

SENATE BILL NO. 695

January 18, 2024, Introduced by Senator SINGH and referred to the Committee on Oversight.

A bill to amend 1979 PA 218, entitled "Adult foster care facility licensing act," by amending sections 3, 5, 7, 13a, 16, 19, 22, and 26a (MCL 400.703, 400.705, 400.707, 400.713a, 400.716, 400.719, 400.722, and 400.726a), sections 3, 5, 7, 13a, and 22 as amended by 2018 PA 557, section 19 as amended by 1992 PA 176, and section 26a as amended by 2018 PA 388.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 3. (1) "Adult" means **1 of the following:**
- 2** (a) ~~A person~~ **An individual** 18 years of age or older.

1 (b) ~~A person~~ **An individual** who is placed in an adult foster
2 care family home or an adult foster care small group home according
3 to section 5(6) or (8) of 1973 PA 116, MCL 722.115.

4 ~~(2) "Adult foster care camp" or "adult camp" means an adult~~
5 ~~foster care facility with the approved capacity to receive more~~
6 ~~than 4 adults to be provided foster care. An adult foster care camp~~
7 ~~is a facility located in a natural or rural environment.~~

8 **(2)** ~~(3)~~—"Adult foster care congregate facility" means an adult
9 foster care facility with the approved capacity to receive more
10 than 20 adults to be provided with foster care.

11 **(3)** ~~(4)~~—"Adult foster care facility" means a home or facility
12 that provides foster care to adults. Subject to section 26a(1),
13 adult foster care facility includes facilities and foster care
14 family homes for adults who are aged, mentally ill, developmentally
15 disabled, or physically disabled who require supervision on an
16 ongoing basis but who do not require continuous nursing care. Adult
17 foster care facility does not include any of the following:

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

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

22 (c) A hospital licensed under part 215 of the public health
23 code, 1978 PA 368, MCL 333.21501 to 333.21571.

24 (d) A hospital for the mentally ill or a facility for the
25 developmentally disabled operated by the department of health and
26 human services under the mental health code, 1974 PA 258, MCL
27 330.1001 to 330.2106.

28 (e) A county infirmary operated by a county department of
29 health and human services under section 55 of the social welfare

1 act, 1939 PA 280, MCL 400.55.

2 (f) A child caring institution, ~~children's camp,~~ foster family
3 home, or foster family group home licensed or approved under 1973
4 PA 116, MCL 722.111 to 722.128, if the number of residents who
5 become 18 years of age while residing in the institution, ~~camp,~~ or
6 home does not exceed the following:

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

8 (ii) Three, if the total number of residents is not less than
9 11 and not more than 14.

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

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

13 (g) A foster family home licensed or approved under 1973 PA
14 116, MCL 722.111 to 722.128, that has ~~a person~~ **an individual** who is
15 18 years of age or older placed in the foster family home under
16 section 5(7) of 1973 PA 116, MCL 722.115.

17 (h) An establishment commonly described as an alcohol or a
18 substance use disorder rehabilitation center, except if licensed as
19 both a substance use disorder program and an adult foster care
20 facility and approved as a co-occurring enhanced crisis residential
21 program, a residential facility for ~~persons~~ **individuals** released
22 from or assigned to adult correctional institutions, a maternity
23 home, or a hotel or rooming house that does not provide or offer to
24 provide foster care.

25 (i) A **veterans'** facility ~~created by 1885 PA 152, MCL 36.1 to~~
26 ~~36.12.~~ **operated under the Michigan veterans' facility authority act,**
27 **2016 PA 560, MCL 36.101 to 36.112a.**

28 (j) An area excluded from the definition of adult foster care
29 facility under section 17(3) of the continuing care community

1 disclosure act, 2014 PA 448, MCL 554.917.

2 (k) A private residence with the capacity to receive at least
3 1 but not more than 4 adults who all receive benefits from a
4 community mental health services program if the local community
5 mental health services program monitors the services being
6 delivered in the residential setting.

7 **(l) A camp licensed under section 10 of the camp licensing act.**

8 **(4)** ~~(5)~~—"Adult foster care family home" means a private
9 residence with the approved capacity to receive at least 3 but not
10 more than 6 adults to be provided with foster care. The adult
11 foster care family home licensee must be a member of the household
12 and an occupant of the residence.

13 **(5)** ~~(6)~~—"Adult foster care large group home" means an adult
14 foster care facility with the approved capacity to receive at least
15 13 but not more than 20 adults to be provided with foster care.

16 **(6)** ~~(7)~~—"Adult foster care small group home" means an adult
17 foster care facility with the approved capacity to receive at least
18 3 but not more than 12 adults to be provided with foster care.

19 **(7)** ~~(8)~~—"Aged" means an adult whose chronological age is 60
20 years of age or older or whose biological age, as determined by a
21 physician, is 60 years of age or older.

22 **(8)** ~~(9)~~—"Assessment plan" means a written statement prepared
23 in cooperation with a responsible agency or person that identifies
24 the specific care and maintenance, services, and resident
25 activities appropriate for each individual resident's physical and
26 behavioral needs and well-being and the methods of providing the
27 care and services taking into account the preferences and
28 competency of the individual.

29 **(9)** ~~(10)~~—"Board" means food service provided at the adult

1 foster care facility.

2 Sec. 5. (1) "Good moral character" means good moral character
3 as defined ~~in~~ **and determined under** 1974 PA 381, MCL 338.41 to
4 338.47.

5 (2) "Licensed hospice program" means a health care program
6 that provides a coordinated set of services rendered at home or in
7 an outpatient or institutional setting for individuals suffering
8 from a disease or condition with a terminal prognosis and that is
9 licensed under article 17 of the public health code, 1978 PA 368,
10 MCL 333.20101 to 333.22260.

11 (3) "Licensee" means the agency, association, corporation,
12 organization, person, or department or agency, of ~~the~~ **this** state ~~7~~
13 **or of the** county, city, or other political subdivision, that has
14 been issued a license to operate an adult foster care facility.

15 (4) "Licensee designee" means the individual designated in
16 writing by the owner or person with legal authority to act on
17 behalf of the company or organization on licensing matters. The
18 licensee designee must meet the licensee qualification requirements
19 of this act and rules promulgated under this act. The licensee
20 designee who is not an owner, partner, or director of the applicant
21 shall not sign the original license application or amendments to
22 the application.

23 (5) "Mental illness" means a substantial disorder of thought
24 or mood that significantly impairs judgment, behavior, capacity to
25 recognize reality, or ability to cope with the ordinary demands of
26 life.

27 (6) "New construction" means a newly constructed facility or a
28 facility that has been completely renovated for use as an adult
29 foster care facility.

1 **(7) "Noncompliance" means a violation of this act, rules**
2 **promulgated under this act, or the terms of a license.**

3 Sec. 7. (1) "Regular license" means a license issued to an
4 adult foster care facility that is in compliance with this act and
5 the rules promulgated under this act.

6 (2) "Related" means any of the following relationships by
7 marriage, blood, or adoption: spouse, child, parent, brother,
8 sister, grandparent, grandchild, aunt, uncle, stepparent,
9 stepbrother, stepsister, or cousin.

10 (3) "Short-term operation" means an adult foster care facility
11 that operates for a period of time less than 6 months within a
12 calendar year.

13 (4) "Special license" means a license issued for the duration
14 of the operation of an adult foster care facility if the licensee
15 is a short-term operation.

16 (5) "Specialized program" means a program of services or
17 treatment provided in an adult foster care facility licensed under
18 this act that is designed to meet the unique programmatic needs of
19 the residents of that home as set forth in the assessment plan for
20 each resident and for which the facility receives special
21 compensation.

22 (6) "Special compensation" means payment to an adult foster
23 care facility to ensure the provision of a specialized program in
24 addition to the basic payment for adult foster care. Special
25 compensation does not include payment received by the adult foster
26 care facility directly from the Medicaid program for personal care
27 services for a resident, or payment received under the supplemental
28 security income program under title XVI of the social security act,
29 42 USC 1381 to 1383f.

1 (7) "Substantial noncompliance" means repeated acts of
2 noncompliance, or noncompliance that jeopardizes the health,
3 safety, care, treatment, maintenance, or supervision of an
4 individual receiving services or, in the case of an applicant, an
5 individual who may receive services.

6 (8) ~~(7)~~"Supervision" means guidance of a resident in the
7 activities of daily living, including 1 or more of the following:

8 (a) Reminding a resident to maintain ~~his or her~~ **the resident's**
9 medication schedule, as directed by the resident's physician.

10 (b) Reminding a resident of important activities to be carried
11 out.

12 (c) Assisting a resident in keeping appointments.

13 (d) Being aware of a resident's general whereabouts even
14 though the resident may travel independently about the community.

15 (9) ~~(8)~~"Temporary license" means a license issued to a
16 facility that has not previously been licensed under this act or
17 under former 1972 PA 287.

18 (10) "Willful noncompliance" means conduct that an applicant
19 or licensee knew or had reason to know is conduct that is in
20 noncompliance.

21 Sec. 13a. ~~(1) Until December 31, 2019, application fees for an~~
22 ~~individual, partnership, firm, corporation, association,~~
23 ~~governmental organization, or nongovernmental organization licensed~~
24 ~~or seeking licensure under this act are as follows:~~

25 ~~(a) Application fee for a temporary license:~~

26 (i) Family home.....	\$	65.00
27 (ii) Small group home (1-6).....		105.00
28 (iii) Small group home (7-12).....		135.00
29 (iv) Large group home.....		170.00

1	(v) Congregate facility.....		220.00
2	(vi) Camp.....		40.00
3	(b) Application fee for subsequent licenses:		
4	(i) Family home.....	\$	25.00
5	(ii) Small group home (1-6).....		25.00
6	(iii) Small group home (7-12).....		60.00
7	(iv) Large group home.....		100.00
8	(v) Congregate facility.....		150.00
9	(vi) Camp.....		25.00

10 ~~(2) Until December 31, 2019, fees collected under this act~~
 11 ~~shall be credited to the general fund of the state to be~~
 12 ~~appropriated by the legislature to the department for the~~
 13 ~~enforcement of this act.~~

14 **(1)** ~~(3)~~ Application fees for an individual, partnership, firm,
 15 corporation, association, governmental organization, or
 16 nongovernmental organization licensed or seeking licensure under
 17 this act for a temporary or renewal license are as follows:

18	(a) Beginning January 1, 2020, as follows:		
19	(i) Family home (3-6).....	\$	85.00
20	(ii) Small group home (3-6).....		130.00
21	(iii) Small group home (7-12).....		170.00
22	(iv) Large group home.....		320.00
23	(v) Congregate facility (renewal only).....		360.00
24	(vi) Camp.....		120.00
25	(b) Beginning January 1, 2022, as follows:		
26	(a) (i) Family home.....	\$	100.00
27	(b) (ii) Small group home (3-6).....		150.00
28	(c) (iii) Small group home (7-12).....		200.00

1	(d) (iv) Large group home.....	500.00
2	(e) (v) Congregate facility (renewal only)...	500.00
3	(vi) Camp.....	200.00

4 (2) The adult foster care facility licensing fee fund is
5 created in the department. The money received from fees under this
6 section must be deposited in the adult foster care facility
7 licensing fee fund. The state treasurer shall direct the investment
8 of money in the fund and credit interest and earnings from the
9 investments to the fund.

10 (3) Money in the adult foster care facility licensing fee fund
11 at the close of the fiscal year does not lapse to the general fund.

12 (4) The department is the administrator of the adult foster
13 care facility licensing fee fund for audits of the fund. The
14 department shall expend money from the adult foster care facility
15 licensing fee fund on appropriation to implement the licensing
16 requirements of adult foster care family homes, adult foster care
17 small group homes, adult foster care large group homes, and adult
18 foster care congregate facilities under this act.

19 Sec. 16. ~~(1) Unless the city, village, or township approves a~~
20 ~~temporary license, a temporary license shall not be granted under~~
21 ~~this act if the issuance of the license would substantially~~
22 ~~contribute to an excessive concentration of community residential~~
23 ~~facilities within a city, village, or township of this state.~~

24 (1) ~~(2)~~A temporary license shall ~~shall~~ **must** not be granted under
25 this act if the proposed adult foster care facility for more than 6
26 adults has not obtained zoning approval or obtained a special or
27 conditional use permit if required by an ordinance of the city,
28 village, or township in which the proposed facility is located.

29 ~~(3) The department shall not issue a temporary license to an~~

1 ~~adult foster care facility which does not comply with section 16a~~
 2 ~~of Act No. 183 of the Public Acts of 1943, as amended, being~~
 3 ~~section 125.216a of the Michigan Compiled Laws, section 16a of Act~~
 4 ~~No. 184 of the Public Acts of 1943, as amended, being section~~
 5 ~~125.286a of the Michigan Compiled Laws, and section 3b of Act No.~~
 6 ~~207 of the Public Acts of 1921, as amended, being section 125.583b~~
 7 ~~of the Michigan Compiled Laws.~~

8 (2) ~~(4)~~ This section ~~shall~~ **does** not apply to an applicant who
 9 has purchased a facility and the facility, at the time of the
 10 purchase, or for 1 year preceding the application, was licensed
 11 under this act or an act repealed by this act.

12 Sec. 19. (1) A regular license ~~shall~~ **must** be issued to an
 13 adult foster care facility ~~which~~ **that** is in compliance with the
 14 requirements of this act and rules promulgated under this act for
 15 issuance of a regular license.

16 (2) A regular license for all adult foster care facilities
 17 ~~except adult foster care camps~~ is valid for 2 years after the date
 18 of issuance unless revoked as authorized by section 22 or modified
 19 to a provisional status based on evidence of noncompliance. ~~with~~
 20 ~~this act or the rules promulgated under this act.~~ The license shall
 21 **must** be renewed biennially on application and approval.

22 ~~(3) A regular license for an adult foster care camp is~~
 23 ~~effective for the specific dates of operation not to exceed a 12-~~
 24 ~~month period unless revoked as authorized by section 22 or modified~~
 25 ~~to a provisional status based on evidence of noncompliance with~~
 26 ~~this act or the rules promulgated under this act.~~ The license shall
 27 ~~be renewed annually on application and approval.~~

28 (3) ~~(4)~~ Any increase beyond 6 in the number of ~~persons~~
 29 **individuals** to be received for foster care at 1 time in a small

1 group home requires application for a temporary license ~~pursuant to~~
2 **under** sections 14 and 16. This subsection applies to facilities
3 that have been previously licensed.

4 Sec. 22. (1) The department may deny, suspend, revoke, or
5 refuse to renew a license, or modify a regular license to a
6 provisional license, if the licensee falsifies information on the
7 application for **the** license or ~~willfully and substantially violates~~
8 ~~this act, the rules promulgated under this act, or the terms of the~~
9 ~~license.~~ **is in willful noncompliance or substantial noncompliance.**

10 (2) The department may deny, suspend, revoke, or modify an
11 application for licensure or a license of a licensee if the
12 department determines that the applicant or licensee has a
13 relationship with a former applicant whose application under this
14 act has been denied or a former licensee whose license under this
15 act has been suspended, revoked, or refused renewal under this
16 section or section 13(9) or a convicted person to whom a license
17 has been denied under section 13(9). This subsection applies for 10
18 years after the suspension, revocation, or refused renewal of the
19 former licensee's license, the denial of the former applicant's
20 application for licensure, or the denial of the convicted person's
21 application for licensure. As used in this subsection, an applicant
22 has a relationship with a former licensee or convicted person if
23 the former applicant, licensee, or convicted person is involved
24 with the facility in 1 or more of the following ways:

25 (a) Participates in the administration or operation of the
26 facility.

27 (b) Has a financial interest in the operation of the facility.

28 (c) Provides care to residents of the facility.

29 (d) Has contact with residents or staff on the premises of the

1 facility.

2 (e) Is employed by the facility.

3 (f) Resides in the facility.

4 (3) The department may deny an application for licensure based
5 on a prior settlement agreement that prohibits a person from
6 providing adult foster care.

7 (4) An application for licensure ~~shall~~**must** not be denied, a
8 license ~~shall~~**must** not be revoked, a renewal ~~shall~~**must** not be
9 refused, and a regular license ~~shall~~**must** not be modified to a
10 provisional license unless the department gives the applicant or
11 licensee written notice of the grounds for the proposed denial,
12 revocation, refusal to renew, or modification. If the proposed
13 denial, revocation, refusal to renew, or modification is not
14 appealed within 30 days after receipt **of the written notice**, the
15 department shall deny, revoke, refuse to renew, or modify the
16 application or license. The applicant or licensee must appeal in
17 writing to the department director, or the director's designee, a
18 proposed denial, revocation, refusal to renew, or modification
19 within 30 days after receipt of the written notice. ~~Upon~~**On** receipt
20 of the written request for appeal, the director or the director's
21 designee must conduct a contested case hearing under the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to
23 24.328. Notice of the hearing must be given to the applicant or
24 licensee by personal service or delivery to the proper address by
25 registered mail not less than 2 weeks before the date of the
26 hearing. The decision of the director or ~~his or her~~**the director's**
27 designee shall be issued as soon as practicable after the hearing
28 and forwarded to the protesting party by registered mail. The
29 formal notice and hearing requirement in this subsection does not

1 apply if the licensee and the department comply with section 22a.

2 (5) A license ~~shall~~**must** not be denied, suspended, or revoked,
3 a renewal ~~shall~~**must** not be refused, and a regular license ~~shall~~
4 **must** not be modified to a provisional license unless the department
5 gives the licensee or applicant written notice of the grounds of
6 the proposed denial, revocation, refusal to renew, or modification.
7 If the licensee or applicant appeals the denial, revocation,
8 refusal to renew, or modification by filing a written appeal with
9 the director within 30 days after receipt of the written notice,
10 the director or the director's designated representative shall
11 conduct a contested case hearing at which the licensee or applicant
12 may present testimony and confront witnesses. Notice of the hearing
13 ~~shall~~**must** be given to the licensee or applicant by personal
14 service or delivery to the proper address by registered mail not
15 less than 2 weeks before the date of the hearing. The decision of
16 the director shall be made and forwarded to the protesting party by
17 registered mail not more than 30 days after the hearing. If the
18 proposed denial, revocation, refusal to renew, or modification is
19 not protested within 30 days, the license ~~shall~~**must** be denied,
20 revoked, refused, or modified.

21 (6) If the department has revoked, suspended, or refused to
22 renew a license, the former licensee shall not receive or maintain
23 in that facility an adult who requires foster care. A person who
24 violates this subsection is guilty of a felony, punishable by
25 imprisonment for not more than 5 years or a fine of not more than
26 \$75,000.00, or both.

27 (7) If the department has revoked, suspended, or refused to
28 renew a license, relocation services shall be provided to adults
29 who were being served by the formerly licensed facility, ~~upon~~**on**

1 the department's determination that the adult or ~~his or her~~ **the**
2 **adult's** designated representative is unable to relocate the adult
3 in another facility without assistance. The relocation services
4 shall be provided by the responsible agency, as defined in
5 administrative rules, or, if the adult has no agency designated as
6 responsible, by the department of health and human services.

7 Sec. 26a. (1) A resident of an adult foster care facility who
8 is enrolled in a licensed hospice program is not considered to
9 require continuous nursing care for the purpose of section
10 ~~3(4)~~ **3(3)**.

11 (2) A resident of an adult foster care facility, which
12 facility is also licensed as a substance use disorder program and
13 is approved as a co-occurring enhanced crisis residential program,
14 is not considered to require continuous nursing care for the
15 purpose of section ~~3(4)~~ **3(3)**.

16 (3) A licensee providing foster care to a resident who is
17 enrolled in a licensed hospice program and whose assessment plan
18 includes a do-not-resuscitate order or a validly executed POST form
19 under part 56B of the public health code, 1978 PA 368, MCL 333.5671
20 to 333.5685, is considered to be providing protection to the
21 resident for purposes of section 6(5) and the rules promulgated
22 under this act if, in the event the resident suffers cessation of
23 both spontaneous respiration and circulation, the licensee contacts
24 the licensed hospice program.

25 Enacting section 1. This amendatory act does not take effect
26 unless Senate Bill No. 692 of the 102nd Legislature is enacted into
27 law.