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BILL ANALYSIS

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Senate Bill 241 (as introduced 2-21-07)  
Sponsor: Senator Gilda Z. Jacobs  
Committee: Families and Human Services

Date Completed: 6-19-07

### **CONTENT**

**The bill would amend the child care licensing Act to do the following:**

- Require a children's therapeutic group home to meet certain criteria, and prohibit such a home from using certain restraints or seclusion otherwise permitted under licensing rules.**
- Include in the definition of "children's camp" an outdoor campsite located where the children's camp is operated.**
- Require each individual over the age of 18 residing in a family day care home or group day care home to undergo a criminal history check with the Department of State Police, rather than a check using the State Police's Internet Criminal History Access Tool (ICHAT), as currently required.**
- Set a beginning date of October 1, 2007, on requirements that a renewal certificate of registration be issued within six months of application.**
- Replace references to "group day care home" or "family day care home" with "group child care home" or "family child care home".**

#### Therapeutic Group Home

The bill would define "children's therapeutic group home" as a child care facility receiving not more than six minor children who are diagnosed with a developmental disability as defined in Section 100a of the Mental Health Code, or a serious emotional disturbance as defined in Section 100d of that Code.

A children's therapeutic group home would have to meet all of the following requirements:

- Provide care, maintenance, and supervision, usually on a 24-hour basis.
- Comply with the rules for residential treatment institutions, except that behavior management rooms, personal restraint, mechanical restraint, or seclusion that is allowed in certain circumstances under licensing rules would be prohibited in a children's therapeutic group home.
- Not be a private home.
- Not be located on a campus with other licensed facilities.

(Under Section 100a of the Mental Health Code, "developmental disability", if applied to an individual older than five, means a severe, chronic condition that meets all of the following:

- Is attributable to a mental or physical impairment or a combination of those impairments.

- Is manifested before the individual is 22 years old.
- Is likely to continue indefinitely.
- Results in substantial functional limitations in three or more of the following areas: self care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.
- Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic treatment, or other services that are of lifelong or extended duration and are individually planned or coordinated.

If applied to a minor from birth to five years of age, the term means a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability if services are not provided.

Under Section 100d, "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 the most recent diagnostic criteria published by the American Psychiatric Association, resulting in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities.)

#### Children's Camp

Currently, "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 four children, apart from the children's parents, relatives, or legal guardians, for five or more days in a 14-day period.

Under the bill, the term also would include a campsite that is an outdoor setting that has natural or manmade features available for outdoor living or activities and that is located where the children's camp is operated.

#### Criminal History Check

Under the Act, when a person applies for a certificate of registration to operate a family day care home or a license to operate a group day care home, the Department of Human Services (DHS) must perform a criminal history check using the Department of State Police's ICHAT on all individuals over 18 years of age residing in the home. In addition, by January 1, 2007, the DHS had to perform an ICHAT check on all people over the age of 18 residing in the home in which a family day care home or group day care home was operated.

The bill would require a criminal history check with the State Police, rather than an ICHAT check, to be conducted on those individuals.

Under the Act, the DHS may not issue or renew a certificate of registration to a family day care home or a license to a group day care home without requesting a criminal history check and an ICHAT check. The bill would delete the requirement for an ICHAT check.

The bill also would refer to a family child care home and a group child care home in these provisions.

#### Registration Renewal

The Act requires the DHS to issue a certificate of registration to a person who has successfully completed an orientation session and who certifies to the Department that the family day care home has complied with and will continue to comply with the rules

promulgated under the Act, and will provide services and facilities conducive to the welfare of children.

Beginning October 1, 2007, the DHS must issue an initial license or renewal license within six months after the applicant files a completed application.

If the DHS fails to issue or deny a license or registration to a child care center, group day care home, or family day care home within the time required, the DHS must return the license or registration fee and reduce the fee for the applicant's next renewal application, if any, by 15%.

A renewal certificate of registration must be issued in the same manner as provided above for the initial issuance of the certificate, except that an on-site visit and the orientation session are not required.

Under the bill, until September 30, 2007, the six-month time limit and related provisions would not apply to a renewal certificate of registration. Beginning October 1, 2007, all of the above requirements would apply. As currently provided, an on-site visit and the orientation session would not be required (before or after that date).

#### Definition

The bill would define "legal custodian" as 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 the juvenile code. (That section deals with allegations of abuse by a parent, guardian, custodian, nonparent adult, or other person residing in a child's home.)

MCL 722.111 et al.

Legislative Analyst: Curtis Walker

#### **FISCAL IMPACT**

The bill would have an indeterminate impact on State government. The DHS Office of Children and Adult Licensing (OCAL) will license the children's therapeutic group homes at \$75 per home for a three-year period and \$25 per home for license renewal, which is the rate for one- to six-bed child caring institutions (CCIs). There were approximately 220 CCIs in FY 2005-06; however, it is anticipated that there will be a small number of children's therapeutic group homes due to the residency size restriction. It is necessary for the homes to be licensed in order to be eligible for Medicaid reimbursement. General Fund savings will be achieved through Federal Medicaid reimbursement for services provided to children with developmental disabilities.

The statutory definition of "legal custodian", although the person does not require a license, is necessary for a legal placement ordered by the probate court. It is not clear to what degree the costs for custodial care are the total responsibility of the State. Any costs incurred are not eligible for Federal Title IV-E claims, unless the placement is licensed. However, the State could use other available Federal funds if this is a time-limited emergency foster care placement. Otherwise, the costs will be paid with State funds.

No additional administrative costs are expected for the issuance of a renewal certificate of registration.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.