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BILL ANALYSIS

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Senate Bill 241 (as enacted)
Senate Bill 242 (as enacted)
Senate Bill 243 (as enacted)
Sponsor: Senator Gilda Z. Jacobs
Senate Committee: Families and Human Services
House Committee: Families and Children's Services

PUBLIC ACT 217 of 2007
PUBLIC ACT 219 of 2007
PUBLIC ACT 220 of 2007

Date Completed: 7-22-09

CONTENT

Senate Bill 241 amended the child care licensing Act to do the following:

- Define the term "children's therapeutic group home", and prohibit certain restraints or seclusion otherwise permitted under licensing rules from being used in such a home.
- Replace references to "group day care home" or "family day care home" with "group child care home" or "family child care home".
- Require each individual over the age of 18 residing in a family child care home or group child 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 previously required.
- Set a beginning date of October 1, 2007, for requirements that a renewal certificate of registration be issued within six months of application.
- Include in the definition of "children's camp" an outdoor campsite located where the children's camp is operated.

Senate Bill 242 amended the Michigan Zoning Enabling Act to refer to a "family child care home" and a "group child care home", rather than a family day care home and a group day care home.

Senate Bill 243 amended the Code of Criminal Procedure to include in the sentencing guidelines the failure of a foster family home or foster family group home licensee to report that the licensee, an employee, or an adult living in the home has been arraigned on certain criminal charges.

The bills took effect on December 28, 2007. Senate Bills 242 and 243 were tie-barred to Senate Bill 241. Senate Bill 243 also was tie-barred to Senate Bill 271 (Public Act 218 of 2007), which amended the child care licensing Act to require an applicant for a license or renewal of a license to operate a foster care home or foster care group home to undergo a criminal history check and an FBI records check, and prescribe penalties for a licensee who fails to report to the Department of Human Services within three days after the licensee, an employee, or an adult residing in the home has been arraigned for certain crimes.

Senate Bills 241, 242, and 243 are described in detail below.

Senate Bill 241

Therapeutic Group Home

The bill defines "children's therapeutic group home" as a child caring institution 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.

The bill requires a children's therapeutic group home to meet all of the following requirements:

- Provide care, maintenance, and supervision, usually on a 24-hour basis.
- Comply with the rules for child caring institutions, except that behavior management rooms, personal restraint, mechanical restraint, or seclusion that is allowed in certain circumstances under licensing rules is 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", for 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.)

Criminal History Check

Under the child care licensing Act, when a person applies for a certificate of registration to operate a family child care home or a license to operate a group child 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. Previously, the Act also required the DHS, by January 1, 2007, to perform an ICHAT check on all people over the age of 18 residing in the home in which a family child care home or group child care home was operated.

The bill instead requires 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 a certificate of registration to a family child care home or a license to a group child care home, or renew a certificate of registration or a license, without requesting a criminal history check. The bill deleted a requirement for an ICHAT check as well.

Previously, these provisions referred to a "family day care home" and a "group day care home". The bill replaced those terms with "family child care home" and "group child care home", which have the same definitions as the previous terms.

"Family child care home" means a private home in which at least one but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code, are received for care and supervision for less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

The definition of "group child care home" is similar, except that it refers to a private

home in which more than six but not more than 12 minor children are given care and supervision.

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 child 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.

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 child care home, or family child 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 did not apply to a renewal certificate of registration. Beginning October 1, 2007, all of the above requirements apply. As previously provided, an on-site visit and the orientation session are not required (before or after that date) for a certificate renewal.

Children's Campsite

The bill added children's campsites and children's therapeutic group homes to the definition of child care organization. Under the bill, "children's campsite" means the outdoor setting where a children's residential or day camp is located.

Definitions

As amended by the bill, "foster family home" means a private home in which one to four minor children, who are not related to an adult member of the household by blood or

marriage, or who are not placed in the household under the Michigan Adoption Code, are given care and supervision 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian. The definition of a "foster family group home" is identical except that it provides for more than four but fewer than seven children in the home. The bill added, in both definitions, the reference to a legal custodian.

The bill defines "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.)

Senate Bill 242

The Michigan Zoning Enabling Act includes provisions for the zoning of a family child care home and a group child care home. A county or township must consider a family child care home a residential use of property for zoning purposes.

A group child care home must be issued a special use permit, conditional use permit, or other similar permit if the home meets standards specified in the Act.

"Family child care home" and "group child care home" mean those terms as defined in the child care licensing Act, and only apply to a bona fide private residence of the operator of the home.

Previously, these provisions referred to a "family day care home" and "group day care home".

Senate Bill 243

Under the child care licensing Act, a person with a license or registration to operate a family child care home or a group child care home must notify the Department of Human Services within three business days if he or she has been arraigned for one or more specific crimes, or within three business days after he or she knows or reasonably should know that an employee or an adult residing in the home has been arraigned for

any of those crimes. Failure to report a misdemeanor that is a "listed offense" or any felony is a felony punishable by a maximum fine of \$2,000 and/or imprisonment for up to two years.

Under the Code of Criminal Procedure, this offense is a class G felony against public safety with a statutory maximum of two years. The bill refers to family child care homes and group child care homes, rather than family day care homes and group day care homes, in the guidelines' description of the offense.

Also, under the bill, the failure of a foster family home or foster family group home licensee to report that the licensee, an employee, or an adult living in the home has been arraigned on certain criminal charges, is a class G felony against public safety, punishable by up to two years' imprisonment.

MCL 722.111 et al. (S.B. 241)
125.3102 & 125.3206 (S.B. 242)
777.15g (S.B. 243)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

Senate Bill 241

The bill will 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 are currently about 175 privately licensed CCIs in Michigan; 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. Medicaid reimbursement for these homes will reduce the amount of General Fund support needed to provide these services.

The statutory definition of "legal custodian", although the person is not required to have 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 with a licensee. However, the State may use other available Federal funds for 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.

Senate Bills 242 & 243

The bills will have no fiscal impact on State or local government.

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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.