

Act No. 262
Public Acts of 1990
Approved by the Governor
October 12, 1990
Filed with the Secretary of State
October 15, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Hunter and Brown

ENROLLED HOUSE BILL No. 5245

AN ACT to amend sections 3, 22, and 31 of Act No. 218 of the Public Acts of 1979, entitled "An act to provide for the licensing and regulation of adult foster care facilities; to provide for the establishment of standards of care for adult foster care facilities; to prescribe powers and duties of the department of social services and other departments; to prescribe penalties; and to repeal certain acts and parts of acts," section 3 as amended by Act No. 140 of the Public Acts of 1984, being sections 400.703, 400.722, and 400.731 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 3, 22, and 31 of Act No. 218 of the Public Acts of 1979, section 3 as amended by Act No. 140 of the Public Acts of 1984, being sections 400.703, 400.722, and 400.731 of the Michigan Compiled Laws, are amended to read as follows:

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 pursuant to section 5(6) of Act No. 116 of the Public Acts of 1973, as amended, being section 722.115 of the Michigan Compiled Laws.

(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 governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped 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 article 17 of the public health code, Act No. 368 of the Public Acts of 1978, as amended, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws.

(b) A home for the aged licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978, as amended.

(c) A hospital licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978, as amended.

(d) A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of mental health under the mental health code, Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(e) A county infirmary operated by a county department of social services under section 55 of the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being section 400.55 of the Michigan Compiled Laws.

(f) A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws, 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) An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care.

(h) A facility created by Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Michigan Compiled Laws.

(5) "Adult foster care family home" means a private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall 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 12 or fewer adults who shall be provided 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.

Sec. 22. (1) The department may deny, 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) A license shall not be denied 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 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.

(3) If the department has revoked, suspended, or refused to renew a license, the former licensee shall not receive or maintain adults in need of foster care. A person who violates this subsection is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00.

(4) If the department has revoked, suspended, or refused to renew a license, relocation services shall be provided to adults who are 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.

Sec. 31. (1) A person, adult foster care facility, agency, or representative or officer of a corporation, association, or organization who violates this act, other than section 13 or section 22(3), is guilty of a misdemeanor.

(2) A person, adult foster care facility, agency, or representative or officer of a corporation, association, or organization who has a license revoked, application denied, or renewal refused, may be refused a license, or be prohibited from being connected, directly or indirectly, with a licensee for not less than 2 years after the license is revoked, application denied, or renewal refused. The department shall promulgate rules that shall be the basis for determining the circumstances under which the action shall be taken.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.