

# SENATE BILL NO. 435

June 28, 2023, Introduced by Senators POLEHANKI, CHANG, IRWIN, BAYER, SHINK, WOJNO, GEISS and SANTANA and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1973 PA 116, entitled

"An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,"

by amending sections 5a and 10 (MCL 722.115a and 722.120), section 5a as added by 1994 PA 205 and section 10 as amended by 2022 PA 69.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5a. A child placing agency shall provide the ~~children's~~  
2 ~~ombudsman~~**child advocate** created in section 3 of the ~~children's~~

1 ~~ombudsman~~**office of the child advocate** act, 1994 PA 204, MCL  
2 722.923, with those records requested by the ~~ombudsman~~**child**  
3 **advocate** pertaining to a matter under investigation by the  
4 ~~ombudsman~~**child advocate**.

5 Sec. 10. (1) The department may investigate, inspect, and  
6 examine conditions of a child care organization and may investigate  
7 and examine the licensee's books and records. The licensee must  
8 cooperate with the department's investigation, inspection, and  
9 examination by doing all of the following:

10 (a) Admitting members of the department into the child care  
11 organization and furnishing all reasonable facilities for thorough  
12 examination of its books, records, and reports.

13 (b) Allowing the department to perform routine investigative  
14 functions during the course of an investigation, inspection, or  
15 examination. Routine investigative functions include, but are not  
16 limited to, interviewing potential witnesses, such as staff and  
17 household members, and taking photographs to assess and document  
18 the conditions of the child care organization and its compliance  
19 with this act and the rules promulgated under this act.

20 (c) Providing accurate and truthful information to the  
21 department, and encouraging witnesses, such as staff and household  
22 members, to provide accurate and truthful information to the  
23 department.

24 (2) The licensee shall allow the department, the bureau of  
25 fire services, or local authorities access to the child care  
26 organization to carry out the provisions of this act and rules  
27 promulgated under this act related to the health or fire protection  
28 of children.

29 (3) A licensee shall keep the records the department

1 prescribes regarding each child in its control and care and shall  
2 report to the department, if requested, the facts the department  
3 requires with reference to the children upon forms furnished by the  
4 department. Except as otherwise provided in this subsection and  
5 subsection (4), records regarding children and facts compiled about  
6 children and their parents and relatives are confidential and  
7 disclosure of this information must be properly safeguarded by the  
8 child care organization, the department, and any other entity in  
9 possession of the information. Records that are confidential under  
10 this section are available to 1 or more of the following:

11 (a) A standing or select committee or appropriations  
12 subcommittee of either house of the legislature having jurisdiction  
13 over protective services matters for children, according to section  
14 7 of the child protection law, 1975 PA 238, MCL 722.627.

15 (b) The ~~children's ombudsman~~ **child advocate** established in  
16 section 3 of the ~~children's ombudsman~~ **office of the child advocate**  
17 act, 1994 PA 204, MCL 722.923.

18 (c) An employee of an agency, bureau, division, or other  
19 entity within the department, or an employee of a child caring  
20 institution, or a child placing agency contracted with the  
21 department, but only to the extent necessary for the administration  
22 of child welfare services in each case. The director of the agency  
23 responsible for child welfare services, or ~~his or her~~ **the**  
24 **director's** designee, is responsible for authorizing an employee to  
25 have access to the records according to this subdivision and for  
26 ensuring that access is given only to the extent necessary.

27 (d) A national accreditation program, only while on-site, for  
28 the purpose of review and accreditation of a child welfare program,  
29 agency, or organization.

1           (4) Notwithstanding subsection (3) and sections 5 and 7(2) of  
2 the child protection law, 1975 PA 238, MCL 722.625 and 722.627,  
3 information or records in the possession of the department or the  
4 department of licensing and regulatory affairs may be shared to the  
5 extent necessary for the proper functioning of the department or  
6 the department of licensing and regulatory affairs in administering  
7 child welfare or child care licensing under this act or in an  
8 investigation conducted under section 43b of the social welfare  
9 act, 1939 PA 280, MCL 400.43b. Information or records shared under  
10 this subsection shall not be released by the department or the  
11 department of licensing and regulatory affairs unless otherwise  
12 permitted under this act or other state or federal law. Neither the  
13 department nor the department of licensing and regulatory affairs  
14 shall release or open for inspection any document, report, or  
15 record authored by or obtained from another agency or organization  
16 unless 1 of the conditions of section 7(5) of the child protection  
17 law, 1975 PA 238, MCL 722.627, applies.

18           (5) A child care center, group child care home, or family  
19 child care home licensee shall provide the department with child  
20 information cards for all children presently enrolled for care, as  
21 requested by the department, whenever the department initiates or  
22 conducts an investigation, inspection, or assessment. If the  
23 investigation, inspection, or assessment results in the department  
24 pursuing disciplinary action as provided by section 11, the child  
25 care center, group child care home, or family child care home  
26 licensee must provide the department with child information cards  
27 for newly enrolled children for the pendency of the proposed  
28 disciplinary action.

29           (6) The department may suspend, deny, revoke, or refuse to

1 renew a license of the child care organization if the licensee does  
2 not cooperate with an investigation, inspection, or examination  
3 under this section.

4 Enacting section 1. This amendatory act does not take effect  
5 unless Senate Bill No. 432 of the 102nd Legislature is enacted into  
6 law.