by other existing governmental units or licensed agencies and may contract with those agencies for the purchase of any service within the scope of this subsection. The department shall initiate action in an appropriate court if the conduct of a parent, guardian, or custodian requires. The department shall promulgate rules necessary for implementing the services authorized in this subsection. The rules shall include provision for local citizen participation in the program to assure local understanding, coordination, and cooperative action with other community resources. In the provision of services, there shall be maximum utilization of other public, private, and voluntary resources available within a community.

(3) If an agency or organization proposes to place for adoption, with a person domiciled in this state, a child who is a citizen of or resides in a country other than the United States or Canada, the department shall conduct, within 180 days after receipt of the request from the agency or organization, the investigation prescribed by section 46 of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.46. In a county in which the department determines it to be more feasible both geographically and economically, the department may purchase the adoption services up to the actual cost of providing those services. The department shall charge parent fees prescribed by the legislature.

(4) The office is responsible for the development, interpretation, and dissemination of policy regarding departmental investigations requested or ordered by the probate court or the family division of circuit court under section 55(h) and the provision of foster care services authorized by this act. Foster care services shall include foster care of state wards, aid to dependent children foster care, foster care of wards of the family division of circuit court placed under the care and supervision of the department by order of the court, and voluntary parental

placement of children in foster care.

(5) All rights to current, past due, and future support payable on behalf of a child committed to or under the supervision of the department and for whom the department is making state or federally funded foster care maintenance payments are assigned to the department while the child is receiving or benefiting from those payments. When the department ceases making foster care maintenance payments for the child, both of the following apply:

(a) Past due support that accrued under the assignment remains assigned to the department.

(b) The assignment of current and future support rights to the department ceases.

(6) The maximum amount of support the department may retain to reimburse the state, the federal government, or both for the cost of care shall not exceed the amount of foster care maintenance payments made from state or federal money, or both.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978 ;-- Am. 1988, Act 75, Eff. Oct. 1, 1988 ;-- Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999 ;-- Am. 2004, Act 193, Imd. Eff. July 8, 2004

Compiler's Notes: Section 3 of Act 75 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 178 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988." For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT) Act 280 of 1939

400.115f Definitions.

Sec. 115f.

As used in this section and sections 115g to 115t:

(a) "Adoptee" means the child who is to be adopted or who is adopted.

(b) "Adoption assistance" means a support subsidy or a support subsidy with medical assistance.

(c) "Adoption assistance agreement" means an agreement between the department and an adoptive parent regarding adoption assistance.

(d) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(e) "Adoptive parent" means the parent or parents who adopt a child under the adoption code.

(f) "Certification" means a determination of eligibility by the department that an adoptee is eligible for a support subsidy or a medical subsidy, or both, or redetermined adoption assistance.

(g) "Child with special needs" means an individual under the age of 18 years for whom the state has determined all of the following:

(i) There is a specific judicial finding that the child cannot or should not be returned to the home of the child's parents.

(ii) A specific factor or condition, or a combination of factors and conditions, exists before the adoption is finalized so that it is reasonable to conclude that the child cannot be placed with an adoptive parent without providing adoption assistance under this act. The factors or conditions to be considered may include ethnic or family background, age, membership in a minority or sibling group, medical condition, physical, mental, or emotional disability, or length of time the child has been waiting for an adoptive home.

(iii) A reasonable but unsuccessful effort was made to place the adoptee with an appropriate adoptive parent without providing adoption assistance under this act or a prospective placement is the only placement in the best interest of the child.

(h) "Compact" means the interstate compact on adoption and medical assistance as enacted in sections 115r and 115s.

(i) "Court" means the family division of circuit court.

(j) "Department" means the department of human services.

(k) "Determination of care rate" means a supplemental payment to the standard age appropriate foster care rate that may be justified when extraordinary care or expense is required. The supplemental payment shall be based on 1 or more of the following for which extraordinary care is required of the foster care provider or an extraordinary expense exists:

(i) A physically disabled child for whom the foster care provider must provide measurably greater supervision and care.

- (ii) A child with special psychological or psychiatric needs that require extra time and a measurably greater amount of care and attention by the foster care provider.
- (iii) A child requiring a special diet that is more expensive than a normal diet and that requires extra time and effort by the foster care provider to obtain and prepare.
- (iv) A child whose severe acting out or antisocial behavior requires a measurably greater amount of care and attention of the foster care provider.
- (v) Any other condition for which the department determines that extraordinary care is required of the foster care provider or an extraordinary expense exists.
- (l) "Foster care" means placement of a child outside the child's parental home under the department's supervision by a court of competent jurisdiction.
- (m) "Medical assistance" means the federally aided medical assistance program under title XIX.
- (n) "Medical subsidy" means a reimbursement program that assists in paying for services for an adopted child who has an identified physical, mental, or emotional condition that existed, or the cause of which existed, before the adoption is finalized.
- (o) "Medical subsidy agreement" means an agreement between the department and an adoptive parent regarding a medical subsidy.
- (p) "Nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs. Nonrecurring adoption expenses do not include costs or expenses incurred in violation of state or federal law or that have been reimbursed from other sources or funds.
- (q) "Other expenses that are directly related to the legal adoption of a child with special needs" means adoption costs incurred by or on behalf of the adoptive parent and for which the adoptive parent carries the ultimate liability for payment, including the adoption study, health and psychological examinations, supervision of the placement before adoption, and transportation and reasonable costs of lodging and food for the child or adoptive parent if necessary to complete the adoption or placement process.
- (r) "Party state" means a state that becomes a party to the interstate compact on adoption and medical assistance.
- (s) "Placement" means a placement or commitment, including the necessity of removing the child from his or her parental home, as approved by the court under an order of disposition issued under section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.
- (t) "Redetermined adoption assistance" means a payment as determined by a certification that may be justified when extraordinary care or expense is required for a condition that existed or the cause of which existed before the adoption from foster care was finalized.
- (u) "Redetermined adoption assistance agreement" means a written agreement regarding redetermined adoption assistance between the department and the adoptive parent of a child.
- (v) "Residence state" means the state in which the child is a resident by virtue of the adoptive parent's residency.
- (w) "Standard age appropriate foster care rate" means the approved maintenance payment rate that is paid for a child in foster family care.
- (x) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.
- (y) "Support subsidy" means payment for support of a child who has been placed for adoption from foster care.

History: Add. 1980, Act 292, Eff. Nov. 18, 1980 ;-- Am. 1992, Act 40, Eff. June 28, 1992 ;-- Am. 1994, Act 238, Eff. July 5, 1994 ;-- Am. 1998, Act 22, Imd. Eff. Mar. 12, 1998 ;-- Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002 ;-- Am. 2004, Act 193, Imd. Eff. July 8, 2004 ;-- Am. 2014, Act 308, Imd. Eff. Oct. 10, 2014

Compiler's Notes: Act 288 of 1939, referred to in this section, was repealed by Act 34 of 1952, Act 143 of 1970, Act 543 of 1978, and Act 642 of 1978. For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.115g Support subsidy; payment; requirements; determination of amount; maximum amount; form to be signed by adoptive parent; presentment of first offer by adoptive parent; acceptance or counteroffer by department; completion of certification process.

Sec. 115g.

(1) The department may pay a support subsidy to an adoptive parent of an adoptee who is placed in the home of the adoptive parent under the adoption code or under the adoption laws of another state or a tribal government, if all of the following requirements are met:

- (a) The department has certified that the adoptee is a child with special needs.
- (b) Certification is made before the adoptee's eighteenth birthday.
- (c) Certification is made and the adoption assistance agreement is signed by the adoptive parent and the department before the adoption is finalized.

(2) The department shall determine eligibility for the support subsidy without regard to the income of the adoptive parent. The maximum amount shall be equal to the rate that the child received in the family foster care placement or the rate the child would have received if he or she had been in a family foster care placement at the time of adoption. This rate includes the determination of care rate that was paid or would have been paid for the adoptee in a family foster care placement, except that the amount shall be increased to reflect increases made in the standard age appropriate foster care rate paid by the department. The department shall not implement policy to limit the maximum amount at an amount less than the family foster care rate, including the determination of care rate, that was paid for the adoptee while the adoptee was in family foster care.

(3) The department shall, on a separate form, require an adoptive parent to sign that he or she either requests or does not request a support subsidy.

(4) The adoptive parent shall present to the department the first offer of the amount requested for the support subsidy. The department may accept the adoptive parent's offer or present a counteroffer to the adoptive parent for the support subsidy. The department shall consider the prospective adoptive parent's requested rate if that requested rate is consistent with the needs of the child being adopted and the prospective adoptive family's circumstances, unless the requested rate exceeds the maximum foster care rate the child is receiving or would receive if placed in a licensed family foster home.

(5) The department shall complete the certification process within 30 days after it receives a request for a support subsidy.

History: Add. 1990, Act 356, Imd. Eff. Dec. 26, 1990 ;-- Am. 1994, Act 238, Eff. July 5, 1994 ;-- Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002 ;-- Am. 2004, Act 193, Imd. Eff. July 8, 2004 ;-- Am. 2009, Act 17, Imd. Eff. Apr. 9, 2009 ;-- Am. 2014, Act 308, Imd. Eff. Oct. 10, 2014

Compiler's Notes: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.115h Medical subsidy; payment; requirements; prohibited payment; determination of amount; third party payments; waiver of subsection (3); time of request; payment for treatment of mental or emotional condition.

Sec. 115h.

(1) Except as provided in subsection (2), the department may pay a medical subsidy as reimbursement for services either to a service provider or to the adoptive parent of an adoptee who is placed for adoption in the home of the adoptive parent under the adoption code or the laws of any other state or a tribal government, if all of the following requirements are met:

(a) The expenses to be covered by the medical subsidy are necessitated by a physical, mental, or emotional condition of the adoptee that existed or the cause of which existed before the adoption petition was filed or certification was established, whichever occurred first.

(b) The adoptee was in foster care at the time the petition for adoption was filed.

(c) Certification was made before the adoptee's eighteenth birthday.

(2) The department shall not pay a medical subsidy to an adoptive parent for providing treatment or services to his or her own adopted child.

(3) The department shall determine the amount of the medical subsidy without respect to the income of the adoptive parent or parents. The department shall not pay a medical subsidy until all other available public money and third party payments have been exhausted. For purposes of this subsection, third party payment is available if an adoptive parent has an option, at or after the time of certification, to obtain from the parent's employer health coverage for the child, with or without cost to the adoptive parent. The department may waive this subsection in

cases of undue hardship.

(4) The adoptive parent may request a medical subsidy before or after the adoption is finalized. A medical subsidy requested after the adoptee is placed in adoption is effective the date the application request is received by the department if the necessary required documentation is received within 90 calendar days after the date the application is received. In allocating available funding for medical subsidies, the department shall not give preferential treatment to requests that are made before the adoption is finalized, but shall allocate funds based on a child's need for the subsidy.

(5) Payment of a medical subsidy for treatment of a mental or emotional condition is limited to outpatient treatment unless 1 or more of the following apply:

- (a) Certification for the medical subsidy was made before the date the adoption was finalized.
- (b) The adoptee was placed in foster care by the court before the petition for adoption was filed.
- (c) The adoptee was certified for a support subsidy or redetermined adoption assistance.

History: Add. 1994, Act 238, Eff. July 5, 1994 ;-- Am. 2014, Act 308, Imd. Eff. Oct. 10, 2014

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.115j Adoption assistance, medical subsidy, or redetermined adoption assistance; extension; continuation.

Sec. 115j.

(1) Except as provided in subsections (2) to (5) and section 115t, adoption assistance, a medical subsidy, or redetermined adoption assistance shall continue until 1 of the following occurs:

- (a) The adoptee becomes 18 years of age.
- (b) The adoptee is emancipated.
- (c) The adoptee dies.
- (d) The adoption is terminated.
- (e) A determination of ineligibility is made by the department.

(2) If sufficient funds are appropriated by the legislature in the department's annual budget, adoption assistance agreements, redetermined adoption assistance agreements, or medical subsidy agreements, may be extended through state funding for an adoptee under 21 years of age if all of the following criteria are met:

- (a) The adoptee has not completed high school or a GED program.
- (b) The adoptee is regularly attending high school or a GED program or a program for children with disabilities on a full-time basis and is progressing toward achieving a high school diploma, certificate of completion, or GED.
- (c) The adoptee is not eligible for supplemental security income.

(3) Adoption assistance agreements may be extended through title IV-E funding for an eligible adoptee up to 21 years of age if the department determines that the child has a mental or physical disability that warrants continuation of adoption assistance and the child was adopted before 16 years of age.

(4) If sufficient funds are appropriated by the legislature in the department's annual budget, redetermined adoption assistance agreements may be extended through state funding for an eligible adoptee up to 21 years of age if the department determines that the child has a mental or physical disability that warrants continuation of adoption assistance and the child was adopted before 16 years of age.

(5) Adoption assistance agreements or redetermined adoption assistance agreements may be extended for a child adopted on or after his or her sixteenth birthday if the department determines that the eligible adoptee meets the requirements set forth in the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671.

(6) Adoption assistance, redetermined adoption assistance, and a medical subsidy shall continue even if the adoptive parent or the adoptee leaves the state.

(7) Support subsidy or redetermined adoption assistance shall continue during a period in which the adoptee is removed for delinquency from his or her home as a temporary court ward based on proceedings under section 18 of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(8) Upon the death of the adoptive parent, the department shall continue making support subsidy, redetermined adoption assistance payments, or continue medical subsidy eligibility, through state funding to the guardian of the adoptee if a guardian is appointed as provided in section 5202 or 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5202 and 700.5204.

History: Add. 1994, Act 238, Eff. July 5, 1994 ;-- Am. 2000, Act 61, Eff. Apr. 1, 2000 ;-- Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002 ;-- Am. 2009, Act 17, Imd. Eff. Apr. 9, 2009 ;-- Am. 2011, Act 230, Imd. Eff. Nov. 22, 2011 ;-- Am. 2014, Act 308, Imd. Eff. Oct. 10, 2014
Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.115m Information describing adoption process and adoption assistance and medical subsidy programs; preparation; distribution; contents.

Sec. 115m.

(1) The department shall prepare and distribute to adoption facilitators and other interested persons information describing the adoption process and the adoption assistance and medical subsidy programs established under sections 115f to 115s. The state department shall provide the information to each prospective adoptive parent before placing a child with that parent.

(2) The description of the adoption process required under subsection (1) must include at least all of the following:

(a) The steps that must be taken under the adoption code to complete an adoption, and a description of all of the options available during the process.

(b) A description of the services that are typically available from each type of adoption facilitator.

(c) Recommended questions for a biological parent or prospective adoptive parent to ask an adoption facilitator before engaging that adoption facilitator's services.

(d) A list of the rights and responsibilities of biological parents and prospective adoptive parents.

(e) A description of the information services available to biological and prospective adoptive parents, including, but not limited to, all of the following:

(i) The registry of adoptive homes established and maintained by the department under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(ii) The directory of children that is produced under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(iii) The public information forms maintained by the department according to section 14d of 1973 PA 116, MCL 722.124d.

(f) A statement about the existence of the child advocate and its authority as an investigative body.

(g) A statement about the importance and availability of counseling for all parties to an adoption and that a prospective adoptive parent must pay for counseling for a birth parent or guardian unless the birth parent or guardian waives the counseling.

History: Add. 1994, Act 207, Eff. Jan. 1, 1995 ;-- Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002 ;-- Am. 2014, Act 308, Imd. Eff. Oct. 10, 2014 ;-- Am. 2023, Act 294, Eff. Feb. 13, 2024

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.115t Redetermined adoption assistance; request; requirements; hearing; effect of original agreement; determination; basis; adoption assistance agreement in place before January 1, 2015; limitation on number of requests; adoptee adopted from foster care between ages of 0 and 18 and finalized after January 1, 2015.

Sec. 115t.

(1) If sufficient funds are appropriated in the department's annual budget and subject to subsection (4), beginning January 1, 2015, the department shall pay redetermined adoption assistance to an adoptive parent of an adoptee who is placed in the adoptive parent's home under the adoption code or under the adoption laws of another state or a tribal government, if the adoptive parent requests redetermined adoption assistance and both of the following requirements are met:

(a) The department has certified that the adoptee requires extraordinary care or expense due to a condition the cause of which existed before the adoption was finalized.

(b) Certification is made before the adoptee's eighteenth birthday.

(2) If the department denies or the adoptive parent disagrees with the certification, the adoptive parent may request a hearing through an administrative law judge in a manner consistent with the rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) Redetermined adoption assistance does not affect or duplicate any original adoption assistance agreement that may be in place at the time that redetermined adoption assistance eligibility is requested. Redetermined adoption assistance shall be determined without regard to the income of the adoptive parent and shall be based on 1 or more of the following for which extraordinary care is required of the adoptive parent or an extraordinary expense exists in excess of a support subsidy:

(a) A physically disabled child for whom the adoptive parent must provide measurably greater supervision and care.

(b) A child with special psychological or psychiatric needs that require extra time and a measurably greater amount of care and attention by the adoptive parent.

(c) A child requiring a special diet that is more expensive than a normal diet and that requires extra time and effort by the adoptive parent to obtain and prepare.

(d) A child whose severe acting out or antisocial behavior requires a measurably greater amount of care and attention of the adoptive parent.

(e) Any other condition for which the department determines that extraordinary care is required of the adoptive parent or an extraordinary expense exists.

(4) An adoptive parent who has an adoption assistance agreement signed and in effect before January 1, 2015 may request redetermined adoption assistance under this section in the same manner as provided in this section beginning January 1, 2015 but not after March 31, 2015.

(5) An adoptive parent may only request 1 redetermined adoption assistance certification to be made under subsection (1) or (4) per adoptee placed in the adoptive parent's home.

(6) An adoptive parent of an adoptee who was adopted from foster care between the ages of 0 and 18 and whose adoption was finalized after January 1, 2015 may request redetermined adoption assistance under this section.

History: Add. 2014, Act 308, Imd. Eff. Oct. 10, 2014

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.117a Definitions; juvenile justice funding system; rules; distribution of money for cost of juvenile justice services; request for payment; offset, chargeback, or reimbursement liability; guidelines; reports; reporting system; county duties; rules; performance measures.

Sec. 117a.

(1) As used in this section and sections 117b to 117h:

(a) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(b) "County juvenile agency services" means all juvenile justice services for a juvenile who is within the court's jurisdiction under section 2(a) or (d) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or within the jurisdiction of the court of general jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if that court commits the juvenile to a county or court juvenile facility under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a. If a juvenile who comes within the court's jurisdiction under section 2(a) or (d) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is at that time subject to a court order in connection with a proceeding for which the court acquired jurisdiction under section 2(b) or (c) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, juvenile justice services provided to the juvenile before the court enters an order in the subsequent proceeding are not county juvenile agency services, except for juvenile justice services related to detention.

(c) "Donated funds" means any gifts of money made available to the county child care fund for services for child welfare or delinquency matters, including juvenile justice services.

(d) "Donor" means the entity, person, or persons providing the donated funds.

(e) "Gross expenditure" means the total adjusted expenditures included in a county's monthly expenditure report

and submitted to the department.

(f) "In-home care" means expenditure of child care fund money for services and items listed in this section that are provided in the home or in the community to be an alternative to out-of-home care or to provide an early return home for a child placed out of the child's home.

(g) "Juvenile detention facility" means a county-operated or court-operated juvenile facility that houses and provides group care, shelter care, or detention administered and staffed by county or court employees.

(h) "Juvenile justice service" means a service, exclusive of judicial functions, provided by a county for juveniles who are within or likely to come within the court's jurisdiction under section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or within the jurisdiction of the court of general criminal jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if that court commits the juvenile to a county or court juvenile facility under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a. A service includes intake, detention, detention alternatives, probation, foster care, diagnostic evaluation and treatment, shelter care, or any other service approved by the office or county juvenile agency, as applicable, including preventive, diversionary, or protective care services. A juvenile justice service approved by the office or county juvenile agency must meet all applicable state and local government licensing standards.

(i) "Out-of-home care" means placement outside of the residence of the child's parent, legal guardian, or, except as provided in this subdivision, relative where the child is found, from which the child was removed by the authority of the court, or in which the child will be placed on a permanent basis.

(j) "Technology and software" means risk and needs assessment software or software directly related to treatment or services provided within a reimbursable in-home care program. Technology and software does not include the purchase of new equipment or hardware, or maintenance of equipment or hardware for the reimbursable in-home care program. Technology and software also does not include new equipment cost, maintenance of equipment, technology, or software used exclusively for general support for the court.

(2) A juvenile justice funding system for counties that are not county juvenile agencies, including a child care fund, is established and shall be administered under the department's superintending control.

(3) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to monitor juvenile justice services money and to prescribe child care fund accounting, reporting, and authorization controls and procedures and child care fund expenditure classifications. For counties required to have a child care fund, the department shall fund services that conform to the child care rules promulgated under this act. The child care fund may be used for programs and practices starting when a complaint, referral, or petition is generated by the local prosecutor, law enforcement, or authorized school personnel for a youth at risk of juvenile court involvement through residential placement and reentry, excluding general prevention services for all youth at risk of juvenile justice system involvement. The department must align child care fund policies, budget requirements, and oversight practices to support these goals as well as to ensure the appropriate use of funding.

(4) The department shall distribute money appropriated by the legislature to counties for the cost of juvenile justice services as follows:

(a) Payment for expenditures for children placed with the department for care, supervision, or placement, including children who are within the court's jurisdiction under section 2(a) and (b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, shall be paid by the department and reimbursed by the county for all undisputed charges. Implementation of this subdivision takes effect on October 1 of the fiscal year following the appropriation to support new payment processes and the implementation of technological changes to the statewide automated child welfare information system.

(b) Payment for expenditures for children not placed with the department for care, supervision, or placement, including children who are within the court's jurisdiction under section 2(a) and (b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, shall be paid by a county and be reimbursed by the department for all undisputed charges. Expenditures described in this subdivision include the following:

(i) Direct expenditures for out-of-home care, including all of the following:

(A) Salaries of county- or court-operated detention center, shelter care, or group care facility specific employees, including, but not limited to, all of the following:

(I) Management staff of a facility.

(II) Direct service staff of a facility.

(III) Mental health staff of a facility.

(IV) Support staff including clerical staff of a facility.

(V) Janitorial, maintenance, or ground staff of a facility, or any combination of these.

(VI) Kitchen staff of a facility.

(VII) Security staff of a facility.

(VIII) Circuit court employees who support the child care fund county- or court-operated detention center, shelter care, or group care facility.

(B) Fringe benefits, including payroll taxes, medical, vision and dental insurance, group life insurance, disability insurance, accident insurance, health savings accounts, retirement contributions, worker's compensation, and accrued severance benefits of county- or court-operated detention center, shelter care, or group care facility

specific employees and circuit court administration who administrate and support the child care fund county- or court-operated detention center, shelter care, or group care facility.

(C) Clothing for children.

(D) Food for children.

(E) Meals furnished to staff who are on duty at a county- or court-operated detention center, shelter care, or group care facility and assigned responsibilities for the supervision and care of the youth during facility mealtime.

(F) Hygiene supplies for children, including shampoo, soap, or toothpaste.

(G) Education costs for children who are temporary residents in a county- or court-operated detention center, shelter care, or group care facility and for whom attendance in a public school system or local education agency is not an option.

(H) Utilities of a county- or court-operated detention center, shelter care, or group care facility, including water, gas, electric, trash, and sewer.

(I) Janitorial supplies of a county- or court-operated detention center, shelter care, or group care facility.

(J) Kitchen supplies of a county- or court-operated detention center, shelter care, or group care facility.

(K) Laundry supplies or service of a county- or court-operated detention center, shelter care, or group care facility.

(L) Linen supplies or service of a county- or court-operated detention center, shelter care, or group care facility, including towels and bedding.

(M) Office supplies that are dedicated solely to the county- or court-operated detention center, shelter care, or group care facility.

(N) Cellular telephones, landline telephones, and 2-way radios used for communication that are dedicated solely to the county- or court-operated detention center, shelter care, or group care facility.

(O) Copy machine charges that are dedicated to the county- or court-operated detention center, shelter care, or group care facility.

(P) Mattress, box spring, or bed frame used in a county- or court-operated detention center, shelter care, or group care facility.

(Q) Medical, dental, psychological, and psychiatric services, including medication, for children who are not covered by another source which services are not to determine competency.

(R) Periodicals and books of a county- or court-operated detention center, shelter care, or group care facility.

(S) Recreational supplies, programs, and television in a county- or court-operated detention center, shelter care, or group care facility.

(T) Training for child care fund-funded staff and in-service education directly related to the out-of-home program, excluding tuition grants or scholarships for college credit.

(U) Mileage reimbursement rate costs for transporting children of a county- or court-operated detention center, shelter care, or group care facility. Mileage reimbursement rates used must adhere to the county or tribe published rates. Mileage reimbursement rates cover all costs of operating a vehicle, including maintenance, repairs, taxes, gas, insurance, and registration fees.

(V) Drug testing for children.

(W) Birth certificates for children.

(X) Incentives for youth.

(Y) Interpreter fees for nonjudicial processes.

(Z) Printing, binding, and postage for materials relating to the education or correspondence relating to children in the county- or court-operated detention center, shelter care, or group care facility.

(AA) Membership dues or fees for professional credential maintenance of staff who provide or support a service to children under the child care fund, or professional staff for whom professional licensure is required in their respective job description.

(BB) Contracted personnel, programming, or services, or any combination of these.

(CC) Nonscheduled payments.

(DD) New services that the department may agree with counties and tribes to include that are not identified in this section that support eligible children and families.

(ii) Administrative or indirect expenditures for out-of-home care. An administrative or indirect cost payment equal to 10% of a county's total monthly gross expenditures will automatically be distributed to the county on a monthly basis. A county is not required to submit documentation to the department for any of the expenditures that are covered under the 10% payment.

(iii) Direct expenditures for in-home care, including the following:

(A) Salaries of circuit court employees who support the child care fund in-home care program.

(B) Fringe benefits, including payroll taxes, medical and dental insurance, group life insurance, disability insurance, accident insurance, health savings accounts, retirement contributions, and accrued severance benefits of circuit court employees who support the child care fund in-home care program. For a county that receives the juvenile court officer grant and the appointed juvenile court officer works within an approved program, the proportional fringe benefits for the juvenile court officer may be reimbursable.

(C) Mileage reimbursement rate costs associated with the child care fund in-home care program. Mileage reimbursement rates used must adhere to the county or tribe published rates. Mileage reimbursement rates cover all costs of operating a vehicle, including maintenance, repairs, taxes, gas, insurance, and registration fees.

(D) Program supplies and materials, including, but not limited to, all of the following:

(I) Program-specific supplies, including risk or needs assessments, recognition plaques, and educational or program licenses.

(II) Office supplies related to program activities and pro-social activities.

(III) Food related to program activities and pro-social activities.

(IV) Drug test kits.

(V) Tethers and other forms of electronic monitoring.

(E) Other costs, including all of the following:

(I) Cellular telephones and other safety tracking technology for child care fund-funded staff.

(II) Training for child care fund-funded staff and in-service education related to the in-home care component, excluding tuition grants or scholarships for college credit.

(III) Education costs for children who are prohibited from school attendance in a public school system or the local education agency or have severe educational issues and have been court ordered into a child care fund-funded educational program.

(IV) Printing, binding, or postage for materials relating to the education or correspondence on behalf of children in the in-home care program.

(V) Membership dues or fees – professional credential maintenance of staff who provide or support a service to children under the child care fund or professional staff for whom professional licensure is required in their respective job descriptions.

(VI) Business cards.

(F) Other program-specific activities costs, including entrance fees for programs.

(G) Conference travel costs for other non-child-care-fund-related training, including evidence-based and promising practices training.

(H) Contracted personnel, programming, or services, or any combination of these.

(I) Unit cost contracts, including all of the following:

(I) Contracted - drug testing – lab (per "drug test" basis).

(II) Contracted - counselor fees – (per "hour" basis).

(III) Contracted - group session dollar per session (per "session" basis). Group roster documentation required.

(IV) Contracted - psychological evaluations, excluding competency examinations – (per "evaluation" basis).

(V) Contracted - service providers (per "service" basis).

(J) Closed-end contracts. Closed-end contracts include, but are not limited to, all of the following:

(I) University contracts, including "program evaluation".

(II) Private agency services contracts.

(III) Educational services contracts.

(IV) Court appointed special advocate (CASA) and wraparound contracts.

(V) Other contracts identifiable to the program.

(K) Nonscheduled payments or case services payments. A nonscheduled payment is a payment to an individual or organization for items specified and defined in the child care fund handbook that are not included in the state-established per diem rate. A nonscheduled payment may include the following list:

(I) Emergency costs, including immediate food, clothing, medical, or dental needs that are not covered by another source.

(II) Gymnasium or other pro-social activity requiring a membership per child related to program activities.

(III) Rewards or incentive pay for youth related to program activities.

(IV) Bus tokens or gas cards related to program activities.

(V) Mentor costs - meals, mileage, movies, or social costs related to program activities.

(VI) Noncontracted service provider related to program activities.

(VII) Noncontracted group session related to program activities.

(VIII) Noncontracted psychological evaluations, excluding competency examinations.

(IX) Family assessment or evaluations.

(X) Noncontracted counselor fees.

(XI) Noncontracted drug testing – labs.

(XII) Camps or field trips.

(XIII) Birth certificates for children.

(L) New services that the department may agree with counties and tribes to include that are not identified in this section that support eligible children and families.

(M) Technology and software.

(iv) Administrative or indirect expenditures for in-home care. An administrative or indirect cost payment equal to 10% of a county's total monthly gross expenditures will automatically be distributed to the county on a monthly

basis. A county is not required to submit documentation to the department for any of the expenditures that are covered under the 10% payment.

(c) Except as provided in subdivision (j), the county amount distributed shall equal 50% of the annual expenditures from the child care fund of the county established under section 117c for residential services of detention and long-term residential placements, except that expenditures under section 117c(3) and expenditures that exceed the amount of a budget approved under section 117c shall not be included. Except as provided in subdivision (j), the county amount distributed shall equal 75% of the annual expenditures from the child care fund of the county established under section 117c for in-home expenses including community-based supervision, services, and related practices, and per diem rates for the use of respite care and shelter for less than 30 days. A distribution under this subdivision shall not be made to a county that does not comply with the requirements of this act. Subject to a county's approval, the department may reduce the amount distributed to a county by the amount owed to the state for care received in a state operated facility or for care received under 1935 PA 220, MCL 400.201 to 400.214, or under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(d) For a county that is a county juvenile agency, a county's block grant amount as determined under section 117g in equal distributions on October 1, January 1, April 1, and July 1 of each state fiscal year.

(e) Notwithstanding the provisions in subdivision (a), subject to appropriations, the department shall pay 100% of the costs of the \$9.20 increase to the administrative rate for providers of foster care services provided in the annual appropriation for the department budget. For the purposes of this subdivision only, "foster care" means 24-hour substitute care for children placed away from their parents or guardians, as a result of a court order under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, in placements supervised by the department or a private child placing agency under contract with the department for foster care services. Foster care services include supervision of placements in foster family homes, foster family group homes, and preadoptive placements.

(f) Notwithstanding the provisions of subdivision (c), the department shall pay 100% of the administrative rate that is in effect on September 26, 2018 for providers of treatment foster care services and foster care services provided in the annual appropriation for the department budget. For the purposes of this subdivision only, "foster care" means 24-hour substitute care for children placed away from their parents or guardians, as a result of a court order under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, in placements supervised by the department or a private child placing agency under contract with the department for foster care services. Foster care services include supervision of placements in foster family homes, foster family group homes, treatment foster care, preadoptive placements, and supervision of children reunified with the parent with whom the child lived at the time of removal.

(g) Notwithstanding the provisions in subdivision (c), the department shall pay 100% of the costs of any rate increase that is in effect on September 26, 2018 to the providers of residential foster care services under contract with the department, as provided in the annual appropriation for the department budget.

(h) Notwithstanding the provisions in subdivision (c) and subject to appropriations, the department shall implement a prospective payment system as part of a state-administered performance-based child welfare system in a county with a population of not less than 575,000 or more than 750,000, for foster care case management in accordance with section 503 of article X of 2014 PA 252. The county is only required to contribute to foster care services payments in an amount that does not exceed the average of the annual net contribution made by the county for cases received under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, in the 5 previous fiscal years before October 1, 2015. The prospective payment system as part of the state-administered performance-based child welfare system shall be implemented as described in this subdivision but shall not include in-home care service funding.

(i) Subdivision (h) only impacts child abuse and child neglect services and not juvenile justice program funding.

(j) Beginning October 1, 2021 and ending September 30, 2024, the state shall pay 100% of the cost to provide juvenile justice services when a court exercises jurisdiction over a juvenile who is 17 years of age, but under 18 years of age at the time of the offense. The costs must include all expenditures under subdivision (b) until jurisdiction is terminated, for youth under section 2(a) and (d) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2. There shall be no change in funding provided for juveniles who are under 17 years of age at the time of the offense.

(5) The purposes for which funding under this section shall be distributed as provided under subsection (4) may be allowed unless otherwise accessible and available by other public assistance programs necessary to achieve the goals and outcomes for in-home care or out-of-home care. Reimbursement shall not be made for costs associated with an otherwise eligible child or family, or both, if the reason for the unavailability of public assistance is due to intentional program violations and disqualification of any public assistance.

(6) All service providers shall submit a request for payment within 1 calendar year of the date of service. A request for payment submitted after 1 calendar year from the date of service requires the provider to submit an exception request to the county or the department for approval or denial.

(7) The county or the department is not subject to an offset, chargeback, or reimbursement liability when a child care fund cost is approved by the county or the department for payment after 1 year from the date of service.

(8) The county is not subject to an offset, chargeback, or reimbursement liability for prior expenditures resulting from an error in foster care fund source determinations.

(9) The department is liable for the costs of all juvenile justice services in a county that is a county juvenile agency other than county juvenile agency services.

(10) The department shall establish guidelines for the development of county juvenile justice service plans in counties that are not county juvenile agencies.

(11) A county that is not a county juvenile agency and receives state funds for in-home or out-of-home care of children must submit reports to the department at least quarterly or as the department otherwise requires. The reports must be submitted on forms provided by the executive director and must include the number of children receiving foster care services and the number of days of care provided.

(12) The department shall maintain a reporting system providing that reimbursement under subsection (4)(c) shall be made only on submission of billings based on care given to a specific, individual child.

(13) From the funds received in subsection (4)(c), a county must do all of the following:

(a) Adopt a validated risk screening tool to guide diversion and consent calendar decisions.

(b) Adopt a validated risk assessment tool to use before disposition.

(c) Adopt a detention screening tool to inform the use of secure detention.

(d) Utilize research-based juvenile-specific probation standards as developed and approved by the state court administrative office.

(e) Employ a local quality assurance specialist to support the county with implementing research-based practices, excluding counties or tribes receiving the basic grant as described in section 117e.

(14) From the funds received in subsection (4)(c), a county may utilize juvenile client management software to allow for statewide juvenile justice data aggregation, analysis, and reporting.

(15) The department shall promulgate rules, policies, and practices to implement the requirements of subsection (13) and to oversee compliance with these requirements by counties and tribes.

(16) The department, in consultation with the state court administrative office, must establish performance measures for evaluating county adherence to requirements in subsection (13) and for evaluating the goals of the child care fund more generally. Beginning October 1, 2025, the department must prepare and submit an annual report to the legislature on yearly child care fund juvenile justice expenditures and related performance measures.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978 ;-- Am. 1980, Act 328, Imd. Eff. Dec. 19, 1980 ;-- Am. 1988, Act 75, Eff. Oct. 1, 1988 ;-- Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999 ;-- Am. 2013, Act 138, Imd. Eff. Oct. 15, 2013 ;-- Am. 2014, Act 304, Imd. Eff. Oct. 9, 2014 ;-- Am. 2014, Act 520, Imd. Eff. Jan. 14, 2015 ;-- Am. 2015, Act 81, Eff. Oct. 1, 2015 ;-- Am. 2016, Act 279, Eff. Oct. 1, 2016 ;-- Am. 2017, Act 104, Eff. Oct. 11, 2017 ;-- Am. 2018, Act 22, Eff. May 15, 2018 ;-- Am. 2018, Act 244, Eff. Sept. 26, 2018 ;-- Am. 2018, Act 580, Eff. Mar. 28, 2019 ;-- Am. 2019, Act 114, Eff. Oct. 1, 2021 ;-- Am. 2023, Act 297, Eff. Oct. 1, 2024

Compiler's Notes: Section 3 of Act 75 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 178 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988." For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.117c County treasurer as custodian of money; creation and maintenance of child care fund; deposits in fund; use of fund; separate account for fund; subaccounts; plan and budget for funding foster care services; records of juvenile justice services and expenditures; child care fund reimbursable claims; evidence of compliance with parameters; applicability of section to county juvenile agency.

Sec. 117c.

(1) The county treasurer is designated as the custodian of all money provided for the use of the county department, the family division of circuit court, and the agency designated by the county board of commissioners or, if a county has a county executive, chief administrative officer, or county manager, that individual to provide juvenile justice services. The county treasurer shall create and maintain a child care fund. The following money shall be deposited in the child care fund:

(a) All money raised by the county for the use of the county department for the foster care of children with respect to whom the family division of circuit court has not taken jurisdiction.

(b) Money for the foster care of children under the jurisdiction of the family division of circuit court raised by the

county with the view of receiving supplementary funds for this purpose from the state government as provided in section 117a.

(c) All funds made available by the state government for foster care of children.

(d) All payments made in respect to support orders issued by the family division of circuit court for the reimbursement of government for expenditures made or to be made from the child care fund for the foster care of children.

(e) All prepayments and refunds for reimbursement of county departments for the foster care of children.

(f) Money for the foster care of children under the jurisdiction of the court of general criminal jurisdiction committed to a county facility or a court facility for juveniles in the county in which the court of general criminal jurisdiction is located.

(g) All payments made in respect to support orders issued by the court of general criminal jurisdiction for the reimbursement of government for expenditures made or to be made from the child care fund for the foster care of children.

(2) The child care fund shall be used for the costs of providing foster care for children under sections 18c and 117a and under the jurisdiction of the family division of circuit court or court of general criminal jurisdiction.

(3) The child care fund may be used to pay the county's share of the cost of maintaining children at the Michigan children's institute under 1935 PA 220, MCL 400.201 to 400.214, or public wards under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(4) The account for the child care fund shall be maintained separate and apart from all other accounts of county funds. The fund shall be used exclusively for carrying out the purposes authorized by this act. The county board of commissioners shall distinguish in its appropriations for the child care fund the sums of money to be used by the family division of circuit court, the county department, and the agency designated by the county board of commissioners or the county executive to provide juvenile justice services. The county treasurer shall keep these segregated in proper subaccounts.

(5) A county annually shall develop and submit a plan and budget for the funding of foster care services for approval. Funds shall not be distributed under section 117a except for reimbursement of expenditures made under an approved plan and budget. Neither the department nor the county shall seek reimbursement for expenditures, except if those expenditures were made under an approved plan and budget or according to department policy.

(6) A county shall make and preserve accurate records of its juvenile justice services and expenditures. Upon the department's request, the information contained in the records shall be available to the office.

(7) Counties shall utilize and make available to the department, upon request, evidence of compliance with the following parameters with regard to child care fund reimbursable claims:

(a) Donated funds may be deposited into the county child care fund and are not subject to offset if either of the following applies:

(i) The donor is not the intended recipient of a contract to be funded by the donated funds.

(ii) The donor is an intended recipient of a contract to be funded by the donated funds and the donor is able to document the source of the money comprising the donated funds.

(b) The following conditions apply to requests for reimbursement of expenditures from the county's donated funds program:

(i) The county shall identify the donor of the funds and shall certify that the donor is not the recipient of a contract funded by the donated funds or the donor is the recipient of a contract funded by the donated funds and has documented the source of the money comprising the donated funds.

(ii) Donated funds shall be identified by donor, source of money comprising the donated funds, the date the money was provided to the donor, and the date the donated funds were deposited into the county child care fund.

(iii) The county must ensure transparency relating to service delivery by donor-funded providers. The county shall ensure donor-funded providers complete an annual certification of fund eligibility and shall make available to the department the solicitation, evaluation, and selection process of awarding a contract to a donor-funded provider.

(8) This section does not apply to a county that is a county juvenile agency.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978 ;-- Am. 1980, Act 328, Imd. Eff. Dec. 19, 1980 ;-- Am. 1988, Act 75, Eff. Oct. 1, 1988 ;-- Am. 1988, Act 223, Eff. Apr. 1, 1989 ;-- Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999 ;-- Am. 2018, Act 21, Eff. May 15, 2018

Compiler's Notes: Section 3 of Act 75 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 178 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988." For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular Name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.117e Annual basic grant of state money; eligibility; use of basic grant; criteria and conditions for basic grant; money for early intervention to treat problems of delinquency and neglect.

Sec. 117e.

(1) A county having a population of less than 75,000 is eligible to receive an annual basic grant of state money of \$15,000.00.

(2) To be eligible to receive state financial support under subsection (1), a county shall meet the requirements of this act. A county shall not be required to contribute matching funds to receive state financial support under subsection (1).

(3) A basic grant may be used only to supplement added juvenile justice service costs and shall not be used to replace county money currently being expended on juvenile justice services.

(4) The office shall establish qualifying criteria for awarding the basic grants and may specify conditions for each grant.

(5) To provide for early intervention to treat problems of delinquency and neglect within the child's home and to expedite a child's return to his or her home, the office may expend money from the child care fund or from other sources authorized in legislative appropriations for new or expanded programs, if the office determines that the programs are alternatives to out-of-home institutional or foster care. The office shall establish criteria for the approval of expenditures made under this subsection. The office shall submit to the legislature and the governor a report summarizing and evaluating the implementation of this subsection and containing recommendations for its future use.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978 ;-- Am. 1983, Act 222, Imd. Eff. Nov. 28, 1983 ;-- Am. 2004, Act 193, Imd. Eff. July 8, 2004

Compiler's Notes: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular Name: Act 280

**MICHIGAN CHILDREN'S INSTITUTE (EXCERPT)
Act 220 of 1935**

400.203 Provisions for admission of child under 17 to Michigan children's institute.

Sec. 3.

(1) A child under 17 years of age, provision for whose support and education has been made under regulations of the department, may be admitted to the Michigan children's institute by commitment to the department. All children committed to the Michigan children's institute shall be considered committed to the department and shall be subject to review by the juvenile division of the probate court under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32. The superintendent of the institute shall represent the state as guardian of each child committed beginning with the day the child is admitted and continuing until the child is 19, unless the superintendent or the department discharges the child sooner as provided in section 8 or 9 or if the child is at least 18 years of age but less than 21 years of age and is participating in extended foster care services as described in section 11 of the young adult voluntary foster care act. Wherever commitment to the Michigan children's institute is mentioned in any law of this state, it shall be construed to mean commitment to the department. A child may be committed to the department by either of the following:

(a) By the juvenile division of the probate court, if the child is within the court's jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(b) By the probate court, if the child is a ward of the court and the court has denied an order of adoption for the child.

(c) By observation order. If a child has been decreed to be a ward of the probate court or the juvenile division of the probate court has acquired formal jurisdiction of a child, and it appears to the probate court that, because of the circumstances of the case or because the child's condition might be benefited, the court may make a temporary commitment to the department and direct that the child be taken to a facility of the Michigan children's institute for observation for a period not to exceed 90 days. Before the expiration of this order of observation, the superintendent of the institute shall report to the probate court the results of the observation of the child. If the superintendent reports to the probate court that the order of observation should be extended or that the child is in

need of treatment for emotional disturbance that does not require hospital care and for which the institute has facilities, then the court may extend the temporary commitment and continue the observation order or establish a treatment period for the child to any date prior to the nineteenth birthday of the child. If the child has ceased to be a ward of the court, written consent of the person or persons lawfully having custody of the child shall be secured. Before the expiration of this extended order of observation or treatment, the superintendent shall report to the probate court the results of the observation or treatment of the child and an opinion stating what disposition can be made of the child. Before any child is sent to a facility of the institute for observation, the superintendent of the institute shall notify the probate court that there is room to receive the child and shall designate the facility of the institute for the reception of the child. The commission may by regulation establish conditions for the reimbursement of the expense of caring for the child while under the supervision of the institute if the parents or other persons responsible for the child's support are financially able to pay reasonable costs of the child's care.

(2) The superintendent of the institute has the power to make decisions on behalf of a child committed to the institute. The attorney general or his or her representative shall represent the Michigan children's institute superintendent in any court proceeding in which the superintendent considers such representation necessary to carry out his or her duties under this act.

(3) As used in this act, "department" means the department of human services.

History: 1935, Act 220, Imd. Eff. June 8, 1935 ;-- Am. 1943, Act 207, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944 ;-- CL 1948, 400.203 ;-- Am. 1951, Act 120, Eff. Sept. 28, 1951 ;-- Am. 1955, Act 220, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 74, Eff. Sept. 27, 1957 ;-- Am. 1959, Act 90, Eff. Mar. 19, 1960 ;-- Am. 1988, Act 225, Eff. Apr. 1, 1989 ;-- Am. 2004, Act 470, Imd. Eff. Dec. 28, 2004 ;-- Am. 2011, Act 227, Imd. Eff. Nov. 22, 2011

EXECUTIVE REORGANIZATION ORDER (EXCERPT) **E.R.O. No. 2015-1**

400.227 Creation of department of health and human services; appointment and duties of director; transfer of powers and duties of department of human services and department of community health to department of health and human services; transfer of powers and duties of director of department of human services and director of department of community health to director of department of health and human services; creation, powers, and duties of Michigan children's services agency; creation of aging and adult services agency; transfer of commission on services to the aging from department of community health to aging and adult services agency; transfer of powers and duties of office of services to the aging within department of community health to aging and adult services agency and transfer of authority, powers, and duties of director of office of services to aging to executive director of aging and adult services agency; abolishment of position of director of office of services to the aging and office of services to the aging; transfer of autism council from department of community health to department of health and human services; transfer of state child abuse and neglect prevention board from department of human services to department of health and human services; abolishment of health insurance reform coordinating council; transfer of human trafficking health advisory board from department of community health to department of health and human services; creation of office of inspector general; transfer of powers and duties of office of inspector general from department of human services to department of health and human services office of inspector general; transfer of powers and duties of office of health services inspector general from department of community health to department of health and human services office of inspector general; abolishment of positions of inspector general and health services inspector general; transfer of powers and duties of office of child and adult licensing from department of human services to department of licensing and regulatory affairs; transfer of powers and duties of adult foster care licensing advisory council from department of human services and director of department of human services to director of department of licensing and regulatory affairs; abolishment of department of human services and department of community health.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that he considers necessary for efficient administration; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, there is a continued need to reorganize functions among state departments to ensure efficient administration; and

WHEREAS, the protection and strengthening of Michigan's families can be more effectively and efficiently

assured by the alignment of family and health related services and administrative functions in state government;
NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Department of Health and Human Services" means the principal department of state government created under Section II of this Order.

B. "Department of Human Services" means the principal department of state government created as the Department of Social Services under Section 450 of the Executive Reorganization Act of 1965, 1965 PA 380, MCL 16.550, renamed the Family Independence Agency under 1995 PA 223, MCL 400.1, and renamed the Department of Human Services under Executive Order 2004-38.

C. "Department of Community Health" means the principal department of state government created as the Department of Mental Health under Section 400 of the Executive Reorganization Act of 1965, 1965 PA 380, MCL 16.500, and renamed the Department of Community Health under Executive Order 1996-1, MCL 330.3101.

D. "Department of Licensing and Regulatory Affairs" means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, renamed the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011, renamed the Department of Energy, Labor and Economic Growth under Executive Order 2008-20, MCL 445.2025, and renamed the Department of Licensing and Regulatory Affairs under Executive Order 2011-4, MCL 445.2030.

E. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

II. CREATION OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

A. The Department of Health and Human Services ("Department") is created as a principal department in the executive branch of state government. The Department shall develop, administer, and coordinate health and family security initiatives and programs in this state.

B. The Department shall be headed by a Director of the Department of Health and Human Services who shall be appointed by the Governor, with the advice and consent of the Michigan Senate, commencing on the effective date of this Order. The individual appointed as the Director shall serve as a member of the Governor's Cabinet.

C. The Director of the Department shall provide executive direction and supervision for the implementation of all transfers of authority to the Department of Health and Human Services made under this Order.

D. The Director of the Department shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

E. The Director of the Department and the directors of all other state departments and agencies having authority transferred to the Department of Health and Human Services under this Order shall immediately initiate coordination to facilitate the transfers and develop memoranda of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved related to the authority to be transferred.

F. All records, property, and unexpended balances of appropriations, allocations, or other funds used, held, employed, available to be made for activities, powers, duties, functions, and responsibilities transferred to the Department of Health and Human Services under this Order are hereby transferred to the Department of Health and Human Services.

G. The Director of the Department of Health and Human Services may delegate a duty or power conferred by law or this Order and the person to whom such duty or power is delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director of the Department of Health and Human Services.

H. All rules, orders, contracts, and agreements related to the functions transferred to the Department of Health and Human Services by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended, or rescinded.

I. Any suit, action or other proceeding lawfully commenced against, or before any entity transferred to the Department of Health and Human Services by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

III. TRANSFERS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

A. Except as otherwise provided in Section XIII of this Order, all the authority, powers, duties, functions, responsibilities, personnel, equipment, property, and budgetary resources of the Department of Human Services are transferred to the Department of Health and Human Services.

B. Except as otherwise provided in Section XIII of this Order, all the authority, powers, duties, functions, responsibilities, rulemaking authority, appointment authority, personnel, equipment, and budgetary resources of the

Director of the Department of Human Services are transferred to the Director of the Department of Health and Human Services.

C. All the authority, powers, duties, functions, responsibilities, personnel, equipment, property, and budgetary resources of the Department of Community Health are transferred to the Department of Health and Human Services.

D. All the authority, powers, duties, functions, responsibilities, rulemaking authority, appointment authority, personnel, equipment, and budgetary resources of the Director of the Department of Community Health are transferred to the Director of the Department of Health and Human Services.

E. Except as otherwise provided in Section XIII of this Order, after the effective date of this Order, statutory and legal references to the Department of Human Services, the Department of Community Health, or all predecessor departments, shall be deemed references to the Department of Health and Human Services.

F. Except for functions and responsibilities transferred under Section XIII of this Order, any and all references to the Director of the Department of Community Health or the Director of the Department of Human Services shall be deemed to be references to the Director of the Department of Health and Human Services.

IV. CREATION OF THE MICHIGAN CHILDREN'S SERVICES AGENCY

A. The Michigan Children's Services Agency is created within the Department. The Michigan Children's Services Agency shall exercise the powers, duties, functions, and responsibilities vested in the Michigan Children's Services Agency under this Order or assigned to the Children's Services Agency by the Director of the Department under the direction and supervision of the Director of the Department.

B. The chief officer of the Michigan Children's Services Agency shall be an Executive Director.

C. In addition to any other powers, duties, functions and responsibilities placed in the Michigan Children's Services Agency by the Director of the Department of Health and Human Services, the Michigan Children's Services Agency shall exercise all of the following powers, duties, functions, and responsibilities:

i. Review, investigate, evaluate, and assess all programs within the Department related to services and programs for children.

ii. Analyze and make recommendations to the Director of the Department on existing and proposed children's services and programs including, but not limited to, services for foster children, juvenile justice, and homeless youth.

iii. Provide information and assistance relating to children's services and programs to the Director of the Department and the Governor, both directly and by functioning as a clearinghouse for information related to children's services and programs received from other programs within the Department, other states, the federal government, and private sector partners.

iv. Serve as the liaison to state departments and agencies with respect to children's services and programs.

V. CREATION OF THE AGING AND ADULT SERVICES AGENCY

A. The Aging and Adult Services Agency is created within the Department. The Aging and Adult Services Agency shall exercise the powers, duties, functions, and responsibilities vested in the Aging and Adult Services Agency under this Order or assigned to the Aging and Adult Services Agency by the Director of the Department under the direction and supervision of the Director of the Department.

B. The chief officer of the Aging and Adult Services Agency shall be an Executive Director.

C. The Commission on Services to the Aging, created by Section 3 of 1981 PA 180, MCL 400.583, is transferred from the Department of Community Health to the Aging and Adult Services Agency.

D. All authority, powers, duties, functions, and responsibilities of the Office of Services to the Aging, created by the Older Michiganians Act, 1981 PA 180, MCL 400.581, are transferred from the Office of Services to the Aging within the Department of Community Health to the Aging and Adult Services Agency.

E. All authority, powers, duties, functions, and responsibilities vested in the position of the Director of the Office of Services to the Aging are transferred to the Executive Director of the Aging and Adult Services Agency, or his or her designee.

F. The position of Director of the Office of Services to the Aging, created by Section 5 of 1981 PA 180, MCL 400.585, is abolished.

G. The Office of Services to the Aging, created by Section 5 of 1981 PA 180, MCL 400.585, is abolished.

VI. AUTISM COUNCIL

A. The Autism Council, created by Executive Order 2012-11, is transferred from the Department of Community Health to the Michigan Department of Health and Human Services.

B. The membership of the Autism Council, defined by Section II. B. of Executive Order 2012-11, is amended to substitute the Director of the Department of Health and Human Services for the Director of the Department of Human Services for the Director of the Department of Community Health.

VII. STATE CHILD ABUSE AND NEGLECT PREVENTION BOARD

A. The State Child Abuse and Neglect Prevention Board, created by 1982 PA 250, MCL 722.601 et seq. and transferred from the Department of Management and Budget to the Department of Human Services through Executive Reorganization Order 1992-5 is transferred from the Department of Human Services to the Department of Health and Human Services.

B. The membership of the State Child Abuse and Neglect Prevention Board, defined by Section 4 of the Child Abuse and Neglect Prevention Act, 1982 PA 250, MCL 722.604(1)(a), is amended to substitute the Director of the Department of Health and Human Services for the Director of the Department of Human Services and the Executive Director of the Michigan Children's Services Agency for the Director of the Department of Community Health.

VIII. INTERAGENCY COODINATING COUNCIL FOR INFANTS AND TODDLERS WITH DEVELOPMENTAL DISABILITIES

The membership of the Interagency Coordinating Council for Infants and Toddlers with Developmental Disabilities, defined by Section II. D. of Executive Order 2007-43, is amended to substitute the Director of the Department of Health and Human Services for the Director of the Department of Human Services and the Executive Director of the Michigan Children's Services Agency for the Director of the Department of Community Health.

IX. MICHIGAN INTERAGENCY COUNCIL ON HOMELESSNESS

The membership of the Michigan Interagency Council on Homelessness, defined by Section I. C. of Executive Order 2015-2, is amended to substitute the Director of the Department of Health and Human Services for the Director of the Department of Human Services and the Executive Director of the Michigan Children's Services Agency for the Director of the Department of Community Health.

X. HEALTH INSURANCE REFORM COORDINATING COUNCIL

The Health Insurance Reform Coordinating Council, created by Executive Order 2010-4, is abolished.

XI. HUMAN TRAFFICKING HEALTH ADVISORY BOARD

A. The Human Trafficking Health Advisory Board, created by 2014 PA 461, MCL 752.993 et seq. is transferred from the Department of Community Health to the Department of Health and Human Services.

B. The membership of the Human Trafficking Health Advisory Board, created by 2014 PA 461, MCL 752.993 et seq., is amended to substitute the Director of the Department of Health and Human Services for the Director of the Department of Human Services and the Executive Director of the Michigan Children's Services Agency for the Director of the Department of Community Health.

XII. CREATION OF THE HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL

A. The Office of Inspector General ("Office") is created as an independent and autonomous entity within the Michigan Department of Health and Human Services.

B. The Office shall be headed by the Inspector General, who shall be a member of the classified state civil service. The appointing authority for the Inspector General shall be the Director of the Michigan Department of Health and Human Services.

C. The Office of Inspector General shall conduct and supervise activities to prevent, detect, and investigate fraud, waste, and abuse in Health and Human Services programs, as well as those programs in the Michigan Children's Services Agency and the Aging and Adult Services Agency.

D. All authority, powers, duties, functions, and responsibilities of the Office of Inspector General, created by Section 43b of 2002 PA 573, MCL 400.43b, including but not limited to any authority, powers, duties, functions, and responsibilities of the Office of Inspector General under the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122, are transferred from the Department of Human Services to the Michigan Department of Health and Human Services Office of Inspector General.

E. All authority, powers, duties, functions, and responsibilities of the Office of Health Services Inspector General, created by Executive Order 2010-1, including but not limited to any authority, powers, duties, functions, and responsibilities of the Office of Inspector General under the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122, are transferred from the Michigan Department of Community Health to the Michigan Department of Health and Human Services Office of Inspector General.

F. The position of Inspector General, created by Section 43b of 2002 PA 573, MCL 400.43b, is abolished.

G. The position of Health Services Inspector General, created by Executive Order 2010-1, is abolished.

XIII. TRANSFERS TO THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

A. Office of Child and Adult Licensing

All authority, powers, duties, functions, and responsibilities of the Office of Child and Adult Licensing, created in Section VII of Executive Order 2003-14, are transferred from the Department of Human Services to the Department of Licensing and Regulatory Affairs, including but not limited to all of the following:

i. Any authority, powers, duties, functions, and responsibilities of adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation under the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122, and 1974 PA 381, MCL 338.41 to 338.47.

ii. Any authority, powers, duties, functions, and responsibilities of children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation under 1973 PA 116, MCL 722.111 to 722.128, the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122.

iii. Any authority, powers, duties, functions, and responsibilities of licensing and regulation of homes for the aged

under Article 17 of the Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122.

B. Adult Foster Care Licensing Advisory Council

The Adult Foster Care Licensing Advisory Council and all of the authority, powers, duties, functions, and responsibilities of the Adult Foster Care Licensing Advisory Council under the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122, are transferred from the Department of Human Services and the Director of the Department of Human Services to the Director of the Department of Licensing and Regulatory Affairs.

C. Implementation of Transfers

i. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Human Services for the activities, powers, duties, functions, and responsibilities transferred by Section XII of this Order are transferred to the Department of Licensing and Regulatory Affairs.

ii. The Director of the Department of Licensing and Regulatory Affairs, after consultation with the Director of the Department of Human Services, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Licensing and Regulatory Affairs.

iii. The directors of the departments shall immediately initiate coordination to facilitate the transfers and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Licensing and Regulatory Affairs.

XIV. IMPLEMENTATION

A. The Department of Human Services and the Department of Community Health are abolished.

B. The directors of the departments impacted by this Order shall administer the functions transferred in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

C. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

D. All rules, orders, contracts, plans, and agreements relating to the functions transferred by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended, or rescinded.

E. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

F. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective 60 days after the filing of this Order.

History: 2015, E.R.O. No. 2015-1, Eff. Apr. 11, 2015

Compiler's Notes: Executive Reorganization Order No. 2015-1 was promulgated February 9, 2015 as Executive Order No. 2015-4, Eff. Apr. 11, 2015. For transfer of powers and duties of adult foster care licensing advisory council from department of human services and director of department of human services to the director of department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the aging and adult services agency to the department of health and human services, and abolishment of the aging and adult services agency, see E.R.O. No. 2021-2, compiled at MCL 400.562. For renaming of Michigan children's services agency to children's services administration, see E.R.O. No. 2023-1, compiled at MCL 125.1999. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

OLDER MICHIGANIANS ACT (EXCERPT)
Act 180 of 1981

400.582 Definitions.

Sec. 2.

As used in this act:

- (a) "Area agency on aging" means an agency designated by the commission under section 4(i).
- (b) "Chief elected official administrative officer" means any of the following:
 - (i) The president of a village.
 - (ii) The mayor of a city.
 - (iii) The supervisor of a township.
 - (iv) The elected county executive or appointed county manager of a county; or if the county has not adopted an optional unified form of county government, the chairperson of the county board of commissioners of the county.
- (c) "Commission" means the commission on services to the aging established under section 3.
- (d) "Director" means the director of the office of services to the aging.
- (e) "Long-term care facility" means 1 or more of the following:
 - (i) A home for the aged as defined in section 20106(3) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20106 of the Michigan Compiled Laws.
 - (ii) An adult foster care facility as defined in section 3(4) 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.
 - (iii) A nursing home as defined in section 20109(1) of Act No. 368 of the Public Acts of 1978, being section 333.20109 of the Michigan Compiled Laws.
 - (iv) A county medical care facility as defined in section 20104(4) of Act No. 368 of the Public Acts of 1978, being section 333.20104 of the Michigan Compiled Laws.
 - (v) A hospital long-term care unit as defined in section 20106(6) of Act No. 368 of the Public Acts of 1978.
- (f) "Office" means the office of services to the aging created by section 5.
- (g) "Older person" means a state resident who is 60 years of age or older, and the spouse of the older person, regardless of age.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981 ;-- Am. 1987, Act 35, Imd. Eff. May 27, 1987

Compiler's Notes: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the aging and adult services agency to the department of health and human services, and abolishment of the aging and adult services agency, see E.R.O. No. 2021-2, compiled at MCL 400.562.

Popular Name: Act 180

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)

Act 225 of 2011

400.641 Short title.

Sec. 1.

This act shall be known and may be cited as the "young adult voluntary foster care act".

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)

Act 225 of 2011

400.645 Young adult voluntary foster care act; implementation.

Sec. 5.

The department shall implement the young adult voluntary foster care act in accordance with the state's approved title IV-E state plan.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.647 Foster care; reentry; extended foster care services.

Sec. 7.

A youth who exited foster care after reaching 18 years of age but before reaching 21 years of age may reenter foster care and receive extended foster care services.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.649 Extended foster care services; conditions; eligibility.

Sec. 9.

The department may provide extended foster care services if the youth meets 1 of the following conditions for eligibility:

- (a) The youth is completing secondary education or a program leading to an equivalent credential.
- (b) The youth is enrolled in an institution that provides postsecondary or vocational education.
- (c) The youth is participating in a program or activity designed to promote employment or remove barriers to employment.
- (d) The youth is employed for at least 80 hours per month.
- (e) The youth is incapable of doing any part of the activities in subdivisions (a) to (d) due to a medical condition. This assertion of incapacity must be supported by regularly updated information in the youth's case plan.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.651 Voluntary foster care agreement; information to be included.

Sec. 11.

If a youth chooses to participate in extended foster care services and meets the eligibility criteria set forth in section 9, the department and the youth shall sign a voluntary foster care agreement that shall include, at a minimum, information regarding all of the following:

- (a) The obligation for the youth to continue to meet the conditions for eligibility described in section 9 for the duration of the voluntary foster care agreement.
- (b) Any obligation considered necessary by the department for the youth to continue to receive extended foster care services.
- (c) Any obligation considered necessary by the department to facilitate the youth's continued success in the program.
- (d) Termination of a voluntary foster care agreement and program participation as described in section 23.
- (e) The voluntary nature of the youth's participation in receiving extended foster care services.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.653 Providing foster care services; determination of eligibility; signing agreement.

Sec. 13.

As soon as the department determines that a youth is eligible under section 9 and the youth signs the voluntary foster care agreement described in section 11, the department may provide extended foster care services to the youth in accordance with this act.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.655 Written report; filing with court; contents.

Sec. 15.

Within 150 days after the voluntary foster care agreement is signed, the department shall file with the court in the county where the youth resides a written report that shall contain all of the following:

- (a) The youth's name, date of birth, race, gender, and current address.
- (b) A statement of facts that supports the voluntary foster care agreement and includes both of the following:
 - (i) The reasonable efforts made to achieve permanency for the youth.
 - (ii) The reasons why it remains in the youth's best interests to continue in voluntary foster care.
- (c) A copy of the signed voluntary foster care agreement.
- (d) Any other information the department or the youth wants the court to consider.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.657 Court jurisdiction; review; opening of young adult voluntary foster care case; purpose; determination.

Sec. 17.

The court has the jurisdiction to review the voluntary foster care agreement signed by the department and the youth in section 11. Upon the filing of a report under section 15, the court shall open a young adult voluntary foster care case for the purpose of determining whether continuing in voluntary foster care is in the youth's best interests. The court shall make that determination not later than 21 days after the date the report was filed as described in section 15.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.659 Young adult voluntary foster care case; closure.

Sec. 19.

Following the court's determination in section 17, the court shall close the young adult voluntary foster care case and the department shall provide extended foster care services to the youth in accordance with this act.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.661 Periodic case reviews.

Sec. 21.

The department shall conduct periodic case reviews not less than once every 180 days to address the status of the youth's safety, continuing necessity and appropriateness of placement, extent of compliance with the case plan, and projected date by which the youth may no longer require extended foster care services.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

YOUNG ADULT VOLUNTARY FOSTER CARE ACT (EXCERPT)
Act 225 of 2011

400.663 Voluntary foster care agreement; termination.

Sec. 23.

(1) A youth may choose to terminate the voluntary foster care agreement and stop receiving extended foster care services at any time.

(2) If, at any time, the department determines that the youth is not in compliance with the voluntary foster care agreement or any program requirements, the department may terminate the voluntary foster care agreement with the youth and stop providing extended foster care services to the youth. The department shall provide written or electronic notice to the youth regarding termination of the voluntary foster care agreement and the youth's participation in the program.

History: 2011, Act 225, Imd. Eff. Nov. 22, 2011

FOSTER CHILD IDENTIFICATION THEFT PROTECTION ACT (EXCERPT)
Act 285 of 2016

400.683 Definitions.

Sec. 3.

As used in this act:

(a) "Caseworker" means an individual employed by the department or a child placing agency for the purpose of placing children in homes for foster care or investigating and certifying individuals or homes for foster care.

(b) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(c) "Consumer reporting agency" means any person who, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit-related information or other information on consumers for the purpose of furnishing credit reports to third parties.

(d) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity.

(e) "Department" means the department of health and human services.

History: 2016, Act 285, Eff. Dec. 26, 2016

FOSTER CHILD IDENTIFICATION THEFT PROTECTION ACT (EXCERPT)
Act 285 of 2016

400.685 Obtaining credit report on child placed in foster care; requirements.

Sec. 5.

(1) For a child 14 years or older but less than 18 years of age who is placed under the department's care or supervision for foster care, the department shall annually request from at least 1 consumer reporting agency a credit report on each child.

(2) If a credit report requested under subsection (1) indicates the appearance of fraudulent activity in the foster child's name, both of the following apply:

(a) The department shall work with the foster child and the consumer reporting agency to address and remove the fraudulent activity from the foster child's credit report.

(b) Subject to state and federal confidentiality laws, the department may report the fraudulent activity to a law enforcement agency for investigation.

(3) For a youth 18 years of age or older who was placed under the department's care or supervision for foster care, the department shall assist the youth in obtaining a copy of his or her credit report. The youth described in this subsection may choose to opt out of receiving this assistance, and the department shall make a notation in the case record regarding the youth's choice to opt out.

(4) When a child under 14 years of age leaves foster care, the department shall recommend to that child's permanent caregiver that a credit check be performed on the child to ascertain if there is possible fraudulent activity in the child's credit history.

History: 2016, Act 285, Eff. Dec. 26, 2016

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.701 Short title.

Sec. 1.

This act shall be known and may be cited as the "adult foster care facility licensing act".

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: For transfer of powers and duties of adult foster care licensing and 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.702 Meanings of words and phrases.

Sec. 2.

For the purposes of this act, the words and phrases defined in sections 3 to 7 have the meanings ascribed to them in those sections.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT) **Act 218 of 1979**

400.703 Definitions; A.

Sec. 3.

(1) "Adult" means:

(a) A person 18 years of age or older.

(b) A person who is placed in an adult foster care family home or an adult foster care small group home according to section 5(6) or (8) of 1973 PA 116, MCL 722.115.

(2) "Adult foster care camp" or "adult camp" means an adult foster care facility with the approved capacity to receive more than 4 adults to be provided foster care. An adult foster care camp is a facility located in a natural or rural environment.

(3) "Adult foster care congregate facility" means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

(4) "Adult foster care facility" means a home or facility that provides foster care to adults. Subject to section 26a(1), adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include any of the following:

(a) A nursing home licensed under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

(b) A home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

(c) A hospital licensed under part 215 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21571.

(d) A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of health and human services under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(e) A county infirmary operated by a county department of health and human services under section 55 of the social welfare act, 1939 PA 280, MCL 400.55.

(f) A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:

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

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

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

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

(g) A foster family home licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, that has a person who is 18 years of age or older placed in the foster family home under section 5(7) of 1973 PA 116, MCL 722.115.

(h) An establishment commonly described as an alcohol or a substance use disorder rehabilitation center, except

if licensed as both a substance use disorder program and an adult foster care facility and approved as a co-occurring enhanced crisis residential program, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

(i) A facility created by 1885 PA 152, MCL 36.1 to 36.12.

(j) An area excluded from the definition of adult foster care facility under section 17(3) of the continuing care community disclosure act, 2014 PA 448, MCL 554.917.

(k) A private residence with the capacity to receive at least 1 but not more than 4 adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting.

(5) "Adult foster care family home" means a private residence with the approved capacity to receive at least 3 but not more than 6 adults to be provided with foster care. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

(6) "Adult foster care large group home" means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

(7) "Adult foster care small group home" means an adult foster care facility with the approved capacity to receive at least 3 but not more than 12 adults to be provided with foster care.

(8) "Aged" means an adult whose chronological age is 60 years of age or older or whose biological age, as determined by a physician, is 60 years of age or older.

(9) "Assessment plan" means a written statement prepared in cooperation with a responsible agency or person that identifies the specific care and maintenance, services, and resident activities appropriate for each individual resident's physical and behavioral needs and well-being and the methods of providing the care and services taking into account the preferences and competency of the individual.

(10) "Board" means food service provided at the adult foster care facility.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1981, Act 124, Imd. Eff. July 23, 1981 ;-- Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984 ;-- Am. 1984, Act 140, Imd. Eff. June 1, 1984 ;-- Am. 1990, Act 262, Eff. Mar. 28, 1991 ;-- Am. 1991, Act 161, Imd. Eff. Dec. 9, 1991 ;-- Am. 1995, Act 82, Imd. Eff. June 15, 1995 ;-- Am. 1996, Act 194, Eff. Aug. 1, 1996 ;-- Am. 1998, Act 442, Imd. Eff. Dec. 30, 1998 ;-- Am. 2014, Act 450, Imd. Eff. Jan. 2, 2015 ;-- Am. 2016, Act 525, Eff. Apr. 9, 2017 ;-- Am. 2018, Act 388, Eff. Mar. 19, 2019 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.704 Definitions; C to F.

Sec. 4.

(1) "Co-occurring enhanced crisis residential program" means a program approved by the department of health and human services for providing short-term intensive mental health and substance use disorder services that is able to address the mental health needs, substance use disorder needs, or both of an individual through enhanced programming and staffing patterns that are reviewed and approved by the department of health and human services.

(2) "Council" means the adult foster care licensing advisory council created in section 8.

(3) "Department" means the department of licensing and regulatory affairs.

(4) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a.

(5) "Direct access" means access to a resident or to a resident's property, financial information, medical records, treatment information, or any other identifying information.

(6) "Director" means the director of the department.

(7) "Do-not-resuscitate order" means a document executed under the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067, directing that, in the event a resident suffers cessation of both spontaneous respiration and circulation, no resuscitation will be initiated.

(8) "Foster care" means the provision of supervision, personal care, and protection in addition to room and board, for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation provided at a single address. Providing room under a landlord and tenant arrangement does not, by itself, exclude a person from the licensure requirement under this act.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1996, Act 194, Eff. Aug. 1, 1996 ;-- Am. 2010, Act 380, Imd. Eff. Dec. 22, 2010 ;-- Am. 2013, Act 156, Eff. Feb. 4, 2014 ;-- Am. 2016, Act 525, Eff. Apr. 9, 2017 ;-- Am. 2018, Act 388, Eff. Mar. 19, 2019 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties of adult foster care licensing advisory council from department of human services and director of department of human services to the director of department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.705 Definitions; G to N.

Sec. 5.

- (1) "Good moral character" means good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47.
- (2) "Licensed hospice program" means a health care program that provides a coordinated set of services rendered at home or in an outpatient or institutional setting for individuals suffering from a disease or condition with a terminal prognosis and that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.
- (3) "Licensee" means the agency, association, corporation, organization, person, or department or agency of the state, county, city, or other political subdivision, that has been issued a license to operate an adult foster care facility.
- (4) "Licensee designee" means the individual designated in writing by the owner or person with legal authority to act on behalf of the company or organization on licensing matters. The licensee designee must meet the licensee qualification requirements of this act and rules promulgated under this act. The licensee designee who is not an owner, partner, or director of the applicant shall not sign the original license application or amendments to the application.
- (5) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
- (6) "New construction" means a newly constructed facility or a facility that has been completely renovated for use as an adult foster care facility.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984 ;-- Am. 1996, Act 194, Eff. Aug. 1, 1996 ;-- Am. 2010, Act 380, Imd. Eff. Dec. 22, 2010 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.706 Definitions; P to Q.

Sec. 6.

(1) "Personal care" means personal assistance provided by a licensee or an agent or employee of a licensee to a resident who requires assistance with dressing, personal hygiene, grooming, maintenance of a medication schedule as directed and supervised by the resident's physician, or the development of those personal and social skills required to live in the least restrictive environment.

(2) "Physical disability" means a determinable physical characteristic of an individual that may result from disease, injury, congenital condition of birth, or functional disorder.

(3) "Physical plant" means the structure in which a facility is located and all physical appurtenances to the facility.

(4) "Physician orders for scope of treatment form" or "POST form" means that term as defined in section 5674 of the public health code, 1978 PA 368, MCL 333.5674.

(5) "Protection", subject to section 26a(2), means the continual responsibility of the licensee to take reasonable action to ensure the health, safety, and well-being of a resident, including protection from physical harm, humiliation, intimidation, and social, moral, financial, and personal exploitation while on the premises, while under the supervision of the licensee or an agent or employee of the licensee, or when the resident's assessment plan states that the resident needs continuous supervision.

(6) "Provisional license" means a license issued to a facility that has previously been licensed under this act or an act repealed by this act but is temporarily unable to conform to the requirements of a regular license prescribed in this act or rules promulgated under this act.

(7) "Quality of care" means the foster care of residents of a facility and other similar items not related to the physical plant that address themselves to the general physical and mental health, welfare, and well-being of residents.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1996, Act 194, Eff. Aug. 1, 1996 ;-- Am. 1998, Act 442, Imd. Eff. Dec. 30, 1998 ;-- Am. 2017, Act 156, Eff. Feb. 6, 2018

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.707 Definitions; R to T.

Sec. 7.

(1) "Regular license" means a license issued to an adult foster care facility that is in compliance with this act and the rules promulgated under this act.

(2) "Related" means any of the following relationships by marriage, blood, or adoption: spouse, child, parent, brother, sister, grandparent, grandchild, aunt, uncle, stepparent, stepbrother, stepsister, or cousin.

(3) "Short-term operation" means an adult foster care facility that operates for a period of time less than 6 months within a calendar year.

(4) "Special license" means a license issued for the duration of the operation of an adult foster care facility if the licensee is a short-term operation.

(5) "Specialized program" means a program of services or treatment provided in an adult foster care facility licensed under this act that is designed to meet the unique programmatic needs of the residents of that home as set forth in the assessment plan for each resident and for which the facility receives special compensation.

(6) "Special compensation" means payment to an adult foster care facility to ensure the provision of a specialized program in addition to the basic payment for adult foster care. Special compensation does not include payment received by the adult foster care facility directly from the Medicaid program for personal care services for a resident, or payment received under the supplemental security income program under title XVI of the social security act, 42 USC 1381 to 1383f.

(7) "Supervision" means guidance of a resident in the activities of daily living, including 1 or more of the following:

- (a) Reminding a resident to maintain his or her medication schedule, as directed by the resident's physician.
- (b) Reminding a resident of important activities to be carried out.
- (c) Assisting a resident in keeping appointments.
- (d) Being aware of a resident's general whereabouts even though the resident may travel independently about the community.

(8) "Temporary license" means a license issued to a facility that has not previously been licensed under this act or under former 1972 PA 287.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: Act 287 of 1972, referred to in this section, was repealed by Act 218 of 1979. 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Admin Rule: R 400.2101 et seq. of the Michigan Administrative Code.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.708 Adult foster care licensing advisory council; creation; appointment, qualifications, and terms of members; vacancy; compensation; schedule for reimbursement; content and enforcement of rules; conducting business at public meeting; availability of writings to public.

Sec. 8.

(1) The adult foster care licensing advisory council is created within the department. The council shall consist of 11 members, appointed by the director. The director shall appoint at least 1 member of the council from appropriate state and local agencies, private or public organizations, adult foster care providers, and residents of adult foster care facilities or their representatives. In appointing the first members of the council, the director shall appoint 3 members for a term of 1 year, 4 for 2 years, and 4 for 3 years. After the initial appointment, members shall serve 3-year terms. A vacancy shall be filled for the remainder of the unexpired term in the same manner as original appointments are made.

(2) The per diem compensation of the council members and the schedule for reimbursement of travel and other expenses shall be pursuant to the compensation and schedules established by the legislature. The council shall meet not more than once each month. The council shall advise the department on the content of rules and their enforcement.

(3) The business which the council may perform shall be conducted at a public meeting of the council held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(4) Except as provided in section 12, a writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: For transfer of powers and duties of the adult foster care licensing advisory council 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties of adult foster care licensing advisory council from department of human services and director of department of human services to the director of department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.709 Administration of act; reports, procedures, inspections, and investigations; advice and technical assistance; consultations; cooperation with other agencies; education of public.

Sec. 9.

(1) The department shall administer this act and shall require reports, establish procedures, make inspections, and conduct investigations pursuant to law to enforce the requirements of this act and the rules promulgated under this act.

(2) The department shall provide advice and technical assistance to facilities covered by this act to assist facilities in meeting the requirements of this act and the rules promulgated under this act. The department shall offer consultation, upon request, in developing methods for the improvement of service. The department shall cooperate with other state departments and agencies and local units of government in administering this act.

(3) The department shall provide education to the public regarding the requirements of this act through the ongoing use of mass media and other methods.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Admin Rule: R 400.11101 et seq. of the Michigan Administrative Code.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.710 Rules; variance, modification, or change; purposes; restriction; review; rules subject to MCL 554.917.

Sec. 10.

(1) The department shall promulgate rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in the areas provided under subsection (4).

(2) The bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall promulgate rules providing for adequate fire prevention and safety in an adult foster care facility licensed or proposed to be licensed for more than 6 adults. The rules shall be promulgated in cooperation with the department and the state fire safety board and shall provide for the protection of the health, safety, and welfare of the adults residing in a facility. The bureau of fire services shall promulgate the rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A person may request a variance from the

application of a rule promulgated under this subsection by application to the state fire marshal. The state fire marshal may make a variance upon a finding that the variance does not result in a hazard to life or property. The finding shall be transmitted to the person requesting the variance and shall be entered into the records of the bureau of fire services. If the variance requested concerns a building, the finding shall also be transmitted to the governing body of the city, village, or township in which the building is located. The entire state fire safety board shall act as a hearing body in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to review and render decisions on a ruling of the state fire marshal interpreting or applying these rules. After a hearing, the state fire safety board may modify the ruling of the state fire marshal if the enforcement of the ruling would do manifest injustice and would be contrary to the spirit and purpose of the rules or the public interest. A decision of the state fire safety board to modify or change a ruling of the state fire marshal shall specify in what manner the modification or change is made, the conditions upon which it is made, and the reasons for the modification or change.

(3) The department shall promulgate rules for the certification of specialized programs offered in an adult foster care facility to a mentally ill or developmentally disabled resident. The rules shall include provision for an appeal of a denial or limitation of the terms of certification to the department under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

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

(a) The operation and conduct of adult foster care facilities.

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

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

(d) The number of individuals or staff required to ensure adequate supervision and care of the adults served.

(e) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate health standards to provide for the physical comfort, care, protection, and well-being of the adults received and maintenance of adequate fire protection for adult foster care facilities licensed to receive 6 or fewer adults. Rules promulgated in the areas provided by this subdivision shall be promulgated in cooperation with the state fire safety board.

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

(g) The type of programs and services necessary to provide appropriate care to each resident admitted.

(h) Provisions to safeguard the rights of adults served, including cooperation with rights protection systems established by law.

(i) Provisions to prescribe the rights of licensees.

(j) Maintenance of records pertaining to admission, progress, health, and discharge of adults. The rules promulgated under this subdivision shall include a method by which a licensee promptly shall notify the appropriate placement agency or responsible agent of any indication that a resident's assessment plan is not appropriate for that resident.

(k) Filing of reports with the department.

(l) Transportation safety.

(5) The rules promulgated under subsection (1) shall be reviewed by the council not less than once every 5 years.

(6) Rules promulgated under subsection (1) are subject to section 17 of the continuing care community disclosure act, 2014 PA 448, MCL 554.917.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987 ;-- Am. 2006, Act 201, Imd. Eff. June 19, 2006 ;-- Am. 2014, Act 450, Imd. Eff. Jan. 2, 2015 ;-- Am. 2016, Act 525, Eff. Apr. 9, 2017

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Admin Rule: R 400.1401 et seq.; R 400.1601 et seq.; R 400.2101 et seq.; R 400.11101 et seq.; and R 400.16001 of the Michigan Administrative Code.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.711 Inspections; visitations; administration and enforcement of rules; reports; final determination as to license; public inspection of reports; biannual inspection report for certain entities.

Sec. 11.

(1) The director, the director's agent, or personnel of another department or agency, acting at the request of the director, may enter upon the premises of an applicant or licensee at a reasonable time to make inspections, as permitted by applicable law, to determine whether the applicant or licensee is complying with this act and the rules promulgated under this act. On-site inspections may be conducted without prior notice to the adult foster care facility. A health and sanitation inspection of an adult foster care facility shall be conducted upon the request of the department by 1 of the following:

- (a) Department staff.
- (b) The department of health and human services.
- (c) A local health department.

(2) The bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or local authorities, in carrying out this act, may visit an adult foster care facility more often than annually to advise in matters affecting health or fire protection. Inspections must be made as permitted by law.

(3) An adult foster care facility must be inspected for fire safety by 1 of the following:

(a) Department staff, if the facility is licensed or proposed to be licensed for 6 or fewer adults. The department may request that a fire safety inspection be performed by or at the direction of the bureau of fire services, for a facility licensed or proposed to be licensed for 6 or fewer adults, if that inspection would result in the efficient administration of this act.

(b) The bureau of fire services or the designated representative of the bureau of fire services, if the facility is licensed or proposed to be licensed for more than 6 adults. The bureau of fire services must inspect or have inspected for fire safety an adult foster care facility licensed or proposed to be licensed for 6 or fewer adults upon request by the department. The bureau of fire services may contract with the fire marshal of a city having a population of not less than 600,000 to inspect adult foster care facilities licensed or proposed to be licensed for more than 6 adults if the facility is located within that city. The fire marshal of a city must conduct an inspection in compliance with procedures established and on forms provided by the bureau of fire services.

(4) Except as provided in subsection (3)(b) and section 10(2), the inspector must administer and enforce the rules promulgated by the department.

(5) Upon receipt of a request from an adult foster care facility for certification of a specialized program for developmentally disabled or mentally ill adults, the department must inspect the facility to determine whether the proposed specialized program conforms with the requirements of applicable law and rules. The department must provide the department of health and human services with an inspection report and a certification, denial of certification, or certification with limited terms for the proposed specialized program. The department must reinspect a certified specialized program not less than once biennially. In carrying out this subsection, the department may contract with a county community mental health board or any other agency for services.

(6) Inspection reports required by this section must be furnished to the department and shall be used in the evaluation for licensing of an adult foster care facility. The department must consider the reports carefully and may make special consultations if necessary. The department is responsible for the final determination of the issuance, denial, or revocation and the temporary or provisional nature of a license issued to an adult foster care facility. A report of the department's findings must be furnished to the licensee or applicant.

(7) The inspection reports required by this section shall be available for public inspection during reasonable business hours.

(8) The department shall submit biannual reports to the appropriation subcommittees for the department, the senate and house fiscal agencies, and the state budget director containing a summary of input from individuals who perform inspections for entities regulated by the bureau of community and health systems, or a successor agency within the department. The feedback and input must be regarding the adequacy of federal and state guidelines pertaining to the areas that the individual inspects for the entities described in this section. The summary must include details of the feedback excluding information that identifies the inspectors providing the feedback. The summary may be cumulative in nature, but must be understandable to the general public.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987 ;-- Am. 1992, Act 176, Imd. Eff. July 23, 1992 ;-- Am. 2006, Act 201, Imd. Eff. June 19, 2006 ;-- Am. 2016, Act 525, Eff. Apr. 9, 2017 ;-- Am. 2022, Act 118, Imd. Eff. June 24, 2022

Compiler's Notes: For transfer of powers and duties of the fire marshal division programs relating to plan review and construction inspections of schools, colleges, universities, school dormitories, as well as adult foster care, correctional, and health care facilities, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Admin Rule: R 400.1401 et seq.; R 400.1601 et seq.; R 400.2101 et seq.; and R 400.11101 et seq. of the Michigan Administrative Code.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.712 Keeping and maintaining records and reports; examination and copying of books, records, and reports; confidentiality; inspection of records by resident.

Sec. 12.

(1) The department may prescribe appropriate records to be kept and maintained regarding each adult received by a licensee and may require reports, upon forms furnished or approved by the department, setting forth facts or circumstances related to the care of adults received by the licensee.

(2) The department may examine the books, records, and reports of a facility. Members of the department shall be provided reasonable facilities for the thorough examination and copying of the books, records, and reports of the facility.

(3) The records of the residents of a facility which are required to be kept by the facility under this act or rules promulgated under this act shall be confidential and properly safeguarded. These materials shall be open only to the inspection of the director, an agent of the director, another executive department of the state pursuant to a contract between that department and the facility, a party to a contested case involving the facility, or on the order of a court or tribunal of competent jurisdiction. The records of a resident of a facility which are required to be kept by the facility under this act or rules promulgated under this act shall be open to inspection by the resident, unless medically contraindicated, or the guardian of a resident.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Admin Rule: R 400.1401 et seq.; R 400.2101 et seq.; and R 400.11101 et seq. of the Michigan Administrative Code.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.713 License required; application; forms; investigation; on-site evaluation; issuance or renewal of license; disclosures; maximum number of persons; stating type of specialized program; issuance of license to specific person at specific location; transferability of license; sale of facility; notice; items of noncompliance; refusal by department to issue or renew license; conditions; unlicensed facility; violation as misdemeanor; penalty; receipt of completed application; issuance of license within certain time period; inspections; report; criminal history and records check; storage of fingerprints in automated fingerprint identification system database; convictions; "completed application" defined.

Sec. 13.

(1) A person, partnership, corporation, association, or a department or agency of the state, county, city, or other

political subdivision shall not establish or maintain an adult foster care facility unless licensed by the department.

(2) Application for a license shall be made on forms provided and in the manner prescribed by the department. The application shall be accompanied by the fee prescribed in section 13a.

(3) Before issuing or renewing a license, the department shall investigate the activities and standards of care of the applicant and shall make an on-site evaluation of the facility. On-site inspections conducted in response to the application may be conducted without prior notice to the applicant. On-site inspections conducted for renewing a license may be conducted within 12 months before the expiration date of the current license without impact on the license renewal date or the license fee. Subject to subsections (9), (10), and (11), the department shall issue or renew a license if satisfied as to all of the following:

(a) The financial stability of the facility.

(b) The applicant's compliance with this act and rules promulgated under this act.

(c) The good moral character of the applicant, or owners, partners, or directors of the facility, if other than an individual. Each of these persons shall be not less than 18 years of age.

(d) The physical and emotional ability of the applicant, and the person responsible for the daily operation of the facility to operate an adult foster care facility.

(e) The good moral character of the licensee or licensee designee, owner, partner, director, and person responsible for the daily operation of the facility. The applicant is responsible for assessing the good moral character of the employees of the facility. The person responsible for the daily operation of the facility shall be not less than 18 years of age.

(4) The department shall require an applicant or a licensee to disclose the names, addresses, and official positions of all persons who have an ownership interest in the adult foster care facility. If the adult foster care facility is located on or in real estate that is leased, the applicant or licensee shall disclose the name of the lessor of the real estate and any direct or indirect interest that the applicant or licensee has in the lease other than as lessee.

(5) Each license shall state the maximum number of persons to be received for foster care at 1 time.

(6) If applicable, a license shall state the type of specialized program for which certification has been received from the department.

(7) A license shall be issued to a specific person for a facility at a specific location and is nontransferable.

(8) An applicant or licensee proposing a sale of an adult foster care facility or home to another owner shall provide the department with advance notice of the proposed sale in writing. The applicant or licensee and other parties to the sale shall arrange to meet with specified department representatives and shall obtain before the sale a determination of the items of noncompliance with applicable law and rules that shall be corrected. The department shall notify the respective parties of the items of noncompliance before the change of ownership, shall indicate that the items of noncompliance shall be corrected as a condition of issuance of a license to the new owner, and shall notify the prospective purchaser of all licensure requirements.

(9) The department shall not issue a license to or renew the license of an owner, partner, or director of the applicant, who has regular direct access to residents or who has on-site facility operational responsibilities, or an applicant or the licensee designee, if any of those individuals have been convicted of 1 or more of the following:

(a) A felony under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(b) A misdemeanor under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, within the 10 years immediately preceding the application.

(c) A misdemeanor involving abuse, neglect, assault, battery, or criminal sexual conduct or involving fraud or theft against a vulnerable adult as that term is defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or federal crime that is substantially similar to a misdemeanor described in this subdivision within the 10 years immediately preceding the application.

(10) If the department has revoked, suspended, or refused to renew a person's license, or denied an application for a license, for an adult foster care facility according to section 22, the department may refuse to issue a license to or renew a license of that person for a period of 5 years after the suspension, revocation, or nonrenewal of the license, or denial of the application.

(11) The department may refuse to issue a license to or renew the license of an applicant if the department determines that the applicant has a relationship with a former licensee whose license under this act has been suspended, revoked, or nonrenewed under subsection (9) or section 22 or a convicted person to whom a license has been denied under subsection (9). This subsection applies for 5 years after the suspension, revocation, or nonrenewal of the former licensee's license or the denial of the convicted person's license. For purposes of this subsection, an applicant has a relationship with a former licensee or convicted person if the former licensee or convicted person is involved with the facility in 1 or more of the following ways:

(a) Participates in the administration or operation of the facility.

(b) Has a financial interest in the operation of the facility.

(c) Provides care to residents of the facility.

(d) Has contact with residents or staff on the premises of the facility.

(e) Is employed by the facility.

(f) Resides in the facility.

(12) If the department determines that an unlicensed facility is an adult foster care facility, the department shall notify the owner or operator of the facility that it is required to be licensed under this act. A person receiving the notification required under this section who does not apply for a license within 30 days is subject to the penalties described in subsection (13).

(13) Subject to subsection (12), a person who violates subsection (1) is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years or a fine of not more than \$50,000.00, or both. A person who has been convicted of a violation of subsection (1) who commits a second or subsequent violation is guilty of a felony, punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

(14) The department shall issue an initial or renewal license 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 an 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. 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.

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

(16) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. Failure to issue or deny a license within the time period required under this section does not allow the department to otherwise delay processing an application. The 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.

(17) If, on a continual basis, inspections performed by a local health department delay the department in issuing or denying licenses 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.

(18) 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 issues. The department director shall include all of the following information in the report concerning 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 (14).

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

(c) The number of applications rejected.

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

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

(19) An applicant, if an individual, or an owner, partner, or director of the applicant who has regular direct access to residents or who has on-site facility operational responsibilities shall give written consent at the time of original license application and a licensee designee shall give written consent at the time of appointment for the department of state police to conduct both of the following:

(a) A criminal history check.

(b) A criminal records check through the Federal Bureau of Investigation.

(20) An owner, partner, or director of the applicant who has regular direct access to residents or who has on-site facility operational responsibilities is exempt from the requirements of subsection (19) if he or she has already submitted consent described in subsection (19) and were continuously affiliated with a licensed adult foster care facility as an applicant, owner, partner, or director.

(21) The department shall require the applicant, if an individual, the licensee designee, owner, partner, or director of the applicant who has regular direct access to residents or who has on-site facility operational responsibilities to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsection (19).

(22) The department shall request a criminal history check and criminal records check required under this section in the manner prescribed by the department of state police. The department of state police shall conduct the criminal history check and provide a report of the results to the licensing or regulatory bureau of the department. The report shall contain any criminal history information on the person maintained by the department of state police

and the results of the criminal records check from the Federal Bureau of Investigation. The department of state police may charge the person on whom the criminal history check and criminal records check are performed under this section a fee that does not exceed the actual and reasonable cost of conducting the checks.

(23) Beginning March 13, 2012, if an applicant or licensee designee or person described in subsection (20) applies for a license or to renew a license to operate an adult foster care facility and he or she or the licensee designee previously underwent a criminal history check and criminal records check required under subsection (19) or under section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, and has remained continuously licensed or continuously employed under section 34b or under section 20173a of the public health code, 1978 PA 368, MCL 333.20173a, 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 under subsection (3).

(24) 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 of a subsequent criminal arrest fingerprint card submitted into the system that matches a set of fingerprints previously submitted in accordance with this act. Upon notification, the department of state police shall immediately notify the department and the department shall take the appropriate action.

(25) A licensee, licensee designee, owner, partner, or director of the licensee shall not be permitted on the premises of an adult foster care facility or have direct access to residents or resident records if he or she has been convicted of any of the following: adult abuse, neglect, or financial exploitation; or listed offenses as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(26) An adult foster family care home or an adult foster care group home shall not be concurrently licensed as a group child care home or a family child care home.

(27) As used in this section, "completed application" means an application complete on its face with all requested information provided and answers to all questions provided and submitted with any applicable licensing 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.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987 ;-- Am. 1992, Act 176, Imd. Eff. July 23, 1992 ;-- Am. 1994, Act 150, Imd. Eff. June 7, 1994 ;-- Am. 2004, Act 59, Eff. Aug. 1, 2004 ;-- Am. 2004, Act 281, Imd. Eff. July 23, 2004 ;-- Am. 2010, Act 380, Imd. Eff. Dec. 22, 2010 ;-- Am. 2012, Act 52, Imd. Eff. Mar. 13, 2012 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Admin Rule: R 400.1401 et seq.; R 400.2101 et seq.; and R 400.11101 et seq. of the Michigan Administrative Code.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.713a Fees.

Sec. 13a.

(1) Until December 31, 2019, application fees for an individual, partnership, firm, corporation, association, governmental organization, or nongovernmental organization licensed or seeking licensure under this act are as follows:

(a) Application fee for a temporary license:

- | | |
|-------------------------------|----------|
| (i) Family home | \$ 65.00 |
| (ii) Small group home (1-6) | 105.00 |
| (iii) Small group home (7-12) | 135.00 |
| (iv) Large group home | 170.00 |

- (v) Congregate facility 220.00
- (vi) Camp 40.00

(b) Application fee for subsequent licenses:

- (i) Family home \$ 25.00
- (ii) Small group home (1-6) 25.00
- (iii) Small group home (7-12) 60.00
- (iv) Large group home 100.00
- (v) Congregate facility 150.00
- (vi) Camp 25.00

(2) Until December 31, 2019, fees collected under this act shall be credited to the general fund of the state to be appropriated by the legislature to the department for the enforcement of this act.

(3) Application fees for an individual, partnership, firm, corporation, association, governmental organization, or nongovernmental organization licensed or seeking licensure under this act for a temporary or renewal license are as follows:

(a) Beginning January 1, 2020, as follows:

- (i) Family home (3-6) \$ 85.00
- (ii) Small group home (3-6) 130.00
- (iii) Small group home (7-12) 170.00
- (iv) Large group home 320.00
- (v) Congregate facility (renewal only) 360.00
- (vi) Camp 120.00

(b) Beginning January 1, 2022, as follows:

- (i) Family home \$ 100.00
- (ii) Small group home (3-6) 150.00
- (iii) Small group home (7-12) 200.00
- (iv) Large group home 500.00
- (v) Congregate facility (renewal only) 500.00
- (vi) Camp 200.00

History: Add. 1992, Act 176, Imd. Eff. July 23, 1992 ;-- Am. 2004, Act 285, Imd. Eff. July 23, 2004 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.714 Temporary license; issuance of regular license or provisional license; refusal to issue license; temporary license nonrenewable; plan of correction.

Sec. 14.

(1) A temporary license shall be issued to an adult foster care facility for the first 6 months of operation. At the end of the first 6 months of operation, the department shall either issue a regular license, issue a provisional license, or refuse to issue a license in the manner provided for in section 22. A temporary license shall not be renewed.

(2) Before issuing a temporary license, the department may require an adult foster care facility to submit to the department an acceptable plan of correction for the adult foster care facility. The adult foster care facility shall

implement the plan of correction within the time limitations of the temporary license period.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.715 Temporary license; adult foster care congregate facility.

Sec. 15.

The department shall not issue a temporary license to an adult foster care congregate facility, except to replace an existing adult foster care congregate facility. The new construction must satisfy all applicable state construction code requirements and the fire safety requirements prescribed by section 20; and the bed capacity must not exceed that of the licensed facility that it replaces.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.716 Temporary license; prohibitions.

Sec. 16.

(1) Unless the city, village, or township approves a temporary license, a temporary 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, or township of this state.

(2) A temporary license shall not be granted under this act if the proposed adult foster care facility for more than 6 adults has not obtained zoning approval or obtained a special or conditional use permit if required by an ordinance of the city, village, or township in which the proposed facility is located.

(3) The department shall not issue a temporary license to an adult foster care facility which does not comply with section 16a of Act No. 183 of the Public Acts of 1943, as amended, being section 125.216a of the Michigan Compiled Laws, section 16a of Act No. 184 of the Public Acts of 1943, as amended, being section 125.286a of the Michigan Compiled Laws, and section 3b of Act No. 207 of the Public Acts of 1921, as amended, being section 125.583b of the Michigan Compiled Laws.

(4) This section shall not apply to an applicant who has purchased a facility and the facility, at the time of the purchase, or for 1 year preceding the application, was licensed under this act or an act repealed by this act.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.717 Provisional license.

Sec. 17.

(1) A provisional license may be issued to an adult foster care facility that has previously held a temporary or regular license under this act or an act repealed by this act. A provisional license may be issued for 6 months if an adult foster care facility is temporarily unable to conform to the requirements of this act for a regular license and may be renewed not more than 2 consecutive times as provided in subsections (2) and (4). The issuance of a provisional license shall be contingent upon the submission to the department of an acceptable plan of correction for the adult foster care facility within the time limitations of the provisional period.

(2) If the provisional license is issued for deficiencies in the physical plant of the adult foster care facility, the provisional license may be renewed for not more than 2 consecutive 6-month terms for the same physical plant deficiencies.

(3) If the provisional license is issued for deficiencies in the quality of care provided in the adult foster care facility, the provisional license is not renewable. If the quality of care deficiencies are corrected and intervening deficiencies of any kind are not incurred, a regular license shall be issued.

(4) If a provisional license has been issued because of deficiencies in both the quality of care and the physical plant of the adult foster care facility, the provisional license may be renewed under subsection (2) if the quality of care deficiencies have been corrected.

(5) The department shall notify the applicant of the reasons for issuing a provisional license and shall designate whether the deficiencies are physical plant deficiencies or quality of care deficiencies.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1992, Act 176, Imd. Eff. July 23, 1992

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.718 Special license; rules.

Sec. 18.

(1) A special license may be issued for the duration of the operation of an adult foster care facility if the applicant is a short-term operation.

(2) The department may promulgate rules regulating the issuance and duration of special licenses.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.719 Regular license; issuance; validity; application for temporary license; subsection (4) applicable to previously licensed facilities.

Sec. 19.

(1) A regular license shall be issued to an adult foster care facility which is in compliance with the requirements of this act and rules promulgated under this act for issuance of a regular license.

(2) A regular license for all adult foster care facilities except adult foster care camps is valid for 2 years after the date of issuance unless revoked as authorized by section 22 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 renewed biennially on application and approval.

(3) A regular license for an adult foster care camp is effective for the specific dates of operation not to exceed a 12-month period unless revoked as authorized by section 22 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 renewed annually on application and approval.

(4) Any increase beyond 6 in the number of persons to be received for foster care at 1 time in a small group home requires application for a temporary license pursuant to sections 14 and 16. This subsection applies to facilities that have been previously licensed.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987 ;-- Am. 1992, Act 176, Imd. Eff. July 23, 1992

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.720 Certificate of approval from bureau of fire services and department; compliance; denial or certification with limitations; hearing.

Sec. 20.

(1) The department shall not issue a temporary, provisional, or regular license to an adult foster care facility with a capacity of more than 6 adults until the facility receives a certificate of approval from the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, after compliance with fire safety standards prescribed in rules promulgated by the bureau of fire services pursuant to section 10(2).

(2) The department shall not issue a license to an adult foster care facility indicating approval to operate a specialized program for developmentally disabled adults or mentally ill adults until the facility receives a certificate of approval as required under section 11(5).

(3) A licensee or applicant who is denied a certificate of approval by the bureau of fire services or who is denied or certified with limitations for a specialized program by the department may request a hearing. The hearing shall be conducted by the state fire safety board or the department, as applicable, under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987 ;-- Am. 2006, Act 201, Imd. Eff. June 19, 2006 ;-- Am. 2016, Act 525, Eff. Apr. 9, 2017

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.721 Facility licensed on March 27, 1980; compliance with fire safety standards; section inapplicable to installation of smoke and heat detection equipment.

Sec. 21.

(1) Except as provided in subsection (2), an adult foster care facility licensed on March 27, 1980 shall be considered to be in compliance with the fire safety standards prescribed in rules promulgated under this act if the facility meets the fire safety standards prescribed in rules promulgated under former Act No. 287 of the Public Acts of 1972 which were in effect on March 27, 1980.

(2) This section does not apply to the installation of smoke and heat detection equipment as required by rules promulgated pursuant to this act.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987

Compiler's Notes: Act 287 of 1972, referred to in this section, was repealed by Act 218 of 1979. 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.722 Denying, suspending, revoking, refusing to renew, or modifying license; grounds; written notice; hearing; decision; protest; receiving or maintaining adults requiring foster care as felony; penalty; relocation services.

Sec. 22.

(1) The department may deny, suspend, revoke, or refuse to renew a license, or modify a regular license to a

provisional license, if the licensee falsifies information on the application for license or willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license.

(2) The department may deny, suspend, revoke, or modify an application for licensure or a license of a licensee if the department determines that the applicant or licensee has a relationship with a former applicant whose application under this act has been denied or a former licensee whose license under this act has been suspended, revoked, or refused renewal under this section or section 13(9) or a convicted person to whom a license has been denied under section 13(9). This subsection applies for 10 years after the suspension, revocation, or refused renewal of the former licensee's license, the denial of the former applicant's application for licensure, or the denial of the convicted person's application for licensure. As used in this subsection, an applicant has a relationship with a former licensee or convicted person if the former applicant, licensee, or convicted person is involved with the facility in 1 or more of the following ways:

- (a) Participates in the administration or operation of the facility.
- (b) Has a financial interest in the operation of the facility.
- (c) Provides care to residents of the facility.
- (d) Has contact with residents or staff on the premises of the facility.
- (e) Is employed by the facility.
- (f) Resides in the facility.

(3) The department may deny an application for licensure based on a prior settlement agreement that prohibits a person from providing adult foster care.

(4) An application for licensure shall not be denied, a license shall not be revoked, a renewal shall not be refused, and a regular license shall not be modified to a provisional license unless the department gives the applicant or licensee written notice of the grounds for the proposed denial, revocation, refusal to renew, or modification. If the proposed denial, revocation, refusal to renew, or modification is not appealed within 30 days after receipt, the department shall deny, revoke, refuse to renew, or modify the application or license. The applicant or licensee must appeal in writing to the department director, or the director's designee, a proposed denial, revocation, refusal to renew, or modification within 30 days after receipt of the written notice. Upon receipt of the written request for appeal, the director or the director's designee must conduct a contested case hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.328. Notice of the hearing must be given to the applicant or licensee by personal service or delivery to the proper address by registered mail not less than 2 weeks before the date of the hearing. The decision of the director or his or her designee shall be issued as soon as practicable after the hearing and forwarded to the protesting party by registered mail. The formal notice and hearing requirement in this subsection does not apply if the licensee and the department comply with section 22a.

(5) A license shall not be denied, suspended, or revoked, a renewal shall not be refused, and a regular license shall not be modified to a provisional license unless the department gives the licensee or applicant written notice of the grounds of the proposed denial, revocation, refusal to renew, or modification. If the licensee or applicant appeals the denial, revocation, refusal to renew, or modification by filing a written appeal with the director within 30 days after receipt of the written notice, the director or the director's designated representative shall conduct a contested case hearing at which the licensee or applicant may present testimony and confront witnesses. Notice of the hearing shall be given to the licensee or applicant by personal service or delivery to the proper address by registered mail not less than 2 weeks before the date of the hearing. The decision of the director shall be made and forwarded to the protesting party by registered mail not more than 30 days after the hearing. If the proposed denial, revocation, refusal to renew, or modification is not protested within 30 days, the license shall be denied, revoked, refused, or modified.

(6) If the department has revoked, suspended, or refused to renew a license, the former licensee shall not receive or maintain in that facility an adult who requires foster care. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

(7) If the department has revoked, suspended, or refused to renew a license, relocation services shall be provided to adults who were being served by the formerly licensed facility, upon the department's determination that the adult or his or her designated representative is unable to relocate the adult in another facility without assistance. The relocation services shall be provided by the responsible agency, as defined in administrative rules, or, if the adult has no agency designated as responsible, by the department of health and human services.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1990, Act 262, Eff. Mar. 28, 1991 ;-- Am. 1994, Act 150, Imd. Eff. June 7, 1994 ;-- Am. 2004, Act 59, Eff. Aug. 1, 2004 ;-- Am. 2018, Act 557, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care

home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.722b Emergency closure of adult foster care facility; notification.

Sec. 22b.

The community and health systems bureau within the department shall notify the clerk of the city, village, or township and the fire services bureau within the department shall notify the fire chief of an organized fire department of the emergency closure of an adult foster care facility contemporaneously when the summary suspension order is served.

History: Add. 2016, Act 525, Eff. Apr. 9, 2017

Compiler's Notes: For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.722c Summary suspension order for closure; departmental duties; temporary advisor.

Sec. 22c.

When the department issues a summary suspension order for closure of an adult foster care facility, or when an adult foster care facility cannot provide adequate resident care, the department must do the following:

- (a) Ensure that the department of health and human services has been notified to make arrangements for the orderly and safe discharge and transfer of the residents to another facility or appropriate setting.
- (b) Determine whether a representative of the department must be placed in a facility on a daily basis to monitor the delivery of services during the discharge of residents to another facility or location.
- (c) Determine if the appointment of a temporary administrative advisor or a temporary clinical advisor, or both, is necessary, with authority and duties specified by the department to assist the facility management and staff to oversee the orderly closure of the facility. The licensee must pay the expense of the person appointed.

History: Add. 2018, Act 557, Eff. Mar. 28, 2019

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.723 Repealed. 2018, Act 558, Eff. Mar. 28, 2019.

Compiler's Notes: The repealed section pertained to the authority of a city, village, or township in which an adult foster care facility is located to file a complaint with the department.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.724 Request for investigation; providing substance of complaint; disclosures; determining violation; initiation of investigation; findings; written determination or status report; final report; additional copies of documents; reimbursement; informing licensee of findings; public inspection of written determination; administrative review; sharing of information or records.

Sec. 24.

(1) A person who believes that this act or a rule promulgated under this act may have been violated may request an investigation of an adult foster care facility. The request shall be submitted to the department in writing or the department shall assist the person in reducing an oral complaint to writing within 7 days after the oral request is made.

(2) The substance of the complaint shall be provided to the licensee not earlier than at the commencement of the on-site inspection of the adult foster care facility that takes place according to the complaint.

(3) The complaint, a copy of the complaint, or a record published, released, or otherwise disclosed to the adult foster care facility shall not disclose the name of the complainant or an adult resident named in the complaint unless the complainant or an adult resident consents in writing to the disclosure or the investigation results in an administrative hearing or a judicial proceeding, or unless disclosure is considered essential to the investigation by the department. If disclosure is considered essential to the investigation, the complainant shall be given the opportunity to withdraw the complaint before disclosure.

(4) Upon receipt of a complaint, the department shall determine, based on the allegations presented, whether this act or a rule promulgated under this act has been, is, or is in danger of being violated. The department shall investigate the complaint according to the urgency determined by the department. The initiation of a complaint investigation shall commence within 15 days after receipt of the written complaint by the department.

(5) The department shall inform the complainant of its findings. Within 30 days after the receipt of complaint, the department shall provide the complainant a copy, if any, of the written determination or a status report indicating when these documents may be expected. The final report shall include a copy of the original complaint. The complainant may request additional copies of the documents listed in this subsection and shall reimburse the department for the copies according to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) The department shall inform the licensee of the department's findings at the same time that the department informs the complainant under subsection (5).

(7) A written determination concerning a complaint shall be available for public inspection, but the name of the complainant or adult resident shall not be disclosed without the complainant's or adult resident's consent.

(8) A complainant who is dissatisfied with the determination or investigation by the department may request an administrative review by the department. A request shall be submitted in writing to the director within 30 days after the mailing of the department's findings as described in subsection (5). The administrative review shall be conducted based on pertinent documentation or a verifiable statement submitted in writing by the complainant. The department shall send the results of the administrative review to the complainant. If the administrative review results in reconsideration of a complaint against the adult foster care facility, the department shall reopen the complaint investigation.

(9) Notwithstanding subsection (3) and sections 5 and 7(2) of the child protection law, 1975 PA 238, MCL 722.625 and 722.627, information or records in the possession of the department of health and human services or the department may be shared to the extent necessary for the proper functioning of the department of health and human services or the department in administering adult welfare or adult foster care licensing under this act or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by the department of health and human services or the department unless otherwise permitted under this act or other state or federal law.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 2016, Act 492, Eff. Apr. 6, 2017 ;-- Am. 2018, Act 558, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.725 Contested case hearing; judicial review.

Sec. 25.

A party aggrieved by the decision of the director following a contested case hearing under section 22 may seek judicial review in accordance with chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 2018, Act 558, Eff. Mar. 28, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT) Act 218 of 1979

400.726 Name or designation of facility.

Sec. 26.

(1) An adult foster care facility shall not utilize a name or designation which implies, infers, or leads the public to believe that the facility provides nursing care.

(2) An adult foster care facility shall not include in its name the name of a religious, fraternal, or charitable corporation, organization, or association unless the corporation, organization, or association is an owner of the facility.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT) Act 218 of 1979

400.726a Resident enrolled in licensed hospice program or co-occurring enhanced crisis residential program; exception to continuous nursing care requirement for purposes of MCL 400.703(4); do-not-resuscitate order or POST form included in assessment plan; protection to resident.

Sec. 26a.

(1) A resident of an adult foster care facility who is enrolled in a licensed hospice program is not considered to require continuous nursing care for the purpose of section 3(4).

(2) A resident of an adult foster care facility, which facility is also licensed as a substance use disorder program and is approved as a co-occurring enhanced crisis residential program, is not considered to require continuous nursing care for the purpose of section 3(4).

(3) A licensee providing foster care to a resident who is enrolled in a licensed hospice program and whose assessment plan includes a do-not-resuscitate order or a validly executed POST form under part 56B of the public health code, 1978 PA 368, MCL 333.5671 to 333.5685, is considered to be providing protection to the resident for purposes of section 6(5) and the rules promulgated under this act if, in the event the resident suffers cessation of both spontaneous respiration and circulation, the licensee contacts the licensed hospice program.

History: Add. 1996, Act 194, Eff. Aug. 1, 1996 ;-- Am. 2017, Act 156, Eff. Feb. 6, 2018 ;-- Am. 2018, Act 388, Eff. Mar. 19, 2019

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.726b Adult foster care; description of services to patients or residents with alzheimer's disease; contents; "represents to the public" defined.

Sec. 26b.

(1) Beginning not more than 90 days after the effective date of the amendatory act that added this section, an adult foster care large group home, an adult foster care small group home, or an adult foster care congregate facility that represents to the public that it provides inpatient or residential care or services, or both, to persons with Alzheimer's disease or related conditions shall provide to each prospective patient, resident, or surrogate decision maker a written description of the services provided by the home or facility to patients or residents with Alzheimer's disease or related conditions. A written description shall include, but not be limited to, all of the following:

(a) The overall philosophy and mission reflecting the needs of residents with Alzheimer's disease or related conditions.

(b) The process and criteria for placement in or transfer or discharge from a program for residents with alzheimer's disease or related conditions.

(c) The process used for assessment and establishment of a plan of care and its implementation.

(d) Staff training and continuing education practices.

(e) The physical environment and design features appropriate to support the function of residents with Alzheimer's disease or related conditions.

(f) The frequency and types of activities for residents with Alzheimer's disease or related conditions.

(g) Identification of supplemental fees for services provided to patients or residents with Alzheimer's disease or related conditions.

(2) As used in this section, "represents to the public" means advertises or markets the facility as providing specialized Alzheimer's or dementia care services.

History: Add. 2000, Act 476, Imd. Eff. Jan. 11, 2001

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.726c Medical orders provided on POST form; compliance required; failure to comply because of policy, religious belief, or moral conviction; referral or transfer to another foster care facility.

Sec. 26c.

(1) An adult foster care facility shall comply with medical orders provided on a validly executed POST form as required under the provisions of part 56B of the public health code, 1978 PA 368, MCL 333.5671 to 333.5685.

(2) If an adult foster care facility is unwilling to comply with the medical orders provided on a validly executed form because of a policy, religious belief, or moral conviction, the adult foster care facility shall take all reasonable steps to refer or transfer the patient to another adult foster care facility.

History: Add. 2017, Act 156, Eff. Feb. 6, 2018

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.727 Posting license, inspection report, and other documents; retention of materials for public inspection.

Sec. 27.

(1) A licensee operating an adult foster care congregate facility shall conspicuously post all of the following in an area of the facility accessible to residents, employees, and visitors:

- (a) A current license.
- (b) A complete copy of the most recent inspection report of the facility received from the department.
- (c) A description, provided by the department, of complaint procedures established under this act and the name, address, and telephone number of a person authorized by the department to receive complaints.
- (d) A complete list of materials available for public inspection which the facility is required to retain under subsection (2).

(2) A licensee operating an adult foster care congregate facility shall retain all of the following for public inspection:

- (a) A complete copy of each inspection report of the facility received from the department during the past 5 years.
- (b) A description of the services provided by the facility and the rates charged for those services and items for which a resident may be separately charged.
- (c) A list of the name, address, and official position of each person having an ownership interest in the facility as required by section 13(4).
- (d) A list of personnel employed or retained by the facility.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)
Act 218 of 1979

400.729 Providing foster care to person related to licensee or licensee's spouse.

Sec. 29.

This act shall not prohibit an adult foster care facility from providing foster care to a person related to the licensee or the licensee's spouse for compensation or otherwise. The related person shall be considered in determining the number of residents being cared for in the facility if the person is provided adult foster care services for compensation.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT) **Act 218 of 1979**

400.730 Injunction.

Sec. 30.

The attorney general, on behalf of the department, may seek an injunction against an adult foster care facility in either of the following cases:

- (a) The facility is being operated without a license in violation of section 13.
- (b) A licensee violates this act or a rule promulgated under this act and the violation may result in serious harm to the residents under care.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1992, Act 176, Imd. Eff. July 23, 1992

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT) **Act 218 of 1979**

400.731 Violation as misdemeanor; prohibited conduct.

Sec. 31.

- (1) Except as otherwise provided in section 13 or section 22, a person, adult foster care facility, agency, or representative or officer of a corporation, association, or organization who violates this act 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.
- (2) A person convicted of a misdemeanor under this act or under chapter XXA of the Michigan penal code, Act

No. 328 of the Public Acts of 1931, being sections 750.145m to 750.145r of the Michigan Compiled Laws, shall not be involved with an adult foster care facility for a period of 5 years after the conviction in any of the following ways:

- (a) Participate in the administration or operation of the facility.
 - (b) Have a financial interest in the operation of the facility.
 - (c) Provide care to residents of the facility.
 - (d) Have contact with residents or staff on the premises of the facility.
 - (e) Be employed by the facility.
 - (f) Reside in the facility.
- (3) A person convicted of a felony under this act or under chapter XXXA of Act No. 328 of the Public Acts of 1931 shall not be involved with an adult foster care facility in any of the following ways:
- (a) Participate in the administration or operation of the facility.
 - (b) Have a financial interest in the operation of the facility.
 - (c) Provide care to residents of the facility.
 - (d) Have contact with residents or staff on the premises of the facility.
 - (e) Be employed by the facility.
 - (f) Reside in the facility.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1990, Act 262, Eff. Mar. 28, 1991 ;-- Am. 1994, Act 150, Imd. Eff. June 7, 1994

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.731a Person sentenced to perform community service.

Sec. 31a.

(1) In addition to or as an alternative to imposing a term of imprisonment under this act, the court may sentence the person to perform community service as follows:

- (a) If the person is convicted of a felony, community service for not more than 160 days.
 - (b) If the person is convicted of a misdemeanor, community service for not more than 80 days.
- (2) For purposes of this section, community service shall not include activities involving interaction with or care of vulnerable adults.

(3) A person sentenced to perform community service under this section shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 1994, Act 150, Imd. Eff. June 7, 1994

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.732 Notices required.

Sec. 32.

(1) The department shall notify the clerk of the city, village, or township where a proposed adult foster care facility is to be located at least 45 days before the issuance of a license.

(2) The department shall notify the clerk of the city, village, or township of all newly licensed adult foster care facilities within 30 days after the issuance of a license.

(3) The department shall notify the clerk of the city, village, or township of the location of all licensed adult foster care facilities within the boundaries of that city, village, or township within 30 days after receipt of the request.

History: 1979, Act 218, Eff. Mar. 27, 1980

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.733 Local ordinances, regulations, or construction codes.

Sec. 33.

This act supersedes all local regulations applicable specifically to adult foster care facilities. Local ordinances, regulations, or construction codes regulating institutions shall not be applied to adult foster care large group homes, adult foster care small group homes, or adult foster care family homes. This section shall not be construed to exempt adult foster care facilities from local construction codes which are applicable to private residences.

History: 1979, Act 218, Eff. Mar. 27, 1980

Constitutionality: Section 3b of the City and Village Zoning Act and § 33 of the Adult Foster Care Facility Licensing Act do not violate the Title-Object Clause of the Michigan Constitution. *City of Livonia v Department of Social Services*, 423 Mich 466; 335 NW2d 473 (1985).

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.734b Employing or contracting with certain individuals providing direct services to residents; prohibitions; criminal history check; exemptions; written consent and identification; conditional employment; use of criminal history record information; disclosure; determination of existence of national

criminal history; failure to conduct criminal history check; automated fingerprint identification system database; electronic web-based system; costs; definitions.

Sec. 34b.

(1) In addition to the restrictions prescribed in sections 13, 22, and 31, and except as otherwise provided in subsection (2), an adult foster care facility shall not employ or independently contract with an individual who regularly has direct access to or provides direct services to residents of the adult foster care facility if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7(a).

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subdivision, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date of application for employment or the date of the execution of the independent contract:

(i) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(ii) A felony involving cruelty or torture.

(iii) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iv) A felony involving criminal sexual conduct.

(v) A felony involving abuse or neglect.

(vi) A felony involving the use of a firearm or dangerous weapon.

(vii) A felony involving the diversion or adulteration of a prescription drug or other medications.

(c) Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date of application for employment or the date of the execution of the independent contract.

(d) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or the date of the execution of the independent contract:

(i) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(ii) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iii) A misdemeanor involving criminal sexual conduct.

(iv) A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).

(v) A misdemeanor involving abuse or neglect.

(e) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or the date of the execution of the independent contract:

(i) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(ii) A misdemeanor involving home invasion.

(iii) A misdemeanor involving embezzlement.

(iv) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.

(v) A misdemeanor involving larceny unless otherwise provided under subdivision (g).

(vi) A misdemeanor of retail fraud in the second degree unless otherwise provided under subdivision (g).

(vii) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivision (d), (f), or (g).

(f) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or the date of the execution of the independent contract:

(i) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(ii) A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).

(iii) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless

otherwise provided under subdivision (g).

(g) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year immediately preceding the date of application for employment or the date of the execution of the independent contract:

(i) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of conviction, is under the age of 18.

(ii) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(h) Is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(i) Engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency according to an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) Except as otherwise provided in this subsection or subsection (6), an adult foster care facility shall not employ or independently contract with an individual who has direct access to residents until the adult foster care facility or staffing agency has conducted a criminal history check in compliance with this section or has received criminal history record information in compliance with subsections (3) and (11). This subsection and subsection (1) do not apply to an individual who is employed by or under contract to an adult foster care facility before April 1, 2006. On or before April 1, 2011, an individual who is exempt under this subsection and who has not been the subject of a criminal history check conducted in compliance with this section shall provide the department of state police a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (14). An individual who is exempt under this subsection is not limited to working within the adult foster care facility with which he or she is employed by or under independent contract with on April 1, 2006 but may transfer to another adult foster care facility, mental health facility, or covered health facility. If an individual who is exempt under this subsection is subsequently convicted of a crime or offense described under subsection (1)(a) to (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under 42 USC 1320a-7(a), he or she is no longer exempt and shall be terminated from employment or denied employment.

(3) An individual who applies for employment either as an employee or as an independent contractor with an adult foster care facility or staffing agency and who has not been the subject of a criminal history check conducted in compliance with this section shall give written consent at the time of application for the department of state police to conduct a criminal history check under this section, along with identification acceptable to the department of state police. If the individual has been the subject of a criminal history check conducted in compliance with this section, the individual shall give written consent at the time of application for the adult foster care facility or staffing agency to obtain the criminal history record information as prescribed in subsection (4) or (5) from the relevant licensing or regulatory department and for the department of state police to conduct a criminal history check under this section if the requirements of subsection (11) are not met and a request to the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the individual is necessary, along with identification acceptable to the department of state police. Upon receipt of the written consent to obtain the criminal history record information and identification required under this subsection, the adult foster care facility or staffing agency that has made a good-faith offer of employment or an independent contract to the individual shall request the criminal history record information from the relevant licensing or regulatory department and shall make a request regarding that individual to the relevant licensing or regulatory department to conduct a check of all relevant registries in the manner required in subsection (4). If the requirements of subsection (11) are not met and a request to the Federal Bureau of Investigation to make a subsequent determination of the existence of any national criminal history pertaining to the individual is necessary, the adult foster care facility or staffing agency shall proceed in the manner required in subsection (5). A staffing agency that employs an individual who regularly has direct access to or provides direct services to residents under an independent contract with an adult foster care facility shall submit information regarding the criminal history check conducted by the staffing agency to the adult foster care facility that has made a good-faith offer of independent contract to that applicant.

(4) Upon receipt of the written consent to conduct a criminal history check and identification required under subsection (3), the adult foster care facility or staffing agency that has made a good-faith offer of employment or independent contract to the individual shall make a request to the department of state police to conduct a criminal history check on the individual and input the individual's fingerprints into the automated fingerprint identification system database, and shall make a request to the relevant licensing or regulatory department to perform a check of all relevant registries established according to federal and state law and regulations for any substantiated findings of abuse, neglect, or misappropriation of property. The request shall be made in a manner prescribed by the department of state police and the relevant licensing or regulatory department or agency. The adult foster care facility or staffing agency shall make the written consent and identification available to the department of state

police and the relevant licensing or regulatory department or agency. Until June 30, 2020, if the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the charge shall be paid by or reimbursed by the department. Until June 30, 2020, the adult foster care facility or staffing agency shall not seek reimbursement for a charge imposed by the department of state police or the federal bureau of investigation from the individual who is the subject of the criminal history check. Beginning July 1, 2020, if the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the charge shall be paid by the adult foster care facility, the staffing agency, or the individual. The department of state police shall conduct a criminal history check on the individual named in the request. The department of state police shall provide the department with a written report of the criminal history check conducted under this subsection. The report shall contain any criminal history record information on the individual maintained by the department of state police.

(5) Upon receipt of the written consent to conduct a criminal history check and identification required under subsection (3), if the individual has applied for employment either as an employee or as an independent contractor with an adult foster care facility or staffing agency, the adult foster care facility or staffing agency that has made a good-faith offer of employment or independent contract shall comply with subsection (4) and shall make a request to the department of state police to forward the individual's fingerprints to the Federal Bureau of Investigation. The department of state police shall request the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the individual. An individual described in this subsection shall provide the department of state police with a set of fingerprints. The department of state police shall complete the criminal history check under subsection (4) and, except as otherwise provided in this subsection, provide the results of its determination under subsection (4) and the results of the Federal Bureau of Investigation determination to the department within 30 days after the request is made. If the requesting adult foster care facility or staffing agency is not a state department or agency and if criminal history record information is disclosed on the written report of the criminal history check or the Federal Bureau of Investigation determination that resulted in a conviction, the department shall notify the adult foster care facility or staffing agency and the individual in writing of the type of crime disclosed on the written report of the criminal history check or the Federal Bureau of Investigation determination without disclosing the details of the crime. The notification shall inform the adult foster care facility or staffing agency and the applicant regarding the appeal process in section 34c and shall include a statement that the individual has a right to appeal the information relied upon by the adult foster care facility or staffing agency in making its decision regarding his or her employment eligibility based on the criminal history check. Any charges imposed by the department of state police or the Federal Bureau of Investigation for conducting a criminal history check or making a determination under this subsection shall be paid in the manner required under subsection (4).

(6) If an adult foster care facility determines it necessary to employ or independently contract with an individual before receiving the results of the individual's criminal history check or criminal history record information required under this section, the adult foster care facility may conditionally employ the individual if all of the following apply:

(a) The adult foster care facility requests the criminal history check or criminal history record information required under this section, upon conditionally employing the individual.

(b) The individual signs a written statement indicating all of the following:

(i) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) to (g) within the applicable time period prescribed by subsection (1)(a) to (g).

(ii) That he or she is not the subject of an order or disposition described in subsection (1)(h).

(iii) That he or she has not been the subject of a substantiated finding as described in subsection (1)(i).

(iv) The individual agrees that, if the information in the criminal history check conducted under this section does not confirm the individual's statement under subparagraphs (i) to (iii), his or her employment will be terminated by the adult foster care facility as required under subsection (1) unless and until the individual can prove that the information is incorrect.

(v) That he or she understands the conditions described in subparagraphs (i) to (iv) that result in the termination of his or her employment and that those conditions are good cause for termination.

(c) Except as otherwise provided in this subdivision, the adult foster care facility does not permit the individual to have regular direct access to or provide direct services to residents in the adult foster care facility without supervision until the criminal history check or criminal history record information is obtained and the individual is eligible for that employment. If required under this subdivision, the adult foster care facility shall provide on-site supervision of an individual in the facility on a conditional basis under this subsection by an individual who has undergone a criminal history check conducted in compliance with this section. An adult foster care facility may permit an individual in the facility on a conditional basis under this subsection to have regular direct access to or provide direct services to residents in the adult foster care facility without supervision if all of the following conditions are met:

(i) The adult foster care facility, at its own expense and before the individual has direct access to or provides direct services to residents of the facility, conducts a search of public records on that individual through the internet criminal history access tool maintained by the department of state police and the results of that search do not

uncover any information that would indicate that the individual is not eligible to have regular direct access to or provide direct services to residents under this section.

(ii) Before the individual has direct access to or provides direct services to residents of the adult foster care facility, the individual signs a statement in writing that he or she has resided in this state without interruption for at least the immediately preceding 12-month period.

(iii) If applicable, the individual provides to the department of state police a set of fingerprints on or before the expiration of 10 business days following the date the individual was conditionally employed under this subsection.

(7) The department shall develop and distribute the model form for the statements required under subsection (6)(b) and (c). The department shall make the model form available to adult foster care facilities upon request at no charge.

(8) If an individual is conditionally employed under subsection (6), and the information under subsection (3) or report under subsection (4) or (5), if applicable, does not confirm the individual's statement under subsection (6)(b)(i) to (iii), the adult foster care facility shall terminate the individual's employment as required by subsection (1).

(9) An individual who knowingly provides false information regarding his or her identity, criminal convictions, or substantiated findings on a statement described in subsection (6)(b)(i) to (iii) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(10) An adult foster care facility or staffing agency shall use criminal history record information obtained under subsection (3), (4), or (5) only for the purpose of evaluating an individual's qualifications for employment in the position for which he or she has applied and for the purposes of subsections (6) and (8). An adult foster care facility or staffing agency or an employee of the adult foster care facility or staffing agency shall not disclose criminal history record information obtained under this section to a person who is not directly involved in evaluating the individual's qualifications for employment or independent contract. An individual who knowingly uses or disseminates the criminal history record information obtained under subsection (3), (4), or (5) in violation of this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both. Except for a knowing or intentional release of false information, an adult foster care facility or staffing agency has no liability in connection with a criminal history check conducted in compliance with this section or the release of criminal history record information under this subsection.

(11) Upon consent of an individual as required in subsection (3) and upon request from an adult foster care facility or staffing agency that has made a good-faith offer of employment or an independent contract to the individual, the relevant licensing or regulatory department shall review the criminal history record information, if any, and notify the requesting adult foster care facility or staffing agency of the information in the manner prescribed in subsection (4) or (5). Until the Federal Bureau of Investigation implements an automatic notification system similar to the system required of the state police under subsection (14) and federal regulations allow the federal criminal record to be used for subsequent authorized uses, as determined in an order issued by the department, an adult foster care facility or staffing agency may rely on the criminal history record information provided by the relevant licensing or regulatory department under this subsection and a request to the Federal Bureau of Investigation to make a subsequent determination of the existence of any national criminal history pertaining to the individual is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 24-month period.

(b) The individual has been continuously employed by an adult foster care facility, mental health facility, or covered health facility, or the staffing agency since the criminal history check was conducted in compliance with this section or meets the continuous employment requirement of this subdivision other than being on layoff status for less than 1 year from an adult foster care facility, mental health facility, or covered health facility.

(c) The individual can provide evidence acceptable to the relevant licensing or regulatory department that he or she has been a resident of this state for the immediately preceding 12-month period.

(12) As a condition of continued employment, each employee or independent contractor shall do both of the following:

(a) Agree in writing to report to the adult foster care facility or staffing agency immediately upon being arraigned on 1 or more of the criminal offenses listed in subsection (1)(a) to (g), upon being convicted of 1 or more of the criminal offenses listed in subsection (1)(a) to (g), upon becoming the subject of an order or disposition described under subsection (1)(h), and upon becoming the subject of a substantiated finding described under subsection (1)(i). Reporting of an arraignment under this subdivision is not cause for termination or denial of employment.

(b) If a set of fingerprints is not already on file with the department of state police, provide the department of state police with a set of fingerprints.

(13) In addition to sanctions set forth in this act, a licensee, owner, administrator, or operator of an adult foster care facility or staffing agency who knowingly and willfully fails to conduct the criminal history checks as required under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.

(14) In collaboration with the department of state police, the department of technology, management, and budget shall establish and maintain an automated fingerprint identification system database that would allow the department of state police to store and maintain all fingerprints submitted under this section and would provide for

an automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted under this section. Upon notification, the department of state police shall immediately notify the department and the department shall immediately contact each respective adult foster care facility or staffing agency with which that individual is associated. Information in the database established under this subsection is confidential, is not subject to 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.

(15) If an individual independently contracts with an adult foster care facility, subsections (1) and (2) do not apply if the individual is not under the adult foster care facility's control and the contractual work performed by the individual is not directly related to the clinical, health care, or personal services delivered by the adult foster care facility or if the individual's duties are not performed on an ongoing basis with direct access to residents. This exception includes, but is not limited to, an individual who independently contracts with the adult foster care facility to provide utility, maintenance, construction, or communication services.

(16) The department shall maintain an electronic web-based system to assist the adult foster care facilities and staffing agencies required to check relevant registries and conduct criminal history checks of its employees and independent contractors and to provide for an automated notice to the adult foster care facilities and staffing agencies for the individuals entered in the system who, since the initial criminal history check, have been convicted of a disqualifying offense or have been the subject of a substantiated finding of abuse, neglect, or misappropriation of property. The department may charge a staffing agency a 1-time set-up fee of up to \$100.00 for access to the electronic web-based system under this section.

(17) As used in this section:

(a) "Convicted" means either of the following:

(i) For a crime that is not a relevant crime, a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(ii) For a relevant crime described under 42 USC 1320a-7(a), convicted means that term as defined in 42 USC 1320a-7.

(b) "Covered health facility" means a nursing home, county medical care facility, hospice, hospital that provides swing bed services, home for the aged, or home health agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) "Criminal history check conducted in compliance with this section" includes a criminal history check conducted under this section, under section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, or under section 20173a of the public health code, 1978 PA 368, MCL 333.20173a.

(d) "Direct access" means access to a resident or resident's property, financial information, medical records, treatment information, or any other identifying information.

(e) "Home health agency" means that term as defined in section 20173a of the public health code, 1978 PA 368, MCL 333.20173a.

(f) "Independent contract" means a contract entered into by an adult foster care facility with an individual who provides the contracted services independently or a contract entered into by an adult foster care facility with a staffing agency that complies with the requirements of this section to provide the contracted services to the adult foster care facility on behalf of the staffing agency.

(g) "Mental health facility" means a psychiatric facility or other facility defined in 42 USC 1396d(d) as described under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(h) "Staffing agency" means an entity that recruits candidates and provides temporary and permanent qualified staffing for adult foster care facilities, including independent contractors.

(i) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396w-5.

(j) "Under the adult foster care facility's control" means an individual employed by or under independent contract with an adult foster care facility for whom the adult foster care facility does both of the following:

(i) Determines whether the individual who has access to residents may provide care, treatment, or other similar support service functions to residents served by the adult foster care facility.

(ii) Directs or oversees 1 or more of the following:

(A) The policy or procedures the individual must follow in performing his or her duties.

(B) The tasks performed by the individual.

(C) The individual's work schedule.

(D) The supervision or evaluation of the individual's work or job performance, including imposing discipline or granting performance awards.

(E) The compensation the individual receives for performing his or her duties.

(F) The conditions under which the individual performs his or her duties.

History: Add. 2006, Act 29, Eff. Apr. 1, 2006 ;-- Am. 2008, Act 135, Imd. Eff. May 21, 2008 ;-- Am. 2008, Act 441, Imd. Eff. Jan. 9, 2009

-- Am. 2008, Act 442, Eff. Oct. 31, 2010 ;-- Am. 2010, Act 292, Imd. Eff. Dec. 16, 2010 ;-- Am. 2014, Act 73, Imd. Eff. Mar. 28, 2014 ;-- Am. 2018, Act 558, Eff. Mar. 28, 2019

Compiler's Notes: Enacting section 2 of Act 29 of 2006 provides: "Enacting section 2. Sections 34b and 34c of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b, as added by this amendatory act, take effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state. The department shall issue a medicaid policy bulletin regarding the payment and reimbursement for the criminal history checks by April 1, 2006." 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.734c Disqualification from or denial of employment based on criminal history check; administrative review; decision; "business day" defined.

Sec. 34c.

(1) An individual who has been disqualified from or denied employment by an adult foster care facility based on a criminal history check conducted under section 34b may appeal to the department if he or she believes that the criminal history report is inaccurate, and the department shall conduct an administrative review. The individual shall file the appeal with the director of the department within 15 business days after receiving the written report of the criminal history check unless the conviction contained in the criminal history report is a conviction that may be expunged or set aside. If an individual has been disqualified or denied employment based on a conviction that may be expunged or set aside, then he or she shall file the appeal within 15 business days after a court order granting or denying his or her application to expunge or set aside that conviction is granted. If the order is granted and the conviction is expunged or set aside, the individual shall not be disqualified or denied employment based solely on that conviction. The director or the director's designee shall review the appeal, along with all pertinent documentation, and shall issue a written decision as soon as practicable. The decision of the director or the director's designee is final.

(2) As used in this section, "business day" means a day other than a Saturday, Sunday, or any legal holiday.

History: Add. 2006, Act 29, Eff. Apr. 1, 2006 ;-- Am. 2018, Act 558, Eff. Mar. 28, 2019

Compiler's Notes: Enacting section 2 of Act 29 of 2006 provides: "Enacting section 2. Sections 34b and 34c of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b, as added by this amendatory act, take effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state. The department shall issue a medicaid policy bulletin regarding the payment and reimbursement for the criminal history checks by April 1, 2006." 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT)

Act 218 of 1979

400.735 Repeal of MCL 331.681 to 331.694.

Sec. 35.

Act No. 287 of the Public Acts of 1972, as amended, being sections 331.681 to 331.694 of the Michigan Compiled Laws, is repealed.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT) **Act 218 of 1979**

400.736 Concurrent license as foster family home or foster family group home; receiving additional minor children; definitions.

Sec. 36.

(1) An adult foster care family home may be concurrently licensed as a foster family home or a foster family group home. Except as provided in subsection (2), additional minor children who are not related to a resident of the adult foster care family home shall not be received in the adult foster care family home after the filing of an application for a license under this act.

(2) A licensee may receive a minor child placed in foster care under the laws of this state after filing an application for a license under this act. A placement under this subsection shall be approved at the discretion of the director or his or her designee and shall be based upon a recommendation by a licensed child placing agency or an approved governmental unit and shall be subject to appropriate terms and conditions determined by the department.

(3) As used in this section:

(a) "Foster family home" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) "Foster family group home" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

History: Add. 1984, Act 140, Imd. Eff. June 1, 1984 ;-- Am. 2004, Act 59, Eff. Aug. 1, 2004

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT) **Act 218 of 1979**

400.737 Concurrently licensing adult foster care small group home as child caring institution; receiving additional children under 18 years of age; limitation on combined licensed capacity; definition.

Sec. 37.

(1) An adult foster care small group home may be concurrently licensed as a child caring institution. Additional children under 18 years of age who are not related to a resident of the adult foster care small group home shall not be received in the adult foster care small group home after the filing of an application for a license pursuant to this act. The combined licensed capacity shall not exceed more than a combination of 6 children and adults.

(2) As used in this section, "child caring institution" means that term as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.

History: Add. 1984, Act 140, Imd. Eff. June 1, 1984

Compiler's Notes: 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. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

EXECUTIVE REORGANIZATION ORDER (EXCERPT) E.R.O. No. 2003-1

445.2011 Transfer of certain bureaus, commissions, committees, programs, and authorities from department of consumer and industry services to department of community health, family independence agency, and department of transportation; rename department of consumer and industry services to department of labor and economic growth; transfer certain authorities, councils, commissions, and functions from department of treasury, family independence agency, department of management and budget, department of state police, and department of career development to department of labor and economic growth; abolishment of department of career development.

WHEREAS, Article V, Section 1 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Article V, Section 2 of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, Article V, Section 8 of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution;

WHEREAS, the Department of Commerce was created as a principal department of state government under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325;

WHEREAS, the Department of Commerce was renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001;

WHEREAS, the Department of Labor was created as a principal department of state government under Section 375 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.475;

WHEREAS, certain authority, powers, duties, functions, and responsibilities of the Department of Labor were transferred to the Department of Consumer and Industry Services and the Department of Labor was abolished under Executive Order 1996-2, MCL 445.2001;

WHEREAS, reorganizing labor and economic development functions into one principal department will ensure more efficient use of taxpayer dollars and will allow the state to offer more streamlined services;

WHEREAS, because the development of cooperative economic alliances between business and labor will improve the lives of Michigan's working families and the vitality of Michigan's businesses, the State of Michigan should encourage such alliances;

WHEREAS, Michigan's already successful economic development programs will benefit from greater consolidation of and linkage to workforce development programs;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, pursuant to the power vested in the Governor by the Michigan Constitution of 1963 and Michigan law order:

I. DEFINITIONS

As used in this Order:

A. "Appellate Commissioner" means a member of the new Workers' Compensation Appellate Commission created under Section II.P of this Order.

B. "Brownfield Redevelopment Board" means the board created within the Department of Environmental

Quality under Section 20104a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.20104a.

C. "Bureau of Health Services" means the organizational unit of the Department of Consumer and Industry Services designated as the Bureau of Health Services.

D. "Bureau of Health Systems" means the organizational unit of the Department of Consumer and Industry Services designated as the Bureau of Health Systems.

E. "Bureau of Worker's Compensation" means the bureau established within the Department of Labor under Section 201 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.201, transferred to the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, and then transferred to the Bureau of Worker's and Unemployment Compensation under Executive Order 2002-1, MCL 445.2004.

F. "Bureau of Worker's and Unemployment Compensation" means the bureau established within the Department of Consumer and Industry Services under Executive Order 2002-1, MCL 445.2004.

G. "Commission for the Blind" means the commission created in the Department of Labor under Section 2 of 1978 PA 260, MCL 393.352, and transferred to the Family Independence Agency under Executive Order 1996-2, MCL 445.2001.

H. "Department of Career Development" means the principal department of state government created under Executive Order 1999-1, MCL 408.40.

I. "Department of Consumer and Industry Services" means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, and renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001.

J. "Department of Labor and Economic Growth" means the principal department of state government formerly known as the Department of Consumer and Industry Services and renamed the Department of Labor and Economic Growth under Section II.A of this Order.

K. "Department of Management and Budget" means the principal department of state government created under Section 121 of the Management and Budget Act, 1984 PA 431, MCL 18.1121.

L. "Director of Unemployment Insurance" means the director of the Unemployment Insurance Agency created under Section II.N.

M. "Director of Workers' Compensation" means the director of the Workers' Compensation Agency created under Section II.O.

N. "Family Independence Agency" means the principal department of state government created as the Department of Social Services under Section 450 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.550, and renamed the Family Independence Agency under Section 1 of the Social Welfare Act, 1939 PA 280, MCL 400.1.

O. "Former Wage and Hour Division" means the organizational unit created on January 31, 1992 within the Bureau of Safety and Regulation within the Department of Labor, the functions of which were transferred to the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, and then transferred to the Bureau of Worker's and Unemployment Compensation under Executive Order 2002-1, MCL 445.2004.

P. "Former Worker's Compensation Appellate Commission" means the Worker's Compensation Appellate Commission created under Section 274 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.274.

Q. "Michigan Broadband Development Authority" means the public body corporate and politic created under Section 4 of the Michigan Broadband Development Authority Act, 2002 PA 49, MCL 484.3204.

R. "Michigan Economic Development Corporation" means the public body corporate created under Section 28 of Article VII of the Michigan Constitution of 1963 and the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, and subsequently amended, between local participating economic development corporations formed under the Economic Development Corporations Act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan Strategic Fund.

S. "Michigan Economic Growth Authority" means the authority created under the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.801 to 207.810, and transferred to the Michigan Strategic Fund under Executive Order 1999-1, MCL 408.40.

T. "Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority" means the authority created and established as an autonomous agency within the Department of Consumer and Industry Services under Section 3 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3103.

U. "Michigan Next Energy Authority" means the public body corporate and politic created under Section 3 of the Michigan Next Energy Authority Act, 2002 PA 593, MCL 207.823.

V. "Michigan Strategic Fund" means the public body corporate and politic created under Section 5 of the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2005, and transferred to the Department of Management

and Budget under Executive Order 1999-1, MCL 408.40, and includes the board of the Michigan Strategic Fund.

W. "Qualifications Advisory Committee" or "QAC" means the committee required under Section 209 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.209. References in this Order to the "new Qualifications Advisory Committee" or "new QAC" mean the committee required under Section 209 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.209, as modified under this Order.

X. "State Bar of Michigan" means the public body corporate under Section 901 of the Revised Judicature Act of 1961, 1961 PA 236, MCL 600.901, the membership of which consists of all persons licensed to practice law in this state.

Y. "State Budget Director" means the director of the State Budget Office created under Section 321 of the Management and Budget Act, 1984 PA 431, MCL 18.1321.

Z. "Type I Agency" means an agency established consistent with Section 3(a) of the Executive Organization Act of 1963, 1965 PA 380, MCL 16.103(a).

AA. "Type I Transfer" means that type of transfer as defined in Section 3(a) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(a).

BB. "Type II Agency" means an agency established consistent with Section 3(b) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(b).

CC. "Type II Transfer" means that type of transfer as defined in Section 3(b) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(b).

DD. "Type III Transfer" means that type of transfer as defined in Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(c).

EE. "Type IV Transfer" means a basic type transfer where all statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting, procurement, personnel, and management-related functions are retained by the transferred entity and the transferred entity remains an autonomous entity, in the same manner as the Michigan Employment Security Commission was designated an autonomous entity within the Michigan Department of Labor under Section 379 of the Executive Organization Act, 1965 PA 380, MCL 16.479, and the Michigan Strategic Fund was transferred to the Michigan Department of Management and Budget under Executive Order 1999-1, MCL 408.40.

FF. "Unemployment Insurance Agency" means the organizational unit within the Department of Labor and Economic Growth created under Section II.N.

GG. "Wage and Hour Administrator" means the head of the new Wage and Hour Division created under Section II.L.

HH. "Wage and Hour Division" means the new Wage and Hour Division, an organizational unit within the Department of Labor and Economic Growth created under Section II.L.

II. "Worker's Compensation Board of Magistrates" or "Board of Magistrates" means the board established as an autonomous entity within the Department of Labor under Section 213 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.213, the functions of which were transferred to the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, and then transferred to the Bureau of Worker's and Unemployment Compensation under Executive Order 2002-1, MCL 445.2004.

JJ. "Workers' Compensation Agency" means the organizational unit within the Department of Labor and Economic Growth created under Section II.O.

KK. "Workers' Compensation Appellate Commission" means the new Workers' Compensation Appellate Commission established under Section II.P.

II. DEPARTMENT OF LABOR AND ECONOMIC GROWTH

A. General

1. Consistent with Article V, Section 2 of the Michigan Constitution of 1963, which limits the number of principal departments to 20, the Department of Consumer and Industry Services is renamed the Department of Labor and Economic Growth and will continue as a principal department of the Executive Branch.

2. Any and all statutory references to the Department of Consumer and Industry Services not inconsistent with this Order shall be deemed references to the Department of Labor and Economic Growth.

3. The Director of the Department of Labor and Economic Growth shall provide executive direction and supervision for the implementation of all transfers to the Department of Labor and Economic Growth under this Section II. The functions transferred to the Department of Labor and Economic Growth under this Section II shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth to the extent provided in this Order, including but not limited to all prescribed functions of rule-making, licensing, registration, and the prescription of rules, regulations, standards, and adjudications.

4. Any authority, duties, powers, functions, and responsibilities transferred in this Section II may in the future be reorganized to promote efficient administration by the Director of the Department of Labor and Economic Growth.

5. The Director of the Department of Labor and Economic Growth shall, in addition to the other duties and responsibilities given to the Director under this Order, or assigned or transferred to the Director as head of the Department of Labor and Economic Growth, be responsible for the oversight and supervision of the employees of the Department of Labor and Economic Growth and for the operations of the Department of Labor and Economic

Growth. The Director shall also perform other duties and exercise other powers as the Governor may prescribe.

6. The Director of the Department of Labor and Economic Growth may perform a duty or exercise a power conferred by law or executive order upon the Director at the time and to the extent the duty or power is delegated to the Director by law or order.

7. The Director of the Department of Labor and Economic Growth may by written instrument delegate a duty or power conferred by law or order to an authorized representative and the person to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent the duty or power is delegated by the Director of the Department of Labor and Economic Growth.

8. The Director of the Department of Labor and Economic Growth shall administer the assigned functions transferred under this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

B. Advisory Council on Deaf and Hard of Hearing

1. The Advisory Council on Deaf and Hard of Hearing created as the Advisory Council on Deafness within the Department of Labor under the Division on Deafness Act, 1937 PA 72, MCL 408.201 to 408.210, transferred from the Department of Labor to the Family Independence Agency under Executive Order 1996-2, MCL 445.2001, and renamed under Executive Order 2002-10, MCL 445.1991, is transferred by Type II Transfer from the Family Independence Agency to the Department of Labor and Economic Growth.

2. Any records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Family Independence Agency for the activities, powers, duties, functions, and responsibilities transferred by this Section II.B are transferred to the Department of Labor and Economic Growth.

3. The Director of the Department of Labor and Economic Growth, after consultation with the Director of the Family Independence Agency, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

4. The Directors of the Department of Labor and Economic Growth and the Family Independence Agency shall immediately initiate coordination to facilitate the transfers under this Section II.B and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Family Independence Agency.

5. The Director of the Department of Labor and Economic Growth shall administer any assigned functions under this Section II.B in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. Bureau of Construction Codes and Fire Safety

1. Any authority, powers, duties, functions, and responsibilities, including but not limited to the functions of budgeting, procurement, management-related functions, and functions under the Fire Prevention Code, 1941 PA 207, MCL 29.1 to 29.34, of the Fire Marshal Division of the Department of State Police, except any authority, powers, duties, functions, and responsibilities previously transferred from the Department of State Police under Executive Order 1997-2, MCL 29.451, are transferred by Type II Transfer from the Department of State Police to the Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety, except for the authority, powers, duties, functions, and responsibilities of the Department of State Police under any of the following:

- a. 1978 PA 170, MCL 28.71 to 28.72, relating to the state arson strike force unit.
- b. Section 6 of the Fire Prevention Code, 1941 PA 207, MCL 29.6 (fire investigations).
- c. Section 7 of the Fire Prevention Code, 1941 PA 207, MCL 29.7 (criminal enforcement).
- d. The Fire Investigator Training Program, including, but not limited to functions related to fire investigation training to locals under Section 109 of 2003 PA 149.

2. Any authority, powers, duties, functions, and responsibilities of the State Fire Marshal, and the authority powers, duties, functions, and responsibilities of the Director of the Department of State Police under the Fire Prevention Code, 1941 PA 207, MCL 29.1 to 29.34, except for any authority, powers, duties, functions, and responsibilities previously transferred from the State Fire Marshal or the Director of the Department of State Police under Executive Order 1997-2, MCL 29.451, and those retained within the Department of State Police under this Section II.C, are transferred by Type II Transfer to the Director of the Department of Labor and Economic Growth. The Director of the Department of Labor and Economic Growth may establish the position of State Fire Marshal within the Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety.

3. Any authority, powers, duties, functions, and responsibilities of the State Fire Marshal under any of the following programs or provisions of Michigan law are transferred by Type II Transfer to the Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety:

- a. Section 204 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.204.
- b. Section 77101 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.77101.
- c. Section 22210 of the Public Health Code, 1978 PA 368, MCL 333.22210.

- d. Section 1285a of the Revised School Code, 1976 PA 451, MCL 380.1285a.
 - e. 1937 PA 306, MCL 388.851 to 388.855a.
 - f. Section 58 of the Social Welfare Act, 1939 PA 280, MCL 400.58.
 - g. The Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737.
 - h. Section 20 of 1967 PA 227, MCL 408.820.
 - i. Section 1 of 1942 (1st Ex Sess) PA 9, MCL 419.201.
 - j. Section 12 of the Motor Carrier Safety Act of 1963, 1963 PA 181, MCL 480.22.
 - k. Section 16 of 1944 (1st Ex Sess) PA 52, MCL 561.16.
 - l. 1973 PA 116, MCL 722.111 to 722.128.
 - m. The Juvenile Firesetter Intervention Program.
 - n. The Public Fire Education Program.
4. Any authority, powers, duties, functions, and responsibilities of the Office of Fire Safety and the State Fire Marshal under Section 3a of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, MCL 125.1503a, are transferred by Type II Transfer to the Director of the Department of Labor and Economic Growth.
5. Any authority, powers, duties, functions and responsibilities of the Director of the Department of State Police related to the functions transferred to the Department of Labor and Economic Growth by this Section II.C, are transferred by Type II Transfer from the Director of the Department of State Police to the Director of the Department of Labor and Economic Growth.
6. Any authority, powers, duties, functions, and responsibilities of the Fire Fighters Training Council under the Fire Fighters Training Council Act of 1966, 1966 PA 291, MCL 29.361 to 29.377, are transferred by Type I Transfer from the Department of State Police to the Department of Labor and Economic Growth. Any authority, powers, duties, functions, and responsibilities of the Department of State Police under the Fire Fighters Training Council Act of 1966, 1966 PA 291, MCL 29.361 to 29.377, are transferred by Type II Transfer from the Department of State Police to the Department of Labor and Economic Growth. Any authority, powers, duties, functions, and responsibilities of the Director of the Department of State Police under the Fire Fighters Training Council Act of 1966, 1966 PA 291, MCL 29.361 to 29.377, are transferred by Type II Transfer from the Director of the Department of State Police to the Director of the Department of Labor and Economic Growth.
7. The position as a member of the Fire Fighters Training Council designated under Section 3(1)(a) of the Fire Fighters Training Council Act of 1996, 1966 PA 291, MCL 29.363(1)(a), for the Director of the Department of State Police or his or her authorized representative, is transferred to the Director of the Department of Labor and Economic Growth, or his or her authorized representative. All the statutory authority of the Firefighters Training Council to designate from among its members a Chairperson under Section 5 of the Fire Fighters Training Council Act of 1966, 1966 PA 291, MCL 29.365, is transferred to the Governor.
8. All the statutory authority of the Fire Safety Board, created under the Fire Prevention Code, 1941 PA 207, MCL 29.1 to 29.34, and transferred to the Department of Consumer and Industry Services under Executive Order 1997-2, MCL 29.451, to designate one of its members as Chairperson of the Board pursuant to Section 3b(5) of the Fire Prevention Code, 1941 PA 207, MCL 29.3b(5), is transferred to the Governor.
9. The position of member of the Electrical Administrative Board consisting of a representative the Department of State Police, Fire Marshal Division, appointed by the Director of the Department of State Police under Section 2(1) of the Electrical Administrative Act, 1956 PA 217, MCL 338.882(1), is transferred to the Director of the Department of Labor and Economic Growth, or his or her authorized representative.
10. The position of member of the Board of Mechanical Rules designated for the State Fire Marshal or the State Fire Marshal's designee under Section 3 of the Forbes Mechanical Contractors Act, 1984 PA 192, MCL 338.973, is transferred to the Director of the Department of Labor and Economic Growth, or his or her authorized representative.
11. Any authority, powers, duties, functions, and responsibilities of the Department of State Police and the Director of the Department of State Police under 1931 PA 328, MCL 750.243a to 750.243e (fireworks), except any authority, power, duties, functions, and responsibilities of a peace officer of this state, or a political subdivision of this state, are transferred by Type II Transfer to the Director of the Department of Labor and Economic Growth.
12. All remaining authority, powers, duties, functions, and responsibilities of the Department of State Police, the Director of the Department of State Police, the Fire Marshal Division, and the State Fire Marshal not transferred under this Section II.C are vested in the Director of the Department of State Police. The Director of the Department of State Police may create and maintain a division or other organizational unit of the Department of State Police as he or she deems necessary, expedient, and efficient, and organize or reorganize the division or organizational unit, including the appointment of division or organizational unit heads, assistants, and employees, with titles, powers, and duties related to the administration and enforcement of the authority, powers, duties, functions, and responsibilities retained under this Section II.C.
13. Any authority, powers, duties, functions, and responsibilities of the State Fire Marshal as Commissioner of the Michigan State Police ex-officio under Section 5 of 1935 PA 59, MCL 28.5, are transferred to the Director of the Department of State Police.
14. Any authority, powers, duties, functions, and responsibilities of the State Fire Marshal relating to the

promulgation of rules relating to the authority, powers, duties, functions, and responsibilities retained within the Department of State Police under this Section II.C are transferred to the Director of the Department of State Police. Any authority, powers, duties, functions, and responsibilities of the State Fire Marshal or the Director of the Department of State Police relating to the promulgation of rules relating to the authority, powers, duties, functions, and responsibilities transferred to the Department of Labor and Economic Growth under this Section II.C are transferred to the Director of the Department of Labor and Economic Growth.

15. All records, personnel, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Fire Marshal Division for the activities transferred to the Department of Labor and Economic Growth under this Section II.C are transferred to the Department of Labor and Economic Growth.

16. The Director of the Department of Labor and Economic Growth shall provide executive direction and supervision for the implementation of the transfers to the Department of Labor and Economic Growth under this Section II.C. The functions assigned to the Department of Labor and Economic Growth shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

17. The Director of the Department of State Police and the Director of the Department of Labor and Economic Growth shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations relating to the Fire Marshal Division and the transfers under this Section II.C to be resolved by the Department of State Police.

18. The Directors of the Departments of Labor and Economic Growth and State Police shall administer any assigned functions under this Section II.C in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

D. Commission for the Blind

1. Any authority, powers, duties, functions, and responsibilities of the Commission for the Blind are transferred by Type II Transfer from the Family Independence Agency to the Department of Labor and Economic Growth, including but not limited to the authority, powers, duties, functions, and responsibilities under all of the following:

- a. 1978 PA 260, MCL 393.351 to 393.369.
- b. Section 7a of 1913 PA 271, MCL 399.7a.
- c. Section 2 of 1941 PA 205, MCL 252.52.
- d. Section 4 of 1988 PA 112, MCL 450.794.
- e. Section 208 of the Michigan Museum Act, 1990 PA 325, MCL 399.508.

2. Any authority, powers, duties, functions, and responsibilities of the Director of the Family Independence Agency relating to the Commission for the Blind, including but not limited to the authority, powers, duties, functions, and responsibilities assigned to the Director of the Department of Labor by 1978 PA 260, MCL 393.351 to 393.369, are transferred by Type II Transfer to the Director of the Department of Labor and Economic Growth.

3. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Family Independence Agency for the activities, powers, duties, functions, and responsibilities transferred by this Section II.D are transferred to the Department of Labor and Economic Growth.

4. The Director of the Department of Labor and Economic Growth, after consultation with the Director of the Family Independence Agency, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

5. The Directors of the Department of Labor and Economic Growth and the Family Independence Agency shall immediately initiate coordination to facilitate the transfers under this Section II.D and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Family Independence Agency.

6. The Director of the Department of Labor and Economic Growth shall administer any assigned functions under this Section II.D in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

E. Commission on Disability Concerns

1. The Commission on Disability Concerns established within the Department of Labor under Executive Order 1995-11, MCL 395.351, and transferred to the Family Independence Agency under Executive Order 1996-2, MCL 445.2001, is transferred by Type II Transfer from the Family Independence Agency to the Department of Labor and Economic Growth.

2. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Family Independence Agency for the activities, powers, duties, functions, and responsibilities transferred by this Section II.E are transferred to the Department of Labor and Economic Growth.

3. The Director of the Department of Labor and Economic Growth, after consultation with the Director of the

Family Independence Agency, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

4. The Directors of the Department of Labor and Economic Growth and the Family Independence Agency shall immediately initiate coordination to facilitate the transfers under this Section II.E and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Family Independence Agency.

5. The Director of the Department of Labor and Economic Growth shall administer any assigned functions under this Section II.E in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

F. Department of Treasury

Brownfield Redevelopment Single Business Tax Credits

1. All of the following authority, powers, duties, functions, and responsibilities of the Department of Treasury or the State Treasurer related to brownfield redevelopment Single Business Tax credits for projects with a cost of \$10,000,000 or less are transferred by Type II Transfer from the Department of Treasury and the State Treasurer to the Director of the Department of Labor and Economic Growth:

a. Receipt and review of applications for approval of projects, approval of applications or projects, denial of applications or projects, issuance of preapproval letters, and assignment of project numbers under Section 38g(2) of the Single Business Tax Act, 1975 PA 228, MCL 208.38g(2).

b. Consideration of criteria reasonably applicable to a project under Section 38g(6) of the Single Business Tax Act, 1975 PA 228, MCL 208.38g(6).

c. Receipt of documentation of the market value of leased property under Section 38g(10) of the Single Business Tax Act, 1975 PA 228, MCL 208.38g(10).

2. Any records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Treasury for the activities, powers, duties, functions, and responsibilities transferred under Section II.F.1, and identified for transfer under a memorandum of understanding between the Department of Treasury and the Department of Labor and Economic Growth implementing this Order, are transferred to the Department of Labor and Economic Growth. This paragraph shall not be construed to require a transfer of records prohibited under Michigan law.

3. The Director of the Department of Labor and Economic Growth, after consultation with the State Treasurer, shall provide executive direction and supervision for the implementation of the transfers under Section II.F.1. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

4. The Director of the Department of Labor and Economic Growth and the State Treasurer shall immediately initiate coordination to facilitate the transfers under Section II.F.1 and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Treasury.

5. The Director of the Department of Labor and Economic Growth shall administer any assigned functions under Section II.F.1 in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. All of the following authority, powers, duties, functions, and responsibilities of the Department of Treasury or the State Treasurer related to brownfield redevelopment Single Business Tax credits for projects with a cost of \$10,000,000 or less are transferred without regard to the type of transfer from the Department of Treasury and the State Treasurer to the Michigan Economic Growth Authority:

a. Receipt and review of documentation for project completion, accounting of project costs, eligible investment activity, and property ownership or lease information; verification of project completion; and issuance of certificates of completion under Section 38g(8) of the Single Business Tax Act, 1975 PA 228, MCL 208.38g(8).

b. Prescription of forms and receipt of assignment forms under Section 38g(17) of the Single Business Tax Act, 1975 PA 225, MCL 208.38g(17).

c. Approval of an alternative method for assigning credits or portions of credits, prescription of forms, and receipt of assignment forms under Section 38g(18) of the Single Business Tax Act, 1975 PA 228, MCL 208.38g(18).

d. Preparation of annual reports to the House of Representatives and Senate committees responsible for tax policy and economic development issues under Section 38g(30) of the Single Business Tax Act, 1975 PA 228, MCL 208.38g(30).

e. Review and approval or denial of petitions for project amendments under Section 38g(31) of the Single Business Tax Act, 1975 PA 228, MCL 208.38g(31).

f. Receipt of documentation relating to multiphase projects and multiphase project components, verification of completion of multiphase project components, and issuance of component completion certificates under Section 38g(32) of the Single Business Tax Act, 1975 PA 228, MCL 208.38g(32).

7. All the authority, power, duties, functions, and responsibilities of the State Treasurer under Section 38g(3) of

the Single Business Tax Act, 1975 PA 225, MCL 208.38g(3), to concur with the approval by the Michigan Economic Growth Authority of applications for projects with a cost of more than \$10,000,000, or to approve or deny applications for projects with a cost of more than \$10,000,000 shall remain with the State Treasurer and are not transferred under this Order.

8. Any records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Treasury for the activities, powers, duties, functions, and responsibilities transferred under Section II.F.6, and identified for transfer under a memorandum of understanding between the Department of Treasury and the Michigan Economic Growth Authority implementing this Order, are transferred to the Michigan Economic Growth Authority. This paragraph shall not be construed to require a transfer of records prohibited under Michigan law.

9. The Director of the Department of Labor and Economic Growth, after consultation with the State Treasurer, shall provide executive direction and supervision for the implementation of the transfers under Section II.F.6. The functions assigned to the Michigan Economic Growth Authority under Section II.F.6 shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

10. The Michigan Economic Growth Authority, Director of the Department of Labor and Economic Growth, and the State Treasurer shall immediately initiate coordination to facilitate the transfers under Section II.F.6 and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Treasury.

11. The Michigan Economic Growth Authority shall administer any assigned functions under Section II.F.6 in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

G. Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority

1. The powers, duties, functions, and responsibilities of the Director of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority under the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3101 to 484.3120, are transferred without regard to the type of transfer to the Director of the Department of Labor and Economic Growth. Except as provided in Section II.G.6, the Director of the Department of Labor and Economic Growth may assign powers, duties, functions, and responsibilities transferred to the Director of the Department of Labor and Economic Growth under this paragraph to employees of the Department of Labor and Economic Growth and may designate an employee of the Department as the Executive Secretary of the Michigan Extension Telecommunications Rights-of-Way Oversight Authority. Employees of the Department of Labor and Economic Growth assigned functions under this paragraph shall not be designated as the authorized representative of the Director of the Department under Section II.H.3.

2. The position of Director of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority established under Section 3 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3103, and the requirement under the same provision of Michigan law that the Director of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority report directly to the Governor are abolished.

3. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority shall remain a separate authority established under Article VII, Section 27 of the Michigan Constitution of 1963.

4. All budget, procurement, and management-related functions of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority assigned to the Department of Consumer and Industry Services under Section 3 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3103, shall be performed by the Department of Labor and Economic Growth under the direction and supervision of the Director of the Department of Labor and Economic Growth. The Department of Labor and Economic Growth shall be the appointing authority for any civil service employees of the Authority.

5. The Department of Labor and Economic Growth shall provide the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority with suitable offices, facilities, equipment, staff, and supplies for the Authority, as required under Section 3 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3103.

6. As authorized by Section 3(5) of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3103(5), the Director of the Department of Labor and Economic Growth, on behalf of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority, may promulgate rules under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the implementation and administration of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3101 to 484.3120.

7. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Director of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority for the activities, powers, duties, functions, and responsibilities transferred by this Section II.G are transferred to the Department of Labor and Economic Growth.

8. The Director of the Department of Labor and Economic Growth shall provide executive direction and supervision for the implementation of the transfers under this Section II.G.

9. The Director of the Department of Labor and Economic Growth and the Director of the Michigan Telecommunications Rights-of-Way Oversight Authority shall immediately initiate coordination to facilitate the transfers under this Section II.G and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority.

10. The Director of the Department of Labor and Economic Growth shall administer any assigned functions under this Section II.G in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

H. Michigan Broadband Development Authority

1. Any authority, powers, duties, functions, responsibilities, personnel, property, unexpended balances of appropriations, allocations, or other funds of the Michigan Broadband Development Authority, including but not limited to those under the Michigan Broadband Development Authority Act, 2002 PA 49, MCL 484.3201 to 484.3225, are transferred by Type I Transfer from the Department of Treasury to the Department of Labor and Economic Growth.

2. The Michigan Broadband Development Authority shall exercise its prescribed powers, duties, functions, and responsibilities independently of the Director of the Department of Labor and Economic Growth. However, the budgeting, procurement, and related administrative or management functions of the Michigan Broadband Development Authority assigned to the State Treasurer under the Michigan Broadband Development Authority Act, 2002 PA 49, MCL 484.3205, are transferred to, and shall be performed under the direction and supervision of, the Director of the Department of Labor and Economic Growth. The Department of Labor and Economic Growth shall function as the appointing authority for any civil service employees of the Authority.

3. The position as a member of the Board of the Directors of the Michigan Broadband Authority designated for the President and Chief Executive Officer of the Michigan Economic Development Corporation under Section 6(2)(a) of the Michigan Broadband Development Authority Act, 2002 PA 49, MCL 484.3206(2)(a), is transferred to the Director of the Department of Labor and Economic Growth, or his or her authorized representative.

4. In the absence or incapacity of the President and Chief Executive Officer of the Michigan Broadband Development Authority, or in the event of a vacancy in the office of President and Chief Executive Officer of the Michigan Broadband Development Authority, the Vice President of the Michigan Broadband Development Authority may exercise all of the powers, duties, functions, and responsibilities of the President and Chief Executive Officer in a temporary capacity acting as President and Chief Executive Officer, including but not limited to any functions assigned to the President and Chief Executive Officer of the Michigan Broadband Development Authority under this Order.

5. The Type I Transfer of the Michigan Broadband Development Authority under this Section II.H includes but is not limited to bonds, notes, loans, grants, reserves, and trust funds, subject to any agreement with note and bond holders, borrowers, grant recipients, or contract holders.

6. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Treasury for the activities, powers, duties, functions, and responsibilities transferred by this Section II.H are transferred to the Department of Labor and Economic Growth.

7. The Director of the Department of Labor and Economic Growth, after consultation with the State Treasurer and the President and Chief Executive Officer of the Michigan Broadband Development Authority, shall provide executive direction and supervision for the implementation of the transfers. The functions assigned to the Department of Labor and Economic Growth shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

8. The Director of the Department of Labor and Economic Growth, the President and Chief Executive Officer of the Michigan Broadband Development Authority, and the State Treasurer shall immediately initiate coordination to facilitate the Type I Transfer under this Section II.H and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Broadband Development Authority.

9. The Director of the Department of Labor and Economic Growth shall administer any functions assigned to the Department of Labor and Economic Growth under this Section II.H in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

I. Michigan Economic Growth Authority

1. The position as a member of the Michigan Economic Growth Authority designated for the Director of the Michigan Jobs Commission or his or her authorized representative under Section 4(2)(a) of the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.804(2)(a), is transferred to the President and Chief Executive Officer of the Michigan Economic Development Corporation or his or her authorized representative. The President and Chief Executive Officer of the Michigan Economic Development Corporation or his or her authorized representative shall serve as a member of the Michigan Economic Growth Authority.

2. The position as a member of the Michigan Economic Growth Authority designated for the Director of the Department of Management and Budget or his or her authorized representative under Section 4(2)(c) of the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.804(2)(c), is transferred to the Director of the Department of Labor and Economic Growth or his or her authorized representative.

3. The position as Chairperson of the Michigan Economic Growth Authority designated for the Director of the Michigan Jobs Commission or his or her authorized representative under Section 4(2)(a) of the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.804(2)(a), is transferred to the Director of the Department of Labor and Economic Growth or his or her authorized representative serving as a member of the Michigan Economic Growth Authority.

J. Michigan Next Energy Authority

1. Any authority, powers, duties, functions, responsibilities, personnel, property, unexpended balances of appropriations, allocations, or other funds of the Michigan Next Energy Authority are transferred by Type I Transfer from the Department of Management and Budget to the Department of Labor and Economic Growth, including but not limited to those under all of the following:

a. The Michigan Next Energy Authority Act, 2002 PA 593, MCL 207.821 to 207.827.

b. Section 9i of The General Property Tax Act, 1893 PA 206, MCL 211.9i.

2. The Michigan Next Energy Authority shall exercise its prescribed powers, duties, functions, and responsibilities independently of the Director of the Department of Labor and Economic Growth. However, the budgeting, procurement, and related administrative or management functions of the Michigan Next Energy Authority assigned to the Director of the Department of Management and Budget under Section 3(2) of the Michigan Next Energy Authority Act, 2002 PA 593, MCL 207.823(2) shall be performed by the Director of the Department of Labor and Economic Growth. The Department of Labor and Economic Growth shall function as the appointing authority for any civil service employees of the Authority.

3. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Management and Budget for the activities, powers, duties, functions, and responsibilities transferred by this Section II.J are transferred to the Department of Labor and Economic Growth.

4. The Director of the Department of Labor and Economic Growth, after consultation with the Director of the Department of Management and Budget, shall provide executive direction and supervision for the implementation of the transfers. The functions assigned to the Department of Labor and Economic Growth shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

5. The Directors of the Department of Labor and Economic Growth and the Department of Management and Budget shall immediately initiate coordination to facilitate the Type I Transfer under this Section II.J and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Next Energy Authority.

6. The Director of the Department of Labor and Economic Growth and the Next Energy Authority shall administer any assigned functions under this Section II.J in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

K. Michigan Strategic Fund

1. The Michigan Strategic Fund is transferred by Type IV Transfer from the Department of Management and Budget to the Department of Labor and Economic Growth. The transfer under this Section II.K includes but is not limited to authority, powers, duties, functions, and responsibilities under all of the following:

a. The Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2001 to 125.2093.

b. The Michigan Renaissance Zone Act, 1996 PA 376, MCL 125.2681 to 125.2696.

c. Section 9f of The General Property Tax Act, 1893 PA 206, MCL 211.9f.

2. All administrative or housekeeping functions including budgeting, procurement, personnel, and management-related functions of the Michigan Strategic Fund shall be performed under the direction and supervision of the President of the Michigan Strategic Fund. The President of the Michigan Strategic Fund shall be the appointing authority for the civil service employees of the Michigan Strategic Fund.

3. The board position designated in Section 2005(3) of the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2005(3), for the Director of the Department of Commerce, transferred under Executive Order 1994-26, MCL 408.48, to the Director of the Michigan Jobs Commission, and subsequently transferred under Executive Order 1999-1, MCL 408.40, to the Director of the Department of Management and Budget, is transferred to the Director of the Department of Labor and Economic Growth, or one authorized representative from the Department of Labor and Economic Growth or the Michigan Economic Development Corporation designated by the Director. If the Director designates an authorized representative under this paragraph, the authorized representative of the Director may serve as a member of the of the board of the Michigan Strategic Fund irrespective of whether the Director of the Department of Labor and Economic Growth is absent.

4. The position of President of the Michigan Strategic Fund designated for one of two members of the board of the Michigan Strategic Fund serving at the pleasure of the Governor under Section 2005(4) of the Michigan

Strategic Fund Act, 1984 PA 270, MCL 125.2005(4), is transferred to the Director of the Department of Labor and Economic Growth or, if a representative is designated under Section II.K.3, to the authorized representative of the Director under Section II.K.3. The Director of the Department of Labor and Economic Growth, or, if a representative is designated under Section II.K.3, the authorized representative of the Director serving as a member of the board of the Michigan Strategic Fund under Section II.K.3, shall be the President of the Michigan Strategic Fund.

5. The transfer of the Michigan Strategic Fund under this Section II.K includes but is not limited to bonds, notes, loans, grants, reserves, and trust funds, subject to any agreement with note and bond holders, borrowers, grant recipients, or contract holders.

6. Any records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Management and Budget for the activities, powers, duties, functions, and responsibilities transferred by this Section II.K are transferred to the Department of Labor and Economic Growth.

7. The Director of the Department of Labor and Economic Growth, after consultation with the Director of the Department of Management and Budget, shall provide executive direction and supervision for the implementation of the transfers. The functions assigned to the Department of Labor and Economic Growth shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

8. The Directors of the Department of Labor and Economic Growth and the Department of Management and Budget shall immediately initiate coordination to facilitate the transfers under this Section II.K and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Strategic Fund.

9. The Department of Labor and Economic Growth shall administer any functions assigned to the Department of Labor and Economic Growth under this Section II.K in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

L. Wage and Hour Division

1. The new Wage and Hour Division is created as a Type II Agency within the Department of Labor and Economic Growth. The new Wage and Hour Division shall be headed by a Wage and Hour Administrator.

2. Any authority, powers, functions, duties and responsibilities of the Former Wage and Hour Division of the Department of Consumer and Industry Services, transferred to the Bureau of Worker's and Unemployment Compensation under Executive Order 2002-1, MCL 445.2004, are transferred by Type II Transfer from the Bureau of Worker's and Unemployment Compensation to the new Wage and Hour Division within the Department of Labor and Economic Growth, including but not limited to any authority, powers, functions, duties, and responsibilities under each of the following:

- a. The Minimum Wage Law of 1964, 1964 PA 154, MCL 408.381 to 408.398.
- b. 1978 PA 390, MCL 408.471 to 408.490.
- c. 1965 PA 166, MCL 408.551 to 408.558.
- d. The Youth Employment Standards Act, 1978 PA 90, MCL 409.101 to 409.124.

3. The Director of the Department of Labor and Economic Growth shall immediately initiate coordination with the Bureau of Worker's and Unemployment Compensation to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the new Wage and Hour Division.

4. All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available for the activities, power, duties, functions, and responsibilities transferred under this Section II.L are transferred to the new Wage and Hour Division.

5. All rules, orders, contracts, and agreements relating to the functions transferred to the new Wage and Hour Division under this Order lawfully adopted prior to the issuance of this Order shall continue to be effective until revised, amended, or rescinded.

M. Qualifications Advisory Committee

1. The new Qualifications Advisory Committee is established within the Workers' Compensation Agency. The new Qualifications Advisory Committee shall have all of the powers, duties, and functions assigned to the Qualifications Advisory Committee under the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941, including but not limited to those powers and duties under Sections 210, 212, and 274 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.210, 418.212, and 418.274.

2. The Qualifications Advisory Committee established under Section 209 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.209 is abolished.

3. Any and all statutory references to the Qualifications Advisory Committee not inconsistent with this Order shall be deemed references to the new Qualifications Advisory Committee created under this Section II.M.

4. The Governor shall appoint a 10-member new Qualifications Advisory Committee. The Committee shall consist of persons who have experience in the area of worker's compensation. Employer interests and employee interests shall be equally represented on the Committee. Members shall be appointed for terms of 4 years except as

otherwise provided in this Order. Vacancies on the Committee shall be filled by the Governor so that employer and employee interests continue to be equally represented on the Committee and shall be for the remainder of the unexpired term.

5. Members of the Qualifications Advisory Committee abolished under this Order serving as a member of the Qualifications Advisory Committee on the day prior to the effective date of this Order shall serve as members of the new Qualifications Advisory Committee until the date on which their appointment as a member of the Qualifications Advisory Committee abolished under this Order would have expired. The Governor shall appoint an additional number of members to the new Qualifications Advisory Committee necessary to reach 10 members. Members appointed by the Governor under this Section II.M.4 shall be appointed to 4-year terms beginning on the effective date of this Order.

6. The Governor shall appoint a member of the new Qualifications Advisory Committee to serve as the Chairperson of the new QAC at the pleasure of the Governor.

7. A quorum of the new Qualifications Advisory Committee shall consist of 6 members of the new QAC appointed and serving. The business of the new QAC shall be conducted by not less than a quorum.

8. Members of the new Qualifications Advisory Committee shall serve without compensation but may be reimbursed for all necessary expenses in connection with the discharge of their official duties as members of the committee, subject to available appropriations.

9. Staff and offices shall be provided for the new Qualifications Advisory Committee by the Workers' Compensation Agency.

10. The Director of the Department of Labor and Economic Growth shall immediately initiate coordination with the Qualifications Advisory Committee to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Qualifications Advisory Committee.

11. All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available for the activities, power, duties, functions, and responsibilities transferred under this Section II.M are transferred to the new Qualifications Advisory Committee.

12. All rules, orders, contracts, and agreements relating to the functions transferred to the new Qualifications Advisory Committee by this Section II.M lawfully adopted prior to the issuance of this Order shall continue to be effective until revised, amended, or rescinded.

N. Unemployment Insurance Agency

1. The Unemployment Insurance Agency is created as a Type II Agency within the Department of Labor and Economic Growth. The Unemployment Insurance Agency shall be headed by a Director of Unemployment Insurance.

2. Any authority, powers, functions, duties, and responsibilities of the Unemployment Agency transferred to the Bureau of Worker's and Unemployment Compensation under Executive Order No. 2002-1, MCL 445.2004, are transferred from the Bureau of Worker's and Unemployment Compensation to the Unemployment Insurance Agency.

3. All of the statutory powers, functions, duties, and responsibilities of the Director of the former Unemployment Agency created in Section 5 of the Michigan Employment Security Act, 1936 (Ex Sess) PA 1, MCL 421.5, defined as the Director of Employment Security in Executive Order 1997-12, MCL 421.94, and transferred to the Director of the Bureau of Worker's and Unemployment Compensation under Executive Order 2002-1, MCL 445.2004, are transferred from the Director of the Bureau of Worker's and Unemployment Compensation to the Director of Unemployment Insurance.

4. The Director of the Department of Labor and Economic Growth shall immediately initiate coordination with the Bureau of Worker's and Unemployment Compensation to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Unemployment Insurance Agency.

5. All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available for the activities, power, duties, functions, and responsibilities transferred under this Section II.N are transferred to the Unemployment Insurance Agency.

6. All rules, orders, contracts, and agreements relating to the functions transferred to the Unemployment Insurance Agency by this Section II.N lawfully adopted prior to the issuance of this Order shall continue to be effective until revised, amended, or rescinded.

O. Workers' Compensation Agency

1. The Workers' Compensation Agency is created as a Type II Agency within the Department of Labor and Economic Growth. The Workers' Compensation Agency shall be headed by a Director of Workers' Compensation.

2. Any authority, powers, functions, duties and responsibilities of the Bureau of Worker's Compensation transferred to the Bureau of Worker's and Unemployment Compensation under Executive Order 2002-1, MCL 445.2004, are transferred from the Bureau of Worker's and Unemployment Compensation to the Workers' Compensation Agency.

3. Any authority, powers, functions, duties, and responsibilities of the Director of the Bureau of Worker's

Compensation established in Chapter 2 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.201 to 418.274, transferred to the Director of the Bureau of Worker's and Unemployment Compensation under Executive Order 2002-1, MCL 445.2004, are transferred from the Director of the Bureau of Worker's and Unemployment Compensation to the Director of Workers' Compensation.

4. The Worker's Compensation Board of Magistrates transferred to the Bureau of Worker's and Unemployment Compensation under Executive Order 2002-1, MCL 445.2004, shall be located within the Workers' Compensation Agency, but shall continue as an autonomous agency within the Department of Labor and Economic Growth.

5. All authority, powers, functions, duties, and responsibilities of the Assistant to the Director of the Bureau of Worker's Compensation with charge of an office under the fourth sentence of Section 205 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.205, are transferred by Type III Transfer to the Director of Workers' Compensation. The position of Assistant to the Director of the Bureau of Worker's Compensation with charge of an office under the fourth sentence of Section 205 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.205, is abolished.

6. Any remaining authority, powers, functions, duties, and responsibilities of the Bureau of Worker's and Unemployment Compensation or the Director of the Bureau of Worker's and Unemployment Compensation not otherwise transferred under this Order are transferred by Type II Transfer to the Director of the Department of Labor and Economic Growth.

7. The Bureau of Worker's and Unemployment Compensation and the position of Director of the Bureau of Worker's and Unemployment Compensation created under Executive Order 2002-1, MCL 445.2004, are abolished.

8. The Director of the Department of Labor and Economic Growth shall immediately initiate coordination with the Bureau of Worker's and Unemployment Compensation to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Workers' Compensation Agency.

9. All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available for the activities, power, duties, functions, and responsibilities transferred under this Section II.O are transferred to the Workers' Compensation Agency, except as provided in Section II.O.6.

10. All rules, orders, contracts, and agreements relating to the functions transferred to the Workers' Compensation Agency under this Order lawfully adopted prior to the issuance of this Order shall continue to be effective until revised, amended, or rescinded.

P. Workers' Compensation Appellate Commission

1. Upon the appointment of 5 Appellate Commissioners under Section II.P.4, all authority, powers, duties, functions, and responsibilities of the Former Worker's Compensation Appellate Commission and the Chairperson of the Former Worker's Compensation Appellate Commission, including but not limited to authority, powers, duties, functions, and responsibilities under the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941, are transferred to the new Workers' Compensation Appellate Commission created under this Section II.P, and the Former Worker's Compensation Appellate Commission is abolished. Any and all statutory references to the Former Worker's Compensation Appellate Commission not inconsistent with this Order shall be deemed references to the new Workers' Compensation Appellate Commission created under this Section II.P.

2. The new Workers' Compensation Appellate Commission is established as a Type I Agency within the Department of Labor and Economic Growth and shall perform its appellate functions independently and autonomously. However, the budgeting, procurement, and related administrative or management functions of the new Workers' Compensation Appellate Commission shall be performed by the Department of Labor and Economic Growth.

3. The new Workers' Compensation Appellate Commission has the power and authority to review the orders of the Director of Workers' Compensation and the orders and opinions issued by members of the Worker's Compensation Board of Magistrates as provided under the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941. The new Workers' Compensation Appellate Commission may promulgate rules on administrative appellate procedure for purposes under the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

4. The new Workers' Compensation Appellate Commission shall consist of 5 members appointed by the Governor with the advice and consent of the Senate. Only a person deemed suitable for appointment under Section II.P.6 is eligible for appointment as an Appellate Commissioner. Not later than January 30, 2004, the Governor shall appoint the initial 5 members of the new Workers' Compensation Appellate Commission. Of the 5 members initially appointed, 2 members shall be appointed for a term expiring on September 30, 2005, 2 members shall be appointed for a term expiring on September 30, 2006, and 1 member shall be appointed for a term expiring on September 30, 2007.

5. Except as provided in Section II.P.4, Appellate Commissioners shall be appointed for terms of 4 years. An Appellate Commissioner may be reappointed but an Appellate Commissioner that has served as a member of the Former Worker's Compensation Appellate Commission or the new Workers' Compensation Appellate Commission for a combined total of 12 years or more shall not be appointed to a new term. A vacancy caused by the expiration

of a term shall be filled in the same manner as the original appointment. An Appellate Commissioner appointed to fill a vacancy created other than by expiration of a term shall be appointed for the balance of the unexpired term.

6. To be eligible for appointment as an Appellate Commissioner a person shall be a member in good standing of the State Bar of Michigan, successfully complete an interview with the new Qualifications Advisory Committee, and satisfy either of the following:

- a. Document to the satisfaction of the new Qualifications Advisory Committee legal experience in the field of worker's compensation of not less than 5 years. To meet this requirement, a person must document to the new QAC a period of time totaling at least 5 years during which the person met at least one of the following criteria:
 - i. A significant portion of the applicant's personal practice has been in active worker's compensation trial practice representing claimants or employers.
 - ii. A significant portion of the applicant's personal practice has been in active worker's compensation appellate practice representing claimants or employers.
 - iii. Service as a member of the Board of Magistrates, the former worker's compensation appeals board provided for under the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941, the Former Worker's Compensation Appellate Commission, or the new Workers' Compensation Appellate Commission.
- b. Successfully complete a written examination developed by the new Qualifications Advisory Committee and administered to applicants for the position of Worker's Compensation Appellate Commissioner in order to determine the person's ability and knowledge with regard to worker's compensation in the following areas:
 - i. Knowledge of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941.
 - ii. Skill with regard to fact finding.
 - iii. The Michigan Rules of Evidence.
 - iv. A basic understanding of human anatomy and physiology.

7. After completing personal interviews of persons applying for appointment as an Appellate Commissioner, the new Qualifications Advisory Committee shall determine the applicants the new QAC considers qualified for the position of Appellate Commissioner, prepare a list of qualified applicants, and regularly update and forward the list and any updates in writing to the Governor. A person determined to be qualified for the position of member of the Worker's Compensation Board of Magistrates prior to the effective date of this Order shall be considered qualified for appointment as an Appellate Commissioner after the effective date of this Order. Personal interviews by the new QAC shall be used to determine a person's suitability for the position of Appellate Commissioner, especially with regard to his or her objectivity.

8. The Governor shall designate a member of the new Workers' Compensation Appellate Commission as its Chairperson, to serve as Chairperson at the pleasure of the Governor. The Chairperson shall have general supervisory control of and be in charge of the assignment and scheduling of the work of the new Workers' Compensation Appellate Commission. The Chairperson may also establish productivity standards that are to be adhered to by the new Workers' Compensation Appellate Commission, its members, and its panels. Each Appellate Commissioner shall devote full time to the functions of the new Workers' Compensation Appellate Commission and shall perform the functions of the office during the hours generally worked by officers and employees of the executive departments of this state.

9. In the event of an extended leave of absence or disability of an Appellate Commissioner, the Chairperson of the new Workers' Compensation Appellate Commission may select temporary Appellate Commissioners to serve for not more than 6 months in any 2-year period from a list maintained by the new Qualifications Advisory Committee. The list shall be composed of persons who are members of the State Bar of Michigan in good standing and who are former or retired members of the Former Worker's Compensation Appellate Commission, the new Workers' Compensation Appellate Commission, the former worker's compensation appeals board established under the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941, or the Worker's Compensation Board of Magistrates. A temporary Appellate Commissioner selected by the Chairperson of the new Workers' Compensation Appellate Commission shall have the same powers, duties, and responsibilities, as an appointed Appellate Commissioner.

10. Except as otherwise provided in Section II.P.11, matters for review by the Commission shall be randomly assigned to a panel of 3 Appellate Commissioners for disposition. The Chairperson of the Commission may reassign a matter in order to ensure timely review and decision of the matter. The decision reached by a majority of the randomly assigned 3-member panel shall be the decision of the new Workers' Compensation Appellate Commission.

11. Any matter for review by the new Workers' Compensation Appellate Commission that may establish a precedent with regard to worker's compensation in this state as determined by the Chairperson of the new Workers' Compensation Appellate Commission, or any matter that 2 or more members of the commission request be reviewed by the entire Commission, shall be reviewed and decided by the entire Commission.

12. The new Qualifications Advisory Committee shall evaluate the performance of each Appellate Commissioner at least once every 2 years. The evaluation shall be based upon at least the following criteria:

- a. Productivity including reasonable time deadlines for disposing of cases.
- b. Manner in conducting any hearings.
- c. Knowledge of rules of evidence as demonstrated by transcripts of proceedings in which the Appellate

Commissioner participated as an Appellate Commissioner.

d. Knowledge of the law.

e. Evidence of any demonstrable bias against particular defendants, claimants, or attorneys.

f. Written surveys or comments of all interested parties. To the extent authorized by Michigan law, information obtained by the new Qualifications Advisory Committee under this paragraph is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, in the same manner that information provided to the Qualifications Advisory Committee under Section 212(1)(g) of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.212(1)(g), is exempt from disclosure.

13. After completing an evaluation under Section II.P.12, the new Qualifications Advisory Committee shall submit a written report, including any supporting documentation to the Governor regarding that evaluation, which may include but not be limited to recommendations with regard to 1 or more of the following:

a. Promotion.

b. Suspension.

c. Removal.

d. Additional training or education.

The Governor will respond in writing to the new Qualifications Advisory Committee regarding any action taken in response to a report of the new Qualifications Advisory Committee.

14. An Appellate Commissioner may be removed by the Governor for good cause, explained in writing. Good cause for removal shall include, but not be limited to, recommendation for removal by the new Qualifications Advisory Committee under Section II.P.13, lack of productivity, or other neglect of duties.

15. The Chairperson of the new Workers' Compensation Appellate Commission in cooperation with the Chairperson of the Worker's Compensation Board of Magistrates shall consult with Michigan law schools and universities, the State Bar of Michigan, and other legal associations for the purpose of establishing introductory and continuing legal education courses in worker's compensation. Appellate Commissioners, as a condition of continued employment, may be required by the new Qualifications Advisory Committee to attend the courses. Applicants for the position of Appellate Commissioner may also be required to attend the courses in order to be deemed by the new Qualifications Advisory Committee as eligible for appointment as an Appellate Commissioner.

16. The new Workers' Compensation Appellate Commission and its Chairperson shall provide information requested by the new Qualifications Advisory Committee necessary for the performance of the duties of the new Qualifications Advisory Committee under the Worker's Disability and Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and this Order.

17. The Department of Labor and Economic Growth shall provide suitable office space for the new Workers' Compensation Appellate Commission and its functions.

18. The Department of Labor and Economic Growth shall provide the new Workers' Compensation Appellate Commission the staff necessary for the Commission to perform its duties under the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and this Order, which may include legal assistants for the purpose of legal research and otherwise assisting the Commission and the Appellate Commissioners.

19. Opinions issued by the new Workers' Compensation Appellate Commission shall be in writing and shall clearly define the legal principles being applied. The Commission shall provide for the public distribution of its opinions, including but not limited to distribution by electronic means such as the Internet.

20. By January 30, 2005, and each following January 30th, the new Qualifications Advisory Committee shall review the productivity and caseload of the new Workers' Compensation Appellate Commission, and shall recommend to the Governor in writing any reduction or increase in the number of Appellate Commissioners necessary in the opinion of the Qualifications Advisory Committee.

21. The Director of the Department of Labor and Economic Growth and the Chairperson of the Former Worker's Compensation Appellate Commission shall immediately initiate coordination to facilitate the transfers under this Section II.P, and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Former Worker's Compensation Appellate Commission.

22. All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available for the activities, powers, duties, functions, and responsibilities transferred under Sections II.P of this Order are transferred to the new Workers' Compensation Appellate Commission.

23. All rules, orders, opinions, contracts, and agreements relating to the functions of the Former Worker's Compensation Appellate Commission transferred to the new Workers' Compensation Appellate Commission under this Order lawfully adopted prior to the issuance of this Order shall continue to be effective until revised, amended, or rescinded.

24. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Former Worker's Compensation Appellate Commission for the activities, powers, duties, functions, and responsibilities transferred under this Section II.P are transferred to the

new Workers' Compensation Appellate Commission.

Q. Worker's Compensation Board of Magistrates

1. The number of members constituting the Worker's Compensation Board of Magistrates established under Section 213 of the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.213, is reduced from 30 members to 26 members, beginning on December 7, 2003. From December 7, 2003, until January 26, 2010, the Board of Magistrates shall consist of 26 members. After January 26, 2010, the Board of Magistrates shall consist of 17 members. The Governor shall designate a member of the Board of Magistrates as the Chairperson of the Worker's Compensation Board of Magistrates, who shall serve as Chairperson of the Board of Magistrates at the pleasure of the Governor.

2. The Board of Magistrates and its Chairperson shall provide information requested by the new Qualifications Advisory Committee necessary to the performance of the duties of the new Qualifications Advisory Committee under the Worker's Disability and Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

3. By January 30, 2005, and each following January 30th, the new Qualifications Advisory Committee shall review the productivity and caseload of the Board of Magistrates, and shall recommend to the Governor in writing any reduction or increase in the number of members of the Board of Magistrates necessary in the opinion of the Qualifications Advisory Committee.

4. The Department of Labor and Economic Growth shall provide the Worker's Compensation Board of Magistrates the staff necessary for the Board of Magistrates to perform its duties under the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941, or this Order, which may include legal assistants for the purpose of legal research and otherwise assisting the Board of Magistrates and its members.

5. The Department of Labor and Economic Growth shall provide suitable office space for the Board of Magistrates and its functions.

III. DEPARTMENT OF CAREER DEVELOPMENT

A. Except as otherwise provided in this Section III, all authority, power, duties, functions, and responsibilities of the Department of Career Development, including but not limited to, any board, commission, council, or similar entity within the Department of Career Development, are transferred by Type II Transfer to the Director of the Department of Labor and Economic Growth, including but not limited to all of the following:

1. Any authority, powers, duties, functions, and responsibilities of the Governor's Workforce Commission, created under Section VII of Executive Order 1994-26, MCL 408.48. The position on the Governor's Workforce Commission designated for the Director of the Michigan Jobs Commission under Executive Order 1994-26, MCL 408.48, subsequently transferred to the Director of the Department of Career Development under Executive Order 1999-1, MCL 408.40, is transferred to the Director of the Department of Labor and Economic Growth, or his or her authorized representative.

2. Any authority, powers, duties, functions, and responsibilities of the Department of Career Development for Michigan Rehabilitative Services, pursuant to Executive Order 1999-1, MCL 408.40; the Rehabilitation Act of 1964, 1964 PA 232, MCL 395.81 to 395.90; 1952 PA 111, MCL 395.151 to 395.152; the Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941; and the federal Rehabilitation Act of 1973, 29 USC 701 to 7961, transferred to the Michigan Jobs Commission under Executive Order 1994-26, MCL 408.48, and then to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

3. Any authority, powers, duties, functions, and responsibilities of the Michigan Rehabilitation Advisory Council established within the Department of the Michigan Jobs Commission under Executive Order 1994-20 and then transferred to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

4. Any authority, powers, duties, functions, and responsibilities of the Federal JOBS Program, Work First and Grant Diversion programs, transferred to the Department of the Michigan Jobs Commission under Executive Order 1994-26, MCL 408.48, and then transferred to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

5. Any authority, powers, duties, functions, and responsibilities of the Michigan Community Service Commission, pursuant to 1994 PA 219, MCL 408.221 to 208.232, and Executive Order 1999-1, MCL 408.40.

6. Any remaining authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the Governor's Office for Job Training, transferred to the Department of the Michigan Jobs Commission under Executive Order 1994-26, MCL 408.48, and then transferred by Type III Transfer to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

7. Any remaining authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the Displaced Homemaker Program transferred to the Department of the Michigan Jobs Commission under Executive Order 1994-26, MCL 408.48, and then transferred by Type III Transfer to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

8. Any remaining authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the Michigan Occupational Information Coordinating Committee, transferred to the Department of the Michigan Jobs Commission under

Executive Order 1994-26, MCL 408.48, and then transferred by Type III Transfer to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

9. Any remaining authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the Michigan Transition Initiative, including the functions of budgeting, procurement and management-related functions, transferred to the Department of the Michigan Jobs Commission under Executive Order 1994-26, MCL 408.48, and then transferred by Type III Transfer to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

10. Any authority, powers, duties, functions, and responsibilities of the Michigan Occupational Information System transferred to the Michigan Jobs Commission under Executive Order 1994-26, MCL 408.48, and transferred to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

11. Any remaining authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the Department of Corrections Job Training Programs transferred to the Michigan Jobs Commission under Executive Order 1994-26, MCL 408.48, and then transferred by Type III Transfer to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

12. Any authority, powers, duties, functions, and responsibilities of the Employment Service Agency not transferred to the Michigan Strategic Fund under Section III.A.6 of Executive Order 1999-1, MCL 408.40, established pursuant to the Michigan Employment Security Act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, and transferred to the Department of Career Development under Executive Order 1999-1, MCL 408.40.

13. Any authority, powers, duties, functions, and responsibilities of the Superintendent of Public Instruction to administer Adult Education Services transferred to the Department of Career Development under Executive Order 1999-12, MCL 388.995, including all of the following:

a. Section 1 of 1946 (1st Ex Sess) PA 18, MCL 388.531, regarding adult education programs by counties, except any policy-making authority retained by the State Board of Education.

b. Section 2 of 1946 (1st Ex Sess) PA 18, MCL 388.532, regarding training and approval of adult education instructors, except any policy-making authority retained by the State Board of Education.

14. Any authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the authority, powers, duties, functions, and responsibilities of the State Board of Education under federal law regarding vocational education, transferred to the Department of Career Development under Executive Order 1999-12, MCL 388.995, except any authority, powers, duties, functions and responsibilities transferred to the State Administrative Board under Executive Order 2000-12, MCL 17.61, including but not limited to all of the following:

a. The School to Work Opportunities Act of 1994, 20 USC 6101 to 6251, or any successor statute, except any policy-making authority retained by the State Board of Education.

b. The Job Training Partnership Act, 29 USC 1501 to 1792b, or any successor statute, except any policy-making authority retained by the State Board of Education.

15. Any authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the authority, powers, duties, functions, and responsibilities of the State Board of Education or Superintendent of Public Instruction, as applicable, regarding postsecondary services transferred to the Department of Career Development under Executive Order 1999-12, MCL 388.995, except any authority, powers, duties, functions and responsibilities transferred to the State Administrative Board under Executive Order 2000-12, MCL 17.61, including but not limited to all of the following:

a. Sections 1 to 3 of 1943 PA 148, MCL 395.101 to 395.103, regarding proprietary schools, except any policy-making authority retained by the State Board of Education.

b. Sections 1 to 5 of 1963 PA 40, MCL 395.121 to 395.125, regarding private trade schools or business schools, except any policy-making authority retained by the State Board of Education.

c. Sections 170 to 177 of the Michigan General Corporation Act, 1931 PA 327, MCL 450.170 to 177, and Section 10(c) of 1964 PA 287, MCL 388.1010(c), regarding educational corporations and foundations, except any policy-making authority retained by the State Board of Education.

d. Section 3 of the Revised School Code, 1976 PA 451, MCL 380.3, regarding the designation of service area boundaries for area vocational-technical programs, except any policy-making authority retained by the State Board of Education.

e. Section 105(4) of the Community Colleges Act of 1966, 1966 PA 331, MCL 389.105(4), regarding the designation of territory outside of a community college district to become part of its vocational-technical service area, except any policy-making authority retained by the State Board of Education.

f. Section 123(b) of the Community Colleges Act of 1966, 1966 PA 331, MCL 389.123(b), regarding the approval of tuition waivers in exchange for educational services rendered to community colleges, except any policy-making authority retained by the State Board of Education.

g. Section 124(a) of the Community Colleges Act of 1966, 1966 PA 331, MCL 389.124(a), regarding the education reports for a community college, except any policy-making authority retained by the State Board of

Education.

h. Section 143 of the Community Colleges Act of 1966, 1966 PA 331, MCL 389.143, regarding the approval of the community college accounting system, the filing of audits, and the inspection of books, except any policy-making authority retained by the State Board of Education.

i. Section 2(d) of the Higher Education Loan Authority Act, 1975 PA 222, MCL 390.1152(d), regarding the designation of vocational schools eligible to receive student loans, except any policy-making authority retained by the State Board of Education.

j. Section 3(d) of 1986 PA 102, MCL 390.1283(d), regarding the designation of eligible postsecondary institutions for participation in the part-time, Independent Student Grant Program, except any policy-making authority retained by the State Board of Education.

k. Section 3 of 1986 PA 303, MCL 390.1323, regarding the designation of graduate and professional schools eligible to participate in the Michigan Graduate Work-Study Program, except any policy-making authority retained by the State Board of Education.

l. Section 3 of 1986 PA 288, MCL 390.1373, regarding the designation of postsecondary schools eligible for the Michigan Work Study Program, except any policy-making authority retained by the State Board of Education.

m. Section 3 of 1986 PA 273, MCL 390.1403, regarding the designation of postsecondary schools eligible for the Michigan Educational Opportunity Grant Program, except any policy-making authority retained by the State Board of Education.

n. 1964 PA 28, MCL 395.21; Sections 1 to 4 of 1964 PA 44, MCL 395.31 to 395.34; and Sections 1 to 10 of 1919 PA 149, MCL 395.1 to 395.10, regarding the transfer of authority of the abolished State Board of Control for Vocational Education, that includes the authority to accept and disburse federal funds for specific federal grant programs, including federal funds for vocational education under 20 USC 2301 to 2415, except any policy-making authority retained by the State Board of Education.

o. Administration of the Carl D. Perkins Vocational and Applied Technology Education Act, 20 USC 2301 et seq.

p. Administration of the King-Chavez-Parks Initiative, currently authorized in Sections 317, 318, and 321 of 2003 PA 169 and under Sections 118 and 501 to 507 of 2003 PA 144.

16. Any rule-making authority, powers, duties, functions, and responsibilities of the State Board of Education or the Superintendent of Public Instruction, as applicable, transferred to the Department of Career Development under Executive Order No. 1999-12, MCL 388.995, including but not limited to all of the following:

a. Section 61a of the State School Aid Act of 1979, 1979 PA 94, MCL 388.1661a, regarding administrative rules relating to vocational education consortiums for state aid purposes, except any policy-making authority retained by the State Board of Education.

17. Any remaining authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the authority, powers, duties, functions, and responsibilities under 1979 AC, R 395.231 to 395.362; 1988 AACCS, R 395.371; 1979 AC, R 395.372 to 395.375; and 1988 AACCS, R 395.376, regarding reimbursed programs of vocational-technical education, except any authority, powers, duties, functions and responsibilities transferred to the State Administrative Board under Executive Order 2000-12, MCL 17.61, and any policy-making authority retained by the State Board of Education.

18. Any authority, powers, duties, functions, and responsibilities of the Superintendent of Public Instruction regarding the administration of career preparation programs transferred to the Department of Career Development under Executive Order 1999-12, MCL 388.995, including under Sections 67 and 68 of the State School Aid Act of 1979, 1979 PA 94, MCL 388.1667 and 388.1668, regarding the Advanced Career Academy and Michigan Career Preparation System grants, except any policy-making authority retained by the State Board of Education.

19. Any authority, powers, duties, functions, and responsibilities of the Department of Career Development under Section 38e of the Single Business Tax Act, 1975 PA 228, MCL 208.38e, regarding the apprenticeship tax credit.

20. Any authority, powers, duties, functions, and responsibilities of the Department of Career Development under Section 107 of the State School Aid Act of 1979, 1979 PA 94, MCL 388.1707, regarding allocation for adult education programs.

21. Any authority, powers, duties, functions, and responsibilities of the Department of Career Development under Section 108 of the State School Aid Act of 1979, 1979 PA 94, MCL 388.1708, regarding adult learning programs.

22. Any authority, powers, duties, functions, and responsibilities of the Department of Career Development under the Career and Technical Preparation Act, 2000 PA 258, MCL 388.1901 to 388.1913.

23. Any authority, powers, duties, functions, and responsibilities of the Department of Career Development to conduct with the Family Independence Agency joint orientation sessions for Family Independence Agency assistance applicants under Section 57d of The Social Welfare Act, 1939 PA 280, MCL 400.57d.

24. Any authority, powers, duties, functions, and responsibilities of the Department of Career Development under Section 57f of The Social Welfare Act, 1939 PA 280, MCL 400.57f, regarding the Work First Program.

25. All other authority, powers, duties, functions, and responsibilities of the Department of Career Development, including but not limited to the functions of budgeting, procurement, and management.

B. Any remaining authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the Council on Technical Excellence, created under Executive Order 2000-7, MCL 408.213 are transferred by Type III transfer to the Director of the Department of Labor and Economic Growth. The Council on Technical Excellence is abolished.

C. The Commission on Spanish-Speaking Affairs created under Section 2 of 1975 PA 164, MCL 18.302, transferred to the Director of the Department of Civil Rights under Executive Order 1991-29, MCL 37.111, and then transferred to the Department of Career Development under Executive Order 2000-5, MCL 18.311, is transferred by Type I Transfer to the Director of the Department of Labor and Economic Growth. The authority, powers, duties, functions, and responsibilities of the Department of Career Development relating to the Commission on Spanish-Speaking Affairs are transferred by Type II transfer to the Department of Labor and Economic Growth.

D. Any authority, powers, duties, functions, and responsibilities of the Michigan Workforce Investment Board created within the Department of Career Development under Executive Order 2002-5, MCL 408.101, is transferred by Type I Transfer to the Department of Labor and Economic Growth. The authority, powers, duties, functions, and responsibilities of the Department of Career Development relating to the Michigan Workforce Investment Board are transferred to the Department of Labor and Economic Growth.

E. Any authority, powers, duties, functions, and responsibilities of the Director of the Department of Career Development are transferred by Type II Transfer to the Director of the Department of Labor and Economic Growth, or his or her authorized representative, as applicable, including but not limited to all of the following:

1. Any remaining authority, powers, duties, functions, and responsibilities vested in the Department of Career Development or the Director of the Department Career Development relating to the Interagency Council on Spanish-Speaking Affairs under 1975 PA 164, MCL 18.301 to 18.308, transferred to the Director of the Department of Career Development by Type III Transfer under Executive Order 2000-5, MCL 18.311. Section 2 of Executive Order 2000-5, MCL 18.311, is rescinded and the Interagency Council on Spanish-Speaking Affairs is restored. The restored Interagency Council on Spanish-Speaking Affairs shall consist of all of the following members:

- a. The Director of the Department of Agriculture or his or her authorized representative.
- b. The Director of the Department of Civil Rights or his or her authorized representative.
- c. The Director of the Department of Civil Service or his or her authorized representative.
- d. The Director of the Department of Community Health or his or her authorized representative.
- e. The Director of the Department of Corrections or his or her authorized representative.
- f. The Director of the Department of Environmental Quality or his or her authorized representative.
- g. The Director of the Family Independence Agency or his or her authorized representative.
- h. The Director of the Department of Information Technology or his or her authorized representative.
- i. The Director of the Department of Labor and Economic Growth or his or her authorized representative.
- j. The Director of the Department of Management and Budget or his or her authorized representative.
- k. The Director of the Department of Natural Resources or his or her authorized representative.
- l. The State Treasurer or his or her authorized representative.
- m. The Superintendent of Public Instruction or his or her authorized representative.
- n. The Attorney General or his or her authorized representative.
- o. The Secretary of State or his or her authorized representative.
- p. The Executive Director of the Women's Commission or his or her authorized representative.
- q. The President and Chief Executive Officer of the Michigan Economic Development Corporation or his or her authorized representative.
- r. The Executive Director of the Michigan State Housing Development Authority or his or her authorized representative.

2. Any authority, powers, duties, functions, and responsibilities of the Director of the Department of Career Development under Section 353 of the Management and Budget Act, 1984 PA 431, MCL 18.1353, regarding certification of the seasonally adjusted state unemployment rate.

3. Any authority, powers, duties, functions, and responsibilities of the Director of the Department of Career Development, or his or her authorized representative, under the Career Development and Distance Learning Act, 2002 PA 36, MCL 390.1571 to 390.1579.

F. Any authority powers, duties, functions, and responsibilities related to the promulgation of rules by the Department of Career Development and any board, commission, council, or other similar entity within the Department of Career Development are transferred by Type II Transfer to the Director of the Department of Labor and Economic Growth.

G. The position on the Center for Educational Performance and Information Advisory Committee designated for a representative of the Department of Career Development under Section 94a of the State School Aid Act of 1979, 1979 PA 94, MCL 388.1694a, is transferred the Director of the Department of Labor and Economic Growth, or his

or her authorized representative.

H. The position on the Michigan Merit Award Board designated for the Director of the Department of Career Development under Section 4 of the Michigan Merit Award Act, 1999 PA 94, MCL 390.1454, is transferred to the Director of the Department of Labor and Economic Growth, or his or her authorized representative.

I. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Career Development for the activities, powers, duties, functions, and responsibilities transferred by this Section III are transferred to the Department of Labor and Economic Growth.

J. The Director of the Department of Labor and Economic Growth, after consultation with the Acting Director of the Department of Career Development, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Labor and Economic Growth.

K. The Acting Director of the Department of Career Development and the Director of the Department of Labor and Economic Growth shall immediately initiate coordination to facilitate the transfers under this Section III and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Career Development.

L. The Director of the Department of Labor and Economic Growth shall administer any assigned functions under this Section III in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

M. The Department of Career Development is abolished.

IV. DEPARTMENT OF COMMUNITY HEALTH

A. Bureau of Health Services

1. Any authority, powers, duties, functions, and responsibilities of the Bureau of Health Services of the Department of Consumer and Industry Services, its Licensing Division, the Compliant and Allegation Division, the Health Professional Recovery Program, and any board, commission, council, or similar entity within the Bureau of Health Services, including but not limited to any regulation by the Bureau of Health Services of health professionals in Michigan licensed, registered, or certified under Articles 7, 15 and 17 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7101 to 333.7545, 333.16101 to 333.18838, and 333.20101 to 333.22260, are transferred by Type II Transfer from the Department of Consumer and Industry Services to the Department of Community Health, except that any licensing council, board, or task force shall retain all of its statutory authority, powers, duties, functions, and responsibilities in the same manner as health-related councils, boards, and task forces transferred to the Department of Commerce under Executive Order 1991-9, MCL 338.3501.

2. Any authority, powers, duties, functions, and responsibilities of management support within the Department of Consumer and Industry Services for programs or functions within the Bureau of Health Services being transferred to the Department of Community Health are transferred by Type II Transfer from the Department of Consumer and Industry Services to the Director of the Department of Community Health, except that any licensing councils, boards, and task forces shall retain all of their statutory authority, powers, duties, functions, and responsibilities in the same manner as health-related councils boards and task forces transferred to the Department of Commerce under Executive Order 1991-9, MCL 338.3501.

3. The Directors of the Departments of Community Health and Labor and Economic Growth shall negotiate regarding the transfer of the support and personnel for the programs being transferred from the Bureau of Health Services to the Department of Community Health such that the transfers occur in the most efficient manner possible.

4. Any authority powers, duties, functions, and responsibilities related to the promulgation of rules by the Department of Consumer and Industry Services related to the Bureau of Health Services and any board, commission, council, or other similar entity within the Bureau of Health Services are transferred to the Director of the Department of Community Health, except that any licensing council, board, or task force shall retain all of its statutory authority, powers, duties, functions, and responsibilities in the same manner as health-related councils, boards, and task forces transferred to the Department of Commerce under Executive Order 1991-9, MCL 338.3501..

5. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Bureau of Health Services for the activities, powers, duties, functions, and responsibilities transferred by this Section IV.A are transferred to the Department of Community Health.

B. Bureau of Health Systems

1. Any authority, powers, duties, functions, and responsibilities of the Bureau of Health Systems of the Department of Consumer and Industry Services, including but not limited to the Division of Health and Facilities Services, the Division of Licensing and Certification, the Division of Nursing Home Monitoring, the Division of Operations, and any board, commission, council, or similar entity within the Bureau of Health Systems are transferred by Type II Transfer from the Department of Consumer and Industry Services to the Director of the

Department of Community Health.

2. Any authority, powers, duties, functions, and responsibilities of management support within the Department of Consumer and Industry Services for programs or functions within the Bureau of Health Systems being transferred to the Department of Community Health are transferred by Type II Transfer from the Department of Consumer and Industry Services to the Director of the Department of Community Health.

3. The transfer under this Section IV.B includes but is not limited to authority, powers, duties, functions, and responsibilities of the Bureau of Health Systems under all of the following:

a. Any authority, powers, duties, functions, and responsibilities of the Bureau of Health Systems under Parts 201, 205, 208, 214, 215 and 217 of the Public Health Code, 1978 PA 368, MCL 333.20101 to 333.20211, 333.20501 to 333.20554, 333.20801 to 333.20821, 333.21401 to 333.21568, and 333.21701 to 333.21799e. The transfer under this paragraph includes only the authority, powers, duties, functions, and responsibilities of the Bureau of Health Systems under Part 213 of the Public Health Code, 1978 PA 368, MCL 333.21301 to 31333, not transferred to the Family Independence Agency under Section VII.

b. Titles XVIII and XIX of the federal Social Security Act of 1965 and the federal Clinical Laboratory Improvement Act Amendments of 1988.

c. The authority, powers, duties, functions, and responsibilities of the Division of Federal Support Services.

d. Any authority, powers, duties, functions, and responsibilities of the Bureau of Health Systems related to the Division of Emergency Medical Services under Part 209 of the Public Health Code, 1978 PA 368, MCL 333.20901 to 333.20979.

4. The Directors of the Departments of Community Health and Labor and Economic Growth shall negotiate regarding the transfer of the support and personnel for the programs being transferred from the Bureau of Health Systems to the Department of Community Health such that the transfers occur in the most efficient manner possible.

5. Any authority powers, duties, functions, and responsibilities related to the promulgation of rules by the Department of Consumer and Industry Services related to the Bureau of Health Systems and any board, commission, council, or other similar entity within the Bureau of Health Systems are transferred to the Director of the Department of Community Health.

6. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Bureau of Health Systems for the activities, powers, duties, functions, and responsibilities transferred by this Section IV.B are transferred to the Department of Community Health.

C. Controlled Substances Advisory Commission

1. The Controlled Substances Advisory Commission created under Section 7111 of the Public Health Code, 1978 PA 368, MCL 333.7111, is transferred by Type II Transfer to the Department of Community Health.

D. Advisory Committee on Pain and Symptom Management

1. The Advisory Committee on Pain and Symptom Management created under Section 16204a of the Public Health Code, 1978 PA 368, MCL 333.16204a, is transferred by Type II Transfer to the Department of Community Health.

2. The position as member and Chairperson of the Advisory Committee on Pain and Symptom Management designated under Section 16204a(1)(k) of the Public Health Code, 1978 PA 368, MCL 333.16204a(1)(k), for the Director of the Department of Consumer and Industry Services, or his or her authorized representative, is transferred to the Director of Community Health or his or her authorized representative.

3. The position as member of the Advisory Committee on Pain and Symptom Management designated under Section 16204a(1)(l) of the Public Health Code, 1978 PA 368, MCL 333.16204a(1)(l), for the Director of the Department of Community Health, or his or her authorized representative, is transferred to an authorized representative of the Director of the Department of Community Health.

4. Per diem compensation for members of the Advisory Committee on Pain and Symptom Management provided under Section 16204a(2) of the Public Health Code, 1978 PA 368, MCL 333.16204a(2), is subject to available appropriations.

5. The requirement under Section 16204a(4)(f) of the Public Health Code, 1978 PA 368, MCL 333.16204a(4)(f), that the Advisory Committee on Pain and Symptom Management annually report to the Department of Consumer and Industry Services is abolished, but the requirement to annually report to the Director of the Department of Community Health continues.

6. The responsibilities of the Department of Consumer Industry Services related to the development, publication, and distribution of an informational booklet on pain under Section 16204d of the Public Health Code, 1978 PA 368, MCL 333.16204d, are transferred by Type II Transfer to the Director of the Department of Community Health.

E. Implementation of Transfers to Department of Community Health

1. The Director of the Department of Community Health, after consultation with the Director of the Department of Consumer and Industry Services, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the

Department of Community Health.

2. The Directors of the Departments of Community Health and Labor and Economic Growth shall immediately initiate coordination to facilitate the transfers under this Section IV and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

3. The Director of the Department of Community Health shall administer any assigned functions under this Section IV in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

V. DEPARTMENT OF ENVIRONMENTAL QUALITY

Brownfield Redevelopment Board

A. The position on the Brownfield Redevelopment Board created under Section 20104a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.20104a, designated for the Chief Executive Officer of the Michigan Jobs Commission or his or her designee is transferred to the Director of the Department of Labor and Economic Growth or his or her authorized representative.

B. The Director of the Department of Labor and Economic Growth, or the authorized representative of the Director serving as a member of the Brownfield Development Board under Section V.A, shall serve as the Chairperson of the Brownfield Redevelopment Board.

VI. DEPARTMENT OF TRANSPORTATION

A. Detroit People Mover Oversight

1. Any authority, powers, duties, and functions of the Department of Consumer and Industry Services under Section 5330 of the Federal Transit Act, 49 USC 5330, related to required oversight of the safety and security of the Detroit People Mover are transferred by Type II Transfer to the Director of the Department of Transportation.

2. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Labor and Economic Growth for the activities, powers, duties, functions, and responsibilities transferred by this Section VI are transferred to the Department of Transportation.

3. The Director of the Department of Transportation, in cooperation with the Director of the Department of Labor and Economic Growth, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Transportation.

4. The Directors of the Department of Transportation and the Department of Labor and Economic Growth shall immediately initiate coordination to facilitate the Type II Transfer under this Section VI and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Transportation.

5. The Director of the Department of Transportation shall administer any assigned functions under this Section VI in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. The Director of the Department of Transportation shall notify the United States Secretary of Transportation of the transfers under this Section VI pursuant to federal law.

B. Trolley Line Service Oversight

1. Any authority, powers, duties, and functions of the Department of Consumer and Industry Services under Section 5330 of the Federal Transit Act, 49 USC 5330, relating to trolley line service oversight, are transferred by Type II Transfer to the Director of the Department of Transportation.

2. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Labor and Economic Growth for the activities, powers, duties, functions, and responsibilities transferred by this Section VI are transferred to the Department of Transportation.

3. The Director of the Department of Transportation, after consultation with the Director of the Department of Labor and Economic Growth, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Transportation.

4. The Directors of the Department of Transportation and the Department of Labor and Economic Growth shall immediately initiate coordination to facilitate the Type II Transfer under this Section VI and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Transportation.

5. The Director of the Department of Transportation shall administer any assigned functions under this Section VI in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. The Director of the Department of Transportation shall notify the United States Secretary of Transportation of the transfers under this Section VI pursuant to federal law.

VII. FAMILY INDEPENDENCE AGENCY

Office of Children and Adult Licensing

A. Any authority, powers, duties, functions, and responsibilities of the Bureau of Family Services, an organizational unit within the Department of Consumer and Industry Services, are transferred by Type II Transfer from the Department of Consumer and Industry Services to the Family Independence Agency, including but not limited to all of the following:

1. Any authority, powers, duties, functions, and responsibilities of management support functions including but not limited to management information systems, facility support, and licensing hearings, except as provided in Section VII.D of this Order.

2. Any authority, powers, duties, functions, and responsibilities of adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation under the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122, and 1974 PA 381, MCL 338.41 to 338.47.

3. Any authority, powers, duties, functions, and responsibilities of child welfare, child care organization, child caring institution, child placing organization, children's camp, child care center, day care center, foster family home, foster family group home, family day care home, and group day care home licensing and regulation under 1973 PA 116, MCL 722.111 to 722.128, the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122.

4. Any authority, powers, duties, functions, and responsibilities of licensing and regulation of homes for the aged under Article 17 of the Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122.

B. The Adult Foster Care Licensing Advisory Council and all of its authority, powers, duties, functions, and responsibilities of the Adult Foster Care Licensing Advisory Council under the Adult Foster Care Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, and the Social Welfare Act, 1939 PA 280, MCL 400.1 to 400.122, are transferred by Type II Transfer to the Family Independence Agency.

C. The Director of the Family Independence Agency shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

D. The Director of the Family Independence Agency, after consultation with the Director of the Department of Consumer and Industry Services, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Family Independence Agency and all prescribed functions of rule-making, licensing, and registration, including but not limited to the prescription of rules, regulations, standards, and adjudications, under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, shall be transferred to the Director of the Family Independence Agency. The Bureau of Hearings of the Department of Consumer and Industry Services may continue to conduct hearings for the Bureau of Family Services. The Department of Consumer and Industry Services and the Family Independence Agency shall enter into an interdepartmental agreement providing for the conduct of hearings for the Bureau of Family Services by the Bureau of Hearings.

E. All records, personnel, property, and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Department of Consumer and Industry Services for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Family Independence Agency.

F. The Directors of the Family Independence Agency and the Department of Consumer and Industry Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Family Independence Agency.

G. Upon transfer to the Family Independence Agency, the Bureau of Family Services is renamed the Office of Children and Adult Licensing.

VIII. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of Fiscal Year 2003-2004.

B. All rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

C. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order, shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

History: 2003, E.R.O. No. 2003-1, Eff. Dec. 7, 2003 ;-- Am. 2009, E.R.O. No. 2009-37, Eff. Dec. 28, 2009

Compiler's Notes: In subsection C. under section "I. DEFINITIONS," the "Bureau of Heath Services" evidently should read "Bureau of Health Services". Also in subsection C. under section "I. DEFINITIONS," the "Department and Consumer and Industry Services" evidently should read "Department of Consumer and Industry Services". In subsection Z. under section "I. DEFINITIONS," the citation to "Section 3(a) of the Executive Organization Act of 1963, 1965 PA 380" evidently should read "Section 3(a) of the Executive Organization Act of 1965, 1965 PA 380". In subdivision 7. under section "II. DEPARTMENT OF LABOR AND ECONOMIC GROWTH, C. Bureau of Construction Codes and Fire Safety," the citation to "Fire Fighters Training Council Act of 1996, 1966 PA 291" evidently should read "Fire Fighters Training Council Act of 1966, 1966 PA 291". In subdivision 6.b. and subdivision 7. under section "II. DEPARTMENT OF LABOR AND ECONOMIC GROWTH, F. Department of Treasury, Brownfield Redevelopment Single Business Tax Credits," the citation to the "Single Business Tax Act, 1975 PA 225", evidently should read "Single Business Tax Act, 1975 PA 228". In subsection A.5. under section "III. DEPARTMENT OF CAREER DEVELOPMENT," the citation to "1994 PA 219, MCL 408.221 to 208.232" evidently should read "1994 PA 219, MCL 408.221 to 408.232". In subdivision 3.a. under section "IV. DEPARTMENT OF COMMUNITY HEALTH, B. Bureau of Health Systems," the citation to "1978 PA 368, MCL 333.21301 to 31333" evidently should read "1978 PA 368, MCL 333.21301 to 333.21333". All references to the "Worker's Disability and Compensation Act of 1969" evidently should read "Worker's Disability Compensation Act of 1969". For transfer of powers of department of labor and economic growth regarding career and technical education program for secondary students to department of education by type II transfer, see E.R.O. No. 2007-1, compiled at MCL 388.998. For renaming of department of labor and economic growth to department of energy, labor, and economic growth, see E.R.O. No. 2008-4, compiled at MCL 445.2025. Section II.Q.1. of MCL 445.2011, as enacted by E.R.O. No. 2003-1, was amended by E.R.O. No. 2009-37. The text of section II.Q.1. reflects this amendment; all other text remains as originally enacted. For transfer of powers and duties of commission for the blind to bureau of services for blind persons within department of licensing and regulatory affairs, see E.R.O. No. 2012-5, compiled at MCL 445.2033. For transfer of Michigan next energy authority from department of energy, labor, and economic growth to Michigan strategic fund, see E.R.O. No. 2011-4, compiled at MCL 445.2030. For transfer of position as member of Michigan economic growth authority designated for director of department of licensing and regulatory affairs to president of Michigan strategic fund, see E.R.O. No. 2011-4, compiled at MCL 445.2030. For transfer of workers' compensation appellate commission to Michigan administrative hearing system, see E.R.O. No. 2011-4, compiled at MCL 445.2030. For transfer of qualifications advisory committee, to Michigan administrative hearing system, see E.R.O. No. 2011-4, compiled at MCL 445.2030. For transfer of worker's compensation board of magistrates to Michigan administrative hearing system, see E.R.O. No. 2011-4, compiled at MCL 445.2030. For transfer of powers and duties of unemployment insurance agency, including powers and duties of its director, from department of licensing and regulatory affairs to Michigan talent investment agency, see E.R.O. No. 2014-6, compiled at MCL 125.1995.

ELDER PRESCRIPTION INSURANCE COVERAGE ACT (EXCERPT)

Act 499 of 2000

550.2003 EPIC program; provisions; eligibility requirements; enrollment; assessment for medicaid; "institution" explained; business with not more than 1 employee and less than \$200,000.00 in assets.

Sec. 3.

(1) The EPIC program shall provide prescription drug coverage, including related supplies as determined by the department in consultation with the advisory committee established in section 7, to each person to whom all of the following apply:

- (a) The person is a noninstitutionalized Michigan resident 65 years of age or older.
- (b) The person has a household income at or below 200% of the federal poverty guidelines.
- (c) The person is not currently a medicaid recipient.

(d) Excluding medicare supplemental insurance or a federal program described in section 9(2), the person is not covered by other insurance that provides prescription drug coverage.

(2) The department shall give initial enrollment priority to applicants who in the 12 months preceding October 1, 2001 participated in the MEPPS. A second enrollment priority will be afforded to applicants with annual household incomes up to 150% of the federal poverty guidelines who received a senior prescription tax credit in former section 273 of the income tax act of 1967, 1967 PA 281. Enrollment in the EPIC program for eligible applicants who formerly participated in the MEPPS program shall take effect not later than October 1, 2001. Enrollment in the EPIC program for eligible applicants who formerly received a senior prescription tax credit shall take effect not later than December 1, 2001. Other applicants with incomes up to 200% of the federal poverty guidelines will be enrolled contingent upon available money.

(3) An individual or married couple meeting the basic eligibility criteria established in subsection (1) may apply for enrollment in the EPIC program as follows:

(a) Submit an annual application to the department, or the department's designee, that, at a minimum, attests to the age, residence, and household income of the individual applicant or couple, if married. A refundable administrative fee must be included with the application and shall be returned to an applicant who the department determines is not eligible for the EPIC program. The administrative fee is \$25.00.

(b) Upon notification of eligibility, the enrollee may access the EPIC program by meeting the cost-sharing obligation through a copayment on each prescription that does not exceed 20% of the cost of the prescription being purchased, with a maximum monthly copayment amount calculated based on 1 of the following:

(i) If the applicant's household income is at or below 100% of the federal poverty guidelines, the monthly copayment is 1/12 of 1% of household income as established during the annual application process.

(ii) If the applicant's household income is at or below 125% but greater than 100% of the federal poverty guidelines, the monthly copayment is 1/12 of 2% of household income as established during the annual application process.

(iii) If the applicant's household income is at or below 150% but greater than 125% of the federal poverty guidelines, the monthly copayment is 1/12 of 3% of household income as established during the annual application process.

(iv) If the applicant's household income is at or below 175% but greater than 150% of the federal poverty guidelines, the monthly copayment is 1/12 of 4% of household income as established during the annual application process.

(v) If the applicant's household income is at or below 200% but greater than 175% of the federal poverty guidelines, the monthly copayment is 1/12 of 5% of household income as established during the annual application process.

(4) Subsequent to enrollment in the EPIC program, an applicant who has a household income at or below 100% of the federal poverty guidelines shall be referred to the local family independence agency for assessment of eligibility for medicaid. Nothing in this subsection shall be construed as mandating that an applicant found eligible for medicaid must enroll in that program in lieu of enrollment in the EPIC program.

(5) For the purpose of determining eligibility under this section, an institution is a facility in which an individual resides and receives medical care through the facility, including prescription drugs. An institution may include a hospital, nursing home, convalescent center, mental health or psychiatric facility, or jail, prison, or other correctional facility. An adult foster care home, a home for the aged, or an assisted living facility is not an institution for purposes of determining eligibility under this section.

(6) For an owner of a sole proprietorship whose business has not more than 1 employee and has less than \$200,000.00 in assets or for the owner of a family-owned farm with less than \$200,000.00 in assets, household income for the purposes of determining income eligibility under this section shall be determined after excluding business or farm expenses deducted for federal tax purposes.

History: 2000, Act 499, Eff. Oct. 1, 2001 ;-- Am. 2004, Act 57, Imd. Eff. Apr. 12, 2004

FRIEND OF THE COURT ACT (EXCERPT)

Act 294 of 1982

552.502a Definitions; M to T.

Sec. 2a.

As used in this act:

(a) "Medical assistance" means medical assistance as established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(b) "Office" and "office of the friend of the court" mean an agency created in section 3.

(c) "Office of child support" means the office of child support created in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(d) "Payer" means a person ordered by the circuit court to pay support.

(e) "Private health care coverage" means health care coverage obtained through an employer or purchased by an individual from an insurer.

(f) "Public assistance" means cash assistance provided under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

(g) "Public health care coverage" means health care coverage that is established or maintained by a local, state, or federal government such as Medicaid established under title XIX of the social security act, 42 USC 1396 to 1396w-5 or the state children's health insurance program established under title XXI of the social security act, 42 USC 1397aa to 1397mm.

(h) "Recipient of support" means the following:

(i) The spouse, if the support order orders spousal support.

(ii) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(iii) The department, if support has been assigned to that department.

(iv) The county, if the minor is in county-supported foster care.

(i) "State advisory committee" means the committee established by the bureau under section 19.

(j) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act,

1971 PA 174, MCL 400.236.

(k) "Support" means all of the following:

(i) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(ii) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses connected to the pregnancy of the mother or the birth of the child, or for the repayment of genetic testing expenses.

(iii) A surcharge under section 3a of the support and parenting time enforcement act, MCL 552.603a.

(l) "Support and parenting time enforcement act" means 1982 PA 295, MCL 552.601 to 552.650.

(m) "Support order" means an order entered by the circuit court for the payment of support in a sum certain, whether in the form of a lump sum or a periodic payment.

(n) "Title IV-D" means part D of title IV of the social security act, 42 USC 651 to 669b.

(o) "Title IV-D agency" means that term as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

History: Add. 1996, Act 366, Eff. Jan. 1, 1997 ;-- Am. 1999, Act 150, Imd. Eff. Nov. 3, 1999 ;-- Am. 2002, Act 571, Eff. June 1, 2003 ;-- Am. 2004, Act 210, Eff. Oct. 1, 2004 ;-- Am. 2009, Act 233, Imd. Eff. Jan. 8, 2010 ;-- Am. 2019, Act 27, Imd. Eff. June 20, 2019

Popular Name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)

Act 294 of 1982

552.505a Open friend of the court case; closure.

Sec. 5a.

(1) Except as required by this section, an office of the friend of the court shall open and maintain a friend of the court case for a domestic relations matter. If there is an open friend of the court case for a domestic relations matter, the office of the friend of the court shall administer and enforce the obligations of the parties to the friend of the court case as provided in this act. If there is not an open friend of the court case for a domestic relations matter, the office of the friend of the court shall not administer or enforce an obligation of a party to the domestic relations matter.

(2) The parties to a domestic relations matter are not required to have a friend of the court case opened or maintained for their domestic relations matter. With their initial pleadings, the parties to a domestic relations matter may file a motion for the court to order the office of the friend of the court not to open a friend of the court case for the domestic relations matter. If the parties to a domestic relations matter file a motion under this subsection, the court shall issue that order unless the court determines 1 or more of the following:

(a) A party to the domestic relations matter is eligible for title IV-D services because of the party's current or past receipt of public assistance.

(b) A party to the domestic relations matter applies for title IV-D services.

(c) A party to the domestic relations matter requests that the office of the friend of the court open and maintain a friend of the court case for the domestic relations matter, even though the party may not be eligible for title IV-D services because the domestic relations matter involves, by way of example and not limitation, only spousal support, child custody, parenting time, or child custody and parenting time.

(d) There exists in the domestic relations matter evidence of domestic violence or uneven bargaining positions and evidence that a party to the domestic relations matter has chosen not to apply for title IV-D services against the best interest of either the party or the party's child.

(e) The parties have not filed with the court a document, signed by each party, that includes a list of the friend of the court services and an acknowledgment that the parties are choosing to do without those services.

(3) If a friend of the court case is not opened for a domestic relations matter, the parties to the domestic relations matter have full responsibility for administration and enforcement of the obligations imposed in the domestic relations matter.

(4) The parties to a friend of the court case may file a motion for the court to order the office of the friend of the court to close their friend of the court case. The court shall issue an order that the office of the friend of the court shall close the friend of the court case unless the court determines 1 or more of the following:

(a) A party to the friend of the court case objects.

(b) A party to the friend of the court case is eligible for title IV-D services because the party is receiving public assistance.

- (c) A party to the friend of the court case is eligible for title IV-D services because the party received public assistance and an arrearage is owed to the governmental entity that provided the public assistance.
- (d) The friend of the court case record shows that, within the previous 12 months, a child support arrearage or custody or parenting time order violation has occurred in the case.
- (e) Within the previous 12 months, a party to the friend of the court case has reopened a friend of the court case.
- (f) There exists in the friend of the court case evidence of domestic violence or uneven bargaining positions and evidence that a party to the friend of the court case has chosen to close the case against the best interest of either the party or the party's child.
- (g) The parties have not filed with the court a document, signed by each party, that includes a list of the friend of the court services and an acknowledgment that the parties are choosing to do without those services.
- (5) The closure of a friend of the court case does not release a party from the party's obligations imposed in the underlying domestic relations matter. The parties to a closed friend of the court case assume full responsibility for administration and enforcement of obligations imposed in the underlying domestic relations matter.
- (6) If a party to the underlying domestic relations matter wants to ensure that child support payments made after a friend of the court case is closed will be taken into account in any possible future office of the friend of the court enforcement action, the child support payments must be made through the SDU. If the parties choose to continue to have child support payments made through the SDU, the office of the friend of the court shall not close its friend of the court case until each party provides the SDU with the information necessary to process the child support payments required in the underlying domestic relations matter.
- (7) If a party to a domestic relations matter for which there is not an open friend of the court case applies for services from the office of the friend of the court or applies for public assistance, the office of the friend of the court shall open or reopen a friend of the court case. If the office of the friend of the court opens or reopens a friend of the court case as required by this subsection, the court shall issue an order in that domestic relations matter that contains the provisions required by this act and by the support and parenting time enforcement act for a friend of the court case. The court may direct the party making the application or the friend of the court to prepare a written order and submit it for approval.
- (8) If the parties to a domestic relations matter file a motion under subsection (2) or (4), the friend of the court shall advise the parties in writing as to the services that the office of the friend of the court is not required to provide. The state court administrative office shall develop and make available a form for use by an office of the friend of the court under this subsection and a document for use by parties to a domestic relations matter under subsection (2) or (4).
- (9) For purposes of this section, a party receives public assistance if the party receives cash assistance provided under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, medical assistance, or food assistance or if foster care is being or was provided to a child who is the subject of the case.

History: Add. 2002, Act 571, Eff. Dec. 1, 2002 ;-- Am. 2009, Act 233, Imd. Eff. Jan. 8, 2010
Popular Name: Friend of the Court

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.602 Definitions.

Sec. 2.

As used in this act:

- (a) "Account" means any of the following:
- (i) A demand deposit account.
 - (ii) A draft account.
 - (iii) A checking account.
 - (iv) A negotiable order of withdrawal account.
 - (v) A share account.
 - (vi) A savings account.
 - (vii) A time savings account.
 - (viii) A mutual fund account.
 - (ix) A securities brokerage account.
 - (x) A money market account.
 - (xi) A retail investment account.

- (b) "Account" does not mean any of the following:
 - (i) A trust.
 - (ii) An annuity.
 - (iii) A qualified individual retirement account.
 - (iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406.
 - (v) A pension or retirement plan.
 - (vi) An insurance policy.
 - (c) "Alternative contempt track" means the alternative contempt track docket established under section 35a.
 - (d) "Cash" means money or the equivalent of money, such as a money order, cashier's check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.
 - (e) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.
 - (f) "Department" means the department of health and human services.
 - (g) "Domestic relations matter" means a circuit court proceeding as to child custody, parenting time, child support, or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:
 - (i) 1846 RS 84, MCL 552.1 to 552.45.
 - (ii) The family support act, 1966 PA 138, MCL 552.451 to 552.459.
 - (iii) The child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.
 - (iv) 1968 PA 293, MCL 722.1 to 722.6.
 - (v) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.
 - (vi) The revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.
 - (vii) The uniform interstate family support act, 2015 PA 255, MCL 552.2101 to 552.2905.
 - (h) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.
 - (i) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.
 - (j) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.
 - (k) "Financial institution" means any of the following:
 - (i) A state or national bank.
 - (ii) A state or federally chartered savings and loan association.
 - (iii) A state or federally chartered savings bank.
 - (iv) A state or federally chartered credit union.
 - (v) An insurance company.
 - (vi) An entity that offers any of the following to a resident of this state:
 - (A) A mutual fund account.
 - (B) A securities brokerage account.
 - (C) A money market account.
 - (D) A retail investment account.
 - (vii) An entity regulated by the Securities and Exchange Commission that collects funds from the public.
 - (viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.
 - (ix) Another entity that collects funds from the public.
 - (l) "Friend of the court act" means the friend of the court act, 1982 PA 294, MCL 552.501 to 552.535.
 - (m) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, MCL 552.502.
 - (n) "Health care coverage" means a fee for service, health maintenance organization, preferred provider organization, or other type of private health care coverage or public health care coverage.
 - (o) "Income" means any of the following:
 - (i) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer or a successor employer.
 - (ii) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, Social Security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.
 - (iii) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(p) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(i) The public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(iii) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(q) "Medical assistance" means medical assistance as established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(r) "Most recent semiannual obligation" means the total amount of current child support owed by a parent during the preceding January 1 to June 30 or July 1 to December 31.

(s) "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(t) "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(u) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, MCL 552.503.

(v) "Order of income withholding" means an order entered by the circuit court providing for the withholding of a payer's income to enforce a support order under this act.

(w) "Payer" means an individual who is ordered by the circuit court to pay support.

(x) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(y) "Plan administrator" means that term as used in relation to a group health plan under section 609 of title I of the employee retirement income security act of 1974, 29 USC 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(z) "Political subdivision" means a county, city, village, township, educational institution, school district, or special district or authority of this state or of a local unit of government.

(aa) "Private health care coverage" means health care coverage obtained through an employer or purchased by an individual from an insurer.

(bb) "Public health care coverage" means health care coverage that is established or maintained by a local, state, or federal government such as Medicaid established under title XIX of the social security act, 42 USC 1396 to 1396w-5 or the state children's health insurance program established under title XXI of the social security act, 42 USC 1397aa to 1397mm.

(cc) "Recipient of support" means the following:

(i) The spouse, if the support order orders spousal support.

(ii) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(iii) The department, if support has been assigned to that department.

(iv) The county, if the minor child is in county-funded foster care.

(dd) "Recreational or sporting license" means a hunting, fishing, or fur harvester's license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(ee) "Referee" means a person who is designated as a referee under the friend of the court act.

(ff) "Source of income" means an employer or successor employer, a labor organization, or another individual or entity that owes or will owe income to the payer.

(gg) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(hh) "State friend of the court bureau" means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ii) "Support" means all of the following:

(i) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(ii) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses connected to the mother's pregnancy or the birth of the child, or for the repayment of genetic testing expenses.

(iii) A surcharge under section 3a.

(jj) "Support order" means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(kk) "Title IV-D" means part D of title IV of the social security act, 42 USC 651 to 669b.

(ll) "Title IV-D agency" means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract, including an office of the friend of the court or a prosecuting attorney.

(mm) "Work activity" means any of the following:

- (i) Unsubsidized employment.
- (ii) Subsidized private sector employment.
- (iii) Subsidized public sector employment.
- (iv) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.
- (v) On-the-job training.
- (vi) Referral to and participation in the PATH: partnership. accountability. training. hope. work partnership program or successor program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.
- (vii) A community service program.
- (viii) Vocational educational training, not to exceed 12 months with respect to an individual.
- (ix) Job skills training directly related to employment.
- (x) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.
- (xi) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.
- (xii) The provision of child care services to an individual who is participating in a community service program.

History: 1982, Act 295, Eff. July 1, 1983 ;-- Am. 1985, Act 210, Eff. Mar. 1, 1986 ;-- Am. 1990, Act 240, Imd. Eff. Oct. 10, 1990 ;-- Am. 1995, Act 141, Eff. Jan. 1, 1996 ;-- Am. 1995, Act 236, Eff. Mar. 28, 1996 ;-- Am. 1996, Act 120, Imd. Eff. Mar. 6, 1996 ;-- Am. 1996, Act 235, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 239, Eff. Jan. 1, 1997 ;-- Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998 ;-- Am. 1999, Act 160, Imd. Eff. Nov. 3, 1999 ;-- Am. 2002, Act 565, Eff. Dec. 1, 2002 ;-- Am. 2002, Act 567, Eff. June 1, 2003 ;-- Am. 2002, Act 568, Eff. Dec. 1, 2002 ;-- Am. 2002, Act 570, Eff. June 1, 2003 ;-- Am. 2002, Act 572, Eff. Dec. 1, 2002 ;-- Am. 2004, Act 208, Eff. June 30, 2005 ;-- Am. 2009, Act 193, Imd. Eff. Dec. 28, 2009 ;-- Am. 2014, Act 373, Eff. Mar. 17, 2015 ;-- Am. 2015, Act 256, Eff. Jan. 1, 2016 ;-- Am. 2019, Act 26, Imd. Eff. June 20, 2019

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.605d Support order; provisions; motion for modification; assignment, redirection, or abatement of support payment; notice.

Sec. 5d.

(1) On and after June 1, 2003, each support order the court enters or modifies must include substantially the following provisions:

- (a) If a child for whom support is payable under the order is under the state's jurisdiction and is placed in foster care, that support payable under the order is assigned to the department.
- (b) If a child for whom support is payable under the order is under court jurisdiction and is placed in county-funded foster care, that support payable under the order is assigned to the department.
- (c) For a friend of the court case, substantially the following statements:
 - (i) "The office of the friend of the court may consider the person who is providing the actual care, support, and maintenance of a child for whom support is ordered as the recipient of support for the child and may redirect support paid for that child to that recipient of support, subject to the procedures prescribed in section 5d of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605d."
 - (ii) "If the payer resides full-time with a child for whom support is payable under this order, support for that child abates in accordance with policies established by the state friend of the court bureau and subject to the procedures prescribed in section 5d of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605d."
- (2) On and after 1 year after the effective date of the 2020 amendatory act that amended this section, each support order the court enters or modifies must include substantially the following statements: If the payer will be incarcerated for 180 consecutive days or more and will not have the ability to pay support, the monthly amount of support payable under the order must be abated, by operation of law, subject to section 17f of the friend of the court act, MCL 552.517f.
- (3) In a friend of the court case, a support order that was entered before June 1, 2003 is considered to include, by operation of law, the provisions stated in subsection (1).

(4) A support order entered before 1 year after the effective date of the 2020 amendatory act that amended this section is considered to include, by operation of law, the provisions stated in subsection (2).

(5) A party to a domestic relations matter for which there is not an open friend of the court case may file a motion with the circuit court when a payer will be incarcerated for 180 consecutive days or more with no ability to pay, to request that the provisions of section 17f(1) of the friend of the court act, MCL 552.517f, apply. When the payer is released from incarceration, a party may file a motion with the circuit court to request that the provisions of section 17f(9) of the friend of the court act, MCL 552.517f, apply and that the order be modified.

(6) If a child for whom support is payable under a support order is under the state's jurisdiction and is placed in foster care, support payable under the order is assigned to the department. If the child is placed in county-funded foster care, the support payable under the order is assigned to the department. An assignment of support as required by this subsection has priority over a redirection of support authorized by this section.

(7) Subject to subsection (8), for a friend of the court case, the office of the friend of the court may consider the person who is providing the actual care, support, and maintenance of a child for whom support is ordered as the recipient of support for the child and may redirect support paid for that child to that recipient of support. Subject to subsection (8), the office of the friend of the court must abate support under a support order that is payable as support for a child who resides full-time with the payer, in accordance with policies established by the state friend of the court bureau.

(8) A party to a support order may object to redirection or abatement of support under this section. Support shall not be redirected or abated under this section until 21 days after the office of the friend of the court notifies each party of the proposed action and each party's right to object. If a party objects within 21 days after the notification, support shall not be redirected or abated under this section. After an objection, the office of the friend of the court must review the support order under section 17 of the friend of the court act, MCL 552.517, or must notify each party that the party may file a motion to modify support.

(9) The state friend of the court bureau may implement policies to assist offices of the friend of the court in determining when an office of the friend of the court should give notice of a proposed redirection or abatement of support under this section.

History: Add. 2002, Act 570, Eff. June 1, 2003 ;-- Am. 2009, Act 193, Imd. Eff. Dec. 28, 2009 ;-- Am. 2014, Act 380, Eff. Mar. 17, 2015 ;-- Am. 2020, Act 348, Eff. Mar. 24, 2021

CONTINUING CARE COMMUNITY DISCLOSURE ACT (EXCERPT)

Act 448 of 2014

554.903 Definitions; A to C.

Sec. 3.

As used in this act:

(a) "Administrator" means a person that performs administrative or operational functions within or in connection with the continuing care community.

(b) "Advertisement or marketing communication" means any disclosure statement, prospectus, pamphlet, circular, form letter, written or electronic advertisement, social media or other sales literature or advertising communication, including a written, printed, or pictorial communication, or a communication by means of a recorded telephone message or message spoken on the radio, television, or similar communications media, intended for distribution or transmission to prospective members in connection with an offer or sale of a continuing care agreement.

(c) "Amortized component of an entrance fee" means the portion of an entrance fee that is amortizable to reflect the cost of continuing care, multiplied by 1.5% for each month from the time of occupancy to the termination of membership by death or other cause.

(d) "Applicant" means a continuing care community applying for initial registration under section 19, applying for renewal registration under section 25, or applying to amend a registration under section 33.

(e) "Change in fees" means a change in either the amount or type of fees for continuing care, including entrance fees and monthly service fees, except for any change in fees mandated by a state or federal referral assistance program.

(f) "Complete", with reference to an application, means complete on its face and submitted with any registration fee and any other information, record, approval, or similar item required by law or rule.

- (g) "Continuing care" means some or all of the following services:
 - (i) A living unit.
 - (ii) Meals.
 - (iii) Personal care services.
 - (iv) Skilled nursing.
 - (v) Rehabilitative services.
 - (vi) Medical care.
 - (vii) Social activities.
 - (viii) Supervision.
 - (ix) Program of all-inclusive care for the elderly.
 - (x) Continuing care at home.
- (h) "Continuing care agreement" means a written agreement, including a long-term lease or an agreement conferring a life interest, between a member and a continuing care community for continuing care upon payment of an entrance fee.
- (i) "Continuing care at home" means, upon payment of an entrance fee, providing or arranging for the provision of all of the following at the member's home:
 - (i) Continuing care.
 - (ii) Access to comprehensive services, including, but not limited to, care coordination, home assessments, and assistance with activities of daily living.
 - (iii) Services with a higher level of care when required by the health condition of the member, as determined by the continuing care community in consultation with the member or the member's representative.
- (j) "Continuing care community" or "community" means a retirement community in which a person undertakes to provide or arrange for continuing care and which is 1 or more of the following:
 - (i) An adult foster care facility.
 - (ii) A home for the aged.
 - (iii) An independent living unit.
 - (iv) A nursing home.
 - (v) A home health care services agency.
 - (vi) Hospice.
 - (vii) A place that undertakes to provide care to a member for more than 1 year.
- (k) "Continuing care administration fund" means the fund creation in section 31(3).

History: 2014, Act 448, Eff. Apr. 2, 2015

CONTINUING CARE COMMUNITY DISCLOSURE ACT (EXCERPT)

Act 448 of 2014

554.917 Rules; exemption; variance; area not considered home for the aged or adult foster care facility; relationship not subject to laws between landlord and tenant.

Sec. 17.

(1) A continuing care community that is licensed in whole or part under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, is exempt from any rules promulgated under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, that would interfere with a resident's access to a common area, subject to the resident's need for care and supervision.

(2) A continuing care community may request a variance from the application of a rule promulgated under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or promulgated under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, and applicable to a home for the aged or adult foster care facility, respectively, that is part of the continuing care community. The department of human services shall grant the variance upon a finding of both of the following:

(a) That the rule unnecessarily segregates members of the continuing care community who reside in the home for the aged or adult foster care facility from other members of the continuing care community.

(b) That the variance will not result in a risk to human health or safety.

(3) An area where room and board together with personal care, protection and supervision, or supervised personal care are provided to a member is not a home for the aged as defined in section 20106 of the public health

code, 1978 PA 368, MCL 333.20106, or an adult foster care facility as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703, if the services are only provided on a temporary basis under any of the following circumstances:

- (a) While the member is recovering from an illness or accident.
- (b) Until a living unit in an appropriate licensed area of the continuing care community becomes available.
- (4) The relationship between a continuing care community and a member or prospective member is not subject to laws regulating the relationship between a landlord and a current or prospective tenant.

History: 2014, Act 448, Eff. Apr. 2, 2015

CONTINUING CARE COMMUNITY DISCLOSURE ACT (EXCERPT)

Act 448 of 2014

554.919 Initial registration; submission of information; missing or unreliable information; cost of investigation; deposit of payment; registration of 2 or more retirement communities as single continuing care community; consideration of opinions, appraisals, and reports of experts; electronic transmission of application and fee.

Sec. 19.

- (1) A person seeking initial registration under this act shall submit the following information to the department:
 - (a) An initial registration application on a form prescribed by the department, signed and verified by an individual authorized to act on behalf of the continuing care community.
 - (b) The organizing documents of the applicant, and all amendments thereto, authorizing the applicant to conduct business in this state and a copy of the most recent annual report, if required under state law.
 - (c) A disclosure statement that complies with section 37.
 - (d) A copy of each form of continuing care agreement for the continuing care community, which shall comply with section 39, and all exhibits or addenda to each form of continuing care agreement.
 - (e) A copy of any rules, policies, and procedures of the applicant required for compliance with this act.
 - (f) A statement, on a form prescribed by the department, of whether any of the following apply to any executive officer, administrator, or director identified in the application for registration:
 - (i) Has been convicted of a felony or been held liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property.
 - (ii) Is subject to an injunctive or restrictive order or federal or state administrative order relating to business activity or health care as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license to operate a continuing care community, foster care facility, nursing home, retirement home, or home for the aged. The statement shall, if applicable, specify the court or agency, any penalty imposed or damages assessed, and the date of conviction or judgment or the date, nature, and issuer of the order.
 - (g) An executed irrevocable consent to service of process subject to section 61.
 - (h) Financial statements that comply with section 41.
 - (i) Unless waived by the department, a statement of the use of proceeds of entrance fees to be collected by the continuing care community.
 - (j) A pro forma financial plan that complies with section 43.
 - (k) A feasibility study, unless waived in the reasonable discretion of the department. The feasibility study shall be made available for review upon the request of a member or prospective member. The department may require the feasibility study to include 1 or more of the following:
 - (i) A statement of the purpose of the continuing care community and the need for the proposed services.
 - (ii) Documentation of the financial resources to be made available for the continuing care community.
 - (iii) A plan demonstrating the financial feasibility of the proposed continuing care community, including future funding sources.
 - (iv) An actuarial forecast that has been reviewed by a qualified actuary.
 - (v) A study demonstrating the proposed market for the continuing care community.
 - (vi) A detailed statement of the continuing care services to be offered.
 - (l) For a continuing care community seeking to offer continuing care at home, both of the following:
 - (i) A detailed business plan on how the needs and requirements of the members receiving continuing care at home will be met.
 - (ii) Agreements showing how and under what circumstances future specialized care, including assisted living, dementia care, and skilled nursing, will be provided when appropriate.

- (m) Other material information as may reasonably be required by the department.
 - (n) Other material information as the applicant wishes to include.
 - (o) The initial registration application fee specified in section 31.
- (2) If information required pursuant to subsection (1)(m) is not furnished by the applicant, or the department considers information submitted pursuant to subsection (1)(m) to be unreliable or substantially incomplete, the department may investigate any matters concerning the missing or unreliable information. The applicant shall pay the actual cost of the investigation as determined in the reasonable discretion of the department. The payment shall be deposited in the continuing care administration fund.
- (3) An applicant may request and the department may order that 2 or more retirement communities be registered as a single continuing care community.
- (4) The department may consider the opinions, appraisals, and reports of engineers, appraisers, or other experts presented by an applicant or an interested party on a question of fact concerning or affecting the continuing care agreements proposed to be offered and sold.
- (5) An applicant may electronically transmit an application and fee for initial registration or renewal of registration to the department after the department posts notice on its website that it is prepared to receive those electronic filings.

History: 2014, Act 448, Eff. Apr. 2, 2015

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.2529 Fees paid to clerk of circuit court; payment in full; payment of fees to county treasurer; deposit and use to fund certain services; waiving or suspending fees; affidavit of indigency or inability to pay; court order to pay all or part of fee to other party; payment of fee not required.

Sec. 2529.

- (1) In the circuit court, the following fees must be paid to the clerk of the court:
- (a) Before filing a civil action, including an action for superintending control or another extraordinary writ, the party filing the action shall pay a fee of \$150.00. This subdivision does not apply to an action brought exclusively under section 2950, 2950a, or 2950h to 2950m, an action under the extreme risk protection order act, or an action for a writ of habeas corpus. The clerk at the end of each month shall transmit for each fee collected under this subdivision within the month \$31.00 to the county treasurer and the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.
 - (b) Before filing a claim of appeal or motion for leave to appeal from the district court, probate court, a municipal court, or an administrative tribunal or agency, the appellant or moving party shall pay a fee of \$150.00. For each fee collected under this subdivision, the clerk shall transmit \$31.00 to the county treasurer and the balance of the fee to the state treasurer for deposit in the civil filing fee fund created in section 171.
 - (c) At the time a trial by jury is demanded, the party making the demand shall pay a fee of \$85.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The fee paid must be taxed in favor of the party paying it if the party recovers a judgment for costs. For each fee collected under this subdivision, the clerk shall transmit \$25.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.
 - (d) At the time an action in which the custody, support, or parenting time of a minor child is to be determined or modified is filed, the party filing the action shall pay 1 of the following fees:
 - (i) In an action in which the custody or parenting time of a minor child is to be determined or modified, \$80.00.
 - (ii) In an action in which the support of a minor child is to be determined or modified, \$40.00. This fee does not apply if a fee is paid under subparagraph (i).
 - (e) Except as otherwise provided in this section, on filing a motion, the moving party shall pay a fee of \$20.00. In conjunction with an action brought under section 2950 or 2950a, the clerk shall not collect a motion fee for a motion to dismiss the petition, a motion to modify, rescind, or terminate a personal protection order, or a motion to show cause for a violation of a personal protection order. The clerk shall not collect a motion fee for a motion to dismiss a proceeding to enforce a foreign protection order or a motion to show cause for a violation of a foreign protection order under sections 2950h to 2950m. The clerk shall not collect a motion fee for a request for a hearing to contest income withholding under section 7 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.607. For each fee collected under this subdivision, the clerk shall transmit \$10.00 to the state treasurer for deposit in the state court fund created by section 151a.

(f) For services under the direction of the court that are not specifically provided for in this section related to receiving, safekeeping, or expending money, purchasing, taking, or transferring a security, or collecting interest on a security, a party shall pay the allowance and compensation that the court determines to be just as ordered by the court after notice to the parties.

(g) Upon appeal to the court of appeals or the supreme court, the appellant shall pay \$25.00.

(h) The applicant or requesting party shall pay \$15.00 as a service fee for each writ of garnishment, attachment, or execution and each judgment debtor discovery subpoena issued.

(2) The fees paid as provided in this section are payment in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees paid under this section must be paid to the county treasurer as required by law.

(4) At the end of each month, each fee collected under subsection (1)(d)(i) must be paid to the county treasurer and deposited by the county treasurer as provided under section 2530 to be used to fund services that are not title IV-D services. The fee collected under subsection (1)(d)(ii) must be paid to the county treasurer and deposited by the county treasurer as provided under section 2530.

(5) The court shall order any of the fees prescribed in this section waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

(6) If the person filing an action described in subsection (1)(d) is a public officer acting in his or her official capacity, if the final judgment or order is submitted with the initial filing as a consent judgment or order, or if other good cause is shown, the court shall order the fee under subsection (1)(d) waived or suspended. If a fee is waived or suspended and the action is contested, the court may require that 1 or more of the parties to the action pay the fee under subsection (1)(d).

(7) The court may order a party to pay the other party all or part of a fee paid by the other party under subsection (1)(d).

(8) A party is not required to pay a fee under this section if the party is filing a child protective action or a delinquency action under section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or under the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671.

History: Add. 1963, Act 218, Eff. Sept. 6, 1963 ;-- Am. 1964, Act 21, Eff. Aug. 28, 1964 ;-- Am. 1966, Act 20, Eff. Jan. 1, 1967 ;-- Am. 1967, Act 278, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 248, Eff. Jan. 1, 1971 ;-- Am. 1977, Act 279, Eff. Mar. 30, 1978 ;-- Am. 1982, Act 297, Eff. July 1, 1983 ;-- Am. 1982, Act 511, Eff. Jan. 1, 1983 ;-- Am. 1988, Act 310, Eff. Jan. 1, 1989 ;-- Am. 1992, Act 233, Eff. Mar. 31, 1993 ;-- Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 189, Eff. Oct. 8, 1993 ;-- Am. 1994, Act 403, Eff. Apr. 1, 1995 ;-- Am. 1999, Act 268, Eff. July 1, 2000 ;-- Am. 2001, Act 202, Eff. Apr. 1, 2002 ;-- Am. 2002, Act 605, Eff. Jan. 1, 2003 ;-- Am. 2003, Act 138, Eff. Oct. 1, 2003 ;-- Am. 2003, Act 178, Eff. Oct. 1, 2003 ;-- Am. 2004, Act 205, Eff. Oct. 1, 2004 ;-- Am. 2009, Act 239, Imd. Eff. Jan. 8, 2010 ;-- Am. 2014, Act 532, Eff. Apr. 14, 2015 ;-- Am. 2023, Act 35, Eff. Feb. 13, 2024

SOCIAL SERVICES AGENCY LIABILITY ACT (EXCERPT)

Act 590 of 2012

691.1633 Definitions.

Sec. 3.

As used in this act:

(a) "Child social welfare program" means a child welfare residential or home-based program, a program involving foster care coordination including adoption activities, a respite care program, or behavioral health or early education services operating under contract and as an agent for the department of human services.

(b) "Gross negligence" means conduct or a failure to act that is so reckless that it demonstrates a substantial lack of concern for whether an injury will result.

(c) "Person" means an individual, partnership, corporation, association, or other legal entity, other than a governmental agency.

(d) "Social services agency" means a person, other than an individual, that is licensed by this state to provide child social welfare programs.

(e) "Willful misconduct" means conduct or a failure to act that is intended to harm the plaintiff.

History: 2012, Act 590, Imd. Eff. Jan. 7, 2013

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.29 Release; separate instrument; persons before whom release executed and acknowledged; execution in another state or country; out-of-court release; verified statement; investigation; explaining legal rights to parent or guardian; order terminating rights; order committing child to child placing agency or department; foster care funding; termination of jurisdiction; hearing to consider revocation of release.

Sec. 29.

(1) Except as otherwise provided in subsections (5) to (11), a release shall be by a separate instrument executed before a judge of the court or a juvenile court referee. If a parent's or guardian's release is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the release shall be made.

(2) If the person from whom a release is required is in the armed services or is in prison, the release may be executed and acknowledged before an individual authorized by law to administer oaths.

(3) If the release is to be given by an authorized representative of a child placing agency that has jurisdiction of the child to be adopted, the release may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the release is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the release was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the release was so executed.

(5) A parent or guardian may sign an out-of-court release in front of and witnessed by an adoption attorney representing the parent or guardian and a child placing agency caseworker. An out-of-court release signed under this subsection must comply with all of the following:

(a) The out-of-court release shall not be signed until after a 72-hour waiting period that begins at the time of the child's birth has expired.

(b) If the parent signing the out-of-court release is an unemancipated minor, the out-of-court release is not valid unless it is also signed by a parent or guardian of that unemancipated minor parent in the presence of the witnesses described in this subsection.

(c) An out-of-court release must be accompanied by the verified statement described in subsection (6) and a statement regarding relinquishment of parental rights that includes all of the following:

(i) The right to have or to seek care and custody of the child.

(ii) The right to have or to seek parenting time with the child.

(iii) The right to inherit from the child or have the child inherit from the parent.

(iv) The right to services and earnings of the child.

(v) The right to determine the child's schooling, religious training, and parenting practices.

(d) In separate paragraphs with sufficient space in the margin for a parent to place his or her initials beside each paragraph, the out-of-court release must state the following:

(i) I have read or had read to me each of my rights as a parent described in section 29(5)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.29, and I understand these rights.

(ii) I am signing the out-of-court release as a free and voluntary act on my part, and I have been advised that I cannot be forced to sign the out-of-court release for any reason.

(iii) I have not been given or promised any money or other thing of value in exchange for signing the out-of-court release.

(iv) If I sign the out-of-court release, I understand that I am giving up all of my parental rights and authorizing the court to permanently terminate all of my parental rights, unless the court allows me to revoke my out-of-court release.

(v) It has been explained to me and I understand all of the following:

(A) I am not required to sign an out-of-court release.

(B) I may make a temporary placement of my child with the prospective adoptive parent or parents, if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a release in court or sign an out-of-court release.

(C) I may request revocation of the out-of-court release I have signed by submitting a timely written request for revocation.

(D) If I request a revocation of the out-of-court release, I must appear before the court so the court may consider whether to grant the revocation.

(vi) I have been advised that I may submit a request for revocation in writing to the adoption attorney or child

placing agency that accepted the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed or I may petition the court on my own for revocation of the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed.

(vii) If I submit a timely request for revocation, the court may grant the request or deny the request depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.

(e) The out-of-court release must contain the contact information for both the adoption attorney representing the parent or guardian and the child placing agency that accepted the out-of-court release specifying where a written request for revocation may be submitted, including a postal mailing address, overnight carrier address, fax number, and electronic mail address. A request for revocation may not be submitted to the adoption attorney representing the parent or guardian or the child placing agency that accepted the out-of-court release by telephone or text message.

(f) The following statement must appear immediately above the signature of the parent or guardian executing the out-of-court release: "I acknowledge that I am signing this out-of-court release freely and voluntarily, after my parental rights have been explained to me and any questions I may have about it have been fully answered. I understand the rights I am giving up and that an order terminating my parental rights, when entered by the court, is a permanent termination of all of my parental rights."

(6) A release by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and, if the release is to a child placing agency, a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, 1994 PA 203, MCL 722.956.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the release of the child, except for lawful payments that are itemized on a schedule filed with the release.

(d) That the validity and finality of the release is not affected by any collateral or separate agreement between the parent or guardian and the child placing agency, or the parent or guardian and the prospective adoptive parent.

(e) That the parent or guardian understands that it serves the child's welfare for the parent to keep the child placing agency or department informed of any health problems that the parent develops that could affect the child.

(f) That the parent or guardian understands that it serves the child's welfare for the parent or guardian to keep his or her address current with the child placing agency or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years of age or older.

(7) A release by a parent or a guardian of the child shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the release voluntarily relinquishes permanently his or her rights to the child; and, if the child is over 5 years of age, the court has determined that the child is best served by the release. If an out-of-court release is signed under subsection (5), the adoption attorney representing the parent or guardian who witnessed the out-of-court release and a caseworker from the child placing agency that accepted the out-of-court release shall fully explain to the parent or guardian his or her legal rights and the fact that the parent or guardian by virtue of the out-of-court release voluntarily relinquishes permanently his or her rights to the child.

(8) Except as otherwise provided in this subsection, upon the release of a child by a parent or guardian, the court immediately shall issue an order terminating the rights of that parent or guardian to that child. If an out-of-court release has been signed under subsection (5), not sooner than 5 days, excluding weekends and holidays, after the out-of-court release was signed, the court shall issue an order terminating the rights of the parent or guardian to that child. If the rights of both parents, the surviving parent, or the guardian have been terminated, the court shall issue an order committing the child to the child placing agency or department to which the release was given.

(9) The court shall authorize foster care funding pending expiration of the period of appeal or rehearing as provided in sections 64 and 65 of this chapter, and pending disposition of any appeal or rehearing, for all persons committed to a child placing agency. Foster care funding authorized under this subsection shall exclude the administrative costs of the child placing agency. The costs of foster care shall be paid through the use of the child care fund as provided by section 117c of the social welfare act, 1939 PA 280, MCL 400.117c, or by any successor statute. When foster care funding is authorized according to this subsection, the court shall send a copy of the order to the department. Upon receiving a copy of this order, the department shall reimburse the court child care fund of the county where the court order for foster care funding was made in the total amount of the court ordered payment. The reimbursement shall be made monthly.

(10) Entry of an order terminating the rights of both parents under subsection (8) terminates the jurisdiction of the circuit court over the child in any divorce or separate maintenance action.

(11) Except as otherwise provided in subsection (12), upon petition of the same person or persons who executed

the release and of the department or child placing agency to which the child was released, the court with which the release was filed may grant a hearing to consider whether the release should be revoked. A release may not be revoked if the child has been placed for adoption unless the child is placed as provided in section 41(2) of this chapter and a petition for rehearing or claim of appeal is filed within the time required. A verbatim record of testimony related to a petition to revoke a release shall be made.

(12) Except as otherwise provided in this subsection, a parent or guardian who has signed an out-of-court release but wishes to request revocation of the out-of-court release shall submit a request for revocation to the adoption attorney representing the parent or guardian or the child placing agency that accepted the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed. The request for revocation from the parent or guardian must be submitted in writing by the parent or guardian who signed the out-of-court release to the adoption attorney representing the parent or guardian or a caseworker from the child placing agency that accepted the out-of-court release. The request for revocation is timely if delivered to the adoption attorney or the child placing agency not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed. Upon receipt of a timely request for revocation, the adoption attorney or the child placing agency receiving the request for revocation shall assist the parent or guardian in filing the petition to revoke the out-of-court release with the court as soon as practicable. A parent or guardian may file this petition with the court on his or her own. If the parent or guardian files the petition on his or her own, the petition must be filed with the court not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed.

(13) The court in which the out-of-court release was filed may deny the request for revocation under subsection (14).

(14) If a petition to revoke an out-of-court release is filed with the court, timely notice of revocation does not immediately result in the return of the child to the parent or guardian. A hearing before a judge is required to determine all of the following unless a child placing agency accepting the out-of-court release or the adoptive parent or parents agree to the revocation:

(a) Whether the request for revocation was given in a timely and proper manner.

(b) Whether good cause exists to determine that the out-of-court release was not signed voluntarily. If the court finds that the out-of-court release was not signed voluntarily, the out-of-court release is invalid and custody of the child shall be returned to the parent or guardian. If the court finds that the out-of-court release was signed voluntarily, the court shall proceed under subdivision (c).

(c) Whether the best interest of the child will be served by any of the following:

(i) Returning custody of the child to the parent or guardian.

(ii) Continuing the adoption proceeding commenced or intended to be commenced by the adoptive parent or parents.

(iii) Disposition appropriate to the child's welfare as authorized by section 18 of chapter XIII A under an ex parte order entered by the court.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1976, Act 382, Imd. Eff. Dec. 28, 1976 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2014, Act 117, Eff. Oct. 12, 2014

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

710.44 Consent to adoption; separate instrument; persons before whom consent executed and acknowledged; execution in another state or country; verified statement; investigation; explaining legal rights of parent or guardian; conditions to execution of adoptee's consent to adoption; out-of-court consent.

Sec. 44.

(1) Except as otherwise provided in this section, the consent required by section 43 of this chapter shall be by a separate instrument executed before the judge having jurisdiction or, at the court's direction, before another judge of the family division of circuit court in this state. A consent may be executed before a juvenile court referee. The consent hearing shall be held within 7 days after it is requested. If the consent of a parent or guardian is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the consent shall be made.

(2) If the individual whose consent is required is in any of the armed services or is in prison, the consent may be executed and acknowledged before any individual authorized by law to administer oaths.

(3) If the child to be adopted is legally a ward of the department or of a child placing agency, the consent

required to be made under section 43 of this chapter by the authorized representative of the department or agency may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the consent is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the consent was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the consent was so executed.

(5) In a direct placement, a consent by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, 1994 PA 203, MCL 722.956.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the consent to adoption of the child, except for lawful payments that are itemized on a schedule filed with the consent.

(d) That the validity and finality of the consent is not affected by any collateral or separate agreement between the parent or guardian and the adoptive parent.

(e) That the parent or guardian understands that it serves the child's welfare for the parent to keep the child placing agency, court, or department informed of any health problems that the parent develops that could affect the child.

(f) That the parent or guardian understands that it serves the child's welfare for the parent or guardian to keep his or her address current with the child placing agency, court, or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.

(6) If a parent's consent to adoption is required under section 43 of this chapter or if a guardian's consent is required under section 43(1)(e) of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the consent voluntarily relinquishes permanently his or her rights to the child. If an out-of-court consent is signed under subsection (8), the adoption attorney representing the parent or guardian who witnessed the out-of-court consent and a caseworker from the child placing agency that witnessed the out-of-court consent shall fully explain to the parent or guardian his or her legal rights and the fact that the parent or guardian by virtue of the out-of-court consent voluntarily relinquishes permanently his or her rights to the child. If an out-of-court consent has been signed under subsection (8), not sooner than 5 days, excluding weekends and holidays, after the out-of-court consent was signed, the court shall issue an order terminating the rights of the parent or guardian to that child.

(7) If the adoptee's consent to adoption is required under section 43 of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge or referee has fully explained to the adoptee the fact that he or she is consenting to acquire permanently the adopting parent or parents as his or her legal parent or parents as though the adoptee had been born to the adopting parent or parents.

(8) In a direct placement, a parent or guardian may sign an out-of-court consent after the child's birth. An out-of-court consent signed under this subsection must comply with all of the following:

(a) The out-of-court consent shall not be signed until after a 72-hour waiting period that begins at the time of the child's birth has expired.

(b) If the parent signing the out-of-court consent is an unemancipated minor, the out-of-court consent is not valid unless it is also signed by a parent or guardian of that unemancipated minor parent in the presence of the witnesses described in this subsection.

(c) An out-of-court consent must be accompanied by the verified statement from subsection (5) and a statement regarding relinquishment of parental rights that includes all of the following:

(i) The right to have or to seek care and custody of the child.

(ii) The right to have or to seek parenting time with the child.

(iii) The right to inherit from the child or have the child inherit from the parent.

(iv) The right to services and earnings of the child.

(v) The right to determine the child's schooling, religious training, and parenting practices.

(d) In separate paragraphs with sufficient space in the margin for a parent to place his or her initials beside each paragraph, the out-of-court consent must state all of the following:

(i) I have read or had read to me each of my rights as a parent described in section 44(8)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.44, and I understand these rights.

(ii) I am signing the out-of-court consent as a free and voluntary act on my part, and I have been advised that I cannot be forced to sign the out-of-court consent for any reason.

(iii) I have not been given or promised any money or other thing of value in exchange for signing the out-of-court consent.

(iv) If I sign the out-of-court consent, I understand that I am giving up all of my parental rights and authorizing the court to permanently terminate all of my parental rights, unless the court allows me to revoke my out-of-court

consent.

(v) It has been explained to me and I understand all of the following:

(A) I am not required to sign an out-of-court consent.

(B) I may make a temporary placement of my child with the prospective adoptive parent or parents, if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a consent in court or sign an out-of-court consent.

(C) I may request revocation of the out-of-court consent I have signed by submitting a timely written request for revocation.

(D) If I request a revocation of the out-of-court consent, I must appear before the court so the court may consider whether to grant the revocation.

(vi) I have been advised that I may submit a request for revocation in writing to the adoption attorney or child placing agency that witnessed the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed or I may petition the court on my own for revocation of the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed.

(vii) If I submit a timely request for revocation, the court may grant the request or deny the request for revocation depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.

(e) The out-of-court consent must contain the contact information for both the adoption attorney representing the parent or guardian and the child placing agency that witnessed the out-of-court consent specifying where a written request for revocation may be submitted, including a postal mailing address, overnight carrier address, fax number, and electronic mail address. A request for revocation may not be submitted to the adoption attorney representing the parent or guardian or the child placing agency that witnessed the out-of-court consent by telephone or text message.

(f) The following statement must appear immediately above the signature of the parent or guardian executing the out-of-court consent: "I acknowledge that I am signing this out-of-court consent freely and voluntarily, after my parental rights have been explained to me and any questions I may have about it have been fully answered. I understand the rights I am giving up and that an order terminating my parental rights, when entered by the court, is a permanent termination of all of my parental rights."

(g) The out-of-court consent may be signed before filing a petition for adoption.

(9) Except as otherwise provided in this subsection, a parent or guardian who has signed an out-of-court consent but wishes to request revocation of the out-of-court consent shall submit a request for revocation to the adoption attorney representing the parent or guardian or the child placing agency that witnessed the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed. The request for revocation from the parent or guardian must be submitted in writing by the parent or guardian who signed the out-of-court consent to the adoption attorney representing the parent or guardian or a caseworker from the child placing agency that witnessed the out-of-court consent. The request for revocation is timely if delivered to the adoption attorney or a caseworker from the child placing agency not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed. Upon receipt of a timely request for revocation, the adoption attorney or the child placing agency receiving the request for revocation shall assist the parent or guardian in filing the petition to revoke the out-of-court consent with the court as soon as practicable. A parent or guardian may file this petition with the court on his or her own. If the parent or guardian files the petition on his or her own, the petition must be filed with the court not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed.

(10) The court in which the out-of-court consent was filed may deny the request for revocation under subsections (11) and (12).

(11) If a petition to revoke an out-of-court consent has been filed with the court, timely notice of revocation does not immediately result in the return of the child to the parent or guardian. A hearing before a judge is required to determine all of the following unless the adoptive parent or parents agree to the revocation:

(a) Whether the request for revocation was given in a timely and proper manner.

(b) Whether good cause exists to determine that the out-of-court consent was not signed voluntarily. If the court finds that the out-of-court consent was not signed voluntarily, the out-of-court consent is invalid and custody of the child shall be returned to the parent or guardian. If the court finds that the out-of-court consent was signed voluntarily, the court shall proceed under subdivision (c).

(c) Whether the best interest of the child will be served by any of the following:

(i) Returning custody of the child to the parent or guardian.

(ii) Continuing the adoption proceeding commenced or intended to be commenced by the adoptive parent or parents.

(iii) Disposition appropriate to the child's welfare as authorized by section 18 of chapter XIIA under an ex parte order entered by the court.

(12) In determining the best interest of the child under subsection (11)(c), if a parent or guardian is seeking revocation of an out-of-court consent, the court shall determine if the parent or guardian seeking revocation is fit

and immediately able to properly care for the child if the court returned the child to the parent or guardian. If the court determines that the parent or guardian is not fit and immediately able to properly care for the child, the court shall deny the revocation. If the court finds that the parent or guardian is fit and immediately able to properly care for the child, the court shall determine the best interest of the child. The "best interest of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court:

(a) The child's age and length of time the parent or guardian seeking revocation has had physical custody of the child so that significant love, affection, and other emotional ties exist between the parent or guardian and the child and whether during that time the child has lived in a stable, satisfactory environment.

(b) The capacity and disposition of the prospective adopting individual or individuals and the parent or guardian seeking revocation to give the child love, affection, and guidance, and to educate and create a milieu that fosters the child's religion, racial identity, and culture.

(c) The capacity and disposition of the prospective adopting individual or individuals and the parent or guardian seeking revocation to provide the child with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the state law in place of medical care, and other material needs.

(d) The permanence as a family unit of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(e) The moral fitness of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(f) The mental and physical health of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(g) The home, school, and community record of the child.

(h) The child's reasonable preference, if the child is 14 years of age or less and if the court considers the child to be of sufficient age to express a preference.

(i) The ability and willingness of the prospective adopting individual or individuals to adopt the child's siblings.

(j) Any other factor considered by the court to be relevant to a particular prospective adoptive placement or to a revocation of an out-of-court consent.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2014, Act 117, Eff. Oct. 12, 2014

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

710.46 Investigation; considerations; report; waiver.

Sec. 46.

(1) Upon the filing of an adoption petition, the court shall direct a full investigation by an employee or agent of the court, a child placing agency, or the department. The court may use the preplacement assessment described in section 23f of this chapter and may order an additional investigation by an employee or agent of the court or a child placing agency. The following shall be considered in the investigation:

(a) The best interests of the adoptee.

(b) The adoptee's family background, including names and identifying data regarding the parent or parents, if obtainable.

(c) The reasons for the adoptee's placement away from his or her parent or parents.

(2) A written report of the investigation shall be filed within 3 months after the order for investigation.

(3) If the adoptee has been placed for foster care with the petitioner for 12 months or longer and the foster family study was completed or updated not more than 12 months before the petition was filed, the court, upon motion by the petitioner, may waive the full investigation required by this section. The foster family study, with information added as necessary to update or supplement the original study, may be substituted for the written report required under subsection (2).

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)

712A.1 Definitions; proceedings not as criminal proceedings; construction of chapter.

Sec. 1.

(1) As used in this chapter:

(a) "Civil infraction" means that term as defined in section 113 of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.

(b) "Competency evaluation" means a court-ordered examination of a juvenile directed to developing information relevant to a determination of his or her competency to proceed at a particular stage of a court proceeding involving a juvenile who is the subject of a delinquency petition.

(c) "Competency hearing" means a hearing to determine whether a juvenile is competent to proceed.

(d) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(e) "Court" means the family division of circuit court.

(f) "Department" means the department of health and human services. A reference in this chapter to the "department of social welfare" or the "family independence agency" means the department of health and human services.

(g) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(h) "Incompetent to proceed" means that a juvenile, based on age-appropriate norms, lacks a reasonable degree of rational and factual understanding of the proceeding or is unable to do 1 or more of the following:

(i) Consult with and assist his or her attorney in preparing his or her defense in a meaningful manner.

(ii) Sufficiently understand the charges against him or her.

(i) Until September 30, 2021, "juvenile" means a person who is less than 17 years of age who is the subject of a delinquency petition. Beginning October 1, 2021, "juvenile" means a person who is less than 18 years of age who is the subject of a delinquency petition.

(j) "Least restrictive environment" means a supervised community placement, preferably a placement with the juvenile's parent, guardian, relative, or a facility or conditions of treatment that is a residential or institutional placement only utilized as a last resort based on the best interest of the juvenile or for reasons of public safety.

(k) "Licensed child caring institution" means a child caring institution as defined and licensed under 1973 PA 116, MCL 722.111 to 722.128.

(l) "MCI" means the Michigan children's institute created and established by 1935 PA 220, MCL 400.201 to 400.214.

(m) "Mental health code" means the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(n) "Personal protection order" means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and includes a valid foreign protection order.

(o) "Public agency" means the department, a local unit of government, the family division of the circuit court, the juvenile division of the probate court, or a county juvenile agency.

(p) "Qualified juvenile forensic mental health examiner" means 1 of the following who performs forensic mental health examinations for the purposes of sections 1062 to 1074 of the mental health code, MCL 330.2062 to 330.2074, but does not exceed the scope of his or her practice as authorized by state law:

(i) A psychiatrist or psychologist who possesses experience or training in the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(ii) A mental health professional other than a psychiatrist or psychologist who has completed a juvenile competency training program for forensic mental health examiners that is endorsed by the department under section 1072 of the mental health code, MCL 330.2072, and who possesses experience or training in all of the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(q) "Qualified restoration provider" means an individual who the court determines, as a result of the opinion provided by the qualified forensic mental health examiner, has the skills and training necessary to provide

restoration services. The court shall take measures to avoid any conflict of interest among agencies or individuals who may provide evaluation and restoration.

(r) "Reasonable and prudent parenting standard" means decisions characterized by careful and sensible parental decisions that maintain a child's health, safety, and best interest while encouraging the emotional and developmental growth of the child when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.

(s) "Restoration" means the process by which education or treatment of a juvenile results in that juvenile becoming competent to proceed.

(t) "Secure facility" means any public or private licensed child caring institution identified by the department as designed to physically restrict the movements and activities of the alleged or adjudicated juvenile offender that has the primary purpose of serving juveniles who have been alleged or adjudicated delinquent, other than a juvenile alleged or adjudicated under section 2(a)(2) to (4) of this chapter.

(u) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

(v) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2950i.

(2) Except as otherwise provided, proceedings under this chapter are not criminal proceedings.

(3) This chapter shall be liberally construed so that each juvenile coming within the court's jurisdiction receives the care, guidance, and control, preferably in his or her own home, conducive to the juvenile's welfare and the best interest of the state. If a juvenile is removed from the control of his or her parents, the juvenile shall be placed in care as nearly as possible equivalent to the care that should have been given to the juvenile by his or her parents.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.1 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1996, Act 250, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2001, Act 211, Eff. Apr. 1, 2002 ;-- Am. 2012, Act 541, Eff. Mar. 28, 2013 ;-- Am. 2014, Act 533, Imd. Eff. Jan. 14, 2015 ;-- Am. 2016, Act 496, Eff. Apr. 6, 2017 ;-- Am. 2019, Act 109, Eff. Oct. 1, 2021 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021
Former Law: See sections 1 and 7 of Ch. XII of Act 288 of 1939, and CL 1929, § 12835.

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.2a Continuing jurisdiction beyond maximum age; voluntary foster care; extended guardianship assistance; jurisdiction over juvenile committing certain violations; juvenile under jurisdiction of department of corrections; definitions.

Sec. 2a.

(1) Except as otherwise provided in this section, if the court has exercised jurisdiction over a juvenile under section 2(a) or (b) of this chapter, jurisdiction shall continue for a period of 2 years beyond the maximum age of jurisdiction conferred under section 2 of this chapter, unless the juvenile is released sooner by court order.

(2) If the department files a report with the court under section 15 of the young adult voluntary foster care act, 2011 PA 225, MCL 400.655, the court shall determine whether it is in the youth's best interests to continue in voluntary foster care within 21 days of the filing of the report. A hearing is not required under this subsection, but may be held on the court's own motion or at the request of the youth or the department.

(3) If the court finds that the voluntary foster care agreement is in the youth's best interests, the court shall issue an order containing individualized findings to support its determinations made under subsection (2) and close the case in accordance with section 19 of the young adult voluntary foster care act, 2011 PA 225, MCL 400.659. The individualized findings shall be based on the department's written report and other materials and information submitted to the court.

(4) If the court has appointed a guardian under section 19a or 19c of this chapter for a youth age 16 or older, the court shall retain jurisdiction of the youth until the department determines the youth's eligibility to receive extended guardianship assistance under the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671, that shall be completed within 120 days of the youth's eighteenth birthday. If the department determines the youth will receive extended guardianship assistance, the court shall retain jurisdiction of the youth until that youth no longer receives guardianship assistance.

(5) If the court has exercised jurisdiction over a juvenile under section 2(a)(1) of this chapter for an offense that, if committed by an adult, would be a violation or attempted violation of section 72, 83, 84, 86, 88, 89, 91, 110a(2), 186a, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.84, 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, 750.530, and 750.531, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, jurisdiction may be continued under section 18d of this chapter until the juvenile is 21 years of age.

(6) If the court exercised jurisdiction over a child under section 2(h) of this chapter, jurisdiction of the court continues until the order expires but action regarding the personal protection order after the respondent's eighteenth birthday is not subject to this chapter.

(7) This section does not apply if the juvenile is sentenced to the jurisdiction of the department of corrections.

(8) Except as provided in subsection (9), as used in this chapter, "child", "minor", "youth", or any other term signifying a person under the age of 18 applies to a person 18 years of age or older concerning whom proceedings are commenced in the court under section 2 of this chapter and over whom the court has continuing jurisdiction under subsections (1) to (6).

(9) For the purpose of this section only, "juvenile" applies to a person 18 years of age or older concerning whom proceedings are commenced in the court under section 2 of this chapter and over whom the court has continuing jurisdiction under subsections (1) to (6).

History: Add. 1953, Act 193, Eff. Oct. 2, 1953 ;-- Am. 1959, Act 81, Eff. Mar. 19, 1960 ;-- Am. 1962, Act 8, Imd. Eff. Mar. 19, 1962 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1988, Act 54, Eff. Oct. 1, 1988 ;-- Am. 1994, Act 192, Eff. Oct. 1, 1994 ;-- Am. 1996, Act 250, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 2011, Act 226, Imd. Eff. Nov. 22, 2011 ;-- Am. 2014, Act 533, Imd. Eff. Jan. 14, 2015

Compiler's Notes: Section 3 of Act 54 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 174 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.13a Definitions; petition; release of juvenile; order removing abusive person from home; placement of child; foster care; conditions; duty of court to inform parties; criminal record check and central registry clearance; family-like setting; parenting time; siblings; joint placement; visitation or other contact; review and modification of orders and plans; release of information; information included with order; "abuse" defined.

Sec. 13a.

(1) As used in this section and sections 2, 6b, 13b, 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:

(a) "Agency" means a public or private organization, institution, or facility that is performing the functions under part D of title IV of the social security act, 42 USC 651 to 669b, or that is responsible under court order or contractual arrangement for a juvenile's care and supervision.

(b) "Agency case file" means the current file from the agency providing direct services to the child, that may include the child protective services file if the child has not been removed from the home or the department or contract agency foster care file as provided under 1973 PA 116, MCL 722.111 to 722.128.

(c) "Attorney" means, if appointed to represent a child in a proceeding under section 2(b) or (c) of this chapter, an attorney serving as the child's legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan Rules of Professional Conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child's expressed wishes as the attorney would to an adult client. For the purpose of a notice required under these sections, attorney includes a child's lawyer-guardian ad litem.

(d) "Case service plan" means the plan developed by an agency and prepared under section 18f of this chapter that includes services to be provided by and responsibilities and obligations of the agency and activities, responsibilities, and obligations of the parent. The case service plan may be referred to using different names than case service plan including, but not limited to, a parent/agency agreement or a parent/agency treatment plan and service agreement.

(e) "Foster care" means care provided to a juvenile in a foster family home, foster family group home, or child caring institution licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a

juvenile in a relative's home under a court order.

(f) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(g) "Lawyer-guardian ad litem" means an attorney appointed under section 17c of this chapter. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 17d of this chapter. The provisions of section 17d of this chapter also apply to a lawyer-guardian ad litem appointed under each of the following:

(i) Section 5213 or 5219 of the estates and protected individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

(ii) Section 4 of the child custody act of 1970, 1970 PA 91, MCL 722.24.

(iii) Section 10 of the child protection law, 1975 PA 238, MCL 722.630.

(h) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child over whom the court takes jurisdiction under this chapter:

(i) Has substantial and regular contact with the child.

(ii) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(iii) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(i) "Permanent foster family agreement" means an agreement for a child 14 years old or older to remain with a particular foster family until the child is 18 years old under standards and requirements established by the department, which agreement is among all of the following:

(i) The child.

(ii) If the child is a temporary ward, the child's family.

(iii) The foster family.

(iv) The child placing agency responsible for the child's care in foster care.

(j) "Relative" means an individual who is at least 18 years of age and is either of the following:

(i) Related to the child within the fifth degree by blood, marriage, or adoption, including the spouse of an individual related to the child within the fifth degree, even after the marriage has ended by death or divorce, the parent who shares custody of a half-sibling, and the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child.

(ii) Not related to a child within the fifth degree by blood, marriage, or adoption but who has a strong positive emotional tie or role in the child's life or the child's parent's life if the child is an infant, as determined by the department or, if the child is an Indian child, as determined solely by the Indian child's tribe. As used in this section, "Indian child" and "Indian child's tribe" mean those terms as defined in section 3 of chapter XIIB.

(k) "Sex offenders registration act" means the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.730.

(l) "Sibling" means a child who is related through birth or adoption by at least 1 common parent. Sibling includes that term as defined by an American Indian or Alaskan native child's tribal code or custom.

(2) If a juvenile is alleged to be within the provisions of section 2(b) of this chapter, the court may authorize a petition to be filed at the conclusion of the preliminary hearing or inquiry. The court may authorize the petition upon a showing of probable cause that 1 or more of the allegations in the petition are true and fall within the provisions of section 2(b) of this chapter. If a petition is before the court because the department is required to submit the petition under section 17 of the child protection law, 1975 PA 238, MCL 722.637, the court shall hold a hearing on the petition within 24 hours or on the next business day after the petition is submitted, at which hearing the court shall consider at least the matters governed by subsections (4) and (5).

(3) Except as provided in subsections (5) and (6), if a petition under subsection (2) is authorized, the court may release the juvenile in the custody of either of the juvenile's parents or the juvenile's guardian or custodian under reasonable terms and conditions necessary for either the juvenile's physical health or mental well-being.

(4) The court may order a parent, guardian, custodian, nonparent adult, or other person residing in a child's home to leave the home and, except as the court orders, not to subsequently return to the home if all of the following take place:

(a) A petition alleging abuse of the child by the parent, guardian, custodian, nonparent adult, or other person is authorized under subsection (2).

(b) The court after a hearing finds probable cause to believe the parent, guardian, custodian, nonparent adult, or other person committed the abuse.

(c) The court finds on the record that the presence in the home of the person alleged to have committed the abuse presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(5) If a petition alleges abuse by a person described in subsection (4), regardless of whether the court orders the alleged abuser to leave the child's home under subsection (4), the court shall not leave the child in or return the child to the child's home or place the child with a person not licensed under 1973 PA 116, MCL 722.111 to 722.128, unless the court finds that the conditions of custody at the placement and with the individual with whom

the child is placed are adequate to safeguard the child from the risk of harm to the child's life, physical health, or mental well-being.

(6) If a court finds a parent is required by court order to register under the sex offenders registration act, the department may, but is not required to, make reasonable efforts to reunify the child with the parent. The court may order reasonable efforts to be made by the department.

(7) In determining whether to enter an order under subsection (4), the court may consider whether the parent who is to remain in the juvenile's home is married to the person to be removed or has a legal right to retain possession of the home.

(8) An order entered under subsection (4) may also contain 1 or more of the following terms or conditions:

(a) The court may require the alleged abusive parent to pay appropriate support to maintain a suitable home environment for the juvenile during the duration of the order.

(b) The court may order the alleged abusive person, according to terms the court may set, to surrender to a local law enforcement agency any firearms or other potentially dangerous weapons the alleged abusive person owns, possesses, or uses.

(c) The court may include any reasonable term or condition necessary for the juvenile's physical or mental well-being or necessary to protect the juvenile.

(9) The court may order placement of the child in foster care if the court finds all of the following conditions:

(a) Custody of the child with the parent presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(b) No provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from risk as described in subdivision (a).

(c) Continuing the child's residence in the home is contrary to the child's welfare.

(d) Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.

(e) Conditions of child custody away from the parent are adequate to safeguard the child's health and welfare.

(10) If the court orders placement of the juvenile outside the juvenile's home, the court shall inform the parties of the following:

(a) That the agency has the responsibility to prepare an initial services plan within 30 days of the juvenile's placement.

(b) The general elements of an initial services plan as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128.

(c) That participation in the initial services plan is voluntary without a court order.

(11) Before or within 7 days after a child is placed in a relative's home, the department shall perform a criminal record check and central registry clearance. If the child is placed in the home of a relative, the court shall order a home study to be performed and a copy of the home study to be submitted to the court not more than 30 days after the placement.

(12) In determining placement of a juvenile pending trial, the court shall order the juvenile placed in the most family-like setting available consistent with the juvenile's needs.

(13) If a juvenile is removed from the parent's custody at any time, the court shall permit the juvenile's parent to have regular and frequent parenting time with the juvenile. Parenting time between the juvenile and his or her parent must not be less than 1 time every 7 days unless the court determines either that exigent circumstances require less frequent parenting time or that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being. If the court determines that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being, the court may suspend parenting time until the risk of harm no longer exists. The court may order the juvenile to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time.

(14) Reasonable efforts must be made to do the following:

(a) Place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the supervising agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings.

(b) In the case of siblings removed from their home who are not jointly placed, provide for visitation, at least monthly, or other ongoing interaction between the siblings, unless the supervising agency documents that visitation, at least monthly, or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.

(15) If the supervising agency documents that visitation or other contact is contrary to the safety or well-being of any of the siblings and temporarily suspends visitation or contact, the supervising agency shall report its determination to the court for consideration at the next review hearing.

(16) If the supervising agency temporarily suspends visitation or contact, the court shall review the decision and determine whether sibling visitation or contact will be beneficial to the siblings. If so, the court shall order sibling visitation or contact to the extent reasonable.

(17) Upon the motion of any party, the court shall review custody and placement orders and initial services plans pending trial and may modify those orders and plans as the court considers under this section is in the juvenile's best

interests.

(18) The court shall include in an order placing a child in foster care an order directing the release of information concerning the child in accordance with this subsection. If a child is placed in foster care, within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with copies of all initial, updated, and revised case service plans and court orders relating to the child and all of the child's medical, mental health, and education reports, including reports compiled before the child was placed with that person.

(19) In an order placing a child in foster care, the court shall include both of the following:

(a) An order that the child's parent, guardian, or custodian provide the supervising agency with the name and address of each of the child's medical providers.

(b) An order that each of the child's medical providers release the child's medical records. The order may specify providers by profession or type of institution.

(20) Nothing in this section is intended to supersede the placement preferences for an Indian child under chapter XIIB.

(21) As used in this section, "abuse" means 1 or more of the following:

(a) Harm or threatened harm by a person to a juvenile's health or welfare that occurs through nonaccidental physical or mental injury.

(b) Engaging in sexual contact or sexual penetration as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a juvenile.

(c) Sexual exploitation of a juvenile, which includes, but is not limited to, allowing, permitting, or encouraging a juvenile to engage in prostitution or allowing, permitting, encouraging, or engaging in photographing, filming, or depicting a juvenile engaged in a listed sexual act as that term is defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(d) Maltreatment of a juvenile.

History: Add. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1993, Act 114, Imd. Eff. July 20, 1993 ;-- Am. 1996, Act 16, Eff. June 1, 1996 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 480, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 530, Eff. July 1, 1999 ;-- Am. 2000, Act 55, Eff. Apr. 1, 2000 ;-- Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2012, Act 163, Imd. Eff. June 12, 2012 ;-- Am. 2015, Act 228, Imd. Eff. Dec. 17, 2015 ;-- Am. 2016, Act 191, Eff. Sept. 19, 2016 ;-- Am. 2022, Act 200, Imd. Eff. Oct. 7, 2022

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.13b Change in foster care placement.

Sec. 13b.

(1) If a child under the court's jurisdiction under section 2(b) of this chapter, or under MCI jurisdiction, control, or supervision, is placed in foster care, the agency must not change the child's placement before complying with the requirements of this section, except when any of the following circumstances apply:

(a) The person providing the foster care requests or agrees to the change.

(b) A contracted social services agency of a federally recognized tribal government is providing primary case management.

(c) Even if the person providing the foster care placement objects to a proposed change in placement, when 1 of the following applies:

(i) The court orders the child returned home.

(ii) The change in placement is less than 30 days after the child's initial removal from the child's home.

(iii) The court orders the child to be moved.

(iv) The child is an MCI ward and the move is a result of the MCI superintendent's denial of consent to adoption by the caregiver.

(v) The child is an Indian child and the foster care placement or the proposed placement is within or to the placement preferences listed in section 23 of chapter XIIB.

(vi) The change in placement is in accordance with other provisions of this section.

(2) Except as provided in subsections (1) and (7), before a change in foster care placement takes effect, the agency must do all of the following:

(a) Notify the foster care review board, under the state court administrative office, of any proposed change in

placement. Notice under this subdivision may be given by ordinary mail or by electronic means as agreed by the department and the state court administrative office.

(b) Notify the foster parents of the intended change in placement and inform them that, if they disagree with the decision, they may appeal within 3 days to a foster care review board. A foster parent may appeal orally, but must submit the appeal in writing immediately following the oral appeal. The agency shall provide the foster parents with the address and telephone number of a foster care review board with jurisdiction over the child.

(c) Maintain the current placement for not less than the time for appeal to the foster care review board and if a foster parent appeals, until the foster care review board determination.

(d) Notify the court with jurisdiction over the child, notify the child's tribe, as applicable, and notify the child's lawyer guardian ad litem of the proposed change in placement. Notice to the court under this subdivision may be given by ordinary mail or by electronic means as agreed by the department and the court that has jurisdiction over the child. The notice provided under this subdivision does not affect the department's placement discretion and shall include all of the following information:

- (i) The reason for the change in placement.
- (ii) The number of times the child's placement has been changed.
- (iii) Whether or not the child will be required to change schools.
- (iv) Whether or not the change will separate or reunite siblings or affect sibling visitation.
- (v) If the child is an Indian child the notice shall include the following additional information:
 - (A) A statement that the child is an Indian child.
 - (B) A list of active efforts the agency took to place the child in compliance with section 23 of chapter XIIB,

including how the placement meets the standards provided in section 23(8) of chapter XIIB.

(3) Upon receipt of an appeal from foster parents under subsection (2) or (7), the foster care review board shall investigate the proposed change in foster care placement within 7 days and shall report its findings and recommendations about the proposed placement change, including whether or not the foster care review board determines that the placement change is in the child's best interests, within 3 days after completion of the investigation to the court or, if the child is under MCI jurisdiction, control, or supervision, the MCI superintendent, to the foster care parents, to the parents, to the child's tribe, if applicable, and to the agency. If the child is an Indian child the report shall include the following additional information:

- (a) A statement that the child is an Indian child.
- (b) A list of active efforts the agency took to place the child in compliance with section 23 of chapter XIIB.

(4) If the child is an Indian child, the Indian child's tribe must be invited to participate in the investigation and the foster care review board must follow the best interests of the child standards and procedures identified in section 5 of chapter XIIB. If after investigation the foster care review board determines that the move is in the child's best interests, the agency may move the child.

(5) If after investigation the foster care review board determines that the move is not in the child's best interest, the agency shall maintain the current placement until a finding and order by the court or, if the child is under MCI jurisdiction, control, or supervision, a decision by the MCI superintendent. The agency shall not return a child to a placement from which the child was removed under subsection (7) unless the court orders that placement's restoration under subsection (6) or the MCI superintendent approves that placement's restoration under this subsection. The foster care review board shall notify the court, or if the child is under MCI jurisdiction, control, or supervision, the MCI superintendent, about the board's and agency's disagreement. The court shall set a hearing date and provide notice to the foster parents, each interested party, and the prosecuting attorney if the prosecuting attorney has appeared in the case. The court shall set the hearing no sooner than 7 and no later than 14 days after receipt of the notice from the foster care review board. The rules of evidence do not apply to a hearing required by this subsection. Within 14 days after notification under this subsection, the MCI superintendent shall make a decision regarding the child's placement and shall inform each interested party what the decision is.

(6) After hearing testimony from the agency and any other interested party, including the Indian child's tribe, and considering any other evidence bearing upon the proposed change in placement, the court shall order the continuation or restoration of the placement unless the court finds that the proposed change in placement is in the child's best interests.

(7) If the agency has reasonable cause to believe that the child has suffered sexual abuse or nonaccidental physical injury, or that there is substantial risk of harm to the child's physical or emotional well-being, the agency may change the child's foster care placement without complying with subsection (1) or (2)(b) or (c). The agency shall include in the child's file documentation of its justification for action under this subsection. If a foster parent objects to the removal of a child under this subsection, the foster parent may appeal to the foster care review board within 3 days after the child's removal. The foster parent may appeal orally, but must submit the appeal in writing immediately following the oral appeal.

(8) At the time of or immediately following a child's removal under subsection (7), the agency shall inform the foster parents about the removal and that, if they disagree with the decision, they may appeal within 3 days to a foster care review board in the manner provided in subsection (7). The agency shall provide the foster parents with the address and telephone number of a foster care review board with jurisdiction over the child.

(9) If an Indian child, not already removed from foster care review board consideration by subsection (1)(b) or (c)(v), under the court's jurisdiction under section 2(b) of this chapter, or under MCI jurisdiction, control, or supervision, is placed in foster care, the agency or MCI must not change the child's placement or make a recommendation for placement change before notifying the Indian child's tribe, and before a change in an Indian child's foster care placement takes effect, the agency, or MCI, where applicable, must do all the following:

(a) Except as provided by subsection (1)(c)(i), (1)(c)(iii), or (7), the agency or MCI, where applicable, must notify an Indian child's tribe at least 3 days before any proposed placement change of an Indian child. Notification under this subdivision may be given by ordinary mail and email to the designated Indian child welfare act agent with receipt 3 days before the beginning of the foster care review board investigation.

(b) At the time of or immediately following an Indian child's removal under subsection (7), the agency or MCI must inform the Indian child's tribe of the child's placement.

(c) The agency, foster care review board, and MCI must comply with section 23 of chapter XIIB for any placement change, including a placement following a removal under subsection (7).

(10) As used in this section, "Indian child" and "Indian child's tribe" mean those terms as defined in section 3 of chapter XIIB.

History: Add. 1997, Act 163, Eff. July 1, 1998 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004 ;-- Am. 2008, Act 201, Imd. Eff. July 11, 2008 ;-- Am. 2024, Act 73, Imd. Eff. July 8, 2024

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.14 Officers or county agent authorized to take child into custody; notice; jail or detention facility; release of child; preliminary hearing; order; placement of child; foster care home services.

Sec. 14.

(1) Any local police officer, sheriff or deputy sheriff, state police officer, county agent or probation officer of any court of record may, without the order of the court, immediately take into custody any child who is found violating any law or ordinance, or for whom there is reasonable cause to believe is violating or has violated a personal protection order issued under section 2(h) of this chapter by the court under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or for whom there is reasonable cause to believe is violating or has violated a valid foreign protection order. If the officer or county agent takes a child coming within the provisions of this chapter into custody, he or she shall immediately attempt to notify the parent or parents, guardian, or custodian. While awaiting the arrival of the parent or parents, guardian, or custodian, a child under the age of 18 years taken into custody under the provisions of this chapter shall not be held in a jail or any other detention facility unless the child is completely isolated so as to prevent any verbal, visual, or physical contact with an adult prisoner. Unless the child requires immediate detention as provided for in this act, the officer shall accept the written promise of the parent or parents, guardian, or custodian, to bring the child to the court at a fixed time. The child shall then be released to the custody of the parent or parents, guardian, or custodian.

(2) If a child is not released under subsection (1), the child and his or her parent or parents, guardian, or custodian, if they can be located, shall immediately be brought before the court for a preliminary hearing on the status of the child, and an order signed by a judge or a referee authorizing the filing of a complaint shall be entered or the child shall be released to his or her parent or parents, guardian, or custodian.

(3) If a complaint is authorized under subsection (2), the order shall state where the child is to be placed, pending investigation and hearing, which placement may be in any of the following:

(a) In the home of the child's parent, guardian, or custodian.

(b) If a child is within the court's jurisdiction under section 2(a) of this chapter, in a suitable foster care home subject to the court's supervision. If a child is within the court's jurisdiction under section 2(b) of this chapter, the court shall not place a child in a foster care home subject to the court's supervision.

(c) In a child care institution or child placing agency licensed by the department to receive for care children within the jurisdiction of the court.

(d) In a suitable place of detention.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.14 ;-- Am. 1952, Act 133, Eff. Sept. 18, 1952 ;-- Am. 1961, Act 30, Eff. Sept. 8, 1961 ;-- Am. 1966, Act 43, Eff. Mar. 10, 1967 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 2001, Act 211, Eff. Apr. 1, 2002 ;-- Am. 2012, Act 163, Imd. Eff. June 12, 2012 ;-- Am. 2019, Act 111, Eff. Oct. 1, 2021

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.16 Detention and care of juvenile.

Sec. 16.

(1) If a juvenile who is less than 18 years of age is taken into custody or detained, the juvenile must not be confined in a police station, prison, jail, lock-up, or reformatory or transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons. Except as otherwise provided in section 15 of this chapter, the court may order a juvenile 15 years of age or older whose habits or conduct are considered a menace to other juveniles, or who may not otherwise be safely detained, placed in a jail or other place of detention for adults, but in a room or ward separate from adults and for not more than 30 days, unless longer detention is necessary for the service of process.

(2) The county board of commissioners in each county or of counties contracting together may provide for the diagnosis, treatment, care, training, and detention of juveniles in a child care home or facility conducted as an agency of the county if the home or facility meets the licensing standards established under 1973 PA 116, MCL 722.111 to 722.128. The court or a court-approved agency may arrange for the boarding of juveniles in any of the following:

(a) If a juvenile is within the court's jurisdiction under section 2(a) of this chapter, a suitable foster care home subject to the court's supervision. If a juvenile is within the court's jurisdiction under section 2(b) of this chapter, the court shall not place a juvenile in a foster care home subject to the court's supervision.

(b) A child caring institution or child placing agency licensed by the department to receive for care juveniles within the court's jurisdiction.

(c) If in a room or ward separate and apart from adult criminals, the county jail for juveniles over 17 years of age within the court's jurisdiction.

(3) If a detention home or facility is established as an agency of the county, the judge may appoint a superintendent and other necessary employees for the home or facility who shall receive compensation as provided by the county board of commissioners of the county. This section does not alter or diminish the legal responsibility of the department or a county juvenile agency to receive juveniles committed by the court.

(4) If the court under subsection (2) arranges for the board of juveniles temporarily detained in private homes or in a child caring institution or child placing agency, a reasonable sum fixed by the court for the juvenile's board must be paid by the county treasurer as provided in section 25 of this chapter.

(5) A court shall not provide foster care home services subject to the court's supervision to juveniles within section 2(b) of this chapter.

(6) A juvenile detention home described in subsection (3) is operated under the direction of the county board of commissioners or, in a county that has an elected county executive, under the county executive's direction. A different method for directing the operation of a detention home may be agreed to in any county by the chief judge of the circuit court in that county and the county board of commissioners or, in a county that has an elected county executive, the county executive.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.16 ;-- Am. 1963, Act 65, Eff. May 8, 1963 ;-- Am. 1968, Act 150, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1987, Act 72, Eff. Sept. 1, 1987 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 2019, Act 102, Eff. Oct. 1, 2021 ;-- Am. 2023, Act 290, Eff. Oct. 1, 2024

Compiler's Notes: Section 2 of Act 72 of 1987 provides: "If this amendatory act requires any increase in the level of any activity or service currently required by this act or requires a new activity or service by a local unit of government, the state shall reimburse the local unit of government for any new or increased costs."

Former Law: See section 27 of Ch. XII of Act 288 of 1939; and CL 1929, § 12841.

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.17 Hearing; informality; adjournment; transcript; jury; giving security for appearance of juvenile; appearance by prosecuting attorney; legal consultant or legal representation; admitting foster care review board member to hearing; closing hearing to members of general public; “juvenile witness” defined.

Sec. 17.

(1) The court may conduct a hearing other than a criminal hearing in an informal manner. The court shall require stenographic notes or another transcript to be taken of the hearing. The court shall adjourn a hearing or grant a continuance regarding a case under section 2(b) of this chapter only for good cause with factual findings on the record and not solely upon stipulation of counsel or for the convenience of a party. In addition to a factual finding of good cause, the court shall not adjourn the hearing or grant a continuance unless 1 of the following is also true:

(a) The motion for the adjournment or continuance is made in writing not less than 14 days before the hearing.

(b) The court grants the adjournment or continuance upon its own motion after taking into consideration the child's best interests. An adjournment or continuance granted under this subdivision shall not last more than 28 days unless the court states on the record the specific reasons why a longer adjournment or continuance is necessary.

(2) Except as otherwise provided in this subsection, in a hearing other than a criminal trial under this chapter, a person interested in the hearing may demand a jury of 6 individuals, or the court, on its own motion, may order a jury of 6 individuals to try the case. In a proceeding under section 2(h) of this chapter, a jury shall not be demanded or ordered on a supplemental petition alleging a violation of a personal protection order. In a criminal trial, a jury may be demanded as provided by law. The jury shall be summoned and impaneled in accordance with chapter 13 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1300 to 600.1376, and, in the case of a criminal trial, as provided in chapter VIII of the code of criminal procedure, 1927 PA 175, MCL 768.1 to 768.36.

(3) A parent, guardian, or other custodian of a juvenile held under this chapter has the right to give bond or other security for the appearance of the juvenile at the hearing of the case.

(4) The prosecuting attorney shall appear for the people when requested by the court, and in a proceeding under section 2(a)(1) of this chapter, the prosecuting attorney shall appear if the proceeding requires a hearing and the taking of testimony.

(5) In a proceeding under section 2(b) of this chapter, upon request of the family independence agency or an agent of the family independence agency under contract with the family independence agency, the prosecuting attorney shall serve as a legal consultant to the family independence agency or its agent at all stages of the proceeding. If in a proceeding under section 2(b) of this chapter the prosecuting attorney does not appear on behalf of the family independence agency or its agent, the family independence agency may contract with an attorney of its choice for legal representation.

(6) A member of a local foster care review board established under 1984 PA 422, MCL 722.131 to 722.139a, shall be admitted to a hearing under subsection (1).

(7) Upon motion of a party or a victim, the court may close the hearing of a case brought under this chapter to members of the general public during the testimony of a juvenile witness or the victim if the court finds that closing the hearing is necessary to protect the welfare of the juvenile witness or the victim. In determining whether closing the hearing is necessary to protect the welfare of the juvenile witness or the victim, the court shall consider the following:

(a) The age of the juvenile witness or the victim.

(b) The nature of the proceeding.

(c) The desire of the juvenile witness, of the witness's family or guardian, or of the victim to have the testimony taken in a room closed to the public.

(8) As used in subsection (7), "juvenile witness" does not include a juvenile against whom a proceeding is brought under section 2(a)(1) of this chapter.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.17 ;-- Am. 1980, Act 499, Imd. Eff. Jan. 21, 1981 ;-- Am. 1982, Act 330, Imd. Eff. Dec. 14, 1982 ;-- Am. 1984, Act 420, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 170, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 91, Eff. June 1, 1988 ;-- Am. 1988, Act 92, Eff. June 1, 1988 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1989, Act 73, Imd. Eff. June 16, 1989 ;-- Am. 1996, Act 258, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1997, Act 169, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 325, Imd. Eff. Aug. 3, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999

Former Law: See section 12 of Ch. XII of Act 288 of 1939; and CL 1929, §§ 12835 and 12836.

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.17d Lawyer-guardian ad litem; powers and duties.

Sec. 17d.

(1) A lawyer-guardian ad litem's duty is to the child, and not the court. The lawyer-guardian ad litem's powers and duties include at least all of the following:

- (a) The obligations of the attorney-client privilege.
- (b) To serve as the independent representative for the child's best interests, and be entitled to fully and actively participate in all aspects of the litigation and access to all relevant information regarding the child.
- (c) To determine the facts of the case by conducting an independent investigation including, but not limited to, interviewing the child, social workers, family members, and others as necessary, and reviewing relevant reports and other information. The agency case file must be reviewed before disposition and before the hearing for termination of parental rights. Updated material must be reviewed as provided to the court and parties. The supervising agency shall provide documentation of progress that relates to all aspects of the last court ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time not later than 5 business days before the scheduled hearing.
- (d) To meet with or observe the child and assess the child's needs and wishes with regard to the representation and the issues in the case in the following instances:
 - (i) Before the pretrial hearing.
 - (ii) Before the initial disposition, if held more than 91 days after the petition has been authorized.
 - (iii) Before a dispositional review hearing.
 - (iv) Before a permanency planning hearing.
 - (v) Before a post-termination review hearing.
 - (vi) At least once during the pendency of a supplemental petition.
 - (vii) At other times as ordered by the court. Adjourned or continued hearings do not require additional visits unless directed by the court.
- (e) The court may allow alternative means of contact with the child if good cause is shown on the record.
- (f) To explain to the child, taking into account the child's ability to understand the proceedings, the lawyer-guardian ad litem's role.
- (g) To file all necessary pleadings and papers and independently call witnesses on the child's behalf.
- (h) To attend all hearings and substitute representation for the child only with court approval.
- (i) To make a determination regarding the child's best interests and advocate for those best interests according to the lawyer-guardian ad litem's understanding of those best interests, regardless of whether the lawyer-guardian ad litem's determination reflects the child's wishes. The child's wishes are relevant to the lawyer-guardian ad litem's determination of the child's best interests, and the lawyer-guardian ad litem shall weigh the child's wishes according to the child's competence and maturity. Consistent with the law governing attorney-client privilege, the lawyer-guardian ad litem shall inform the court of the child's wishes and preferences.
- (j) To monitor the implementation of case plans and court orders and to determine whether services the court ordered for the child or the child's family are being provided in a timely manner and are accomplishing their purpose. The lawyer-guardian ad litem shall inform the court if the services are not being provided in a timely manner, if the family fails to take advantage of the services, or if the services are not accomplishing their intended purpose.
- (k) Consistent with the rules of professional responsibility, to identify common interests among the parties and, to the extent possible, promote a cooperative resolution of the matter through consultation with the child's parent, foster care provider, guardian, and caseworker.
- (l) To request authorization by the court to pursue issues on the child's behalf that do not arise specifically from the court appointment.
- (m) To participate in early childhood, child, and adolescent development training.
- (n) To participate in trauma-informed training if provided by the state court administrative office.
- (2) If, after discussion between the child and his or her lawyer-guardian ad litem, the lawyer-guardian ad litem determines that the child's interests as identified by the child are inconsistent with the lawyer-guardian ad litem's determination of the child's best interests, the lawyer-guardian ad litem shall communicate the child's position to the court. If the court considers the appointment appropriate considering the child's age and maturity and the nature of the inconsistency between the child's and the lawyer-guardian ad litem's identification of the child's interests, the court may appoint an attorney for the child. An attorney appointed under this subsection serves in addition to the

child's lawyer-guardian ad litem.

(3) The court or another party to the case shall not call a lawyer-guardian ad litem as a witness to testify regarding matters related to the case. The lawyer-guardian ad litem's file of the case is not discoverable.

History: Add. 1998, Act 480, Eff. Mar. 1, 1999 ;-- Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2022, Act 201, Imd. Eff. Oct. 7, 2022

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.18 Orders of disposition; reimbursement; guidelines; restitution; condition of probation; revocation or alteration of terms and conditions; community service; biometric data; fingerprints; risk and needs assessment; report to department of state police; registration of juvenile provided in MCL 28.721 to 28.730; release from placement in juvenile boot camp; imposition of sentence in county jail facility; violation of personal protection order.

Sec. 18.

(1) If the court finds that a juvenile concerning whom a petition is filed is not within this chapter, the court shall enter an order dismissing the petition. Except as otherwise provided in subsection (8) and subject to subsection (9), if the court finds that a juvenile is within this chapter, the court shall order the juvenile returned to the juvenile's parent if the return of the juvenile to the juvenile's parent would not cause a substantial risk of harm to the juvenile or society. Subject to subsection (9), the court may also enter any of the following orders of disposition that are appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained:

(a) Warn the juvenile or the juvenile's parents, guardian, or custodian and, except as provided in subsection (5), dismiss the petition.

(b) Place the juvenile on probation, or under supervision in the juvenile's own home or in the home of an adult who is related to the juvenile. As used in this subdivision, "related" means a relative as that term is defined in section 13a of this chapter. The court shall order the terms and conditions of probation or supervision, including reasonable rules for the conduct of the parents, guardian, or custodian, if any, as the court determines necessary for the physical, mental, or moral well-being and behavior of the juvenile. The court may order that the juvenile participate in a juvenile drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088.

(c) If a juvenile is within the court's jurisdiction under section 2(a) of this chapter, or under section 2(h) of this chapter for a supplemental petition, place the juvenile in a suitable foster care home subject to the court's supervision. If a juvenile is within the court's jurisdiction under section 2(b) of this chapter, the court shall not place a juvenile in a foster care home subject to the court's supervision.

(d) Except as otherwise provided in this subdivision, place the juvenile in or commit the juvenile to a private institution or agency approved or licensed by the department's division of child welfare licensing for the care of juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the department or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to an institution or agency as the department or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates.

(e) Except as otherwise provided in this subdivision, commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the department or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to an institution or facility as the department or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates. In a placement under subdivision (d) or a commitment under this subdivision, except to a state institution or a county juvenile agency, the juvenile's religious affiliation must be protected by placement or commitment to a private child placing or child caring agency or institution, if available.

(f) Provide the juvenile with medical, dental, surgical, or other health care, in a local hospital if available, or elsewhere, maintaining as much as possible a local physician-patient relationship, and with clothing and other incidental items the court determines are necessary.

(g) Order the parents, guardian, custodian, or any other person to refrain from continuing conduct that the court

determines has caused or tended to cause the juvenile to come within or to remain under this chapter or that obstructs placement or commitment of the juvenile by an order under this section.

(h) Appoint a guardian under section 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204, in response to a petition filed with the court by a person interested in the juvenile's welfare. If the court appoints a guardian as authorized by this subdivision, it may dismiss the petition under this chapter.

(i) Order the juvenile to engage in community service. The court shall not order the juvenile or the juvenile's parent, guardian, or legal custodian to pay for fees or costs associated with community service.

(j) The court shall not order the juvenile or the juvenile's parent, guardian, or legal custodian to pay fines associated with a violation of a municipal ordinance or a state or federal law if another disposition under this section has been ordered.

(k) If the court finds that the juvenile has violated a court order under section 2(a)(2) to (4) of this chapter, order the juvenile to be placed in a secure facility. A court order under this subdivision must state all of the following:

(i) The court order the juvenile violated.

(ii) The factual basis for determining that there was reasonable cause to believe that the juvenile violated the court order.

(iii) The court's finding of fact to support a determination that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile.

(iv) The length of time, not to exceed 7 days, that the juvenile may remain in the secure facility and the plan for the juvenile's release from the facility.

(v) That the order may not be renewed or extended.

(l) For a second or subsequent violation of a court order under section 2(a)(2) to (4) of this chapter, issue a second or subsequent order under subdivision (k), but only if the court finds both of the following:

(i) The juvenile violated a court order after the date that the court issued the first order under subdivision (k).

(ii) The court has procedures in place to ensure that a juvenile held in a secure facility by a court order is not in custody more than 7 days or the length of time authorized by the court, whichever is shorter.

(m) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, order the juvenile's parent or guardian to personally participate in treatment reasonably available in the parent's or guardian's location.

(n) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, place the juvenile in and order the juvenile to complete satisfactorily a program of training in a juvenile boot camp established by the department under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided in that act. If the county is a county juvenile agency, the court shall commit the juvenile to that county juvenile agency for placement in the program under that act. Upon receiving a report of satisfactory completion of the program from the department, the court shall authorize the juvenile's release from placement in the juvenile boot camp. Following satisfactory completion of the juvenile boot camp program, the juvenile shall complete an additional period of not less than 120 days or more than 180 days of intensive supervised community reintegration in the juvenile's local community. To place or commit a juvenile under this subdivision, the court shall determine all of the following:

(i) Placement in a juvenile boot camp will benefit the juvenile.

(ii) The juvenile is physically able to participate in the program.

(iii) The juvenile does not appear to have any mental handicap that would prevent participation in the program.

(iv) The juvenile will not be a danger to other juveniles in the boot camp.

(v) There is an opening in a juvenile boot camp program.

(vi) If the court must commit the juvenile to a county juvenile agency, the county juvenile agency is able to place the juvenile in a juvenile boot camp program.

(o) If the court entered a judgment of conviction under section 2d of this chapter, enter any disposition under this section or, if the court determines that the best interests of the public would be served, impose any sentence upon the juvenile that could be imposed upon an adult convicted of the offense for which the juvenile was convicted. If the juvenile is convicted of a violation or conspiracy to commit a violation of section 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7403, the court may impose the alternative sentence permitted under that section if the court determines that the best interests of the public would be served. The court may delay imposing a sentence of imprisonment under this subdivision for a period not longer than the period during which the court has jurisdiction over the juvenile under this chapter by entering an order of disposition delaying imposition of sentence and placing the juvenile on probation upon the terms and conditions it considers appropriate, including any disposition under this section. If the court delays imposing sentence under this section, section 18i of this chapter applies. If the court imposes sentence, it shall enter a judgment of sentence. If the court imposes a sentence of imprisonment, the juvenile shall receive credit against the sentence for time served before sentencing. In determining whether to enter an order of disposition or impose a sentence under this subdivision, the court shall consider all of the following factors, giving greater weight to the seriousness of the offense and the juvenile's prior record:

(i) The seriousness of the offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(ii) The juvenile's culpability in committing the offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(iii) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(iv) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(v) The adequacy of the punishment or programming available in the juvenile justice system.

(vi) The dispositional options available for the juvenile.

(p) In a proceeding under section 2(b) or (c) of this chapter, if a juvenile is removed from the parent's custody at any time, the court shall permit the juvenile's parent to have regular and frequent parenting time with the juvenile. Parenting time between the juvenile and the juvenile's parent must not be less than 1 time every 7 days unless the court determines either that exigent circumstances require less frequent parenting time or that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being. If the court determines that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being, the court may suspend parenting time until the risk of harm no longer exists. The court may order the juvenile to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time.

(2) Money collected for juveniles placed by the court with or committed to the department or a county juvenile agency must be accounted for and reported on an individual juvenile basis.

(3) The court shall not order a juvenile or a juvenile's parent, guardian, or legal custodian to pay for the costs of care, services, court-appointed attorney representation, or other costs or assessments related to the juvenile's court proceeding.

(4) An order directed to a parent or a person other than the juvenile is not effective and binding on the parent or other person unless opportunity for hearing is given by issuance of summons or notice as provided in sections 12 and 13 of this chapter and until a copy of the order, bearing the seal of the court, is served on the parent or other person as provided in section 13 of this chapter.

(5) If the court finds that a juvenile comes under section 30 of this chapter, the court shall order the juvenile or the juvenile's parent to pay restitution as provided in sections 30 and 31 of this chapter and in sections 44 and 45 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.794 and 780.795.

(6) If the court imposes restitution as a condition of probation, the court shall require the juvenile to do either of the following as an additional condition of probation:

(a) Engage in community service or, with the victim's consent, perform services for the victim.

(b) Seek and maintain paid employment and pay restitution to the victim from the earnings of that employment.

(7) If the court finds that the juvenile is in intentional default of the payment of restitution, a court may, as provided in section 30 of this chapter, revoke or alter the terms and conditions of probation for nonpayment of restitution. If a juvenile who is ordered to engage in community service intentionally refuses to perform the required community service, the court may revoke or alter the terms and conditions of probation. The juvenile must not be placed outside of his or her home solely based on nonpayment of restitution or inability to perform community service.

(8) The court shall not enter an order of disposition for a juvenile offense as defined in section 1a of 1925 PA 289, MCL 28.241a, or a judgment of sentence for a conviction until the court has examined the court file and has determined that the juvenile's biometric data have been collected and forwarded as required by section 3 of 1925 PA 289, MCL 28.243, and the juvenile's fingerprints have been taken and forwarded as required by the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.730. If a juvenile's biometric data have not been collected or a juvenile has not had the juvenile's fingerprints taken, the court shall do either of the following:

(a) Order the juvenile to submit himself or herself to the police agency that arrested or obtained the warrant for the juvenile's arrest so the juvenile's biometric data can be collected and forwarded and the juvenile's fingerprints can be taken and forwarded.

(b) Order the juvenile committed to the sheriff's custody for collecting and forwarding the juvenile's biometric data and taking and forwarding the juvenile's fingerprints.

(9) A designated individual or agency shall conduct a risk and needs assessment for each juvenile before disposition. The following procedure applies to a risk and needs assessment conducted under this subsection:

(a) The results of the risk and needs assessment, and a dispositional recommendation made by the designated individual or agency that performed the risk and needs assessment, must be shared with the court and each party to the proceeding, including the juvenile, counsel for the juvenile, and the prosecuting attorney.

(b) The results of the risk and needs assessment must be used to inform a dispositional recommendation and to determine the most appropriate disposition for the juvenile considering all of the following factors:

(i) The least restrictive setting possible.

(ii) Public safety.

(iii) Victim interests.

- (iv) Rehabilitation of the juvenile.
 - (v) Improved juvenile outcomes, including, but not limited to, educational advancement.
- (10) The court shall consider the results of the risk and needs assessment conducted under subsection (9) when making a dispositional decision regarding a juvenile found within this chapter, including, but not limited to, any of the following decisions:
- (a) Whether to place a juvenile under supervision, including the length, level, and conditions of this supervision.
 - (b) Whether to place a juvenile on probation.
 - (c) Whether to place a juvenile in out-of-home care.
- (11) For the duration of each order of disposition for a juvenile found within this chapter, the court shall require a new risk and needs assessment for the juvenile, to be conducted, shared, and used in the same manner as described in subsection (9), if any of the following conditions occur:
- (a) Six months have passed since the juvenile's last risk and needs assessment.
 - (b) The juvenile experiences a major life event.
 - (c) There is a major change in the juvenile's proceedings.
- (12) A risk and needs assessment conducted under subsection (9) must meet both of the following requirements:
- (a) Be research based and nationally validated for use with juveniles.
 - (b) Comply with the guidelines created under subsection (13).
- (13) The state court administrative office, under the supervision and direction of the supreme court, shall create guidelines on the use of risk and needs assessments under this section.
- (14) A designated individual or agency that conducts risk and needs assessments under subsection (9) must be trained on the appropriate use of the applicable risk and needs assessment selected by the court.
- (15) A risk and needs assessment conducted as part of a proceeding under this section and any information obtained from a minor in the course of the assessment, including any admission, confession, or incriminating evidence, are not admissible into evidence in any adjudicatory hearing in which the minor is accused and are not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.
- (16) Upon final disposition, conviction, acquittal, or dismissal of an offense within the court's jurisdiction under section 2(a)(1) of this chapter, using forms approved by the state court administrator, the clerk of the court entering the final disposition, conviction, acquittal, or dismissal shall immediately advise the department of state police of that final disposition, conviction, acquittal, or dismissal as required by section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police must include information as to the finding of the judge or jury and a summary of the disposition or sentence imposed.
- (17) If the court has entered an order of disposition or a judgment of conviction for a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court, the department, or the county juvenile agency shall register the juvenile or accept the juvenile's registration as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.730.
- (18) If the court enters an order of disposition placing a juvenile in a juvenile boot camp program, or committing a juvenile to a county juvenile agency for placement in a juvenile boot camp program, and the court receives from the department a report that the juvenile has failed to perform satisfactorily in the program, that the juvenile does not meet the program's requirements or is medically unable to participate in the program for more than 25 days, that there is no opening in a juvenile boot camp program, or that the county juvenile agency is unable to place the juvenile in a juvenile boot camp program, the court shall release the juvenile from placement or commitment and enter an alternative order of disposition. A juvenile must not be placed in a juvenile boot camp under an order of disposition more than once, except that a juvenile returned to the court for a medical condition, because there was no opening in a juvenile boot camp program, or because the county juvenile agency was unable to place the juvenile in a juvenile boot camp program may be placed again in the juvenile boot camp program after the medical condition is corrected, an opening becomes available, or the county juvenile agency is able to place the juvenile.
- (19) If the juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for an offense other than a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall determine if the offense is a violation of a law of this state or a local ordinance of a municipality of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age. If so, the order of disposition is for a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, and the court shall include the basis for that determination on the record and include the determination in the order of disposition.
- (20) The court shall not impose a sentence of imprisonment in the county jail under subsection (1)(o) unless the present county jail facility for the juvenile's imprisonment meets all requirements under federal law and regulations for housing juveniles. The court shall not impose the sentence until it consults with the sheriff to determine when the sentence will begin to ensure that space will be available for the juvenile.
- (21) In a proceeding under section 2(h) of this chapter, this section only applies to a disposition for a violation of a personal protection order and subsequent proceedings.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.18 ;-- Am. 1953, Act 139, Eff. Oct. 2, 1953 ;-- Am. 1963, Act 65, Imd. Eff. May 8, 1963 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1982, Act 398, Imd. Eff. Dec. 28, 1982 ;-- Am. 1988, Act 71, Eff. June 1, 1988 ;-- Am. 1988, Act 72, Eff. June 1, 1988 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1989, Act 112, Imd. Eff. June 23, 1989 ;-- Am. 1990, Act 314, Imd. Eff. Dec. 20, 1990 ;-- Am. 1993, Act 344, Eff. May 1, 1994 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 355, Eff. Oct. 1, 1995 ;-- Am. 1996, Act 243, Eff. Aug. 1, 1996 ;-- Am. 1996, Act 244, Eff. Aug. 1, 1996 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 1999, Act 86, Eff. Sept. 1, 1999 ;-- Am. 2000, Act 55, Eff. Apr. 1, 2000 ;-- Am. 2003, Act 71, Eff. Oct. 1, 2003 ;-- Am. 2004, Act 102, Imd. Eff. May 13, 2004 ;-- Am. 2004, Act 221, Eff. Jan. 1, 2005 ;-- Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004 ;-- Am. 2011, Act 295, Eff. Apr. 1, 2012 ;-- Am. 2016, Act 191, Eff. Sept. 19, 2016 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2019, Act 102, Eff. Oct. 1, 2021 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021 ;-- Am. 2022, Act 209, Imd. Eff. Oct. 7, 2022 ;-- Am. 2023, Act 298, Eff. Oct. 1, 2024 ;-- Am. 2023, Act 301, Eff. Oct. 1, 2024

Former Law: See sections 18, 20, 21, and 22 of Ch. XII of Act 288 of 1939; CL 1929, §§ 12838 and 12840; Act 30 of 1931; and Act 260 of 1937.

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.18f Report; preparation and contents of case service plan; order of disposition; updating and revising case service plan; rules; review by child's physician in case of abuse and neglect; testimony.

Sec. 18f.

(1) If, in a proceeding under section 2(b) of this chapter, an agency advises the court against placing a child in the custody of the child's parent, guardian, or custodian, the agency shall report in writing to the court what efforts were made to prevent the child's removal from his or her home or the efforts made to rectify the conditions that caused the child's removal from his or her home. The report shall include all of the following:

(a) If services were provided to the child and his or her parent, guardian, or custodian, the services, including in-home services, that were provided.

(b) If services were not provided to the child and his or her parent, guardian, or custodian, the reasons why services were not provided.

(c) Likely harm to the child if the child were to be separated from his or her parent, guardian, or custodian.

(d) Likely harm to the child if the child were to be returned to his or her parent, guardian, or custodian.

(2) Before the court enters an order of disposition in a proceeding under section 2(b) of this chapter, the agency shall prepare a case service plan that shall be available to the court and all the parties to the proceeding.

(3) The case service plan shall provide for placing the child in the most family-like setting available and in as close proximity to the child's parents' home as is consistent with the child's best interests and special needs. The case service plan shall include, but is not limited to, the following:

(a) The type of home or institution in which the child is to be placed and the reasons for the selected placement.

(b) Efforts to be made by the child's parent to enable the child to return to his or her home.

(c) Efforts to be made by the agency to return the child to his or her home.

(d) Schedule of services to be provided to the parent, child, and if the child is to be placed in foster care, the foster parent, to facilitate the child's return to his or her home or to facilitate the child's permanent placement.

(e) Except as otherwise provided in this subdivision, unless parenting time, even if supervised, would be harmful to the child as determined by the court under section 13a of this chapter or otherwise, a schedule for regular and frequent parenting time between the child and his or her parent, which shall not be less than once every 7 days.

(f) Efforts to be made by the supervising agency to provide frequent in-person visitation or other ongoing interaction between siblings unless the court determines under section 13a of this chapter that sibling visitation or contact will not be beneficial to 1 or more of the siblings.

(g) Conditions that would limit or preclude placement or parenting time with a parent who is required by court order to register under the sex offenders registration act.

(4) Before the court enters an order of disposition, the court shall consider the case service plan; any written or oral information offered concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, lawyer-guardian ad litem, attorney, or guardian ad litem; and any other evidence offered, including the appropriateness of parenting time, which information or evidence bears on the disposition. The order of disposition shall state whether reasonable efforts have been made to prevent the child's removal from his or her home or to rectify the conditions that caused the child's removal from his or her home. The court may order compliance with all or any part of the case service plan as the court considers necessary.

(5) If a child continues in placement outside of the child's home, the case service plan shall be updated and

revised at 90-day intervals as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128. The agency shall consult with the foster parents when it updates and revises the case service plan, and shall attach a statement summarizing the information received from the foster parents to the updated and revised case service plan. Updated and revised case service plans shall be available to the court and all the parties to the proceeding. Within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with the information itemized in section 13a(17) of this chapter.

(6) To ensure that the case service plan addresses the child's medical needs in relation to abuse and neglect, the department shall review a child's case with the child's attending physician of record during a hospitalization or with the child's primary care physician, but only if a physician has diagnosed the child's abuse or neglect as involving 1 or more of the following:

- (a) Failure to thrive.
- (b) Munchausen syndrome by proxy.
- (c) Shaken baby syndrome.
- (d) A bone fracture that is diagnosed as being the result of abuse or neglect.
- (e) Drug exposure.

(7) If a child is placed outside of his or her home and the department is required to review the child's case with a physician under subsection (6), then in a judicial proceeding to determine if the child is to be returned to his or her home, the court must allow the child's attending physician of record during a hospitalization or the child's primary care physician to testify regarding the case service plan. The court shall notify each physician of the hearing's time and place.

History: Add. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 16, Eff. June 1, 1996 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 479, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 480, Eff. Mar. 1, 1999 ;-- Am. 1999, Act 25, Imd. Eff. May 18, 1999 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2016, Act 191, Eff. Sept. 19, 2016

Popular Name: Probate Code

Popular Name: Juvenile Code

Admin Rule: R 400.6101 et seq. of the Michigan Administrative Code.

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.19 Termination of cause; supplemental order of disposition; review hearing; notice of review hearing; factors to be reviewed; modification of case service plan; determination as to placement; order; determination as to review; issuance of order without hearing; agency report and other information as evidence; access; concurrent efforts to reunify child with family.

Sec. 19.

(1) Subject to section 20 of this chapter, if a child remains under the court's jurisdiction, a cause may be terminated or an order may be amended or supplemented, within the authority granted to the court in section 18 of this chapter, at any time as the court considers necessary and proper. An amended or supplemented order must be referred to as a "supplemental order of disposition". If the agency becomes aware of additional abuse or neglect of a child who is under the court's jurisdiction and if that abuse or neglect is substantiated as provided in the child protection law, 1975 PA 238, MCL 722.621 to 722.638, the agency shall file a supplemental petition with the court.

(2) Except as provided in subsections (3) and (4), if a child subject to the court's jurisdiction remains in his or her home, a review hearing must be held not more than 182 days from the date a petition is filed to give the court jurisdiction over the child and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year that the child is subject to the court's jurisdiction, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of that first year and no later than every 182 days from each preceding review hearing after that until the case is dismissed. A review hearing under this subsection must not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon motion by any party or in the court's discretion, a review hearing may be accelerated to review any element of the case service plan prepared according to section 18f of this chapter.

(3) Except as otherwise provided in subsection (4), if, in a proceeding under section 2(b) of this chapter, a child is subject to the court's jurisdiction and removed from his or her home, a review hearing must be held not more than 182 days after the child's removal from his or her home and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year that the child has been removed from his or

her home and is subject to the court's jurisdiction, a review hearing must be held not more than 182 days from the immediately preceding review hearing before the end of that first year and no later than every 182 days from each preceding review hearing after that until the case is dismissed. A review hearing under this subsection must not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon motion by any party or in the court's discretion, a review hearing may be accelerated to review any element of the case service plan prepared according to section 18f of this chapter.

(4) If a child is under the care and supervision of the agency and is either placed with a relative and the placement is intended to be permanent or is in a permanent foster family agreement, the court shall hold a review hearing not more than 182 days after the child has been removed from his or her home and no later than every 182 days after that so long as the child is subject to the jurisdiction of the court, the Michigan children's institute, or other agency. A review hearing under this subsection must not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon the motion of any party or at the court's discretion, a review hearing may be accelerated to review any element of the case service plan.

(5) Written notice of a review hearing under subsection (2), (3), or (4) must be served on all of the following:

- (a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.
- (b) The child's foster parent or custodian.
- (c) If the parental rights to the child have not been terminated, the child's parents.
- (d) If the child has a guardian, the guardian for the child.
- (e) If the child has a guardian ad litem, the guardian ad litem for the child.
- (f) A nonparent adult if the nonparent adult is required to comply with the case service plan.
- (g) If tribal affiliation has been determined, the elected leader of the Indian tribe.
- (h) The attorney for the child, the attorney for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.

- (i) If the child is 11 years of age or older, the child.
- (j) Other persons as the court may direct.

(6) At a review hearing under subsection (2), (3), or (4), the court shall review on the record all of the following:

(a) Compliance with the case service plan with respect to services provided or offered to the child and the child's parent, guardian, custodian, or nonparent adult if the nonparent adult is required to comply with the case service plan and whether the parent, guardian, custodian, or nonparent adult if the nonparent adult is required to comply with the case service plan has complied with and benefited from those services.

(b) Compliance with the case service plan with respect to parenting time with the child. If parenting time did not occur or was infrequent, the court shall determine why parenting time did not occur or was infrequent.

(c) The extent to which the parent complied with each provision of the case service plan, prior court orders, and an agreement between the parent and the agency.

(d) Likely harm to the child if the child continues to be separated from the child's parent, guardian, or custodian.

(e) Likely harm to the child if the child is returned to the child's parent, guardian, or custodian.

(7) After review of the case service plan, the court shall determine the extent of progress made toward alleviating or mitigating the conditions that caused the child to be placed in foster care or that caused the child to remain in foster care. The court may modify any part of the case service plan including, but not limited to, the following:

(a) Prescribing additional services that are necessary to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(b) Prescribing additional actions to be taken by the parent, guardian, nonparent adult, or custodian, to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(8) At a review hearing under subsection (2), (3), or (4), the court shall determine the continuing necessity and appropriateness of the child's placement and shall order the return of the child to the custody of the parent as provided in this subsection, continue the dispositional order, modify the dispositional order, or enter a new dispositional order. The court shall order the child returned to the custody of his or her parent if returning the child to his or her parent would not cause a substantial risk of harm to the child.

(9) If in a proceeding under section 2(b) of this chapter a child is placed in foster care, the court shall determine at the dispositional hearing and each review hearing whether the cause should be reviewed before the next review hearing required by subsection (2), (3), or (4). In making this determination, the court shall consider at least all of the following:

(a) The parent's ability and motivation to make necessary changes to provide a suitable environment for the child.

(b) Whether there is a reasonable likelihood that the child may be returned to his or her home before the next review hearing required by subsection (2), (3), or (4).

(10) At a review hearing under this section, the court shall approve or disapprove a qualified residential treatment program placement as provided in section 13a of 1973 PA 116, MCL 722.123a.

(11) Unless waived, if not less than 7 days' notice is given to all parties before returning a child to the child's home, and no party requests a hearing within the 7 days, the court may issue an order without a hearing permitting

the agency to return the child to the child's home.

(12) An agency report filed with the court must be accessible to all parties to the action and must be offered into evidence. The court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom a child is placed, attorney, lawyer-guardian ad litem, or guardian ad litem, in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing.

(13) Reasonable efforts to finalize an alternate permanency plan may be made concurrently with reasonable efforts to reunify the child with the family.

(14) Reasonable efforts to place a child for adoption or with a legal guardian, including identifying appropriate in-state or out-of-state options, may be made concurrently with reasonable efforts to reunify the child and family.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.19 ;-- Am. 1951, Act 98, Eff. Sept. 28, 1951 ;-- Am. 1966, Act 181, Imd. Eff. July 1, 1966 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 16, Eff. June 1, 1996 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 480, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 530, Eff. July 1, 1999 ;-- Am. 2004, Act 477, Eff. Imd. Eff. Dec. 28, 2004 ;-- Am. 2008, Act 202, Imd. Eff. July 11, 2008 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2020, Act 9, Imd. Eff. Jan. 27, 2020

Former Law: See section 18 of Ch. XII of Act 288 of 1939; and CL 1929, § 12838.

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.19a Permanency planning hearing; conditions; time limitation; reunion of child and family not required; purpose; obtaining child's views regarding permanency plan; consideration of out-of-state placement; notice; statement; return of child to parent; noncompliance with case service plan; other conditions as evidence; termination of parental rights to child; exceptions; alternative placement plans; powers and appointment of guardian; information considered as evidence; revocation or termination of guardianship.

Sec. 19a.

(1) Subject to subsection (2), if a child remains in foster care and parental rights to the child have not been terminated, the court shall conduct a permanency planning hearing within 12 months after the child was removed from his or her home. Subsequent permanency planning hearings must be held no later than every 12 months after each preceding permanency planning hearing during the continuation of foster care. If proper notice for a permanency planning hearing is provided, a permanency planning hearing may be combined with a review hearing held under section 19(2) to (4) of this chapter, but no later than 12 months from the removal of the child from his or her home, from the preceding permanency planning hearing, or from the number of days required under subsection (2). A permanency planning hearing shall not be canceled or delayed beyond the number of months required by this subsection or days as required under subsection (2), regardless of whether there is a petition to terminate parental rights pending.

(2) The court shall conduct a permanency planning hearing within 30 days after there is a judicial determination that reasonable efforts to reunite the child and family are not required. Reasonable efforts to reunify the child and family must be made in all cases except if any of the following apply:

(a) There is a judicial determination that the parent has subjected the child to aggravated circumstances as provided in section 18(1) and (2) of the child protection law, 1975 PA 238, MCL 722.638.

(b) The parent has been convicted of 1 or more of the following:

(i) Murder of another child of the parent.

(ii) Voluntary manslaughter of another child of the parent.

(iii) Aiding or abetting in the murder of another child of the parent or voluntary manslaughter of another child of the parent, the attempted murder of the child or another child of the parent, or the conspiracy or solicitation to commit the murder of the child or another child of the parent.

(iv) A felony assault that results in serious bodily injury to the child or another child of the parent.

(c) The parent has had rights to the child's siblings involuntarily terminated and the parent has failed to rectify the conditions that led to that termination of parental rights.

(d) The parent is required by court order to register under the sex offenders registration act.

(3) A permanency planning hearing must be conducted to review the child's status and the progress being made toward the child's return home or to show why the child should not be placed in the permanent custody of the court. The court shall obtain the child's views regarding the permanency plan in a manner that is appropriate to the child's age. In the case of a child who will not be returned home, the court shall consider in-state and out-of-state placement options. In the case of a child placed out-of-state, the court shall determine whether the out-of-state placement continues to be appropriate and in the child's best interests. The court shall ensure that the agency is providing appropriate services to assist a child who will transition from foster care to independent living.

(4) At or before each permanency planning hearing, the court shall determine whether the agency has made reasonable efforts to finalize the permanency plan. At the hearing, the court shall determine whether and, if applicable, when the following must occur:

- (a) The child may be returned to the parent, guardian, or legal custodian.
- (b) A petition to terminate parental rights should be filed.
- (c) The child may be placed in a legal guardianship.
- (d) The child may be permanently placed with a fit and willing relative.
- (e) The child may be placed in another planned permanent living arrangement, but only in those cases where the agency has documented to the court a compelling reason for determining that it would not be in the best interest of the child to follow 1 of the options listed in subdivisions (a) to (d).

(5) The court shall determine whether or not the agency, foster home, or institutional placement has followed the reasonable and prudent parenting standard that the child has had regular opportunities to engage in age or developmentally appropriate activities.

(6) Not less than 14 days before a permanency planning hearing, written notice of the hearing and a statement of the purposes of the hearing, including a notice that the hearing may result in further proceedings to terminate parental rights, must be served on all of the following:

- (a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.
- (b) The child's foster parent or custodian.
- (c) If the parental rights to the child have not been terminated, the child's parents.
- (d) If the child has a guardian, the guardian for the child.
- (e) If the child has a guardian ad litem, the guardian ad litem for the child.
- (f) If tribal affiliation has been determined, the elected leader of the Indian tribe.
- (g) The attorney for the child, the attorneys for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.
- (h) If the child is 11 years of age or older, the child.
- (i) Other persons as the court may direct.

(7) If parental rights to the child have not been terminated and the court determines at a permanency planning hearing that the return of the child to his or her parent would not cause a substantial risk of harm to the child's life, physical health, or mental well-being, the court shall order the child returned to his or her parent. In determining whether returning the child would cause a substantial risk of harm to the child, the court shall view the failure of the parent to substantially comply with the terms and conditions of the case service plan prepared under section 18f of this chapter as evidence that returning the child to his or her parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being. In addition to considering conduct of the parent as evidence of substantial risk of harm, the court shall consider any condition or circumstance of the child that may be evidence that returning the child to the parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being.

(8) If the court determines at a permanency planning hearing that a child should not be returned to his or her parent, the court may order the agency to initiate proceedings to terminate parental rights. Except as otherwise provided in this subsection, if the child has been in foster care under the responsibility of the state for 15 of the most recent 22 months, the court shall order the agency to initiate proceedings to terminate parental rights. The court is not required to order the agency to initiate proceedings to terminate parental rights if 1 or more of the following apply:

- (a) The child is being cared for by relatives.
- (b) The case service plan documents a compelling reason for determining that filing a petition to terminate parental rights would not be in the best interest of the child. Compelling reasons for not filing a petition to terminate parental rights include, but are not limited to, all of the following:
 - (i) Adoption is not the appropriate permanency goal for the child.
 - (ii) No grounds to file a petition to terminate parental rights exist.
 - (iii) The child is an unaccompanied refugee minor as defined in 45 CFR 400.111.
 - (iv) There are international legal obligations or compelling foreign policy reasons that preclude terminating parental rights.

(c) The state has not provided the child's family, consistent with the time period in the case service plan, with the services the state considers necessary for the child's safe return to his or her home, if reasonable efforts are required.

(9) If the agency demonstrates under subsection (8) that initiating termination of parental rights to the child is clearly not in the child's best interests, or the court does not order the agency to initiate termination of parental rights to the child under subsection (8), the court shall order 1 or more of the following alternative placement plans:

(a) If the court determines that other permanent placement is not possible, the child's placement in foster care must continue for a limited period to be stated by the court.

(b) If the court determines that it is in the child's best interests based on compelling reasons, the child's placement in foster care may continue on a long-term basis.

(c) Subject to subsection (11), if the court determines that it is in the child's best interests, appoint a guardian for the child, which guardianship may continue until the child is emancipated.

(10) A guardian appointed under subsection (9)(c) has all of the powers and duties set forth under section 5215 of the estates and protected individuals code, 1998 PA 386, MCL 700.5215.

(11) If a child is placed in a guardian's or a proposed guardian's home under subsection (9)(c), the court shall order the department to perform an investigation and file a written report of the investigation for a review under subsection (12) and the court shall order the department to do all of the following:

(a) Perform a criminal record check within 7 days.

(b) Perform a central registry clearance within 7 days.

(c) Perform a home study and file a copy of the home study with the court within 30 days unless a home study has been performed within the immediately preceding 365 days, under section 13a(11) of this chapter. If a home study has been performed within the immediately preceding 365 days, a copy of that home study must be submitted to the court.

(12) The court's jurisdiction over a juvenile under section 2(b) of this chapter must be terminated after the court appoints a guardian under this section and conducts a review hearing under section 19 of this chapter, unless the juvenile is released sooner by the court.

(13) The court's jurisdiction over a guardianship created under this section must continue until released by court order. The court shall review a guardianship created under this section annually and may conduct additional reviews as the court considers necessary. The court may order the department or a court employee to conduct an investigation and file a written report of the investigation.

(14) In making the determinations under this section, the court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, or guardian ad litem in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing. If a qualified residential treatment program placement as provided in section 13a of 1973 PA 116, MCL 722.123a, is presented, the court shall approve or disapprove that qualified residential treatment program placement.

(15) The court may, on its own motion or upon petition from the department or the child's lawyer guardian ad litem, hold a hearing to determine whether a guardianship appointed under this section must be revoked.

(16) A guardian may petition the court for permission to terminate the guardianship. A petition may include a request for appointment of a successor guardian.

(17) After notice and hearing on a petition to revoke or permission to terminate the guardianship, if the court finds by a preponderance of evidence that continuing the guardianship is not in the child's best interests, the court shall revoke or terminate the guardianship and appoint a successor guardian or restore temporary legal custody to the department.

History: Add. 1972, Act 59, Imd. Eff. Feb. 21, 1972 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2004, Act 473, Imd. Eff. Dec. 28, 2004 ;-- Am. 2008, Act 200, Imd. Eff. July 11, 2008 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2016, Act 497, Eff. Apr. 6, 2017 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2020, Act 9, Imd. Eff. Jan. 27, 2020

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.19b Termination of parental rights to child; petition; hearing; record; findings; opinion or order; notice of hearing; suspension of parenting time; grounds for termination; "concerned person" defined.

Sec. 19b.

(1) Except as provided in subsection (4), if a child remains in foster care in the temporary custody of the court following a review hearing under section 19(3) of this chapter or a permanency planning hearing under section 19a of this chapter or if a child remains in the custody of a guardian or limited guardian, upon petition of the prosecuting attorney, whether or not the prosecuting attorney is representing or acting as legal consultant to the agency or any other party, or petition of the child, guardian, custodian, concerned person, agency, or child advocate as authorized in section 7 of the child advocate act, 1994 PA 204, MCL 722.927, the court shall hold a hearing to determine if the parental rights to a child should be terminated and, if all parental rights to the child are terminated, the child placed in permanent custody of the court. The court shall state on the record or in writing its findings of fact and conclusions of law with respect to whether or not parental rights should be terminated. The court shall issue an opinion or order regarding a petition for termination of parental rights within 70 days after the commencement of the initial hearing on the petition. The court's failure to issue an opinion within 70 days does not dismiss the petition.

(2) Not less than 14 days before a hearing to determine if the parental rights to a child should be terminated, written notice of the hearing shall be served upon all of the following:

- (a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.
- (b) The child's foster parent or custodian.
- (c) The child's parents.
- (d) If the child has a guardian, the child's guardian.
- (e) If the child has a guardian ad litem, the child's guardian ad litem.
- (f) If tribal affiliation has been determined, the Indian tribe's elected leader.
- (g) The child's attorney and each party's attorney.
- (h) If the child is 11 years of age or older, the child.
- (i) The prosecutor.

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

(a) The child has been deserted under either of the following circumstances:

(i) The child's parent is unidentifiable, has deserted the child for 28 or more days, and has not sought custody of the child during that period. For the purposes of this section, a parent is unidentifiable if the parent's identity cannot be ascertained after reasonable efforts have been made to locate and identify the parent.

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

(ii) The parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

(iii) A nonparent adult's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse by the nonparent adult in the foreseeable future if placed in the parent's home.

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(d) The child's parent has placed the child in a limited guardianship under section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, and has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(e) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and the parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(f) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and both of the following have occurred:

(i) The parent, having the ability to support or assist in supporting the minor, has failed or neglected, without good cause, to provide regular and substantial support for the minor for a period of 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the petition.

(ii) The parent, having the ability to visit, contact, or communicate with the minor, has regularly and substantially failed or neglected, without good cause, to do so for a period of 2 years or more before the filing of the petition.

(g) The parent, although, in the court's discretion, financially able to do so, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and the parent has failed to rectify the conditions that led to the prior termination of parental rights.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if the child is returned to the home of the parent.

(k) The parent abused the child or a sibling of the child, the abuse included 1 or more of the following, and there is a reasonable likelihood that the child will be harmed if returned to the care of the parent:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life-threatening injury.

(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(ix) Sexual abuse as that term is defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(l) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state and the proceeding involved abuse that included 1 or more of the following, and the parent has failed to rectify the conditions that led to the prior termination of parental rights:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life-threatening injury.

(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(ix) Sexual abuse as that term is defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(m) The parent is convicted of 1 or more of the following, and the court determines that termination is in the child's best interests because continuing the parent-child relationship with the parent would be harmful to the child:

(i) A violation of section 136, 136a, 316, 317, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136, 750.136a, 750.316, 750.317, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(ii) A violation of a criminal statute that includes as an element the use of force or the threat of force and that subjects the parent to sentencing under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(iii) A federal law or law of another state with provisions substantially similar to a crime or procedure listed or described in subparagraph (i) or (ii).

(4) If a petition to terminate the parental rights to a child is filed, the court may enter an order terminating parental rights under subsection (3) at the initial dispositional hearing. If a petition to terminate parental rights to a child is filed, the court may suspend parenting time for a parent who is a subject of the petition.

(5) If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional

efforts for reunification of the child with the parent not be made.

(6) As used in this section, "concerned person" means a foster parent with whom the child is living or has lived who has specific knowledge of behavior by the parent constituting grounds for termination under subsection (3)(b) or (g) and who has contacted the department, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and is satisfied that none of these persons intend to file a petition under this section.

History: Add. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1990, Act 314, Imd. Eff. Dec. 20, 1990 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1997, Act 169, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 479, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 530, Eff. July 1, 1999 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2000, Act 232, Eff. Jan. 1, 2001 ;-- Am. 2008, Act 199, Imd. Eff. July 11, 2008 ;-- Am. 2010, Act 7, Eff. Sept. 4, 2010 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2012, Act 386, Imd. Eff. Dec. 19, 2012 ;-- Am. 2017, Act 193, Eff. Mar. 7, 2018 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2023, Act 295, Eff. Feb. 13, 2024

Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides: "Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.21 Petition for rehearing; affirming, modifying, or setting aside order; conduct of rehearing; order for supplemental disposition; applicability of section to criminal proceeding; "interested person" construed.

Sec. 21.

(1) At any time while the juvenile is under the jurisdiction of the court, an interested person may file a petition in writing and under oath for a rehearing upon all matters coming within the provisions of this chapter. Upon the rehearing, the court may affirm, modify, or set aside any order reviewed under this section. If parental rights have been terminated by an order entered in the proceedings and custody of the juvenile has been removed from the parents, guardian, or other person, the petition for rehearing shall be filed not later than 20 days after the date of entry of the order terminating parental rights. The petition shall set forth in detail the place, manner, and all other information requested by the court in reference to the proposed future custody of the juvenile. The rehearing shall be conducted in accordance with the provisions of this chapter relating to the conduct of original hearings. The court may enter an order for supplemental disposition while the juvenile remains under the court's jurisdiction.

(2) This section does not apply to a criminal proceeding under this chapter.

(3) As used in subsection (1), "interested person" includes a member of a local foster care review board established under Act No. 422 of the Public Acts of 1984, being sections 722.131 to 722.140 of the Michigan Compiled Laws, to which that juvenile's case has been assigned.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.21 ;-- Am. 1958, Act 129, Eff. Sept. 13, 1958 ;-- Am. 1965, Act 202, Imd. Eff. July 16, 1965 ;-- Am. 1980, Act 499, Imd. Eff. Jan. 21, 1981 ;-- Am. 1982, Act 330, Imd. Eff. Dec. 14, 1982 ;-- Am. 1983, Act 105, Eff. Sept. 1, 1983 ;-- Am. 1984, Act 420, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 170, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 73, Imd. Eff. June 16, 1989 ;-- Am. 1996, Act 262, Eff. Jan. 1, 1997

Former Law: See section 8 of Ch. XII of Act 288 of 1939; and CL 1929, § 12846.

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712A.28 Case records; opening records; order in respect to payments by parent; copy; publicizing action taken against parents or adult; administration of court; reports; form; definitions.

Sec. 28.

(1) Before June 1, 1988, the court shall maintain records of all cases brought before it and as provided in the

juvenile diversion act. The records are open only by court order to persons having a legitimate interest, except that diversion records are open only as provided in the juvenile diversion act.

(2) Beginning June 1, 1988, the court shall maintain records of all cases brought before it and as provided in the juvenile diversion act. Except as otherwise provided in this subsection, until December 31, 2020, records of a case brought before the court are open to the general public. Diversion records are open only as provided in the juvenile diversion act. Except as otherwise provided in section 49 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.799, if the hearing of a case brought before the court is closed under section 17 of this chapter, the records of that hearing are open only by court order to persons having a legitimate interest.

(3) Beginning January 1, 2021, except as otherwise provided, records of a case brought before the court are not open to the general public and are open only to persons having a legitimate interest. Diversion records are open only as provided in the juvenile diversion act. Except as otherwise provided in section 49 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.799, if the hearing of a case brought before the court is closed under section 17 of this chapter, the records of that hearing are open only by court order to persons having a legitimate interest.

(4) Action taken against parents or adults must not be released for publicity unless the parents or adults are found guilty of contempt of court. The court shall furnish the department and a county juvenile agency with reports of the administration of the court in a form recommended by the Michigan Probate Judges Association. Copies of these reports must, upon request, be made available to other state departments by the department.

(5) As used in this section:

(a) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) "Indian child" and "Indian child's tribe" mean those terms as defined in section 3 of the Michigan Indian family preservation act, chapter XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.3.

(c) "Juvenile diversion act" means the juvenile diversion act, 1988 PA 13, MCL 722.821 to 722.831.

(d) "Persons having a legitimate interest" includes, but is not limited to, the juvenile, the juvenile's parent, the juvenile's guardian or legal custodian, the juvenile's guardian ad litem, counsel for the juvenile, the department or a licensed child caring institution or child placing agency under contract with the department to provide for the juvenile's care and supervision if related to an investigation of child neglect or child abuse, law enforcement personnel, a prosecutor, a member of a local foster care review board established under 1984 PA 422, MCL 722.131 to 722.139a, the Indian child's tribe if the juvenile is an Indian child, and a court of this state.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.28 ;-- Am. 1959, Act 184, Eff. Mar. 19, 1960 ;-- Am. 1980, Act 499, Imd. Eff. Jan. 21, 1981 ;-- Am. 1982, Act 330, Imd. Eff. Dec. 14, 1982 ;-- Am. 1984, Act 420, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 170, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 18, Eff. Apr. 1, 1988 ;-- Am. 1988, Act 91, Eff. Apr. 1, 1988 ;-- Am. 1989, Act 73, Imd. Eff. June 16, 1989 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 2020, Act 362, Eff. Mar. 24, 2021 ;-- Am. 2023, Act 301, Eff. Oct. 1, 2024

Former Law: See section 13 of Ch. XII of Act 288 of 1939; and CL 1929, § 12836.

Popular Name: Probate Code

Popular Name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712B.3 Definitions.

Sec. 3.

As used in this chapter:

(a) "Active efforts" means actions to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and to reunify the Indian child with the Indian family. Active efforts require more than a referral to a service without actively engaging the Indian child and family. Active efforts include reasonable efforts as required by title IV-E of the social security act, 42 USC 670 to 679c, and also include, but are not limited to, doing or addressing all of the following:

(i) Engaging the Indian child, child's parents, tribe, extended family members, and individual Indian caregivers through the utilization of culturally appropriate services and in collaboration with the parent or child's Indian tribes and Indian social services agencies.

(ii) Identifying appropriate services and helping the parents to overcome barriers to compliance with those services.

- (iii) Conducting or causing to be conducted a diligent search for extended family members for placement.
 - (iv) Requesting representatives designated by the Indian child's tribe with substantial knowledge of the prevailing social and cultural standards and child rearing practice within the tribal community to evaluate the circumstances of the Indian child's family and to assist in developing a case plan that uses the resources of the Indian tribe and Indian community, including traditional and customary support, actions, and services, to address those circumstances.
 - (v) Completing a comprehensive assessment of the situation of the Indian child's family, including a determination of the likelihood of protecting the Indian child's health, safety, and welfare effectively in the Indian child's home.
 - (vi) Identifying, notifying, and inviting representatives of the Indian child's tribe to participate in all aspects of the Indian child custody proceeding at the earliest possible point in the proceeding and actively soliciting the tribe's advice throughout the proceeding.
 - (vii) Notifying and consulting with extended family members of the Indian child, including extended family members who were identified by the Indian child's tribe or parents, to identify and to provide family structure and support for the Indian child, to assure cultural connections, and to serve as placement resources for the Indian child.
 - (viii) Making arrangements to provide natural and family interaction in the most natural setting that can ensure the Indian child's safety, as appropriate to the goals of the Indian child's permanency plan, including, when requested by the tribe, arrangements for transportation and other assistance to enable family members to participate in that interaction.
 - (ix) Offering and employing all available family preservation strategies and requesting the involvement of the Indian child's tribe to identify those strategies and to ensure that those strategies are culturally appropriate to the Indian child's tribe.
 - (x) Identifying community resources offering housing, financial, and transportation assistance and in-home support services, in-home intensive treatment services, community support services, and specialized services for members of the Indian child's family with special needs, and providing information about those resources to the Indian child's family, and actively assisting the Indian child's family or offering active assistance in accessing those resources.
 - (xi) Monitoring client progress and client participation in services.
 - (xii) Providing a consideration of alternative ways of addressing the needs of the Indian child's family, if services do not exist or if existing services are not available to the family.
- (b) "Child custody proceeding" includes, but is not limited to, 1 or more of the following:
 - (i) Foster care placement. Any action removing an Indian child from his or her parent or Indian custodian, and where the parent or Indian custodian cannot have the Indian child returned upon demand but parental rights have not been terminated, for temporary placement in, and not limited to, 1 or more of the following:
 - (A) Foster home or institution.
 - (B) The home of a guardian or limited guardian under part 2 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5201 to 700.5219.
 - (C) A juvenile guardianship under chapter XIIA.
 - (ii) Termination of parental rights. Any action resulting in the termination of the parent-child relationship.
 - (iii) Preadoptive placement. Temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but before or in lieu of adoptive placement.
 - (iv) Adoptive placement. Permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption.
 - (v) An Indian child is charged with a status offense in violation of section 2(a)(2) to (4) or (d) of chapter XIIA.
 - (vi) Child custody proceeding does not include a placement based on an act that, if committed by an adult, would be a crime or based on an award, in a divorce proceeding, of custody to 1 of the parents.
 - (c) "Court" means the family division of circuit court or the probate court.
 - (d) "Culturally appropriate services" means services that enhance an Indian child's and family's relationship to, identification, and connection with the Indian child's tribe. Culturally appropriate services should provide the opportunity to practice the teachings, beliefs, customs, and ceremonies of the Indian child's tribe so those may be incorporated into the Indian child's daily life, as well as services that address the issues that have brought the Indian child and family to the attention of the department that are consistent with the tribe's beliefs about child rearing, child development, and family wellness. Culturally appropriate services may involve tribal representatives, extended family members, tribal elders, spiritual and cultural advisors, tribal social services, individual Indian caregivers, medicine men or women, and natural healers. If the Indian child's tribe establishes a different definition of culturally appropriate services, the court shall follow the tribe's definition.
 - (e) "Department" means the department of health and human services or a successor department or agency.
 - (f) "Extended family members" means that term as defined by the law or custom of the Indian child's tribe or, in the absence of that law or custom, means a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent and includes the term "relative" as that term is defined in section 13a(j) of chapter XIIA.

(g) "Foster home or institution" means a child caring institution as that term is defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Guardian" means a person who has qualified as a guardian of a minor under a parental or spousal nomination or a court order issued under section 19a or 19c of chapter XIIA, section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, or sections 600 to 644 of the mental health code, 1974 PA 258, MCL 330.1600 to 330.1644. Guardian may also include a person appointed by a tribal court under tribal code or custom. Guardian does not include a guardian ad litem.

(i) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(j) "Indian" means any member of any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any Alaska native village as defined in section 1602(c) of the Alaska native claims settlement act, 43 USC 1602.

(k) "Indian child" means an unmarried person who is under the age of 18 and is either of the following:

(i) A member of an Indian tribe.

(ii) Eligible for membership in an Indian tribe as determined by that Indian tribe.

(l) "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than 1 tribe, the Indian child's tribe is the tribe with which the Indian child has the most significant contacts.

(m) "Indian child welfare act" means the Indian child welfare act of 1978, 25 USC 1901 to 1963.

(n) "Indian custodian" means any Indian person who has custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the Indian child's parent.

(o) "Indian tribe" or "tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any Alaska native village as defined in section 1602(c) of the Alaska native claims settlement act, 43 USC 1602.

(p) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians.

(q) "Lawyer-guardian ad litem" means an attorney appointed under section 21 of this chapter. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 17d of chapter XIIA. The provisions of section 17d of chapter XIIA also apply to a lawyer-guardian ad litem appointed for the purposes of this chapter under each of the following:

(i) Section 5213 or 5219 of the estates and protected individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

(ii) Section 4 of the child custody act of 1970, 1970 PA 91, MCL 722.24.

(iii) Section 10 of the child protection law, 1975 PA 238, MCL 722.630.

(r) "Official tribal representative" means an individual who is designated by the Indian child's tribe to represent the tribe in a court overseeing a child custody proceeding. An official tribal representative does not need to be an attorney.

(s) "Parent" means any biological parent or parents of an Indian child or any person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. Parent does not include the putative father if paternity has not been acknowledged or established.

(t) "Reservation" means Indian country as defined in 18 USC 1151 and any lands, not covered under that section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(u) "Secretary" means the Secretary of the Interior.

(v) "Tribal court" means a court with jurisdiction over child custody proceedings that is either a court of Indian offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe that is vested with authority over child custody proceedings.

(w) "Ward of tribal court" means a child over whom an Indian tribe exercises authority by official action in tribal court or by the governing body of the tribe.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 26, Eff. May 30, 2016

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712B.9 Child custody proceeding; notification to parent, Indian custodian, and tribe; additional preparation days; suspension of proceedings; prejudice by lack of notice; determination as to which tribe child is member; circumstances leading to belief child is an Indian; determining, documenting, and contacting extended family; determination or testimony by authorized person; documentation of efforts.

Sec. 9.

(1) In a child custody proceeding, if the court knows or has reason to know that an Indian child is involved, the petitioner shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending child custody proceeding and of the right to intervene. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary in the same manner described in this subsection. The secretary has 15 days after receipt of notice to provide the requisite notice to the parent or Indian custodian and the tribe.

(2) No foster care placement or termination of parental rights proceeding shall be held until at least 10 days after receipt of notice by the parent or Indian custodian and the tribe or the secretary. The parent or Indian custodian or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding. If the petitioner or court later discovers that the child may be an Indian child, all further proceedings shall be suspended until notice is received by the tribe or the secretary as set forth in this subsection. If the court determines after a hearing that the parent or tribe was prejudiced by lack of notice, the prior decisions made by the court shall be vacated and the case shall proceed from the first hearing. The petitioner has the burden of proving lack of prejudice.

(3) The department shall actively seek to determine whether a child at initial contact is an Indian child. If the department is able to make an initial determination as to which Indian tribe or tribes a child brought to its attention may be a member, the department shall exercise due diligence to contact the Indian tribe or tribes in writing so that the tribe may verify membership or eligibility for membership. If the department is unable to make an initial determination as to which tribe or tribes a child may be a member, the department shall, at a minimum, contact in writing the tribe or tribes located in the county where the child is located and the secretary.

(4) Circumstances under which a court, the department, or other party to a child custody proceeding has reason to believe a child involved in a child custody proceeding is an Indian include, but are not limited to, any of the following:

(a) Any party to the case, Indian tribe, Indian organization, or public or private agency informs the court that the child is an Indian child.

(b) Any public or state-licensed agency involved in child protection services or family support has discovered information that suggests that the child is an Indian child.

(c) The child who is the subject of the proceeding gives the court reason to believe he or she is an Indian child.

(d) The residence or the domicile of the child, his or her biological parents, or the Indian custodian is known by the court to be or is shown to be a predominantly Indian community.

(e) An officer of the court involved in the proceeding has knowledge that the child may be an Indian child.

(5) The department shall exercise due diligence to determine, document, and contact the Indian child's extended family members in accordance with the fostering connections to success and increasing adoptions act of 2008, Public Law 110-351. If applicable, determinations and documentation should be conducted in consultation with the child or parent's tribe.

(6) A written determination or oral testimony by a person authorized by the Indian tribe to speak on its behalf, regarding a child's membership or eligibility for membership in a tribe, is conclusive as to that tribe.

(7) The petitioner shall document all efforts made to determine a child's membership or eligibility for membership in an Indian tribe and shall provide them, upon request, to the court, Indian tribe, Indian child, Indian child's lawyer-guardian ad litem, parent, or Indian custodian.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013

Popular Name: Probate Code

**PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939**

712B.11 Examination of reports or documents by parties.

Sec. 11.

Each party to a foster care or termination of parental rights proceeding involving an Indian child has a right to

examine all reports or other documents filed with the court upon which any decision with respect to that proceeding may be based.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712B.13 Guardianship; adoptive placement; termination of parental rights; consent.

Sec. 13.

(1) If both parents or Indian custodian voluntarily consent to a petition for guardianship under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, or if a parent consents to adoptive placement or the termination of his or her parental rights for the express purpose of adoption by executing a release under sections 28 and 29 of chapter X, or consent under sections 43 and 44 of chapter X, the following requirements must be met:

(a) To be valid, consent under this section must be executed on a form approved by the state court administrative office, in writing, recorded before a judge of a court of competent jurisdiction, and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given before, or within 10 days after, birth of the Indian child is not valid.

(b) Notice of the pending proceeding must be given as prescribed by Michigan supreme court rule, the Indian child welfare act, and section 9 of this chapter.

(c) The voluntary custody proceeding shall be conducted in accordance with Michigan supreme court rules and the following statutes:

(i) In a guardianship proceeding under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, section 25 of this chapter also applies.

(ii) In an adoption proceeding, section 27 of this chapter also applies.

(2) Consent described under subsection (1) must contain the following information:

(a) The Indian child's name and date of birth.

(b) The name of the Indian child's tribe and any identifying number or other indication of the child's membership in the tribe, if any.

(c) The name and address of the consenting parent or Indian custodian.

(d) A sworn statement from the translator, if any, attesting to the accuracy of the translation.

(e) The signature of the consenting parent, parents, or Indian custodian recorded before the judge, verifying an oath of understanding of the significance of the voluntary placement and the parent's right to file a written demand to terminate the voluntary placement or consent at any time.

(f) For consent for voluntary placement of the Indian child in foster care, the name and address of the person or entity who will arrange the foster care placement as well as the name and address of the prospective foster care parents if known at the time.

(g) For consent to termination of parental rights or adoption of an Indian child, in addition to the information in subdivisions (a) to (f), the name and address of the person or entity that will arrange the preadoptive or adoptive placement.

(3) If the placement is for purposes of adoption, a consent under subsection (1) of the Indian child's parent must be executed in conjunction with either a consent to adopt, as required by sections 43 and 44 of chapter X, or a release, as required by sections 28 and 29 of chapter X. A parent who executes a consent under this section may withdraw his or her consent at any time before entry of a final order of adoption by filing a written demand requesting the return of the Indian child. Once a demand is filed with the court, the court shall order the return of the Indian child. Withdrawal of consent under this section constitutes a withdrawal of a release executed under sections 28 and 29 of chapter X or a consent to adopt executed under sections 43 and 44 of chapter X.

(4) A parent or Indian custodian who executes a consent under this section for the purpose of guardianship may withdraw his or her consent at any time by sending written notice to the court substantially in compliance on a form approved by the state court administrative office that the parent or Indian custodian revokes consent and wants his or her Indian child returned.

(5) A release executed under sections 28 and 29 of chapter X during a pendency of a proceeding under section

2(b) of chapter XIIA is subject to section 15 of this chapter. If the release follows the initiation of a proceeding under section 2(b) of chapter XIIA, the court shall make a finding that culturally appropriate services were offered.

(6) A parent who executes a consent to adoption under sections 43 and 44 of chapter X may withdraw that consent at any time before entry of a final order for adoption by filing notification of the withdrawal of consent with the court. In a direct placement, as defined in section 22(o) of chapter X, a consent by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of community and federal resource supports and a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, 1994 PA 204, MCL 722.956.

(b) As required by sections 29 and 44 of chapter X, that the parent or guardian has received counseling related to the adoption of his or her Indian child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the consent to adoption of the Indian child, except for lawful payments that are itemized on a schedule filed with the consent.

(d) That the validity and finality of the consent are not affected by any collateral or separate agreement between the parent or guardian and the adoptive parent.

(e) That the parent or guardian understands that it serves the welfare of the Indian child for the parent to keep the child placing agency, court, or department informed of any health problems that the parent develops that could affect the Indian child.

(f) That the parent or guardian understands that it serves the welfare of the Indian child for the parent or guardian to keep his or her address current with the child placing agency, court, or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 26, Eff. May 30, 2016

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712B.15 Failure of parent to provide consent; requirements; removal of child from parent or Indian custodian; clear and convincing evidence; termination of parental rights; remedial services and rehabilitative programs; determination that continued custody likely to result in serious emotional or physical damage.

Sec. 15.

(1) If an Indian child is the subject of a child protective proceeding under section 2(b) of chapter XIIA, including instances in which the parent executed a release under section 28 of chapter X during the pendency of that proceeding, or a guardianship proceeding under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, and if a parent does not provide consent as described in section 13 of this chapter, or a guardianship proceeding under section 19a or 19c of chapter XIIA, the following requirements must be met:

(a) Notice of the pending proceeding must be given as prescribed by Michigan supreme court rule, the Indian child welfare act, and section 9 of this chapter.

(b) The proceeding shall be conducted in accordance with Michigan supreme court rules and subsections (2) to (4).

(c) Section 25 of this chapter applies in a guardianship proceeding under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205.

(2) An Indian child may be removed from a parent or Indian custodian, placed into a foster care placement, or, for an Indian child already taken into protective custody, remain removed from a parent or Indian custodian pending further proceedings, only upon clear and convincing evidence that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, that the active efforts were unsuccessful, and that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child. The active efforts must take into account the prevailing social and cultural conditions and way of life of the Indian child's tribe. The evidence must include the testimony of at least 1 qualified expert witness, who has knowledge of the child rearing practices of the Indian child's tribe, that the continued custody of the Indian child by the parent or Indian custodian is likely to result

in serious emotional or physical damage to the Indian child.

(3) A party seeking a termination of parental rights to an Indian child under state law must demonstrate to the court's satisfaction that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that the active efforts were unsuccessful.

(4) No termination of parental rights may be ordered in a proceeding described in this section without a determination, supported by evidence beyond a reasonable doubt, including testimony of at least 1 qualified expert witness as described in section 17, that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child.

(5) Any Indian child who is the subject of any action for termination of parental rights under state law, any parent or Indian custodian from whose custody the Indian child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate the action upon a showing that the action violated any provision of this section.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 26, Eff. May 30, 2016

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT) **Act 288 of 1939**

712B.23 Placement; least restrictive setting; order of preference; documentation.

Sec. 23.

(1) Except for a placement for guardianship under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, where both parents submit a consent for the guardianship, an Indian child shall be placed in the least restrictive setting that most approximates a family and in which his or her special needs, if any, may be met. The child shall be placed within reasonable proximity to his or her home, taking into account any special needs of the child. Absent good cause to the contrary, the foster care or preadoptive placement of an Indian child must be in the following order of preference:

- (a) A member of the Indian child's extended family.
- (b) A foster home licensed, approved, or specified by the Indian child's tribe.
- (c) An Indian foster home licensed or approved by the department.
- (d) An institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs.

(2) Absent good cause to the contrary, the adoptive placement of an Indian child must be in the following order of preference:

- (a) A member of the child's extended family.
- (b) A member of the Indian child's tribe.
- (c) An Indian family.

(3) The burden of establishing good cause not to follow the order of preference is on the party requesting the deviation.

(4) The court shall not find good cause to deviate from the placement preferences stated in this section without first ensuring that all possible placements required under this section have been thoroughly investigated and eliminated. All efforts made under this section must be provided to the court in writing or stated on the record. The court shall address efforts to place an Indian child in accordance with this section at each hearing until the placement meets the requirements of this section.

(5) The court's determination of good cause to not follow the order of preference shall be based on 1 or more of the following conditions:

- (a) A request was made by a child of sufficient age.
- (b) A child has an extraordinary physical or emotional need as established by testimony of an expert witness.
- (6) In the case of a placement under subsection (1) or (2), if the Indian child's tribe establishes a different order of preference, the department or court ordering the placement shall follow the tribe's order of preference.

(7) A record of each placement of an Indian child shall be maintained by the department or court evidencing the efforts to comply with the order of preference specified in this section. The record shall be made available at any time upon the request of the secretary or Indian child's tribe.

(8) The standards to be applied in meeting the placement preferences established in this section shall be the prevailing social and cultural standards of the Indian tribe or tribes in which the parent or extended family resides or maintains social and cultural ties.

(9) Nothing in this chapter or section prevents the emergency removal, protective custody, or subsequent placement of an Indian child who is a resident of or is domiciled on a reservation but is temporarily located off the reservation.

(10) All efforts made to identify, locate, and place a child according to this section shall be documented and, upon request, made available to the court, tribe, Indian child, Indian child's lawyer-guardian ad litem, parent, or Indian custodian.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712B.37 Census.

Sec. 37.

The department shall publish annually a census with no individually identifiable information of all Indian children in the department's care and custody. The census shall include, by county and statewide, information regarding the Indian children on all of the following:

- (a) Legal status.
- (b) Placement information and whether it complies with this chapter.
- (c) Age.
- (d) Sex.
- (e) Tribe in which the child is a member or eligible for membership.
- (f) Accumulated length of time in foster care.
- (g) Other demographic information considered appropriate concerning all Indian children who are the subject of child custody proceedings.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013

Popular Name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

712B.39 Invalidation of actions; petition.

Sec. 39.

Any Indian child who is the subject of an action for foster care placement or termination of parental rights under state law, any parent or Indian custodian from whose custody an Indian child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate the action upon a showing that the action violated any provision of sections 7, 9, 11, 13, 15, 21, 23, 25, 27, and 29 of this chapter.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013

Popular Name: Probate Code

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

722.111 Definitions; increased capacity requirements; rescission of increased capacity; appeal.

Sec. 1.

- (1) As used in this act:
- (a) "Child care staff member" means an individual who is 16 years of age or older to whom 1 or more of the following apply:
- (i) The individual is employed by a child care center, group child care home, or family child care home for compensation, including a contract employee or a self-employed individual.
 - (ii) An individual whose activities involve the unsupervised care or supervision of children for a child care center, group child care home, or family child care home.
 - (iii) An individual who has unsupervised access to children who are cared for or supervised by a child care center, group child care home, or family child care home.
 - (iv) An individual who acts in the role of a licensee designee or program director.
- (b) "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 individuals 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.
- (c) "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 must 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 an institution 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).
- (d) "Child caring institution staff member" means an individual who is 18 years of age or older to whom 1 or more of the following apply:
- (i) The individual is employed by a child caring institution for compensation, including an adult who does not work directly with children.
 - (ii) The individual is a contract employee or self-employed individual with a child caring institution.
 - (iii) The individual is an intern or other individual who provides specific services under the rules promulgated under this act.
- (e) "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).
- (f) "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.
- (g) "Children's campsite" means the outdoor setting where a children's residential or day camp is located.
- (h) "Children's therapeutic group home" means a child caring institution receiving 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) Has a capacity of not more than 6 children.
 - (iii) Complies with the rules for child caring institutions. Emergency safety intervention in the form of physical management is allowed but must comply with the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, and associated administrative rules.

- (iv) Is not a private home.
- (v) Is not located on a campus with other licensed facilities.
- (i) "Child care center" means a facility, other than a private residence, receiving 1 or more children under 13 years of age 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 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 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 individuals 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.
 - (v) A program that primarily provides therapeutic services to a child.
- (j) "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime, or a conviction in a tribal court or a military court.
- (k) "Criminal history check" means a fingerprint-based criminal history record information background check through the department of state police and the Federal Bureau of Investigation.
- (l) "Criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.
- (m) "Department" means the department of health and human services and the department of licensing and regulatory affairs or a successor agency or department responsible for licensure under this act. The department of licensing and regulatory affairs is responsible for licensing and regulatory matters for child care centers, group child care homes, family child care homes, children's camps, and children's campsites. The department of health and human services is responsible for licensing and regulatory matters for child caring institutions, child placing agencies, children's therapeutic group homes, foster family homes, and foster family group homes.
- (n) "Drinking fountain" means a plumbing fixture that is connected to the potable water distribution system and drainage system that allows the user to obtain a drink directly from a stream of flowing water without the use of any accessory.
- (o) "Eligible" means that the individual obtained the checks and clearances described in sections 5n and 5q and is considered appropriate to obtain a license, to be a member of the household of a group child care home or family child care home, or to be a child care staff member.
- (p) "Faucet" means a valve end of a water pipe by which water is drawn from or held within the pipe.
- (q) "Filtered bottle-filling station" or "station" means an apparatus that meets all of the following requirements:
 - (i) Is connected to customer site piping.
 - (ii) Filters water and is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.
 - (iii) The flow rate through the station is paired to the specified flow rate of the filter cartridge.
 - (iv) Has a light or other device to indicate filter cartridge replacement status.
 - (v) Is designed to fill drinking bottles or other containers for personal water consumption.
 - (vi) Includes a drinking fountain.
- (r) "Filtered faucet" means a faucet that at the point of use includes a filter that is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.
- (s) "Filtered pitcher" means a container used for holding and pouring liquids that at the point of use includes a filter that is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.
- (t) "Ineligible" means that the individual obtained the checks and clearances as described in sections 5n and 5q and is not considered appropriate to obtain a license, to be a member of the household of a group child care home or family child care home, or to be a child care staff member due to violation of section 5n, 5q, or 5r.
- (u) "Increased capacity" means 1 additional child added to the total number of minor children received for care and supervision in a family child care home or 2 additional children added to the total number of minor children

received for care and supervision in a group child care home.

(v) "Private home" means a private residence in which the licensee permanently resides, which residency is not contingent upon caring for children or employment by a 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 the private home of an individual who is licensed to provide 24-hour care for 1 but not more than 4 minor children who are placed away from their parent, legal guardian, or legal custodian in foster care. The licensed individual providing care is required to comply with the reasonable and prudent parenting standard as defined in section 1 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.

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

(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 household. 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 if 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. Family child care home includes a private home with increased capacity.

(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 household. 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. Group child care home includes a private home with increased capacity.

(w) "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.

(x) "Legal entity" means a sole proprietorship, partnership, corporation, limited liability company, or any other entity.

(y) "Licensee" means a person, legal entity organized under a law of this state, state or local government, or trust that has been issued a license under this act to operate a child care organization.

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

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

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

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

(dd) "Psychiatric residential treatment facility" or "PRTF" means a facility other than a hospital that provides psychiatric services, as described in 42 CFR 441.150 to 441.184, in an inpatient setting to individuals under the age of 21. Emergency safety intervention in the form of physical management is allowed but must comply with the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, and associated administrative rules.

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

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

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

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

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

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

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

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

(gg) "Guardian" means the individual's guardian.

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

(i) An individual less than 18 years of age.

(ii) An individual 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, 2011 PA 225, MCL 400.641 to 400.671.

(iii) An individual 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 an individual 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) An individual 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).

(ii) "Related" means 1 of the following:

(i) Except as provided in subparagraph (ii), a relative as defined in section 13a of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(ii) For licensing by the department related to a child care center, children's camp, children's campsite, family child care home, foster family home, foster family group home, or group child care home, in the relationship by blood, marriage, or adoption, as parent, grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the individuals described in this definition, even after the marriage has ended by death or divorce.

(jj) "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.

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

(ll) "Severe physical injury" means serious physical harm as that term is defined in section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(mm) "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. The individual must agree in writing to be designated as the licensee designee. 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.

(nn) "Water delivery service" means a service that delivers drinking water to a child care center and provides drinking water that meets the standards of the safe drinking water act, 42 USC 300f to 300j-25.

(2) A family child care home or group child care home is automatically eligible for increased capacity after satisfying all of the following criteria:

(a) Holds a current license.

(b) Has been licensed to operate for at least 29 consecutive months.

(c) Has received 1 or more unrelated minor children for care and supervision during the licensed period under subdivision (b).

(d) Has received a renewed regular license after at least 29 months of licensed operation under subdivision (b).

(3) The department may rescind increased capacity due to 1 or more of the following:

(a) Corrective action.

(b) Licensing action.

(c) Determination by the department that increased capacity is not conducive to the welfare of children as that

term is defined in section 5m.

(4) If the department rescinds increased capacity as outlined in subsection (3), the family child care home or group child care home may be considered for increased capacity not less than 22 months after rescinding increased capacity in a form and manner determined by the department.

(5) A family child care home or group child care home may appeal rescission of increased capacity under a hearing held in the manner provided under section 11(2).

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 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2018, Act 431, Eff. Mar. 20, 2019 ;-- Am. 2020, Act 6, Imd. Eff. Jan. 27, 2020 ;-- Am. 2022, Act 70, Eff. Nov. 1, 2022 ;-- Am. 2022, Act 106, Imd. Eff. June 23, 2022 ;-- Am. 2022, Act 107, Imd. Eff. June 23, 2022 ;-- Am. 2022, Act 208, Imd. Eff. Oct. 7, 2022 ;-- Am. 2023, Act 173, Imd. Eff. Oct. 24, 2023 ;-- Am. 2024, Act 50, Imd. Eff. June 6, 2024

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 Notes: 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. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

722.111a Concurrent licensing as adult foster care family home or adult foster care small group home; additional children; combined licensed capacity; limitation; 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) A group child care home or a family child care home shall not be concurrently licensed as an adult foster care family home or an adult foster care small group home.

(4) 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, 1979 PA 218, MCL 400.703.

(b) "Adult foster care small group home" means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

History: Add. 1984, Act 139, Imd. Eff. June 1, 1984 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: 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 pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Child Care Licensing Act

Popular Name: Act 116

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

722.115 License required; applicability; application; forms; investigations; on-site visit; issuance or renewal of license; investigation and certification of foster family home or group home; placement of children in foster family home, foster family group home, unlicensed residence, adult foster care family home, or adult foster care small group home; certification; criminal history check; "good moral character" defined.

Sec. 5.

(1) This section and sections 5c, 5d, and 9 do not apply to a child care center, group child care home, or family child care home.

(2) A person, partnership, firm, corporation, association, nongovernmental organization, or governmental organization, except for the department of health and human services or a local county department of health and human services office, shall not establish or maintain a child care organization unless licensed by the department. Application for a license must 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.

(3) The department may authorize a child placing agency or governmental unit to investigate a foster family home or a foster family group home according to subsection (2) 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 child placing agency or 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 must 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 must be certified for licensing by the department by only 1 child placing agency or 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 child placing agency or 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, 2011 PA 225, MCL 400.641 to 400.671.

(5) A child placing agency, child caring institution, and 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 child placing agency or 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 child placing agency or 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 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 child placing agency or governmental unit to place an adult in a foster family home if a child placing agency or 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 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 child placing agency or 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 child placing agency or 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 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 section 5c(6), the department shall not issue to or renew the license of a child care organization under this act without requesting a criminal history check as required by section 5c. If a criminal history 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 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 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.

(10) Except as provided in section 5h(6), the department of health and human services 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 as required by sections 5h and 5j. If a criminal history 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 an adult member of the household has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history 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 an adult member of the household has been convicted of a listed offense, the department shall not renew a license to that applicant. If a criminal history 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 an adult member of the foster family home or foster family group home has been convicted of a listed offense, the department shall revoke that licensee's license.

(11) As used in this section, "good moral character" means that term as defined in and determined under 1974 PA 381, MCL 338.41 to 338.47, and the rules promulgated under this act.

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, 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 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2020, Act 10, Imd. Eff. Jan. 27, 2020

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 Notes: 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 pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

Admin Rule: 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.

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

722.115n Application for or renewal of license to operate child care center, group child care home, or family child care home; household member or child care staff member; criminal history check; requirements; duties of department.

Sec. 5n.

(1) Except as otherwise provided in subsection (13), when a person, partnership, firm, corporation, association, governmental organization, or nongovernmental organization applies for or applies to renew a license to operate a child care center, group child care home, or family child care home under section 5m and before a group child care home or family child care home allows an individual to be a member of the household, or a child care center, group child care home, or family child care home allows an individual to become a child care staff member, the department shall do all of the following:

(a) Review its database of individuals with previous disciplinary action within a child care center, group child care home, or family child care home or an adult foster care facility.

(b) Conduct a search of the individual through the national sex offender registry.

(c) Request a search of the individual through all state criminal registries or repositories for any states of residence in the past 5 years.

(d) Request that the department of state police perform a criminal history check on the individual, child care staff member, or adult member of the household.

(2) If the individual, child care staff member, or adult member of the household has resided out of the United States within the preceding 5 years, equivalent clearances of those described in subsection (1)(b) and (d) and section 5q from each country must be provided, if available. If the country does not have the equivalent clearance, the individual must sign a self-certifying statement that he or she is not ineligible to receive a license, to be an adult member of the household, or to be a child care staff member as prescribed by sections 5q and 5r. An individual who

provides or is determined to have provided false information or knowingly omits information in the self-certification statement is ineligible for that application.

(3) Each individual listed in subsection (1) shall give written consent at the time of the license application and before a group child care home or family child care home allows an individual to be a member of the household, or before becoming a child care staff member to allow the department of state police to conduct the criminal history check required under subsection (1). The department shall require the individual to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal history check as required in subsection (1).

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

(5) Within a reasonable time after receiving a complete request 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 and the Federal Bureau of Investigation.

(6) The department of state police may charge the department a fee for a criminal history 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 individual fingerprinted the actual cost or fee charged by the department of state police, the Federal Bureau of Investigation, or a vendor approved by the department of state police for performing a criminal history check required under this section.

(7) The department shall provide whether the individual is eligible or ineligible as provided by sections 5q and 5r within 45 days after the date on which the request was submitted.

(8) The individual may serve as a child care staff member pending the results of the record and database checks required by this section and section 5q if the individual is supervised at all times.

(9) Within 45 days after the date on which the request was submitted, the department shall provide a statement to the child care center, group child care home, or family child care home that indicates whether the individual is eligible or ineligible to be, a licensee, an adult member of the household, or a child care staff member as provided under sections 5q and 5r without revealing any disqualifying crime or other related information regarding the individual.

(10) If the individual is ineligible due to the records or database checks required under this section and section 5q, the department shall provide information related to each disqualifying item in a report to the individual who has been determined ineligible.

(11) An individual who has been determined to be ineligible as provided under sections 5q and 5r may request a redetermination by the department if he or she believes that the basis for the ineligible determination is inaccurate. The individual shall file the request for redetermination with the department within 30 calendar days after receiving the written notice that he or she was determined to be ineligible. If an individual has been determined to be ineligible based upon a conviction that has been expunged or set aside or a central registry case that has been expunged, the individual shall provide the supporting court, law enforcement, or department of health and human services, or equivalent department from another state, documents along with the request for redetermination. The individual shall not be determined to be ineligible based upon a conviction that has been set aside or expunged or a central registry case that has been expunged. The department shall review the request and issue a written decision within 30 business days after receiving the request for redetermination. The decision of the department is final.

(12) Each ineligible individual shall be given instructions about how to complete the request for redetermination process as provided in subsection (11).

(13) Except as otherwise provided in this subsection, not later than September 30, 2017, every child care center licensee, group child care home licensee, family child care home licensee, child care staff member, and adult member of the household shall submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation in order to carry out the records and database checks required under this section and section 5q. If the department of education obtains an extension on the implementation of this program from the federal government, the provisions of this section may be implemented no later than September 30, 2018.

(14) If a licensee, licensee designee, or program director of a child care center, group child care home, or family child care home applying for a new license or to renew a license to operate a child care center, group child care home, or family child care home has previously undergone a criminal history check required under subsections (1) and (13) and has remained continuously licensed after the criminal history check has been performed, that licensee, licensee designee, or program director of a child care center, group child care home, or family child care home is not required to submit to another criminal history check upon renewal of, or application for, the license obtained under this act.

(15) Upon consent of an applicant as required in subsection (3) and upon request from a child care center, group child care home, or family child care home, the department shall review the information received from the criminal history check, if any, and notify the requesting child care center, group child care home, or family child care home of the information in the manner prescribed in subsection (7). Until the Federal Bureau of Investigation implements an automatic notification system as outlined in section 5k, a child care center, group child care home, or family

child care home may rely on the criminal history record information provided by the department under this subsection and a new request as provided under this section is not necessary if all of the following requirements are met:

- (a) The criminal history check was conducted during the immediately preceding 5-year period.
 - (b) The applicant has been continuously employed by a child care center, group child care home, or family child care home since the criminal history check was conducted in compliance with this section.
 - (c) The applicant can provide evidence acceptable to the department that he or she has been a resident of this state for the immediately preceding 5-year period.
- (16) The checks and clearances required in subsection (1)(a) to (c) and section 5q shall be updated at least every 5 years if the individual has been continuously licensed, has continuously been serving as a child care staff member, or has continuously been an adult member of the household.

History: Add. 2017, Act 256, Eff. Mar. 28, 2018

Compiler's Notes: For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

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 722.137a, 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 for 1 or more of the following reasons:

- (a) To allow the child and 1 or more siblings to remain or be placed together.
 - (b) To allow a child with an established meaningful relationship with the family to remain with the family.
 - (c) To allow a family with special training or skills to provide care to a child who has a severe disability.
- (2) If the department determines that the 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.
- (3) 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 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018 ;-- Am. 2020, Act 7, Imd. Eff. Jan. 27, 2020

Compiler's Notes: 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 pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

722.123a Placement in a qualified residential treatment program; requirements; assessment of qualified

individual; duties of court or administrative body; dispositional review; approval for continued placement; definitions.

Sec. 13a.

(1) In the case of a child in foster care who is placed in a qualified residential treatment program, the following requirements apply:

(a) Within 30 days after the start of each placement in a qualified residential treatment program, a qualified individual must do all of the following:

(i) Assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the secretary.

(ii) Determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child, as specified in the child's permanency plan.

(iii) Develop a list of child-specific short-term and long-term mental and behavioral health goals.

(b) The child placing agency responsible for care and supervision of the child must assemble a team for the child in accordance with the requirements of subdivision (a)(i) and (ii). The qualified individual conducting the assessment required under subdivision (a) must work in conjunction with the child's team while conducting and making the assessment.

(c) The child's team, as described in subdivision (b), must consist of all appropriate biological family members, relatives, and other supportive adults of the child, as well as professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy. In the case of a child who has attained age 14, the team must include members of the permanency planning team for the child that are selected by the child.

(d) The child placing agency responsible for the child's care and supervision must document in the child's case plan all the following:

(i) The reasonable and good-faith effort to identify and include all the individuals described in subdivision (c) on the child's team.

(ii) All contact information for members of the team, as well as contact information for other relatives and supportive adults who are not part of the child's team.

(iii) Evidence that meetings of the team, including meetings relating to the assessment required under subdivision (a), are held at a time and place convenient for family.

(iv) If reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input to the members of the child's team.

(v) Evidence that the assessment required under subdivision (a) is determined in conjunction with the child's team.

(vi) The placement preference of the child's team relative to the assessment that recognizes a child should be placed with his or her sibling unless there is a finding by the court that such placement is contrary to the child's best interests.

(vii) If the placement preferences of the child's team and the child are not the placement setting recommended by the qualified individual conducting the assessment under subdivision (a), the reason why the preferences of the child's team and of the child were not recommended.

(2) If the qualified individual conducting the assessment determines the child should not be placed in a foster family home, the qualified individual shall specify in writing the reason why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes is not an acceptable reason for determining that the needs of the child cannot be met in a foster family home. The qualified individual must specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child.

(3) Within 60 days after the start of each placement in a qualified residential treatment program, the court, or an administrative body appointed or approved by the court, independently, must do the following:

(a) Consider the assessment, determination, and documentation made by the qualified individual.

(b) Determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the goals for the child, as specified in the permanency plan for the child.

(c) Approve or disapprove the qualified residential treatment program placement.

(4) The written documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body under subsection (3) shall be included in and made

part of the case plan for the child.

(5) As long as a child remains placed in a qualified residential treatment program, the department must submit evidence at each dispositional review hearing and each permanency planning hearing held with respect to the child that does the following:

(a) Demonstrates that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child.

(b) Documenting the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services.

(c) Documents the reasonable efforts made by the department to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

(6) At each dispositional review hearing and permanency planning hearing held with respect to the child, the court shall approve or disapprove the qualified residential treatment program placement.

(7) In the case of a child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months, the department shall obtain the signed approval of the director of the department for the continued placement of the child in that setting.

(8) In response to the restrictions on title IV-E foster care payments for child caring institutions in section 472(k) of the family first prevention services act, 42 USC 672(k), the department shall not enact or advance policies or practices that would result in a significant increase in the population of youth in the juvenile justice system.

(9) As used in this section:

(a) "Foster care" means 24-hour substitute care for a child placed away from his or her parent or guardian and for whom the title IV-E agency has placement and care responsibility.

(b) "Qualified individual" means a trained professional or licensed clinician who is not an employee of the department and who is not connected to, or affiliated with, any placement setting in which children are placed by the department. The department may seek a waiver from the secretary to approve a qualified individual who does not meet the criteria in this subdivision to conduct the assessment. The individual must maintain objectivity with respect to determining the most effective and appropriate placement for the child.

(c) "Secretary" means the United States Secretary of the Department of Health and Human Services.

History: Add. 2020, Act 8, Imd. Eff. Jan. 27, 2020 ;-- Am. 2021, Act 5, Imd. Eff. Mar. 26, 2021

Compiler's Notes: For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

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 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, the probate code of 1939, 1939 PA 288, MCL 710.21 to 712B.41, or this act. If the minor child is placed in a child care organization, 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 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: 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 pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

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 September 9, 2015, 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 September 9, 2015, 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.

(h) Under well-established contracting practices of the department, 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 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: 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." For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MILEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

CHILD CARE ORGANIZATIONS (EXCERPT)

Act 116 of 1973

722.124f Decision to accept or not accept 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.

(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 ;-- Am. 2017, Act 257, Eff. Mar. 28, 2018

Compiler's Notes: 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." For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties relative to the licensing and regulation of child caring institutions, child placing agencies, foster family homes, foster family group homes, and court-operated facilities from department of licensing and regulatory affairs to the department of health and human services, see E.R.O. No. 2018-6, compiled at MCL 722.110. For the transfer of all powers and duties related to the licensing and regulation of children's camps, child care centers, day care centers, family day care homes, and group day care homes from the department of licensing and regulatory affairs to MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.

Popular Name: Act 116

Popular Name: Child Care Licensing Act

FOSTER CARE REVIEW BOARDS (EXCERPT)

Act 422 of 1984

722.131 Definitions.

Sec. 1.

As used in this act:

(a) "Child care organization" means a child caring institution or a child placing agency as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.

(b) "Foster care" means care provided to a child on a 24-hour basis either by a child care organization or by a person or organization appointed by the juvenile division of the probate court, either temporarily or permanently, to provide court supervised child care, pursuant to any of the following:

(i) An order of the juvenile division of the probate court if the court acquired jurisdiction over the child pursuant to section 2(b)(1) or (2) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws.

(ii) A voluntary action of a parent or guardian that results in an expenditure of funds appropriated to the department of social services.

(iii) A voluntary release executed pursuant to section 28 of chapter X of Act No. 288 of the Public Acts of 1939, being section 710.28 of the Michigan Compiled Laws.

(d) "Foster care event" means any of the following:

(i) The child's return to the parent from whom the child was removed.

(ii) The child's placement with a parent other than the parent from whom the child was removed.

(iii) The child's placement with a relative.

(iv) The voluntary release of parental rights to the child.

(v) The filing on behalf of the child of a petition to terminate parental rights to the child.

(e) "Interested party" means any of the following:

(i) A biological parent whose parental rights have not been terminated.

- (ii) A foster parent.
- (iii) An employee or representative of the child care organization providing the foster care to the child.
- (iv) A person with whom a local board consults during a review of a child in foster care.
- (v) Any person designated by the state court administrator.
- (f) "Local board" means a local foster care review board created under section 4.
- (g) "State board program" means the state foster care review board program created in section 2.

History: 1984, Act 422, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 159, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 74, Imd. Eff. June 16, 1989

FOSTER CARE REVIEW BOARDS (EXCERPT)

Act 422 of 1984

722.132 State foster care review board program; creation; administration; access to and liaison with probate court; direct supervision of foster care services not authorized.

Sec. 2.

(1) The state foster care review board program is created within the state court administrative office, to consist of staff necessary to perform the functions of the state board program as prescribed by this act. The state court administrative office shall administer the state foster care review program.

(2) The state court administrative office shall assist the state board program in developing and maintaining access to and liaison with the probate court in each county of this state that has a local board.

(3) This act shall not be construed to authorize either the state court administrative office or the local boards to provide direct supervision of foster care services.

History: 1984, Act 422, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 159, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 74, Imd. Eff. June 16, 1989

FOSTER CARE REVIEW BOARDS (EXCERPT)

Act 422 of 1984

722.133 Duties of state court administrative office.

Sec. 3.

The state court administrative office shall do all of the following:

- (a) Determine the number of children who are in foster care in this state.
- (b) Establish uniform policies and procedures for foster care review pursuant to this act, including criteria for the selection of foster care cases to be reviewed.
- (c) In accordance with section 4, determine the appropriate number of local boards necessary to meet the needs of children in foster care, and establish the jurisdiction of each local board.
- (d) Establish criteria and procedures for membership of a local board.
- (e) Solicit and receive applications for local board membership and make membership decisions.
- (f) Provide written notification to a local board of specific cases of children in foster care appropriate for review, and schedule those cases for review within the time intervals established under section 7.
- (g) Inform the child care organization, department of social services, or probate court that provided notification pursuant to section 6(a) of the local board to which the child is assigned.
- (h) Make a reasonable effort to provide written notification to each interested party of the date, time, and procedures for a review by a local board of a child in foster care.
- (i) Establish a system to monitor the status of each child who is in foster care and who has been assigned to a local board.
- (j) Analyze information gathered by local boards throughout this state.
- (k) Employ and provide state board program staff and provide local board volunteers.
- (l) Provide periodic training sessions for the members of each local board. The training sessions shall include instruction on the need to maintain confidentiality as required under section 8.

(m) Establish an advisory committee consisting of representatives from child care organizations, local boards, and others as the state court administrator considers necessary to review the foster care system and to make recommendations concerning the foster care system to the appropriate groups and agencies. Not less than a majority of the advisory committee shall consist of representatives of the local boards.

(n) Issue an annual report pursuant to section 9.

(o) Perform those duties necessary to implement and review the state board program.

History: 1984, Act 422, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 159, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 74, Imd. Eff. June 16, 1989

FOSTER CARE REVIEW BOARDS (EXCERPT) **Act 422 of 1984**

722.134 Local foster care review board; creation; additional boards.

Sec. 4.

(1) There is created a local foster care review board in each county or in multiple counties as provided in subsection (2). Subject to subsection (3), additional boards may be created in each county or in multiple counties at the discretion of the state court administrative office.

(2) At the direction of the state court administrative office, a single county local board or a board comprised of 1 or more counties is created.

(3) A county shall not have more than 15 local foster care review boards.

History: 1984, Act 422, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 159, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 74, Imd. Eff. June 16, 1989 ;-- Am. 1997, Act 170, Eff. Mar. 31, 1998

FOSTER CARE REVIEW BOARDS (EXCERPT) **Act 422 of 1984**

722.135 Local foster care review board; membership; terms; persons ineligible for appointment to local board; election of chairperson and vice-chairperson; meetings; training sessions; reimbursement of expenses; removal of member.

Sec. 5.

(1) A local board shall be composed of 5 members who reside within the jurisdiction of the local board, and who represent to the maximum extent possible the socio-economic, racial, and ethnic groups residing within that jurisdiction. A local board may have 1 or more alternate members who serve when an appointed board member is unavailable.

(2) A local board member shall serve a renewable 3-year term. Of the initial members, 3 members shall serve for 3 years, and 2 members shall serve for 2 years.

(3) A person employed by a child care organization, the family independence agency, or the court shall not be appointed to a local board.

(4) A local board shall elect 1 of its members to serve as chairperson and 1 to serve as vice-chairperson. Each shall serve for a term of 1 year.

(5) A local board shall meet at a place and time specified by the state court administrative office and approved by the chairperson of the local board.

(6) Each member of a local board shall attend an orientation training session and subsequent training sessions as required by the state court administrative office.

(7) The members of a local board shall serve without compensation. Reimbursement of expenses of members of the local board shall be in accordance with standard travel reimbursement rates established annually by the department of management and budget.

(8) A local board member may be removed for cause by the state court administrator.

History: 1984, Act 422, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 159, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 74, Imd. Eff. June 16,

FOSTER CARE REVIEW BOARDS (EXCERPT)
Act 422 of 1984

722.136 Duties of child care organization, department of social services, or probate court.

Sec. 6.

A child care organization, the department of social services, or the probate court responsible for supervising a child in foster care shall do all of the following:

(a) Provide written notification monthly to the state court administrator of an admission into, discharge from, or transfer of a child in foster care.

(b) Upon request submit an initial placement plan; a list of names, addresses, and telephone numbers of interested parties; and progress reports to the appropriate local board at least once each 6 months, and cooperate with and furnish other information requested by the state court administrator. If foster care is purchased from a child placing agency or child caring institution, that organization shall cooperate in the preparation of an initial placement plan and progress reports.

History: 1984, Act 422, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 159, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 74, Imd. Eff. June 16, 1989

FOSTER CARE REVIEW BOARDS (EXCERPT)
Act 422 of 1984

722.137 Powers and duties of local board.

Sec. 7.

(1) A local board shall do all of the following:

(a) Review each initial placement plan submitted under section 6 for a child in foster care. The review shall be to determine whether the placement plan for the child contains at least all of the following information:

(i) The purpose for which the child has been placed in foster care and the reason that the child cannot be returned to his or her home immediately.

(ii) The length of time in which the purpose of foster care will be accomplished.

(iii) An assessment of the involvement of the legal parent and steps taken by the child care organization to involve the legal parent in the planning and implementation of the plan.

(iv) A description of the services which have been and are to be provided in order for the purpose of foster care to be accomplished.

(v) The number of foster care placements the child has experienced while in foster care, and the length of time of each foster care placement.

(vi) The person within the child care organization who is directly responsible for assuring that the plan is implemented.

(vii) The type of permanent placement recommended for the child.

(b) Review progress reports submitted under section 6(b) every 6 months following the initial review to determine whether the purpose for which the child has been placed in foster care, as described in the initial placement plan, is being achieved, and whether the plan continues to be appropriate, based on a review of all of the following:

(i) An assessment of the extent to which the child care organization is accomplishing the purpose of foster care as described in the placement plan.

(ii) Identification of the person within the child care organization who is directly responsible for assuring that the placement plan is implemented.

(iii) The length of time the child has been in foster care.

(iv) The number of foster care placements the child has experienced while in foster care and the length of time of each foster care placement.

(v) An assessment of the involvement of the legal parent and steps taken by the child care organization to involve

the legal parent in planning and implementation of the plan.

(c) Whenever practicable, conduct reviews and submit reports, as required under subdivision (e), before the judicial review or rehearing mandated in section 19 of chapter XIIA of 1939 PA 288, MCL 712A.19.

(d) Review, at any time considered necessary by the local board, or at the request of the court or an interested party, the case and information submitted by a child care organization under section 6.

(e) Submit to the child care organization that submitted the initial placement plan and progress report and, if applicable, to the court, within 30 days after a review under subdivision (a) or (b), a written statement of findings and recommendations regarding the care, maintenance, and supervision of a child in foster care and the plan for permanent placement of the child. A copy of the statement may be sent to all interested parties. The local board may give information or file a petition for court action or rehearing under section 11 or 21 of chapter XIIA of 1939 PA 288, MCL 712A.11 and 712A.21.

(f) Hear an appeal of a proposed change in foster care placement as provided in section 13b of chapter XIIA of 1939 PA 288, MCL 712A.13b, and report to the court as required by that section.

(g) As part of the ongoing review process, select permanent wards for review from all of the following categories:

(i) Wards who are registered with the Michigan adoption resource exchange and who have been on hold status for not less than 12 months.

(ii) Wards who have not been registered with the Michigan adoption resource exchange, have been permanent wards for not less than 6 months, and do not have a documented permanency plan in place.

(iii) Wards who are less than 12 years of age and have been listed in the Michigan adoption resource exchange photo listing book for more than 6 months and for whom no family has been identified.

(h) Perform those duties necessary to implement this act.

(2) A local board may limit the review to a written report or request a personal appearance of an interested party, as considered necessary by the local board.

(3) If interested parties are provided with a copy of the findings and recommendations of the local board, the local board shall allow the interested parties to submit written comments. Upon approval of a local board, an interested party may make a personal appearance before the local board in connection with the foster care case.

(4) A local board may make recommendations to the state court administrative office regarding issues in foster care policy and procedure and the functions of child care organizations and the court.

(5) A local board shall compile and maintain statistics and make findings regarding its reviews of permanent wards under subsection (1)(g), including, but not limited to, identification of any barriers to permanency.

(6) The Michigan adoption resource exchange shall cooperate with the foster care review board program and submit copies of their file material and registration documentation as requested by the foster care review board program.

History: 1984, Act 422, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 159, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 74, Imd. Eff. June 16, 1989 ;-- Am. 1997, Act 170, Eff. July 1, 1998

CHILD PROTECTION LAW (EXCERPT)

Act 238 of 1975

722.622 Definitions.

Sec. 2.

As used in this act:

(a) "Adult foster care location authorized to care for a child" means an adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703, in which a child is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

(b) "Attorney" means, if appointed to represent a child under the provisions referenced in section 10, an attorney serving as the child's legal advocate in the manner defined and described in section 13a of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(c) "Central registry" means a repository of names of individuals who are identified as perpetrators related to a central registry case in the department's statewide electronic case management system.

(d) "Central registry case" means the department confirmed that a person responsible for the child's health or welfare committed serious abuse or neglect, sexual abuse, or sexual exploitation of a child, or allowed a child to be exposed to or have contact with methamphetamine production.

(e) "Centralized intake" means the department's statewide centralized processing center for reports of suspected child abuse and child neglect.

- (f) "Child" means an individual under 18 years of age.
- (g) "Child abuse" means harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, any other person responsible for the child's health or welfare, a teacher, a teacher's aide, a member of the clergy, or an individual 18 years of age or older who is involved with a youth program.
- (h) "Child care organization" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
- (i) "Child care provider" means an owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child.
- (j) "Child care regulatory agency" means the department of licensing and regulatory affairs, the department's division of child welfare licensing, or a successor state department that is responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child.
- (k) "Child neglect" means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:
 - (i) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care, though financially able to do so, or by the failure to seek financial or other reasonable means to provide adequate food, clothing, shelter, or medical care.
 - (ii) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.
- (l) "Children's advocacy center" means an entity accredited as a child advocacy center by the National Children's Alliance or its successor agency or an entity granted associate or developing membership status by the National Children's Alliance or its successor agency.
- (m) "Citizen review panel" means a panel established as required by section 5106a of the child abuse prevention and treatment act, 42 USC 5106a.
- (n) "Confirmed case" means the department has determined, by a preponderance of evidence, that child abuse or child neglect occurred by a person responsible for the child's health, welfare, or care.
- (o) "Confirmed case of methamphetamine production" means a confirmed case that involved a child's exposure or contact with methamphetamine production.
- (p) "Confirmed serious abuse or neglect" means a confirmed case of mental injury or physical injury or neglect to a child that involves any of the following:
 - (i) Battering, torture, or other serious physical harm.
 - (ii) Loss or serious impairment of an organ or limb.
 - (iii) Life-threatening injury.
 - (iv) Murder or attempted murder.
 - (v) Serious mental harm.
- (q) "Confirmed sexual abuse" means a confirmed case that involves sexual penetration, sexual contact, attempted sexual penetration, or assault with intent to penetrate as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.
- (r) "Confirmed sexual exploitation" means a confirmed case that involves allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as that term is defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.
- (s) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.
- (t) "Department" means the department of health and human services.
- (u) "Director" means the director of the department.
- (v) "Electronic case management system" means the child protective service information system, that is an internal data system maintained within and by the department.
- (w) "Expunge" means to physically remove or eliminate and destroy a record or report.
- (x) "Lawyer-guardian ad litem" means an attorney appointed under section 10 who has the powers and duties referenced by section 10.
- (y) "Local office file" means the system used to keep a record of a written report, document, or photograph filed with and maintained by a county or a regionally based office of the department.
- (z) "Member of the clergy" means a priest, minister, rabbi, Christian science practitioner, spiritual leader, or other religious practitioner, or similar functionary of a church, temple, spiritual community, or recognized religious body, denomination, or organization.
- (aa) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child:
 - (i) Has substantial and regular contact with the child.
 - (ii) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

- (iii) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.
- (bb) "Online reporting system" means the electronic system established by the department for individuals identified in section 3(1) to report suspected child abuse or child neglect.
- (cc) "Person responsible for the child's health or welfare" means a parent, legal guardian, individual 18 years of age or older who resides for any length of time in the same home in which the child resides, or, except when used in section 7(1)(e) or 8(8), nonparent adult; or an owner, operator, volunteer, or employee of 1 or more of the following:
 - (i) A licensed or registered child care organization.
 - (ii) A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.
 - (iii) A court-operated facility as approved under section 14 of the social welfare act, 1939 PA 280, MCL 400.14.
- (dd) "Relevant evidence" means evidence having a tendency to make the existence of a fact that is at issue more probable than it would be without the evidence.
- (ee) "Serious mental harm" and "serious physical harm" mean those terms as defined in section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.
- (ff) "Specified information" means information in a children's protective services case record related specifically to the department's actions in responding to a complaint of child abuse or child neglect. Specified information does not include any of the following:
 - (i) Except as provided in this subparagraph regarding a perpetrator of child abuse or child neglect, personal identification information for any individual identified in a child protective services record. The exclusion of personal identification information as specified information prescribed by this subparagraph does not include personal identification information identifying an individual alleged to have perpetrated child abuse or child neglect, which allegation has been classified as a central registry case.
 - (ii) Information in a police agency report or other law enforcement agency report as provided in section 7(3).
 - (iii) Any other information that is specifically designated as confidential under other law.
 - (iv) Any information not related to the department's actions in responding to a report of child abuse or child neglect.
- (gg) "Structured decision-making tool" means the department document labeled "DSS-4752 (P3) (3-95)" or a revision of that document that better measures the risk of future harm to a child.
- (hh) "Substantiated" means a confirmed case.
- (ii) "Unsubstantiated" means a case that is not confirmed.

History: 1975, Act 238, Eff. Oct. 1, 1975 ;-- Am. 1978, Act 252, Eff. Mar. 30, 1979 ;-- Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981 ;-- Am. 1984, Act 418, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 372, Eff. Mar. 30, 1989 ;-- Am. 1990, Act 212, Imd. Eff. Sept. 27, 1990 ;-- Am. 1993, Act 251, Imd. Eff. Nov. 24, 1993 ;-- Am. 1996, Act 581, Eff. Mar. 31, 1997 ;-- Am. 1998, Act 428, Eff. Apr. 1, 1999 ;-- Am. 1998, Act 483, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 484, Eff. July 1, 1999 ;-- Am. 1998, Act 531, Eff. July 1, 1999 ;-- Am. 2000, Act 45, Imd. Eff. Mar. 27, 2000 ;-- Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002 ;-- Am. 2002, Act 693, Eff. Mar. 1, 2003 ;-- Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005 ;-- Am. 2014, Act 30, Eff. Mar. 31, 2015 ;-- Am. 2016, Act 35, Imd. Eff. Mar. 8, 2016 ;-- Am. 2016, Act 491, Eff. Apr. 6, 2017 ;-- Am. 2018, Act 59, Eff. June 12, 2018 ;-- Am. 2022, Act 67, Eff. Nov. 1, 2022

CHILD PROTECTION LAW (EXCERPT)

Act 238 of 1975

722.623 Individual required to report child abuse or neglect; report by telephone or online reporting system; written report; contents; transmitting report to centralized intake; copies to prosecuting attorney and probate court; conditions requiring transmission of report to law enforcement agency; pregnancy or presence of sexually transmitted infection in child less than 12 years of age; exposure to or contact with methamphetamine production.

Sec. 3.

(1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, physical therapist, physical therapist assistant, occupational therapist, athletic trainer, marriage and family therapist, licensed professional counselor, social worker, licensed master's social worker, licensed bachelor's social worker, registered social service technician, social service technician, a person employed in a professional capacity in any office of the friend of the

court, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or child neglect shall make an immediate report to centralized intake by telephone, or, if available, through the online reporting system, of the suspected child abuse or child neglect. Within 72 hours after making an oral report by telephone to centralized intake, the reporting person shall file a written report as required in this act. If the immediate report has been made using the online reporting system and that report includes the information required in a written report under subsection (2), that report is considered a written report for the purposes of this section and no additional written report is required. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written or electronic report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school is adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or child neglect shall make a report of suspected child abuse or child neglect to the department in the same manner as required under subdivision (a):

- (i) Eligibility specialist.
- (ii) Family independence manager.
- (iii) Family independence specialist.
- (iv) Social services specialist.
- (v) Social work specialist.
- (vi) Social work specialist manager.
- (vii) Welfare services specialist.

(c) Any employee of an organization or entity that, as a result of federal funding statutes, regulations, or contracts, would be prohibited from reporting in the absence of a state mandate or court order. A person required to report under this subdivision shall report in the same manner as required under subdivision (a).

(2) The written report or a report made using the online reporting system must contain the name of the child and a description of the child abuse or child neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the child abuse or child neglect, and the manner in which the child abuse or child neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section must be mailed or otherwise transmitted to centralized intake.

(5) Upon receipt of a written report of suspected child abuse or child neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.

(6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of section 136b, 145c, 462a to 462h, or 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.462a to 750.462h, and 750.520b to 750.520g, or a violation of section 7401c of the public health code, 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, a teacher's aide, or an individual 18 years of age or older who is involved in a youth program, the department must transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected child abuse or child neglect is a child care provider and the department believes that the report has basis in fact, the department shall, within 24 hours after completion of the allegation, written report, or subsequent investigation, transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.

(7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect or discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with methamphetamine production, and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect or allowing a child to be exposed to or to have contact with methamphetamine production, was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county department of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the

suspected child abuse or child neglect or allowed a child to be exposed to or to have contact with methamphetamine production, is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Neither this subsection nor subsection (1) relieves the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a sexually transmitted infection in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse or child neglect has occurred.

(9) In conducting an investigation of child abuse or child neglect, if the department suspects that a child has been exposed to or has had contact with methamphetamine production, the department shall immediately contact the law enforcement agency in the county in which the incident occurred.

History: 1975, Act 238, Eff. Oct. 1, 1975 ;-- Am. 1978, Act 252, Eff. Mar. 30, 1979 ;-- Am. 1978, Act 573, Eff. Mar. 30, 1979 ;-- Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981Am. 1984, Act 418, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 372, Eff. Mar. 30, 1989 ;-- Am. 1994, Act 177, Imd. Eff. June 20, 1994 ;-- Am. 2002, Act 10, Imd. Eff. Feb. 14, 2002 ;-- Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002 ;-- Am. 2002, Act 693, Eff. Mar. 1, 2003 ;-- Am. 2006, Act 264, Imd. Eff. July 6, 2006 ;-- Am. 2006, Act 583, Imd. Eff. Jan. 3, 2007 ;-- Am. 2008, Act 300, Imd. Eff. Oct. 8, 2008 ;-- Am. 2008, Act 510, Imd. Eff. Jan. 13, 2009 ;-- Am. 2014, Act 344, Eff. Jan. 14, 2015 ;-- Am. 2016, Act 35, Imd. Eff. Mar. 8, 2016 ;-- Am. 2022, Act 47, Eff. June 21, 2022 ;-- Am. 2022, Act 66, Eff. Nov. 1, 2022

CHILD PROTECTION LAW (EXCERPT)

Act 238 of 1975

722.627 Availability of confidential record; closed court proceeding not required; release of reports compiled by law enforcement agency; information obtained by citizen review panel; release or inspection of documents from another agency or organization; sharing of information or records.

Sec. 7.

(1) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following:

(a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or child neglect or a legally mandated public or private child protective agency or foster care agency prosecuting a disciplinary action against its own employee involving child protective services or foster care records.

(b) A police agency or other law enforcement agency investigating a report of known or suspected child abuse or child neglect.

(c) A physician who is treating a child whom the physician reasonably suspects may be abused or neglected.

(d) A person legally authorized to place a child in protective custody when the person is confronted with a child whom the person reasonably suspects may be abused or neglected and the confidential record is necessary to determine whether to place the child in protective custody.

(e) A person, agency, or organization, including a multidisciplinary case consultation team, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record under this act, or who is responsible for the child's health or welfare.

(f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or child neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.

(g) A court for the purposes of determining the suitability of a person as a minor's guardian or that otherwise determines that the information is necessary to decide an issue before the court, or in the event of a child's death, a court that had jurisdiction over that child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(h) A grand jury that determines the information is necessary to conduct the grand jury's official business.

(i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize release of information to a

person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.

(j) A lawyer-guardian ad litem or other attorney appointed as provided by section 10.

(k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other person in a foster care or adoptive home who is directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency must disclose the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

(l) Family division of circuit court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and any other person in the home who is directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court must disclose this information to the applicant or licensee.

(m) Subject to section 7a, a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over child protective services matters.

(n) The child advocate appointed under the office of the child advocate act, 1994 PA 204, MCL 722.921 to 722.932.

(o) A child fatality review team established under section 7b and authorized under that section to investigate and review a child death.

(p) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the purpose of carrying out his or her duties under that act.

(q) A citizen review panel established by the department. Access under this subdivision is limited to information the department determines necessary for the panel to carry out its prescribed duties.

(r) A child care regulatory agency.

(s) A foster care review board for the purpose of meeting the requirements of 1984 PA 422, MCL 722.131 to 722.139a.

(t) A local friend of the court office.

(u) A department employee actively representing himself or herself in a disciplinary action, a labor union representative who is actively representing a department employee in a disciplinary action, or an arbitrator or administrative law judge conducting a hearing involving a department employee's dereliction, malfeasance, or misfeasance of duty, for use solely in connection with that action or hearing. Information disclosed under this subdivision must be returned not later than 10 days after the conclusion of the action or hearing. A recipient must not receive further disclosures under this subdivision while he or she retains disclosed information beyond the deadline specified for return.

(v) A federal or state governmental agency that may, by law, conduct an audit or similar review of the department's activities under this act.

(w) A children's advocacy center in the course of providing services to a child alleged to have been the victim of child abuse or child neglect or to that child's family.

(x) A tribal representative, agency, or organization, including a multidisciplinary team, authorized by the Indian child's tribe, to care for, diagnose, treat, review, evaluate, or monitor active efforts regarding an Indian child, parent, or Indian custodian. As used in this subdivision, "active efforts", "Indian child", "Indian child's tribe", "Indian custodian", and "parent" mean those terms as defined in section 3 of chapter XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.3.

(y) A child caring institution licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for employment or an employee of a child caring institution to determine suitability of the applicant or employee for initial or continued employment. The child caring institution must disclose the information to the applicant or employee.

(2) Subject to subsection (4), a person or entity to whom information described in subsection (1) is disclosed shall make the information available only to a person or entity described in subsection (1). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.

(3) In releasing information under this act, the department shall not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected child abuse or child neglect. This subsection does not prohibit the department from releasing reports of convictions of crimes related to child abuse or child neglect.

(4) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA

442, MCL 15.231 to 15.246.

(5) Documents, reports, or records authored by or obtained from another agency or organization shall not be released or open for inspection under subsection (1) unless required by other state or federal law, in response to an order issued by a judge, magistrate, or other authorized judicial officer, or unless the documents, reports, or records are requested for a child abuse or child neglect case or for a criminal investigation of a child abuse or child neglect case conducted by law enforcement.

(6) Notwithstanding subsection (1), information or records in the possession of the department or the department of licensing and regulatory affairs may be shared to the extent necessary for the proper functioning of the department or the department of licensing and regulatory affairs in administering child welfare or child care organization licensing under 1973 PA 116, MCL 722.111 to 722.128, or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by either the department or the department of licensing and regulatory affairs unless otherwise permitted under this act or other state or federal law. Neither the department nor the department of licensing and regulatory affairs shall release or open for inspection any document, report, or record authored by or obtained from another agency or organization unless 1 of the conditions of subsection (5) applies.

History: 1975, Act 238, Eff. Oct. 1, 1975 ;-- Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981 ;-- Am. 1984, Act 418, Eff. Mar. 29, 1985 ;-- Am. 1991, Act 78, Imd. Eff. July 18, 1991 ;-- Am. 1993, Act 251, Imd. Eff. Nov. 24, 1993 ;-- Am. 1994, Act 393, Imd. Eff. Dec. 29, 1994 ;-- Am. 1995, Act 220, Imd. Eff. Dec. 1, 1995 ;-- Am. 1995, Act 225, Imd. Eff. Dec. 14, 1995 ;-- Am. 1997, Act 168, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 428, Eff. Apr. 1, 1999 ;-- Am. 1998, Act 483, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 484, Eff. July 1, 1999 ;-- Am. 1998, Act 485, Eff. Aug. 1, 1999 ;-- Am. 2000, Act 45, Imd. Eff. Mar. 27, 2000 ;-- Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002 ;-- Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005 ;-- Am. 2006, Act 621, Imd. Eff. Jan. 3, 2007 ;-- Am. 2008, Act 300, Imd. Eff. Oct. 8, 2008 ;-- Am. 2011, Act 70, Imd. Eff. June 28, 2011 ;-- Am. 2014, Act 30, Eff. Mar. 31, 2015 ;-- Am. 2014, Act 527, Eff. Mar. 31, 2015 ;-- Am. 2016, Act 35, Imd. Eff. Mar. 8, 2016 ;-- Am. 2016, Act 491, Eff. Apr. 6, 2017 ;-- Am. 2016, Act 494, Eff. Mar. 29, 2017 ;-- Am. 2018, Act 56, Eff. June 4, 2018 ;-- Am. 2022, Act 68, Eff. Nov. 1, 2022 ;-- Am. 2023, Act 305, Eff. Feb. 13, 2024

CHILD PROTECTION LAW (EXCERPT)

Act 238 of 1975

722.627b Child fatality review team; membership; review of child fatality; training and orientation; creation of advisory committee; review by citizen review panel; annual report; transmission of report to governor and legislature; disclosure of information; member of review team as member for purposes of MCL 691.1407; registry of statistical information regarding children's deaths.

Sec. 7b.

(1) Each county may have in place a standing child fatality review team. Two or more counties may appoint a single child fatality review team for those counties. The membership of a child fatality review team shall consist of at least all of the following:

(a) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216.

(b) A representative of a local law enforcement agency.

(c) A representative of the department.

(d) The county prosecuting attorney or a designated assistant county prosecutor.

(e) A representative of the department of health and human services or a local health department.

(f) A representative of the local court.

(2) A child fatality review team established under subsection (1) shall review each child fatality occurring in the county or counties that established the child fatality review team.

(3) The department shall make available to each child fatality review team established under subsection (1) professional, interagency training and orientation on the review of child fatalities. The department shall make available, as necessary, training on specific types of child fatalities, investigation techniques, and prevention initiatives.

(4) The department shall establish a multiagency, multidisciplinary advisory committee to identify and make recommendations on policy and statutory changes pertaining to child fatalities and to guide statewide prevention, education, and training efforts.

(5) The advisory committee created under subsection (4) consists of the following:

(a) Two representatives of the department.

(b) Two representatives of the department of health and human services.

- (c) One county medical examiner.
 - (d) One representative of law enforcement.
 - (e) One county prosecuting attorney.
 - (f) The child advocate or his or her designee.
 - (g) A representative of a state or local court.
- (6) The citizen review panel shall review each child fatality that involves allegations of child abuse or child neglect for each child who, at the time of death or within the 12 months preceding the death, was under the court's jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.
- (7) Beginning December 31, 2012, and using the annual compilation of child fatalities reported by the state registrar under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899, and data received from the child fatality review teams established under subsection (1) and the citizen review panel established under subsection (6), the advisory committee established under subsection (4) shall author an annual report on child fatalities reviewed during the previous calendar year. The advisory committee shall include in the report, at a minimum, all of the following:
- (a) The total number of child fatalities and the type or cause of each child fatality.
 - (b) The number of child fatalities that occurred while the child was in foster care.
 - (c) The number of cases where the child's death occurred within 5 years after family preservation or family reunification.
 - (d) Trends in child fatalities.
- (8) The advisory committee established under subsection (4) shall break down the information required under subsection (7) by county or by groups of counties as described in subsection (1). The information contained in the report is public information. The advisory committee shall not include identifying information of persons named in the report. The advisory committee shall transmit the final report under subsection (7) to the department by December 31 of each year. Not less than 30 days and not more than 60 days after transmitting the report to the department, the department shall ensure publication of the report and transmit a copy to the governor and to the standing committees of the legislature with jurisdiction over matters pertaining to child protection.
- (9) Except as provided in subsection (11), information obtained by a child fatality review team established under subsection (1) is confidential and may be disclosed by the child fatality review team only to the department, the child advocate, the county prosecutor's office, local law enforcement, or another child fatality review team. The information is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (10) An individual who is a member of a child fatality review team established under subsection (1) or of the advisory committee established under subsection (4) is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407.
- (11) The department shall establish and maintain a registry of statistical information regarding children's deaths that shall be accessible to the public. The registry created in this section shall not disclose any identifying information and shall only include statistical information covering all of the following:
- (a) The number of children who died while under court jurisdiction for child abuse or neglect regardless of placement setting.
 - (b) The number of children who died as a result of child abuse or neglect after a parent had 1 or more child protective services complaints within the 2 years preceding the child's death and the category dispositions of those complaints.
 - (c) The total number of children as identified in subdivisions (a) and (b) who died in the preceding year.
 - (d) The child protective services disposition of the child fatality.

History: Add. 1997, Act 167, Eff. Mar. 31, 1998 ;-- Am. 2011, Act 68, Imd. Eff. June 28, 2011 ;-- Am. 2011, Act 69, Imd. Eff. June 28, 2011 ;-- Am. 2011, Act 89, Imd. Eff. July 15, 2011 ;-- Am. 2023, Act 305, Eff. Feb. 13, 2024

CHILD PROTECTION LAW (EXCERPT)

Act 238 of 1975

722.627j Statewide electronic case management system; classification of confirmed cases; placement on central registry; motion for removal; notification; requirements; request for amendment of report; hearing; expungement; death of perpetrator; receipt of central registry placement confirmation; automated systems; search of children's protective services records.

Sec. 7j.

(1) The department must maintain a statewide, electronic case management system to carry out the intent of this act. The department may enter into vendor contracts that it considers necessary and proper for implementation, review, and update of the electronic case management system. The department must solicit proposals from entities to provide the services necessary to implement, review, and update the electronic case management system.

(2) The department must classify a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation, as a central registry case.

(3) In addition to a case classified under subsection (2), a court in this state entering an order of conviction for a violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, a conviction for a violation of chapter LXXVI of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520o, involving a minor victim, a conviction for a violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c, and any conviction involving the death of a child must request that the conviction be classified as a central registry case by the department. The department, with cooperation from the state court administrative office, must promulgate rules to regulate this referral process.

(4) At any time, an individual who has been placed on the central registry under subsection (3) may request, and the court shall request, an individual's name be removed from the central registry upon the individual prevailing in a motion to the convicting court for the following reasons:

(a) The individual was not convicted of an offense listed under this section.

(b) Demonstrating that the individual's conviction of the offense that caused the individual to be placed on the central registry has been expunged.

(5) Not more than once every 10 years after an individual has been placed on the central registry under subsection (3), the individual may make a motion to the convicting court to request removal from the central registry. In a hearing on this motion, the individual is presumed to be a risk to children, and the burden is on the individual requesting to be removed from the central registry. If the individual demonstrates that the presumption is unreasonable, the court shall request that the department remove the individual from the central registry.

(6) Within 30 days after the classification of a central registry case, the department must notify in writing each person who is named in the record as a perpetrator of the confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, or confirmed case of methamphetamine production. The notice requirements include all of the following:

(a) The notice must be sent by registered or certified mail, return receipt requested, and delivery restricted to the addressee.

(b) The notice must set forth the person's right to request expunction of the record and the right to a hearing if the department refuses the request.

(c) The notice must state that the record may be released under section 7d.

(d) The notice must not identify the person reporting the suspected child abuse or child neglect.

(7) An individual who is the subject of a report or record made under this section may request the department amend an inaccurate report or record from the central registry and local office file. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(8) If the department denies the request to amend a report, an individual who is the subject of a report or record made under this section may, within 180 days from the date of service of notice of the right to a hearing, request the department hold a hearing to review the request for amendment. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(9) The department must hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part meets the statutory requirement of confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, or confirmed case of methamphetamine production and should be amended or expunged from the central registry. The hearing must be held before an administrative law judge and must be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may, for good cause, hold a hearing under this subsection if the department determines that the person who is the subject of the report or record submitted the request for a hearing within 60 days after the 180-day notice period expired. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(10) If the investigation of a report conducted under this section does not show serious child abuse or child neglect, sexual abuse, sexual exploitation, or methamphetamine production by a preponderance of the evidence, or if a court dismisses a petition based on the merits of the petition filed under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, because the petitioner has failed to establish, or a court has failed to find, that the child comes within the jurisdiction of the court following an adjudication hearing, the information identifying the subject of the report must be expunged from the central registry after a party has exhausted all appellate remedies and an appellate review does not find that the child is within the jurisdiction of the court. If a preponderance of evidence of child abuse or child neglect exists, or if a court takes jurisdiction of the child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, the department must maintain the information and must maintain the perpetrator's information in the central registry if the case is determined to be a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed

sexual abuse, or confirmed sexual exploitation. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(11) Except as otherwise provided in this section, the department must maintain the information in the central registry until the department receives reliable information that the perpetrator is dead. Not more than once every 10 years after an individual has been listed on the central registry, the individual may request a hearing regarding removal from the central registry. Except for confirmed sexual abuse or confirmed sexual exploitation, the department must hold a hearing to determine whether the information should be maintained on the central registry. The hearing must be held before an administrative law judge and must be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. In this hearing, the individual is presumed to be a risk to children and the burden of proof is on the individual requesting to be removed from the central registry. If the individual demonstrates by a preponderance of the evidence that the presumption is unreasonable, then the information must be expunged from the central registry. The facts and circumstances as determined by the department or an administrative law judge on review of the department's decision that resulted in the individual originally being placed on the central registry are not subject to review. The administrative law judge shall take into account the facts and circumstances in the years since the individual was listed on the central registry that bear on the assessment of the individual's risk to children in the future. For the purpose of this subsection, "reliable information" includes, but is not limited to, information obtained using the United States Social Security death index database. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(12) Upon written request, the department may provide confirmation of central registry placement to an individual, office, or agency authorized to receive it.

(13) A person or the department may share the document provided in subsection (12) with whoever is appropriate for the purpose of seeking employment or serving as a volunteer if that employment or volunteer work will include contact with children.

(14) An individual or organization for whom a person is applying for employment, licensing for a child care organization, or to act as a volunteer, may, with appropriate authorization and identification, request and receive confirmation of central registry placement, if that employment or volunteer work includes contact with children.

(15) A parent or other person responsible for a child, who has reason to believe another caregiver may place that child at risk, may, with appropriate authorization and identification, receive confirmation of central registry placement of that parent, person responsible, or caregiver. This request must be made through the office of the friend of the court created in section 3 of the friend of the court act, 1982 PA 294, MCL 552.503.

(16) The department may develop an automated system that will allow a person applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the person is not a person responsible for that child's health or welfare to be listed in that system if a screening of the person finds that he or she has not been named in a central registry case as the perpetrator of a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation. The automated system developed under this section must provide for public access to the list of persons who have been screened for the purposes of complying with this section. An automated system developed under this section must have appropriate safeguards and procedures to ensure that information that is confidential under this act, state law, or federal law is not accessible or disclosed through that system.

(17) An action taken to exclude an individual from licensure to provide foster care, child care, or camp services by the department of licensing and regulatory affairs or the division of child welfare licensing in the department, or a predecessor agency, in effect before the effective date of the amendatory act that added this subsection, must remain in effect according to its terms, except if an individual is successful in an administrative review or appeal of the exclusionary status in accord with section 9 of 1973 PA 116, MCL 722.119.

(18) In addition to the central registry clearance, the department must search children's protective services records to determine if an applicant or licensee, relative, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer has a children's protective services history before making a licensing or placement determination, or provide clearance for staff employment or a volunteer in a child caring organization.

History: Add. 2002, Act 716, Eff. Mar. 31, 2003 ;-- Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005 ;-- Am. 2008, Act 374, Imd. Eff. Dec. 23, 2008 ;-- Am. 2010, Act 81, Imd. Eff. May 21, 2010 ;-- Am. 2022, Act 64, Eff. Nov. 1, 2022

CHILD PROTECTION LAW (EXCERPT)

Act 238 of 1975

722.628a Execution of notices by prosecuting attorney of individuals bound over to circuit court for certain crimes; notification upon final disposition; confidentiality.

Sec. 8a.

(1) If an individual is bound over to circuit court for any of the following crimes, the prosecuting attorney shall execute the notices as prescribed by subsections (2) to (5):

(a) Criminal sexual conduct in the first, second, or third degree in violation of section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d.

(b) Assault with intent to commit criminal sexual conduct in violation of section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g.

(c) A felonious attempt or a felonious conspiracy to commit criminal sexual conduct.

(d) An assault on a child that is punishable as a felony.

(e) Child abuse in the first, second, or third degree, in violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(f) Involvement in child sexually abusive material or child sexually abusive activity in violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(2) If the individual is an employee of a nonpublic school as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5, the prosecuting attorney shall notify the governing body of the nonpublic school.

(3) If the individual is an employee of a school district or intermediate school district, the prosecuting attorney shall notify the superintendent of the school district or intermediate school district.

(4) If the individual is an employee of the department who provides a service to children and youth as described in section 115 of the social welfare act, 1939 PA 280, MCL 400.115, the prosecuting attorney shall notify the county director of social services or the superintendent of the training school.

(5) If the individual is a child care provider, the prosecuting attorney shall notify the department, the owner or operator of the child care provider's child care organization or adult foster care location authorized to care for a child, and the child care regulatory agency with authority over that child care organization or adult foster care location authorized to care for a child.

(6) Upon final disposition of a criminal matter for which a notice was given under subsections (2) to (5), the prosecuting attorney shall notify each person previously notified under subsections (2) to (5) of that disposition.

(7) A person who is notified or otherwise receives information under this section shall keep the information received confidential except so far as disclosure is necessary to take appropriate action in response to the information.

History: Add. 1992, Act 39, Eff. Mar. 31, 1993 ;-- Am. 2002, Act 661, Imd. Eff. Dec. 23, 2002

GUARDIANSHIP ASSISTANCE ACT (EXCERPT)
Act 260 of 2008

722.872 Definitions.

Sec. 2.

As used in this act:

(a) "Certification" means a determination of eligibility by the department that a foster child is eligible for guardianship assistance or a medical subsidy, or both.

(b) "Child" means an individual less than 18 years of age.

(c) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(d) "Department" means the department of health and human services.

(e) "Eligible child" means a child who meets the eligibility criteria under section 3 for receiving guardianship assistance.

(f) "Guardian" means a person appointed by the court to act as a legal guardian for a child under section 19a or 19c of chapter XIII A of the probate code, MCL 712A.19a and 712A.19c, another state's law or code, or applicable tribal law or code.

(g) "Guardianship assistance agreement" means a negotiated binding agreement regarding financial support as described in section 5 for children who meet the qualifications for guardianship assistance as specified in this act or in the department's administrative rules.

(h) "Legal custodian" means an individual who is at least 18 years of age in whose care a child remains or is

placed after a court makes a finding under section 13a of chapter XIIA of the probate code, MCL 712A.13a, another state's law or code, or tribal law or code.

(i) "Probate code" means the probate code of 1939, 1939 PA 288, MCL 710.21 to 712B.41.

(j) "Prospective guardian" means an individual seeking guardianship of a child if an order appointing that guardianship has not been finalized by the court.

(k) "Relative" means that term as defined in section 13a of chapter XIIA of the probate code, MCL 712A.13a.

(l) "Successor guardian" means a person appointed by the court to act as a legal guardian when the preceding guardian is no longer able to act, as a result of his or her death or incapacitation, under section 19a or 19c of chapter XIIA of the probate code, MCL 712A.19a and 712A.19c, another state's law or code, or tribal law or code. Successor guardian does not include an individual appointed as a guardian if that individual's parental rights to the child have been terminated or suspended.

(m) "Title IV-E" refers to the federal assistance provided through the United States Department of Health and Human Services to reimburse states for foster care, adoption assistance payments, and guardianship assistance payments.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008 ;-- Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009 ;-- Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015 ;-- Am. 2022, Act 210, Imd. Eff. Oct. 7, 2022 ;-- Am. 2023, Act 69, Imd. Eff. July 12, 2023

GUARDIANSHIP ASSISTANCE ACT (EXCERPT)

Act 260 of 2008

722.874 Guardianship assistance; payment to eligible guardian; criteria; eligibility for federal funding under title IV-E; sibling ineligible for federal funding; successor guardian.

Sec. 4.

(1) Subject to subsection (2), a guardian who meets all of the following criteria may receive guardianship assistance on behalf of an eligible child:

(a) The guardian is the eligible child's relative or legal custodian.

(b) The guardian is a licensed foster parent and approved for guardianship assistance by the department. The approval process must include criminal record checks and child abuse and child neglect central registry checks on the guardian, all successor guardians, and all adults living in the guardian's or successor guardian's home as well as submission of the guardian's or successor guardian's fingerprints to the department of state police and the Federal Bureau of Investigation for a criminal history check.

(c) The eligible child has resided with the prospective guardian in the prospective guardian's residence for a minimum of 6 months before the application for guardianship assistance is received by the department.

(2) Only a relative who is a licensed foster parent caring for a child who is eligible to receive title IV-E-funded foster care payments for 6 consecutive months after licensure of the family is eligible for federal funding under title IV-E for guardianship assistance. A child who is not eligible for title IV-E funding who is placed with a licensed foster parent, related or unrelated, and who meets the requirements of section 3(a) to (e) may be eligible for state-funded guardianship assistance.

(3) If a child is eligible for title IV-E-funded guardianship assistance under section 3 but has a sibling who is not eligible under section 3, both of the following apply:

(a) The child and any of the child's siblings may be placed in the same relative guardianship arrangement in accordance with chapter XIIA of the probate code, MCL 712A.1 to 712A.32, another state's law or code, or tribal law or code, if the department and the relative agree on the appropriateness of the arrangement for the sibling.

(b) Title IV-E-funded relative guardianship assistance payments may be paid on behalf of each sibling placed in accordance with this subsection.

(4) A successor guardian may receive guardianship assistance payments if the eligibility criteria set forth in section 3 are met.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008 ;-- Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009 ;-- Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015 ;-- Am. 2019, Act 95, Eff. Jan. 22, 2020 ;-- Am. 2023, Act 69, Imd. Eff. July 12, 2023

GUARDIANSHIP ASSISTANCE ACT (EXCERPT)
Act 260 of 2008

722.875 Guardianship assistance; negotiating and entering guardianship assistance agreement; specifications; limitation on payment; review by department; eligibility determination.

Sec. 5.

(1) Subject to the provisions of this act, the department may pay guardianship assistance to an eligible guardian on behalf of an eligible child.

(2) The guardian must apply for guardianship assistance under this act to the department.

(3) For a child who is eligible under section 3 and a guardian who is eligible under section 4, the department must negotiate and enter into a written, binding guardianship assistance agreement with the child's prospective guardian and must provide the prospective guardian a signed copy of the guardianship assistance agreement.

(4) The guardianship assistance agreement must specify all of the following:

(a) The additional services and assistance the child and the guardian are eligible for under the guardianship assistance agreement.

(b) The procedure by which the guardian may apply for additional services, if needed.

(c) That the department will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of an eligible child, to the extent the total cost does not exceed \$2,000.00.

(5) The guardianship assistance agreement must remain in effect without regard to the state residency of the guardian.

(6) The department must determine eligibility for the guardianship assistance without regard to the income of the prospective guardian. A guardianship assistance payment on a child's behalf may not exceed the foster care maintenance payment that would have been paid on that child's behalf if that child had remained in a foster family home. The payment includes the determination of care rate that was paid or would have been paid for the child in a foster care placement, except that the amount must be increased to reflect the increase made in the standard age-appropriate foster care rate paid by the department.

(7) The department must review the eligibility of the guardian and the child for continuation of guardianship assistance annually. The guardian must provide the eligibility information requested by the department for purposes of the annual review.

(8) The department must make an eligibility determination within 30 days after receipt of a complete application for guardianship assistance.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008 ;-- Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009 ;-- Am. 2023, Act 68, Imd. Eff. July 12, 2023

GUARDIANSHIP ASSISTANCE ACT (EXCERPT)
Act 260 of 2008

722.876 Guardianship assistance; prohibition; conditions; notice of termination.

Sec. 6.

(1) Except as provided in subsection (2), the department may not provide guardianship assistance after 1 of the following occurs:

(a) The child reaches 18 years of age.

(b) The department determines that the guardian is no longer legally responsible for support of the child.

(c) The department determines that the child is no longer receiving any support from the relative guardian.

(d) The death of the child.

(e) The child is adopted by the guardian or another individual under the Michigan adoption code, chapter X of the probate code, MCL 710.21 to 710.70, or the adoption laws of any other state or tribal government.

(f) The guardianship is terminated by order of the court having jurisdiction in the guardianship proceeding.

(g) The death of the guardian unless a successor guardian has been appointed by the court.

(2) The department may provide extended guardianship assistance until the youth reaches 21 years of age if the

youth meets the requirements set forth in the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671.

(3) The department must send notice of termination of guardianship assistance under this section by mail to the guardian at the guardian's current or last known address and to the court with jurisdiction over the guardianship case. Notice mailed under this subsection must include a statement of the department's reason for termination.

History: 2008, Act 260, Imd. Eff. Aug. 4, 2008 ;-- Am. 2009, Act 15, Imd. Eff. Apr. 9, 2009 ;-- Am. 2011, Act 229, Imd. Eff. Nov. 22, 2011 ;-- Am. 2015, Act 227, Imd. Eff. Dec. 17, 2015 ;-- Am. 2023, Act 68, Imd. Eff. July 12, 2023

OFFICE OF THE CHILD ADVOCATE ACT (EXCERPT)

Act 204 of 1994

722.922 Definitions.

Sec. 2.

As used in this act:

(a) "Administrative act" includes an action, omission, decision, recommendation, practice, or other procedure of the department, an adoption attorney, a child placing agency, or a residential facility, with respect to a particular child related to adoption, foster care, protective services, or juvenile justice services.

(b) "Adoption attorney" means that term as defined in section 22 of the adoption code, MCL 710.22.

(c) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(d) "Central registry" means that term as defined in section 2 of the child protection law, MCL 722.622.

(e) "Child" means an individual under the age of 18.

(f) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, MCL 722.622.

(g) "Child advocate" or "advocate" means the individual appointed to the office of child advocate under section 3.

(h) "Child caring institution" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(i) "Child placing agency" means an organization licensed or approved by the department to receive children for placement in private family homes for foster care or adoption and to provide services related to adoption.

(j) "Child protection law" means the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(k) "Closed session" means that term as defined in section 2 of the open meetings act, 1976 PA 267, MCL 15.262.

(l) "Complainant" means an individual who makes a complaint as provided in section 5.

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

(n) "Foster care" means care provided to a child in a foster family home, foster family group home, or child caring institution licensed by the department under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a child in a relative's home under a court order.

(o) "Foster parent's bill of rights law" means the foster parent's bill of rights law created in section 8a of the foster care and adoption services act, 1994 PA 203, MCL 722.958a.

(p) "Full investigation" means an act of fact finding, document review, or systematic inquiry or examination that occurs after the completion of a preliminary investigation.

(q) "Investigation" means either a preliminary investigation or a full investigation.

(r) "Juvenile justice services" means that term as defined in section 117a of the social welfare act, 1939 PA 280, MCL 400.117a.

(s) "Office" means the office of the child advocate established under section 3.

(t) "Preliminary investigation" means an act of fact finding, document review, or systematic inquiry or examination to determine if there is a correlation between an administrative act and the death of a child or to determine if a trend or systematic issue is identified that would cause the ombudsman to open a full investigation.

(u) "Residential facility" means a facility that provides juvenile justice services and is state operated, county operated, public, private and contracted, secure, or nonsecure.

History: 1994, Act 204, Eff. Jan. 1, 1995 ;-- Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005 ;-- Am. 2014, Act 455, Eff. Apr. 1, 2015 ;-- Am. 2020, Act 186, Imd. Eff. Oct. 8, 2020 ;-- Am. 2023, Act 303, Eff. Feb. 13, 2024

OFFICE OF THE CHILD ADVOCATE ACT (EXCERPT)
Act 204 of 1994

722.923 Office of the child advocate; establishment; appointment; removal.

Sec. 3.

(1) As a means of effecting changes in policy, procedure, and legislation, educating the public, investigating and reviewing actions of the department, child placing agencies, child caring institutions, or residential facilities, monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, treatment, and improving delivery of care of children in foster care and adoptive homes, and providing juvenile justice services, the office of the child advocate is established as an autonomous entity in the department of technology, management, and budget.

(2) The governor shall appoint an individual as the child advocate with the advice and consent of the senate. The individual must be qualified by training and experience to perform the duties and exercise the powers of the child advocate and the office of the child advocate as provided in this act.

(3) The governor may remove the child advocate from office for cause that includes, but is not limited to, incompetency to properly exercise duties, official misconduct, habitual or willful neglect of duty, or other misfeasance or malfeasance in connection with the operation of the office of the child advocate. The governor must report the reason for the removal to the legislature.

(4) The child advocate serves at the pleasure of the governor.

History: 1994, Act 204, Eff. Jan. 1, 1995 ;-- Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005 ;-- Am. 2023, Act 303, Eff. Feb. 13, 2024

OFFICE OF THE CHILD ADVOCATE ACT (EXCERPT)
Act 204 of 1994

722.924 Procedures; training; complaint; investigation; notification of safety concerns.

Sec. 4.

(1) The child advocate shall establish procedures for the office for budgeting, expending money, and employing personnel according to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594. Subject to annual appropriations, the child advocate must employ sufficient personnel to carry out the duties and powers prescribed by this act.

(2) The child advocate must establish procedures for receiving and processing complaints from complainants and individuals not meeting the definition of complainant, conducting investigations, holding informal hearings, and reporting findings and recommendations resulting from investigations.

(3) Personnel employed by the office of the child advocate shall receive training in the areas of child abuse or child neglect as determined by the child advocate.

(4) Any individual may submit a complaint to the child advocate. The child advocate has the sole discretion and authority to determine if a complaint falls within his or her duties and powers to investigate and if a complaint involves an administrative act. The child advocate may initiate an investigation without receiving a complaint. The child advocate may initiate an investigation upon receipt of a complaint from an individual not meeting the definition of complainant. An individual not meeting the definition of complainant is not entitled to receive information under this act as if he or she is a complainant. The individual is entitled to receive the published findings and recommendations of the child advocate and the department's or the residential facility's response to the recommendations of the child advocate in accordance with state and federal law. During the course of an investigation, the child advocate may refer a case to the department if the child advocate determines that the department received a complaint on the case, but did not conduct an investigation. If the child advocate refers a case to the department, the department must conduct an investigation of the case or provide notice to the child

advocate why an investigation was not conducted, or what alternative steps may have been taken to address the situation. If an investigation has been conducted, the department must report the results to the child advocate.

(5) The child advocate must notify the department or residential facility of any immediate safety concerns regarding a child or children who are part of an active or open child protective services or foster care case. This notification must occur as soon as possible, but not later than 1 business day after the child advocate becomes aware of the concerns.

History: 1994, Act 204, Eff. Jan. 1, 1995 ;-- Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005 ;-- Am. 2014, Act 243, Eff. Sept. 25, 2014 ;-- Am. 2023, Act 303, Eff. Feb. 13, 2024

OFFICE OF THE CHILD ADVOCATE ACT (EXCERPT)

Act 204 of 1994

722.926 Victim of child abuse or child neglect; powers of child advocate; child fatality cases; investigation.

Sec. 6.

(1) The child advocate may do all of the following in relation to a child who may be a victim of child abuse or child neglect, including a child who may have died as a result of suspected child abuse or child neglect:

(a) Upon his or her own initiative or upon receipt of a complaint, investigate an administrative act that is alleged to be contrary to law or rule, contrary to policy of the department, a child placing agency, or a residential facility, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds. The child advocate has sole discretion to determine if a complaint involves an administrative act.

(b) Decide, in his or her discretion, whether to investigate an administrative act.

(c) Upon his or her own initiative or upon receipt of a complaint and subject to an appropriation of funds, investigate an alleged violation of the foster parent's bill of rights law.

(d) Except as otherwise provided in this subdivision, access records and reports necessary to carry out the child advocate's powers and duties under this act to the same extent and in the same manner as provided to the department under the provisions of the child protection law. The child advocate must be provided access to medical records in the same manner as access is provided to the department under section 16281 of the public health code, 1978 PA 368, MCL 333.16281. The child advocate must be provided access to mental health records in the same manner as access is provided to the department in section 748a of the mental health code, 1974 PA 258, MCL 330.1748a, subject to section 9. The child advocate may request substance use disorder records if the child advocate obtains a valid consent or a court order under 42 CFR part 2. The child advocate is subject to the same standards for safeguarding the confidentiality of information under this section and the same sanctions for unauthorized release of information as the department. In the course of a child fatality investigation, the child advocate may access records from the court of jurisdiction, attorney general, prosecuting attorney, or any attorney retained by the department and reports from a county child fatality review team to the same extent and in the same manner as provided to the department under state law.

(e) Request a subpoena from a court requiring the production of a record or report necessary to carry out the child advocate's duties and powers, including a child fatality investigation. If the person to whom a subpoena is issued fails or refuses to produce the record or report, the child advocate may petition the court for enforcement of the subpoena.

(f) Hold informal hearings and request that individuals appear before the child advocate and give testimony or produce documentary or other evidence that the child advocate considers relevant to a matter under investigation.

(g) Make recommendations to the governor and the legislature concerning the need for children's protective services, adoption, foster care, or juvenile justice services legislation, policy, or practice without prior review by other offices, departments, or agencies in the executive branch in order to facilitate rapid implementation of recommendations or for suggested improvements to the recommendations. No other office, department, or child placing agency shall prohibit the release of a child advocate's recommendation to the governor or the legislature.

(2) The child advocate must conduct a preliminary investigation into all child fatality cases that occurred or are alleged to have occurred due to child abuse or child neglect in 1 or more of the following situations:

(a) A child died during an active child protective services investigation or open services case, or there was an assigned or rejected child protective services complaint within 24 months immediately preceding the child's death.

(b) A child died while in foster care, unless the death resulted from natural causes and there was not a previous child protective services or licensing complaint concerning the foster home.

- (c) A child was returned home from foster care and there is an active foster care case.
- (d) The foster care case involving the deceased child or sibling was closed within 24 months immediately preceding the child's death.
- (e) A child died while committed to a residential facility.
- (3) Upon completing a preliminary investigation into a child fatality case described under subsection (2), the child advocate must determine whether a full investigation is necessary. If the child advocate determines a full investigation is necessary, he or she must open a full investigation into the child fatality case described under subsection (2).
- (4) Subject to state appropriations, a full investigation under subsection (3) must be completed within 12 months after the child advocate opens that child fatality case for a full investigation.

History: 1994, Act 204, Eff. Jan. 1, 1995 ;-- Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005 ;-- Am. 2013, Act 38, Imd. Eff. June 4, 2013 ;-- Am. 2014, Act 243, Eff. Sept. 25, 2014 ;-- Am. 2014, Act 455, Eff. Apr. 1, 2015 ;-- Am. 2020, Act 186, Imd. Eff. Oct. 8, 2020 ;-- Am. 2023, Act 303, Eff. Feb. 13, 2024

OFFICE OF THE CHILD ADVOCATE ACT (EXCERPT)

Act 204 of 1994

722.928 Department, child placing agency, and residential facility; duties; information to be provided to biological parent, adoptive parent, or foster parent; access to departmental computer networks.

Sec. 8.

- (1) The department, a child placing agency, and a residential facility must do all of the following:
 - (a) Upon the child advocate's request, grant the child advocate or his or her designee access to all information, records, and documents in the possession of the department, child placing agency, or residential facility that the child advocate considers relevant and necessary in an investigation.
 - (b) Assist the child advocate to obtain the necessary releases of those documents that are specifically restricted.
 - (c) Upon the child advocate's request, provide the child advocate with progress reports concerning the administrative processing of a complaint.
 - (d) Upon the child advocate's request, provide the child advocate information he or she requests under subdivision (a) within 10 business days after the request. If the department determines that release of the information would violate federal or state law, the child advocate must be notified of that determination within the same 10-day deadline.
- (2) The department, an attorney involved with an adoption, a child placing agency, and a residential facility must provide information to a biological parent, legal guardian, prospective adoptive parent, or foster parent regarding the provisions of this act.
- (3) The child advocate, the department, and the department of technology, management, and budget must ensure that the child advocate has access, in the child advocate's own office, to departmental computer networks pertaining to protective services, foster care, adoption, juvenile delinquency, the central registry, and juvenile justice services, unless otherwise prohibited by state or federal law, or the release of the information to the child advocate would jeopardize federal funding. The cost of implementing this subsection must be negotiated among the office of the child advocate, the department, and the department of technology, management, and budget.
- (4) A residential facility must conspicuously post in an area accessible to residents, employees, and visitors a description of the office of child advocate services and the contact information for the purpose of filing a complaint.
- (5) During the course of an investigation conducted by the child advocate, the residential facility must ensure that a resident has anonymity, privacy, and procedures in place to accommodate interviews conducted by the office of child advocate.

History: 1994, Act 204, Eff. Jan. 1, 1995 ;-- Am. 2004, Act 560, Imd. Eff. Jan. 3, 2005 ;-- Am. 2013, Act 38, Imd. Eff. June 4, 2013 ;-- Am. 2023, Act 303, Eff. Feb. 13, 2024

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.951 Short title.

Sec. 1.

This act shall be known and may be cited as the "foster care and adoption services act".

History: 1994, Act 203, Eff. Jan. 1, 1995

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)
Act 203 of 1994

722.952 Definitions.

Sec. 2.

As used in this act:

- (a) "Adoptee" means a child who is to be adopted or who is adopted.
- (b) "Adoption attorney" means that term as defined in section 22 of the adoption code, MCL 710.22.
- (c) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.
- (d) "Adoption facilitator" means a child placing agency or an adoption attorney.
- (e) "Adoptive parent" means the parent or parents who adopt a child in accordance with the adoption code.
- (f) "Agency placement" means that term as defined in section 22 of the adoption code, MCL 710.22.
- (g) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
- (h) "Department" means the department of health and human services.
- (i) "Direct placement" means that term as defined in section 22 of the adoption code, MCL 710.22.
- (j) "Foster care" means a child's placement outside the child's parental home by and under the supervision of a child placing agency, the court, or the department. Foster care does not include the delegation of a parent's or guardian's powers regarding care, custody, or property of a child or ward under a properly executed power of attorney under the safe families for children act.
- (k) "Preplacement assessment" means an assessment of a prospective adoptive parent as described in section 23f of the adoption code, MCL 710.23f.
- (l) "Sibling" means a child who is related through birth or adoption by at least 1 common parent. Sibling includes that term as defined by the American Indian or Alaskan native child's tribal code or custom.
- (m) "Supervising agency" means the department if a child is placed in the department's care for foster care, or a child placing agency in whose care a child is placed for foster care.

History: 1994, Act 203, Eff. Jan. 1, 1995 ;-- Am. 1997, Act 172, Eff. Mar. 31, 1998 ;-- Am. 2016, Act 190, Eff. Sept. 19, 2016 ;-- Am. 2018, Act 432, Eff. Mar. 20, 2019

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)
Act 203 of 1994

722.953 Purpose of act.

Sec. 3.

The purposes of this act are all of the following:

- (a) To assist foster parents to provide a stable, loving family environment for children who are placed outside of their homes on a temporary basis.
- (b) To help eliminate barriers to the adoption of children and to promote the provision of a stable and loving family environment to children who are without permanent families.
- (c) To promote the well-being and safety of all children who receive foster care or are adopted under the laws of

this state.

(d) To protect and assist prospective adoptive families as they negotiate the adoption process.

(e) To regulate child placing agencies who certify foster parents and serve adoptees and adoptive families in this state.

(f) To regulate adoption attorneys who facilitate direct placement adoptions.

(g) To ensure foster parents and prospective adoptive parents receive all applicable resources as described in section 8a.

(h) To ensure that the department develops and maintains a specific policy of the provisions described in sections 8b, 8c, and 8d to provide to children placed in foster care. The specific policy described in sections 8b, 8c, and 8d shall be known as the children's assurance of quality foster care policy.

History: 1994, Act 203, Eff. Jan. 1, 1995 ;-- Am. 2014, Act 524, Eff. Apr. 1, 2015 ;-- Am. 2018, Act 489, Eff. Mar. 27, 2019

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.953a Annual report; reduction cost savings.

Sec. 3a.

(1) Beginning January 1, 2023, and annually each January 1 after that, the department must submit an annual report to the legislature and the house of representatives and senate appropriation committees on the department budget, that identifies the cost savings that occur due to reductions in foster youth in the foster care program and compares that number with the cost when the highest number of foster youth have been in the foster care system for the immediately preceding 10 years. The report must also include details of the department's efforts to reinvest the cost savings identified in the report.

(2) The details of the department's efforts required under subsection (1) must include, but are not limited to, information on all of the following reinvestment efforts:

- (a) Prevention services.
- (b) Permanency services.
- (c) Adoption assistance.
- (d) Safety assessments.
- (e) Adoptive and foster family recruitment.
- (f) Training.
- (g) Caseworker bonuses.
- (h) Wage increases.

History: Add. 2022, Act 202, Imd. Eff. Oct. 7, 2022

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.953b Family finding engagement services.

Sec. 3b.

(1) Upon appropriation and by not later than October 1, 2022, the department must work in conjunction with entities that perform family finding and engagement services to help foster youth who are separated from their family to connect to family and friends who may assist in the foster youth's care.

(2) By December 31, 2022, the department must make efforts in family finding and engagement services on behalf of all foster youth currently in the foster care program. The department must incorporate family finding and engagement services in all current and future child abuse and child neglect investigations.

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)
Act 203 of 1994

722.954 Licensure as foster parent; orientation as condition to certification; written information to be provided foster parents before placement; confidentiality.

Sec. 4.

(1) Before certifying an individual for licensure as a foster parent, a child placing agency shall conduct an orientation designed to ensure the individual's understanding of the purposes of foster care, including the temporary nature of foster care and the ultimate goal of returning the child to his or her permanent family or preparing the child for adoption.

(2) Before placing a child with foster parents, a child placing agency shall provide the foster parents with written information including all of the following:

- (a) Any history of abuse or neglect of the child.
- (b) All known emotional and psychological problems of the child.
- (c) All behavior problems of the child that might present any risk to the foster family.
- (d) Any other information necessary to enable the foster family to provide a stable, safe, and healthy environment for the foster child and for other members of the foster family.

(3) The child placing agency shall explain to the foster parents that the information provided under subsection (2) about the child and the child's family is confidential.

History: 1994, Act 203, Eff. Jan. 1, 1995

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)
Act 203 of 1994

722.954a Placement of child in supervising agency's care; determination of placement with relative; good cause exception; notification; special consideration and preference to child's relative; placement of siblings; documentation of decision; review hearing.

Sec. 4a.

(1) If a child has been placed in a supervising agency's care under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, the supervising agency must comply with this section and sections 4b and 4c.

(2) Upon removal, as part of a child's initial case service plan as required by rules promulgated under 1973 PA 116, MCL 722.111 to 722.128, and by section 18f of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18f, the supervising agency must, within 30 days, identify, locate, notify, and consult with relatives to determine placement with a fit and appropriate relative who would meet the child's developmental, emotional, and physical needs. Preference shall be given to an adult related to the child within the fifth degree by blood, marriage, or adoption provided the relative meets all relevant state child protection standards. The department may make an exception to this preference only if good cause is shown. As used in this section, "good cause" means any of the following:

- (a) A request by 1 or both of the child's parents to deviate from this preference.
- (b) The child's request, if the child is of sufficient age and capacity to understand the decision that is being made.
- (c) The presence of a sibling attachment that can be maintained through a particular placement.
- (d) The child's physical, mental, or emotional needs, such as specialized treatment services that may be unavailable in the community where families who meet the placement preferences live.
- (e) The distance between the child's home and the proposed family placement would frustrate the reunification goal or otherwise impede permanency.

(3) The notification of relatives required in subsection (2) must do all of the following:

- (a) Specify that the child has been removed from the custody of the child's parent.
- (b) Explain the options the relative has to participate in the child's care and placement, including any option that

may be lost by failing to respond to the notification.

(c) Describe the requirements and benefits, including the amount of monetary benefits, of becoming a licensed foster family home.

(d) Describe how the relative may subsequently enter into an agreement with the department for guardianship assistance.

(4) Not more than 90 days after the child's removal from his or her home, the supervising agency must do all of the following:

(a) Make a placement decision and document in writing the reason for the decision.

(b) Provide written notice of the decision and the reasons for the placement decision to the child's attorney, guardian, guardian ad litem, mother, and father; the attorneys for the child's mother and father; each relative who expresses an interest in caring for the child; the child if the child is old enough to be able to express an opinion regarding placement; and the prosecutor.

(5) Before determining placement of a child in its care, a supervising agency must give special consideration and preference to a child's relative or relatives who are willing to care for the child, are fit to do so, and would meet the child's developmental, emotional, and physical needs. The supervising agency's placement decision must be made in the child's best interests.

(6) Reasonable efforts must be made to do the following:

(a) Place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the supervising agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings.

(b) In the case of siblings removed from their home who are not jointly placed, provide for at least monthly visitation or other ongoing contact between the siblings, unless the supervising agency documents that at least monthly visitation or other ongoing contact would be contrary to the safety or well-being of any of the siblings.

(7) If siblings cannot be placed together or not all the siblings are being placed in foster care, the supervising agency must make reasonable efforts to facilitate at least monthly visitation or other ongoing contact with siblings unless a court has determined that at least monthly visitation or other ongoing contact with siblings would not be beneficial under section 13a(16) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(8) If the supervising agency discontinues visitation or other ongoing contact with siblings because the supervising agency determines that visitation or other ongoing contact is contrary to the safety or well-being of any of the siblings, the supervising agency must report its determination to the court for consideration at the next review hearing.

(9) A person who receives a written decision described in subsection (4) may request in writing, within 5 days, documentation of the reasons for the decision, and if the person does not agree with the placement decision, he or she may request that the child's attorney review the decision to determine if the decision is in the child's best interest. If the child's attorney determines the decision is not in the child's best interest, within 14 days after the date of the written decision the attorney must petition the court that placed the child out of the child's home for a review hearing. The court must commence the review hearing not more than 7 days after the date of the attorney's petition and must hold the hearing on the record.

(10) This section does not supersede the placement preferences in the Michigan Indian family preservation act.

(11) As used in this section, "Michigan Indian family preservation act" means chapter XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.1 to 712B.41.

History: Add. 1997, Act 172, Eff. Mar. 31, 1998 ;-- Am. 2010, Act 265, Imd. Eff. Dec. 14, 2010 ;-- Am. 2016, Act 190, Eff. Sept. 19, 2016 ;-- Am. 2022, Act 211, Imd. Eff. Oct. 7, 2022

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.954c Release of child's medical records; medical passport; contents; transfer; performance of assessment or psychological evaluation; medical examination; indication that child may have been victim of human trafficking; counseling.

Sec. 4c.

(1) The supervising agency shall obtain from the parent, guardian, or custodian of each child who is placed in its care the name and address of the child's medical provider and a signed document for the release of the child's

medical records. The supervising agency shall require that a child's medical provider remain constant while the child is in foster care, unless the child's current primary medical provider is a managed care health plan or unless doing so would create an unreasonable burden for the relative, foster parent, or other custodian.

(2) The supervising agency shall develop a medical passport for each child who comes under its care. The medical passport must contain all of the following:

(a) All medical information required by policy or law to be provided to foster parents.

(b) Basic medical history.

(c) A record of all immunizations.

(d) Any other information concerning the child's physical and mental health, including information that the child may be a victim of human trafficking.

(3) Each foster care worker who transfers a child's medical passport to another foster care worker shall sign and date the passport, verifying that he or she has sought and obtained the necessary information required under subsection (2) and any additional information required under department policy. The supervising agency shall provide a copy of each medical passport and updates as required by the department for maintenance in a central location.

(4) If a child under the care of a supervising agency has suffered sexual abuse, serious physical abuse, mental illness, or is alleged to be the victim of human trafficking, the supervising agency shall have an experienced and licensed mental health professional as defined under section 100b(18)(a), (b), or (d) of the mental health code, 1974 PA 258, MCL 330.1100b, who is trained in children's psychological assessments perform an assessment or psychological evaluation of the child. The costs of the assessment or evaluation must be borne by the supervising agency.

(5) A child's supervising agency shall ensure that the child receives a medical examination when the child is first placed in foster care. One objective of this examination is to provide a record of the child's medical and physical status upon entry into foster care.

(6) If an assessment or psychological evaluation required under subsection (4) indicates that a child may have been a victim of human trafficking, the supervising agency shall provide, in addition to any reunification, adoption, or other services provided to a child under the supervising agency's care, counseling services appropriate for minor victims of human trafficking.

History: Add. 1997, Act 172, Eff. Mar. 31, 1998 ;-- Am. 2014, Act 337, Eff. Jan. 14, 2015 ;-- Am. 2020, Act 56, Imd. Eff. Mar. 3, 2020

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.956 Adoption facilitator; duties; cost.

Sec. 6.

(1) An adoption facilitator shall do all of the following:

(a) Provide a client with needed services related to adoption, including postadoption services, or make referrals to available resources in the community. The adoption facilitator shall emphasize the importance and availability of counseling for all parties to an adoption and explain that the prospective adoptive parent is required to pay for counseling for the birth parent or guardian unless the birth parent or guardian waives the counseling.

(b) Provide each individual who inquires about services with the pamphlet describing the adoption process prepared by the department under section 115m of the social welfare act, 1939 PA 280, MCL 400.115m. When providing services to an adoption client, the adoption facilitator shall review the pamphlet with the client and make sure the client understands the various alternatives that are available in the adoption process and how to get access to all of the following:

(i) The directory of children produced by the department under section 8.

(ii) The information contained in the registry of adoptive homes maintained by the department under section 8.

(iii) The public information forms on adoption facilitators maintained by the department pursuant to section 14d of 1973 PA 116, MCL 722.124d.

(c) Prepare and provide to each individual who inquires about services a written document that includes all of the following information:

(i) Types of adoptions the adoption facilitator handles.

(ii) A description of the services that the adoption facilitator provides.

- (iii) A description of services that are available by referral.
- (iv) Eligibility requirements the adoption facilitator has for adoptive families, if any.
- (v) If the adoption facilitator is a child placing agency, the procedure used, or range of options the agency offers, for selecting a prospective adoptive parent for a child, including the role of the child's parent or guardian in the selection process.
- (vi) The extent to which the adoption facilitator permits or encourages the exchange of identifying information or contact between biological and adoptive parents.
- (vii) A description of postfinalization services that the adoption facilitator provides, if any.
- (viii) A schedule of all fees that the adoption facilitator charges for adoption services.
- (ix) A statement that each party to an adoption has a right to independent representation by an attorney and that 1 attorney may not represent both the biological parents or guardian and the prospective adoptive parents.
- (d) Insure that each prospective adoptive parent completes an orientation program consistent with requirements for orientation programs developed under administrative rules by the department.
- (e) Provide a prospective adoptive parent with written copies, other than those portions made confidential by state or federal law, of all of the following regarding the prospective adoptee:
 - (i) If not already provided under section 27 of chapter 10 of 1939 PA 288, MCL 710.27, the adoptee's nonidentifying information as listed and described by section 27(1) and (2) of chapter X of 1939 PA 288, MCL 710.27.
 - (ii) The petition or petitions that resulted in each placement of the child.
 - (iii) Initial and all updated case service plans concerning the child that were compiled during each foster care placement, whether in foster care, adoption, or otherwise.
- (f) No later than the time of the preadoptive or adoptive placement, prepare and provide to the prospective adoptive parent written verification that all of the information described in subdivision (e) has been provided to the prospective adoptive parent.
- (g) Not later than the time of the adoptee's preadoptive placement with the prospective adoptive parent, hold a conference with the prospective adoptive parent and do all of the following during that conference:
 - (i) Review and discuss the information provided to the prospective adoptive parent under subdivision (e).
 - (ii) Disclose to the prospective adoptive parent all other information known by or available to the adoption facilitator regarding the adoptee's medical and psychological needs.
 - (iii) Prepare and provide to the prospective adoptive parent a list of the adoptee's medical and psychological needs that are identified and discussed during the conference.
 - (iv) Prepare written verification for the signatures of the adoption facilitator and the prospective adoptive parent that the conference was held as required by this subdivision, and provide a copy of this written verification to the prospective adoptive parent.
- (2) The information required under subsection (1) shall be provided without cost to the biological parent or guardian or prospective adoptive parent.

History: 1994, Act 203, Eff. Jan. 1, 1995 ;-- Am. 1998, Act 495, Eff. Mar. 1, 1999

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.958 Rules; training; directory of children available for adoption; registry of adoptive homes; foster parent resource centers; pilot project.

Sec. 8.

- (1) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to ensure the comprehensive, high-quality training of foster care and adoption workers. The department shall consult and may contract with colleges and universities, child placing agencies, and professional organizations for the design and implementation of the training. The training shall stress cultural sensitivity, interagency cooperation, and respect for individuals and families.
- (2) The department shall maintain a directory of children under the jurisdiction of the department who are available for adoption. The department shall ensure that interested individuals have reasonable access to the directory.
- (3) The department shall maintain a registry of adoptive homes to be used as a central clearinghouse for information about prospective adoptive parents. The department shall accept information from a prospective adoptive parent who has received a preplacement assessment with a finding that the individual is suitable to be the

parent of an adoptee. The information shall be filed in a form and manner that will permit it to be readily accessible to biological parents or child placing agencies seeking adoptive homes for children. The department shall provide information in the registry without charge to biological parents or child placing agencies who request it.

(4) The department may establish as pilot projects foster parent resource centers. Each resource center shall provide at least support for and coordination of respite care and assistance to foster parents in obtaining child care. Resource center staff shall pursue other activities designed to promote permanency for children, particularly children with special needs, such as support aimed at retaining foster parents. The department may fund the pilot foster parent resource centers using money appropriated to the department for the current fiscal year. After the pilot project has been in operation for 2 years, the department shall evaluate the pilot project on its organization, effectiveness, and success.

History: 1994, Act 203, Eff. Jan. 1, 1995 ;-- Am. 2002, Act 646, Imd. Eff. Dec. 23, 2002 ;-- Am. 2015, Act 106, Eff. Sept. 28, 2015 ;-- Am. 2018, Act 287, Eff. Sept. 27, 2018

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.958a Section to be cited as "foster parent's bill of rights law"; rights; grievance procedure; hearing; remedy; complaint; report; investigations subject to appropriation of funds.

Sec. 8a.

(1) This section may be known as the "foster parent's bill of rights law".

(2) To ensure that each foster parent is treated with dignity, respect, trust, and consideration, the supervising agency shall ensure that each foster parent has access to or receives the following:

(a) Explanation and clarification regarding the supervising agency's role and expectations, information concerning the supervising agency's policies and procedures, and changes to those policies or procedures relative to the role as a foster parent or the children in the foster parent's care within 30 days after those changes are made.

(b) Treatment by the supervising agency that does not violate the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to 37.2804.

(c) Evaluation and feedback regarding the foster parent's provision of care role. As used in this subdivision, "feedback" means providing a copy of the written annual assessment of rule compliance and the written special evaluation report upon completion of the report to the foster parent.

(d) Necessary training to enable the foster parent to provide quality services to children who are or will be in his or her care that includes information on the policies developed by the supervising agency designed to support and aid foster, kinship, and adoptive families relative to foster care and prospective adoptive placement.

(e) Necessary support for the foster parent that includes all of the following:

(i) Reasonable relief and respite as allowed by the supervising agency's resources. As used in this subparagraph, "respite" means substitute care that is provided to a foster child when the foster parent is not present or not available as defined in the supervising agency's substitute care policy or as facilitated by the supervising agency.

(ii) Access to the supervising agency staff for assistance dealing with family loss and separation when a child leaves the foster parent's home.

(iii) Access to information about local and statewide support groups that includes local and statewide foster, kinship, and adoptive parent associations.

(f) Access to the appropriate supervising agency 24 hours a day, 7 days a week, for emergency information and assistance for children in the foster parent's care.

(g) Timely financial reimbursement for foster children in the foster parent's care. As used in this subdivision, "timely financial reimbursement" means payment issued within 30 days after submission of accurate and complete documentation.

(h) Timely investigation of complaints concerning the foster parent's licensure, the right to have a person of the foster parent's choosing present during a licensing investigation, and the right to file a grievance when the foster parent disagrees with a finding in a licensing investigation. As used in this subdivision, "timely investigation" means an investigation is completed within 45 calendar days after receipt of the information. If additional time is required, the supervising agency shall inform the foster parent, in writing, of the basis for the extension. Any extensions under this subdivision shall not exceed a cumulative total of 90 days.

(i) A hearing regarding licensing as provided in section 11(2) of 1973 PA 116, MCL 722.121.

(j) Decisions concerning a licensing corrective action plan that are specifically tied to the applicable licensing rules regarding the licensing violation.

(k) To the extent permitted by state and federal law, copies of information relative to the foster family and services contained in the personal foster home or foster parent records.

(l) Information before placement of the child regarding the child's behavior, individual or special needs, background, health history, or other issues relative to the child that may jeopardize the health and safety of the foster family or alter the manner in which foster care should be provided. In an emergency situation, the supervising agency shall provide information as soon as the information is available.

(m) The option to refuse placement of a child into the foster home or to request, upon reasonable notice, the removal of a child from the foster home, without adverse effect on assignments of future foster children or prospective adoptive placements.

(n) Information through the supervising agency regarding the number of times a child has been moved, the reason for the move, and names and telephone numbers of previous foster parents, if the previous foster parent has authorized release of that information.

(o) Advance notice of a child's move from a foster home in order to prepare the child and foster family members. The advance notice required in this subdivision does not apply in a case of an emergency situation when there is evidence of mistreatment as provided in section 13b(7) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13b, or when the court orders a child to be moved from a foster home but does not allow for advance notice.

(p) Notification and the option to participate in writing or in person, depending on the case, in meetings concerning the child, to be informed of decisions made by the court or the supervising agency concerning the child, and to provide input concerning the case service plan for the child and to have that input considered by the supervising agency.

(q) The option to receive a copy of the supervising agency's placement and case service plan concerning the child's care in the foster parent's home and to participate in and receive case service plan revisions as well as any other information relevant to the child's care, including subsequent revisions to the case service plan as allowed by state and federal law in a timely manner. Foster parents are to be meaningful participants in the development or revision, or both, of the case service plan for the child in that foster parent's home. Case service plans must be provided within 10 days after a foster parent's written request.

(r) Timely and complete written notice from the supervising agency of all court proceedings, including notice of the hearing date, time, location, the name of the judge or hearing officer assigned, the court docket number, and the option to submit factual written statements to the court as provided by state or federal law. As used in this subdivision, "timely notice" means notification of a hearing within 7 days after the supervising agency receives notice from the court.

(s) The option to be considered as a foster parent when a child formerly placed with the foster parent is reentering foster care and the option to be considered when a child previously placed in the foster parent's home becomes available for adoption, if relative placement is not available and the placement is consistent with the best interest of the child and other children in the foster parent's home.

(3) The supervising agency shall maintain a written policy describing the grievance procedure for foster parents and prospective adoptive parents to address any noncompliance with the items listed in subsection (2). The procedure shall include information on how and where to file a grievance.

(4) A foster parent may file a grievance with the supervising agency regarding any of the items listed in subsection (2) as outlined in the supervising agency's written policy described in subsection (3). Within 30 days after receiving the grievance, the supervising agency shall respond with a written statement of how the foster parent's grievance will be addressed. If the supervising agency does not provide a written response within 30 days after the grievance is filed with the supervising agency, the foster parent may file a complaint with the department's bureau of children and adult licensing.

(5) If the grievance is not resolved by filing a complaint with the department's bureau of children and adult licensing, the foster parent may request that a hearing be conducted under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

(6) The sole remedy that may be provided under this section is limited to injunctive relief.

(7) In accordance with section 5 of the office of the child advocate act, 1994 PA 204, MCL 722.925, a foster parent may file a complaint with the office of the child advocate to investigate the supervising agency's alleged violation of law, rule, or policy.

(8) The supervising agencies shall provide the information regarding the grievances and administrative hearings received under this section to the department for compilation and submission of a report to the appropriations subcommittees for the department's budget and the senate and house of representatives standing committees having jurisdiction over issues involving human services. The department shall provide the report described in this section beginning October 1, 2015, and each October 1 after that. The report shall include, at a minimum, all of the following:

(a) The total number of grievances filed for the reporting period.

(b) The total number of grievances resolved within 30 days.

(c) The total number of grievances that were not resolved within 30 days.

(d) The total number of complaints filed with the department's bureau of children and adult licensing, including the number of licensing actions that resulted from those complaints.

(e) A summary of any policy changes that were initiated in response to the grievances filed.

(f) The total number of grievances that resulted in an administrative hearing process, including the number of actions where the administrative law judge denied or dismissed the action, agreed with the supervising agency, or agreed with the foster parent.

(9) The child advocate's investigations of the violations under this section are subject to an appropriation of funds for those investigations.

History: Add. 2014, Act 524, Eff. Apr. 1, 2015 ;-- Am. 2023, Act 296, Eff. Feb. 13, 2024

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.958b Children's assurance of quality foster care policy; requirements; written grievance procedure policy; grievance procedures; remedy; implementation.

Sec. 8b.

(1) The department shall ensure that the children's assurance of quality foster care policy is developed, implemented by the supervising agency, and made available to the public.

(2) The department shall promote the participation of current and former children in foster care in developing the children's assurance of quality foster care policy.

(3) The children's assurance of quality foster care policy must ensure that children placed in foster care are provided with the following:

(a) Fair, equal, and respectful treatment, including treatment that does not violate state and federal law.

(b) Placement with relatives and siblings, when appropriate, as provided in section 4a(5).

(c) Transition planning, including housing, workforce preparation, financial education, access to personal documents, information regarding secondary education and postsecondary education, and independent living preparation, as age-appropriate.

(d) Ongoing contact and visits with parents, relatives, and friends, if permitted by the court.

(e) Access to advocacy services for children in foster care with disabilities.

(f) Enrollment in school within 5 school days after an initial placement or any placement change, unless extenuating circumstances exist, with consistent placement in the same school, when possible.

(g) Participation in extracurricular activities consistent with the child in foster care's age and developmental level, as allowed by the supervising agency's resources, taking into consideration the foster parent's schedule and resources.

(h) Placement in the least restrictive setting, appropriate to the child in foster care's needs in accordance with R 400.12313 of the Michigan Administrative Code. If discipline is required, and physical restraint has been used by a child caring institution as that term is defined in section 1 of 1973 PA 116, MCL 722.111, the child caring institution must provide a detailed report of the incident to the department.

(i) Access to and receipt of information and services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identifying the need for services by the screening and assessment process.

(j) Access to and participation in religious activities, cultural activities, or both, taking into consideration the foster parent's schedule and resources.

(k) Adequate food, necessities, and shelter, including special dietary needs, school supplies, clothing, and hygiene products.

(l) Information regarding proposed placement, as age-appropriate.

(m) A permanency plan, as required by state and federal law, that is designed to facilitate the permanent placement or return home of a child in foster care in a timely manner.

(n) An education that prioritizes meeting the graduation requirements of the Michigan merit curriculum content standards and the ability to receive educational records to the same extent as all students who are not in foster care. As used in this subdivision, "Michigan merit curriculum" means the requirements for a high school diploma identified in sections 1278a and 1278b of the revised school code, 1976 PA 451, MCL 380.1278a and 380.1278b.

(4) The department must maintain a written policy describing the grievance procedure for a child in foster care to

address any perceived noncompliance with the items listed in the children's assurance of quality foster care policy. The grievance procedure must include information on how and where to file a grievance, including contact information for the office of the child advocate and the department's office of family advocate, on a form approved by the department.

(5) A child in foster care may file a grievance with the supervising agency regarding the perceived noncompliance with any of the items listed in the children's assurance of quality foster care policy as outlined in the supervising agency's grievance policy described in subsection (4). Within 30 days after receiving the grievance, the supervising agency must respond with a written statement of how the child in foster care's grievance will be addressed. If the supervising agency does not provide a written response within 30 days after the grievance is filed with the supervising agency or if the child in foster care does not agree with the findings in the written response, the child in foster care may contact the department's office of family advocate.

(6) If the grievance is not resolved with the assistance of the department's office of family advocate, the child in foster care may request that the child in foster care's lawyer-guardian ad litem petition the court for the appropriate relief.

(7) The sole remedy that may be provided under this section is limited to injunctive relief.

(8) The department shall implement the children's assurance of quality foster care policy no later than June 25, 2019.

History: Add. 2018, Act 489, Eff. Mar. 27, 2019 ;-- Am. 2023, Act 296, Eff. Feb. 13, 2024 ;-- Am. 2024, Act 23, Eff. Apr. 2, 2025

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.958c Children's assurance of quality foster care; specific policy regarding access to certain services and information.

Sec. 8c.

In addition to the specific policy described in sections 8b and 8d, the department shall draft and maintain a specific policy for children in foster care as provided in this section. This specific policy shall be implemented by no later than 90 days after the effective date of the amendatory act that added this section and shall, in addition to the provisions of sections 8b and 8d, address the child in foster care's access to the following as age-appropriate and as mandated by the court:

- (a) Regular contact with all of the child in foster care's caseworkers, attorneys, and advocates.
- (b) Relevant information regarding a change in the child in foster care's caseworker or attorney.
- (c) Reasonable notification of hearings.
- (d) At 14 years of age or older, involvement in the child in foster care's own case plan development and development of a plan for his or her future and aging out of the foster care system.
- (e) Help with understanding the services available to children in foster care and how to access those services.
- (f) A permanent plan for placement and the child in foster care's participation in the development of that plan.
- (g) Protection of the child in foster care's privacy and confidentiality regarding his or her case.

History: Add. 2018, Act 490, Eff. Mar. 27, 2019

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.958d Children's assurance of quality foster care policy; prepare and distribute information.

Sec. 8d.

(1) The department shall prepare and distribute to each child placed in foster care, as age-appropriate, information describing the children's assurance of quality foster care policy and the process to follow if the child in foster care has concerns regarding a violation of the children's assurance of quality foster care policy. This

information shall include information regarding the child in foster care's caseworker, lawyer guardian ad litem, the office of the child advocate, the department's office of family advocate, and the foster care review board.

(2) The department shall implement this section by no later than June 26, 2019.

History: Add. 2018, Act 632, Eff. Mar. 28, 2019 ;-- Am. 2023, Act 296, Eff. Feb. 13, 2024

FOSTER CARE AND ADOPTION SERVICES ACT (EXCERPT)

Act 203 of 1994

722.958e Annual report on foster children in the education system.

Sec. 8e.

(1) Beginning September 30, 2024, and annually each September 30 after that, the department, in collaboration with the department of education and the center for educational performance and information, must provide a report to the house and senate appropriation committees for the department budget, the house and senate standing committees on human services, and the house and senate fiscal agencies that must include all of the following:

- (a) The total number of children in foster care identified by grade of instruction.
- (b) The number of children in foster care transferred to a different school district during the academic school year.
- (c) The number of children in foster care who were suspended or expelled from school during the academic school year.
- (d) The number of children in foster care who are identified by chronic absenteeism, truancy, or as drop-outs.
- (e) The following broken down by public schools, public school academies, private schools, and schools at child caring institutions:
 - (i) Percentage of children in foster care who meet academic standards on state standardized assessments.
 - (ii) Percentage of children in foster care who are enrolled in an alternative education school receiving special education services.
 - (iii) Percentage of children in foster care who are assigned to advanced placement, early middle college, or dual enrollment.
 - (iv) Percentage of children in foster care who are assigned to career and technical education.
 - (v) Percentage of children in foster care, or who engaged in foster care in the last 5 years, who graduated or obtained a high school equivalency diploma.

(2) As used in this section, "child caring institution" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

History: Add. 2024, Act 10, Eff. Apr. 2, 2025

FOSTER CARE INDEPENDENCE ACT (EXCERPT)

Act 215 of 2008

722.981 Short title; definitions.

Sec. 1.

- (1) This act shall be known and may be cited as the "foster care independence act".
- (2) As used in this act:
 - (a) "Adjudicated delinquent" means an individual found to have committed an offense that, if committed by an adult, would be a criminal offense.
 - (b) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.
 - (c) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

- (d) "Department" means the department of human services.
- (e) "Foster care" means 24-hour substitute care for children placed away from their parents or guardians for whom the state agency or child placing agency has placement and care responsibility. Foster care placement includes, but is not limited to, placement in foster family homes, child care institutions, and preadoptive placements.
- (f) "Young adult" means an individual 14 years of age or older but less than 21 years of age.

History: 2008, Act 215, Imd. Eff. July 16, 2008

FOSTER CARE INDEPENDENCE ACT (EXCERPT)
Act 215 of 2008

722.982 Foster care independence program; establishment; conditions; services.

Sec. 2.

(1) If this state receives federal money for the purposes described in this act and the federal money is not reduced below the level this state received on the effective date of this act and if public and private partners continue to provide the services they provided on the effective date of this act, the department shall establish the foster care independence program to offer education, training, employment, and financial support for eligible young adults leaving foster care.

(2) Subject to the availability of federal, state, and local funds, the program may include the following services:

(a) Identify young adults who are likely to remain in foster care until 18 years of age and help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and preventive health activities, including smoking avoidance, nutrition education, and pregnancy prevention.

(b) Help young adults who are likely to remain in foster care until 18 years of age receive education, training, and services necessary to obtain employment.

(c) Help young adults who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions.

(d) Provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults.

(e) Provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood.

History: 2008, Act 215, Imd. Eff. July 16, 2008

FOSTER CARE INDEPENDENCE ACT (EXCERPT)
Act 215 of 2008

722.983 Services; eligibility; exceptions; services provided to young adults 14 years of age and older; availability of services through 20 years of age; services provided on as-needed basis.

Sec. 3.

(1) A young adult is eligible for services under this act if he or she is or has been in a foster care placement through the state or a child placing agency based on child abuse or child neglect on or after his or her fourteenth birthday.

(2) A young adult is not eligible for services under this act if 1 or more of the following apply:

(a) The young adult is in an out-of-home placement solely as an adjudicated delinquent. If the young adult is currently an adjudicated delinquent but met the eligibility criteria before his or her adjudication, services may be provided under this act.

(b) The young adult was never in an out-of-home placement based on child abuse or child neglect.

- (c) The young adult is in a detention facility or other state-operated facility.
- (3) Services under this act may be provided to eligible young adults 14 years of age and older regardless of the permanency planning goal. Services under this act may be available to all eligible young adults after case closure through 20 years of age. Services under this act may be provided on an "as-needed" basis.

History: 2008, Act 215, Imd. Eff. July 16, 2008

FOSTER CARE INDEPENDENCE ACT (EXCERPT)
Act 215 of 2008

722.984 Goods and services.

Sec. 4.

(1) The department may provide at least all of the following goods and services to eligible young adults in the foster care independence program:

(a) Services that are not available from other funding sources or agencies for eligible young adults currently in the foster care system and for young adults released from foster care before reaching 21 years of age.

(b) Educational support.

(c) Classes or groups on interpersonal communication and building and maintaining relationships and classes or groups on independent living skills.

(d) Stipends to cover the cost of utility deposits, security deposits, and first month's rent to eligible young adults who are leaving foster care or have left foster care because they have reached 18 years of age but have not reached 21 years of age. The first month's rent and damage deposit may only be provided to young adults 18 to 21 years of age who are leaving foster care or who have left foster care because they attained 18 or 19 years of age and have not reached 21 years of age.

(2) The department shall make known a list of goods and services provided under the program established in this act.

History: 2008, Act 215, Imd. Eff. July 16, 2008

EXECUTIVE REORGANIZATION ORDER (EXCERPT)
E.R.O. No. 2010-9

722.991 Transfer of powers and duties of foster care trust fund board to state child abuse and neglect prevention board; abolishment of foster care trust fund board.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, merging the functions of the Foster Care Trust Fund Board and the State Child Abuse and Neglect Prevention Board will eliminate duplication and contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Foster Care Trust Fund Board" means the board created in the Department of Human Services under Section 4 of the Foster Care Trust Fund Act, 2008 PA 525, MCL 722.1024.

B. "Department of Human Services" or "Department" means the principal department of state government created as the Department of Social Services under Section 450 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.550, renamed the Family Independence Agency under 1995 PA 223, MCL 400.1, and renamed

the Department of Human Services under Executive Order 2004-38, MCL 400.226.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

D. "State Child Abuse and Neglect Prevention Board" means the board created in the Department of Technology, Management, and Budget under Section 3 of the Child Abuse and Neglect Prevention Act, 1982 PA 250, MCL 722.603, and subsequently transferred to the Department of Human Services by Executive Order 1992-5, MCL 722.620.

II. TRANSFERS

A. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Foster Care Trust Fund Board are transferred to the State Child Abuse and Neglect Prevention Board.

B. The Foster Care Trust Fund Board is abolished.

III. IMPLEMENTATION OF TRANSFERS

A. The Director of the Department shall provide executive direction and supervision for the implementation of all transfers under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. All records, personnel, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Foster Care Trust Fund Board for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the State Child Abuse and Neglect Prevention Board.

C. Notwithstanding the activities, powers, duties, functions, and responsibilities transferred under this Order, the State Child Abuse and Neglect Prevention Board shall give first priority to fulfilling its duties and responsibilities under Section 6 of the Child Abuse and Neglect Prevention Act, 1982 PA 250, MCL 722.606.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective October 18, 2010 at 12:01 a.m.

History: 2010, E.R.O. No. 2010-9, Eff. Oct. 18, 2010

FOSTERING FUTURES SCHOLARSHIP TRUST FUND ACT (EXCERPT) Act 525 of 2008

722.1024 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

Compiler's Notes: The repealed section pertained to creation of state foster care trust fund board.

FOSTERING FUTURES SCHOLARSHIP TRUST FUND ACT (EXCERPT) Act 525 of 2008

722.1025 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

Compiler's Notes: The repealed section pertained to qualifications and terms of state foster care trust fund board.

FOSTERING FUTURES SCHOLARSHIP TRUST FUND ACT (EXCERPT)
Act 525 of 2008

722.1027 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

Compiler's Notes: The repealed section pertained to duties of state foster care trust fund board.

FOSTERING FUTURES SCHOLARSHIP TRUST FUND ACT (EXCERPT)
Act 525 of 2008

722.1027a Opportunities to make contributions; collaboration with higher education institution to assist foster care students with unmet financial education needs; use of money; contracts.

Sec. 7a.

(1) The department shall work with the department of human services to serve to provide an opportunity for individuals and organizations to make contributions to go toward providing scholarships to eligible current and former foster care students.

(2) The department shall collaborate with any institution of higher education in this state as determined by the department to assist current and former foster care students who have unmet financial education needs and assist in the effort to create sustainable futures for those foster care students.

(3) Any money provided by the department under this act shall only be used for tuition, fees, room, board, books, supplies, and equipment required for enrollment.

(4) The department may enter into contracts with public or private agencies to fulfill the requirements of this act.

History: Add. 2014, Act 530, Imd. Eff. Jan. 14, 2015

FOSTERING FUTURES SCHOLARSHIP TRUST FUND ACT (EXCERPT)
Act 525 of 2008

722.1027b Fostering futures scholarship; eligibility.

Sec. 7b.

A foster care student is eligible for a fostering futures scholarship if all of the following apply:

(a) Due to child abuse or child neglect, the foster care student was in foster care after his or her thirteenth birthday.

(b) The foster care student is attending an institution of higher education in this state as determined by the department.

(c) The foster care student has an unmet financial education need.

(d) The foster care student has completed the application and provided the department with the required documentation.

(e) The foster care student maintains satisfactory academic progress as determined by the department.

History: Add. 2014, Act 530, Imd. Eff. Jan. 14, 2015

FOSTERING FUTURES SCHOLARSHIP TRUST FUND ACT (EXCERPT)
Act 525 of 2008

722.1028 Repealed. 2014, Act 530, Imd. Eff. Jan. 14, 2015.

Compiler's Notes: The repealed section pertained to recommendations made by state foster care trust fund board.

FOSTERING FUTURES SCHOLARSHIP TRUST FUND ACT (EXCERPT)
Act 525 of 2008

722.1030 Disbursement; limitation.

Sec. 10.

(1) The department may authorize the disbursement of available money from the trust fund, upon legislative appropriations, as provided in section 3, to fund actual and necessary operating expenses that the department incurs in performing its duties under this act. Authorizations for disbursement of trust fund money under this section shall be kept at a minimum in furtherance of the primary purpose of the trust fund.

(2) Trust fund money shall not be disbursed to a foster care student until after that foster care student has exhausted all other known available restricted grants for qualified educational expenses for postsecondary education provided by a federal, state, or local governmental entity, as determined by the department, except for funds provided under the Michigan promise zone authority act, 2008 PA 549, MCL 390.1661 to 390.1679.

(3) Money provided by the department on behalf of a foster care student under this act shall not exceed the cost of that foster care student's tuition, fees, room, board, books, supplies, and equipment required for enrollment at the institution of higher education as determined by the department.

History: 2008, Act 525, Imd. Eff. Jan. 13, 2009 ;-- Am. 2014, Act 530, Imd. Eff. Jan. 14, 2015

SAFE FAMILIES FOR CHILDREN ACT (EXCERPT)
Act 434 of 2018

722.1565 Execution of power attorney does not constitute abuse or neglect; services under this act by resource family not subject to licensing or regulation by the department.

Sec. 15.

(1) A parent or guardian executing a power of attorney does not, by itself, constitute evidence of abandonment, child abuse, child neglect, delinquency, or other maltreatment of a minor child unless the parent or guardian fails to take custody of the minor child when a power of attorney expires. This act does not prevent or delay an investigation of child abuse, child neglect, abandonment, delinquency, or other mistreatment of a minor child.

(2) Executing a power of attorney does not subject a parent, guardian, or person in a home in which a minor child is hosted under this act to any law, rule, or regulation concerning licensing or regulation of foster care or a child care organization. Providing a service under this act does not subject a family service agency to regulation by the department.

History: 2018, Act 434, Eff. Mar. 20, 2019

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.145m Definitions.

Sec. 145m.

As used in this chapter:

- (a) "Adult foster care facility" means that term as defined in section 3 of the adult foster care facility licensing act, MCL 400.703.
- (b) "Adult foster care facility licensing act" means 1979 PA 218, MCL 400.701 to 400.737.
- (c) "Caregiver" means an individual who directly cares for or has physical custody of a vulnerable adult.
- (d) "Developmental disability" means that term as defined in section 500 of the mental health code, MCL 330.1500.
- (e) "Facility" means an adult foster care facility, a home for the aged, or a nursing home.
- (f) "Home for the aged" means that term as defined in section 20106 of the public health code, MCL 333.20106.
- (g) "Licensee" means that term as defined in section 5 of the adult foster care facility licensing act, MCL 400.705, or as defined in section 20108 of the public health code, MCL 333.20108. Licensee does not include a hospital, as that term is defined in section 20106 of the public health code, MCL 333.20106, except that part of a hospital that is a hospital long-term care unit, as that term is defined in section 20106 of the public health code, MCL 333.20106.
- (h) "Mental health code" means 1974 PA 258, MCL 330.1001 to 330.2106.
- (i) "Mental illness" means that term as defined in section 400 of the mental health code, MCL 330.1400.
- (j) "Nursing home" means that term as defined in section 20109 of the public health code, MCL 333.20109 and a hospital long-term care unit as defined in section 20106 of the public health code, MCL 333.20106.
- (k) "Other person with authority over a vulnerable adult" includes, but is not limited to, a person with authority over a vulnerable adult in that part of a hospital that is a hospital long-term care unit, but does not include a person with authority over a vulnerable adult in that part of a hospital that is not a hospital long-term care unit. As used in this subdivision, "hospital" and "hospital long-term care unit" mean those terms as defined in section 20106 of the public health code, MCL 333.20106.
- (l) "Part 213, 215, or 217 of the public health code" means MCL 333.21301 to 333.21333, 333.21501 to 333.21568, and 333.21701 to 333.21799e.
- (m) "Personal care" means assistance with eating, dressing, personal hygiene, grooming, or maintenance of a medication schedule as directed and supervised by a vulnerable adult's physician.
- (n) "Physical harm" means any injury to a vulnerable adult's physical condition.
- (o) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.
- (p) "Reckless act or reckless failure to act" means conduct that demonstrates a deliberate disregard of the likelihood that the natural tendency of the act or failure to act is to cause physical harm, serious physical harm, or serious mental harm.
- (q) "Resident" means an individual who resides in a facility.
- (r) "Serious physical harm" means a physical injury that threatens the life of a vulnerable adult, that causes substantial bodily disfigurement, or that seriously impairs the functioning or well-being of the vulnerable adult.
- (s) "Serious mental harm" means a mental injury that results in a substantial alteration of mental functioning that is manifested in a visibly demonstrable manner.
- (t) "Social welfare act" means 1939 PA 280, MCL 400.1 to 400.119b.
- (u) "Vulnerable adult" means 1 or more of the following:
 - (i) An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently.
 - (ii) An adult as defined in section 3(1)(b) of the adult foster care facility licensing act, MCL 400.703.
 - (iii) An adult as defined in section 11(b) of the social welfare act, MCL 400.11.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994 ;-- Am. 1998, Act 38, Imd. Eff. Mar. 18, 1998

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

750.145o Violation of act by operator or employee of unlicensed facility; violation as felony; penalty.

Sec. 145o.

An operator of an unlicensed facility that is subject to licensure, or an employee or an individual acting on behalf of an unlicensed facility that is subject to licensure, who violates the adult foster care facility licensing act or part 213, 215, or 217 of the public health code or rules promulgated pursuant to the adult foster care facility licensing act or part 213, 215, or 217 of the public health code and whose violation is a proximate cause of the death of a vulnerable adult is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.145p Caregiver, other person with authority over vulnerable adult, or licensee; certain conduct as misdemeanor; penalty; certain disciplinary action not precluded by subsection (3); certain conduct as felony; penalty.

Sec. 145p.

(1) A caregiver, other person with authority over a vulnerable adult, or a licensee who intentionally does 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$25,000.00, or both:

(a) Commingles, borrows, or pledges funds of a resident that are required by law or administrative rule to be held in a separate trust account.

(b) Interferes with or obstructs an investigation under the adult foster care facility licensing act, part 213, 215, or 217 of the public health code, or section 11b of the social welfare act, being section 400.11b of the Michigan Compiled Laws.

(c) Files information required by the adult foster care facility licensing act or part 213, 215, or 217 of the public health code that is false or misleading.

(2) A caregiver, other person with authority over a vulnerable adult, or a licensee who intentionally retaliates or discriminates against a resident because the resident does 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$25,000.00, or both:

(a) Provides information to a state or local official enforcing the adult foster care facility licensing act or part 213, 215, or 217 of the public health code.

(b) Makes a complaint against a facility.

(c) Initiates, participates in, or testifies in an administrative or criminal action against a facility or a civil suit related to the criminal action.

(3) A caregiver, other person with authority over a vulnerable adult, or a licensee who intentionally retaliates or discriminates against an employee because the employee does 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both:

(a) Provides information to a state or local official enforcing the adult foster care facility licensing act or part 213, 215, or 217 of the public health code.

(b) Makes a complaint against a facility.

(c) Initiates, participates in, or testifies in an administrative or criminal action against a facility or a civil suit related to the criminal action.

(4) Subsection (3) does not preclude an employer from taking reasonable and appropriate disciplinary action against an employee.

(5) A caregiver, other person with authority over a vulnerable adult, or a licensee who has been convicted of violating this section who commits a second or subsequent violation of this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

777.14a Applicability of chapter to certain felonies; MCL 400.60(2) to 400.722(4).

Sec. 14a.

This chapter applies to the following felonies enumerated in chapters 400 to 407 of the Michigan Compiled Laws:

M.C.L.	Category Class Description	Stat Max
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400.60(2)	Property	H	Welfare — obtaining over \$500 by failure to inform	4
400.293	Pub trst	E	Charitable organizations and solicitations act violations	5
400.603	Pub trst	G	Medicaid fraud — false statement in benefit/concealing information	4
400.604	Pub trst	G	Medicaid fraud — kickback/referral fees	4
400.605	Pub trst	G	Medicaid fraud — false statement regarding institutions	4
400.606	Property	E	Medicaid fraud — conspiracy	10
400.607	Pub trst	G	Medicaid fraud — false claim/medically unnecessary	4
400.609	Property	D	Medicaid fraud — fourth or subsequent offense	10
400.713(13)	Pub saf	H	Adult foster care — unlicensed facility	2
	Pub saf	F	Adult foster care — unlicensed facility — subsequent violation	5
400.722(4)	Pub saf	F	Adult foster care — maintaining operation after refusal of licensure	5

History: Add. 2002, Act 29, Eff. Apr. 1, 2002 ;-- Am. 2010, Act 378, Eff. Mar. 30, 2011

YOUTH REHABILITATION SERVICES ACT (EXCERPT) Act 150 of 1974

803.305 Cost of public ward's care; prospective payment system as part of state-administered performance-based child welfare system.

Sec. 5.

(1) Except as provided in subsections (3) and (4), the county from which the public ward is committed is liable to the state for 50% of the cost of his or her care, but this amount may be reduced by the use of funds from the annual original foster care grant of the state to the county, or otherwise, for any period in respect to which the department has made a finding that the county is unable to bear 50% of the cost of care. If the department reduces a county's liability under this section, the director shall inform the respective chairpersons of the appropriations committees of the senate and house of representatives at least 14 days before granting the reduction. The county of residence of the public ward is liable to the state, rather than the county from which the youth was committed, if the juvenile division of the probate court or the family division of circuit court of the county of residence withheld consent to a transfer of proceedings under section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, as determined by the department. The finding that the county is unable to bear 50% of the expense shall be based on a study of the financial resources and necessary expenditures of the county made by the department.

(2) Except as provided in subsection (4), the department shall determine the cost of care on a per diem basis using the initial annual allotment of appropriations for the current fiscal year exclusive of capital outlay and the projected occupancy figures upon which that allotment was based. That cost of care applies in determining required reimbursement to the state for care provided during the calendar year immediately following the beginning of the current fiscal year for which the state expenditures were allotted.

(3) Except as provided in subsection (4), a county that is a county juvenile agency is liable for the entire cost of a public ward's care while he or she is committed to the county juvenile agency.

(4) Notwithstanding the provisions in subsections (1) and (2) and subject to appropriations, the department shall implement a prospective payment system as part of a state-administered performance-based child welfare system in a county with a population of not less than 575,000 or more than 750,000, for foster care case management in accordance with section 503 of article X of 2014 PA 252. The county is only required to contribute to foster care services payments in an amount that does not exceed the average of the annual net contribution made by the county for cases received under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, in the 5 previous fiscal years before October 1, 2015. The prospective payment system as part of the state-administered performance-based child welfare system shall be implemented as described in this subsection but shall not include in-home care service funding.

(5) Subsection (4) only impacts abuse and neglect services and not juvenile justice program funding.

History: 1974, Act 150, Imd. Eff. June 12, 1974 ;-- Am. 1980, Act 305, Eff. Dec. 19, 1980 ;-- Am. 1984, Act 325, Imd. Eff. Dec. 26, 1984 ;-- Am. 1996, Act 417, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 517, Imd. Eff. Jan. 12, 1999 ;-- Am. 2014, Act 521, Imd. Eff. Jan. 14, 2015 ;-- Am. 2018, Act 483, Eff. Mar. 27, 2019

