

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1041

A bill to amend 1979 PA 218, entitled
"Adult foster care facility licensing act,"
by amending section 24 (MCL 400.724).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 24. (1) A person who believes that this act or a rule
2 promulgated under this act may have been violated may request an
3 investigation of an adult foster care facility. The request shall
4 be submitted to the department in writing or the department shall
5 assist the person in reducing an oral complaint to writing within 7
6 days after the oral request is made.

7 (2) The substance of the complaint shall be provided to the
8 licensee not earlier than at the commencement of the on-site
9 inspection of the adult foster care facility ~~which~~ **THAT** takes place
10 ~~pursuant~~ **ACCORDING** to the complaint.

1 (3) The complaint, a copy of the complaint, or a record
2 published, released, or otherwise disclosed to the adult foster
3 care facility shall not disclose the name of the complainant or an
4 adult resident named in the complaint unless the complainant or an
5 adult resident consents in writing to the disclosure or the
6 investigation results in an administrative hearing or a judicial
7 proceeding, or unless disclosure is considered essential to the
8 investigation by the department. If disclosure is considered
9 essential to the investigation, the complainant shall be given the
10 opportunity to withdraw the complaint before disclosure.

11 (4) Upon receipt of a complaint, the department shall
12 determine, based on the allegations presented, whether this act or
13 a rule promulgated under this act has been, is, or is in danger of
14 being violated. The department shall investigate the complaint
15 according to the urgency determined by the department. The
16 initiation of a complaint investigation shall commence within 15
17 days after receipt of the written complaint by the department.

18 (5) The department shall inform the complainant of its
19 findings. Within 30 days after the receipt of complaint, the
20 department shall provide the complainant a copy, if any, of the
21 written determination or a status report indicating when these
22 documents may be expected. The final report shall include a copy of
23 the original complaint. The complainant may request additional
24 copies of the documents listed in this subsection and shall
25 reimburse the department for the copies ~~pursuant~~ **ACCORDING** to
26 established policies and procedures.

27 (6) The department shall inform the licensee of the

1 department's findings at the same time that the department informs
2 the complainant ~~pursuant to~~ **UNDER** subsection (5).

3 (7) A written determination concerning a complaint shall be
4 available for public inspection, but the name of the complainant or
5 adult resident shall not be disclosed without the complainant's or
6 adult resident's consent.

7 (8) A complainant who is dissatisfied with the determination
8 or investigation by the department may request a hearing. A request
9 for a hearing shall be submitted in writing to the director within
10 30 days after the mailing of the department's findings as described
11 in subsection (5). Notice of the time and place of the hearing
12 shall be sent to the complainant and the adult foster care
13 facility. A complainant who is dissatisfied with the decision of
14 the director may appeal by filing with the clerk of the court an
15 affidavit setting forth the substance of the proceedings before the
16 department and the errors of law upon which the person relies, and
17 serving the director with a copy of the affidavit. The circuit
18 court of the county in which the complainant resides shall have
19 jurisdiction to hear and determine the questions of fact or law
20 involved in the appeal.

21 (9) **NOTWITHSTANDING SUBSECTION (3) AND SECTIONS 5 AND 7(2) OF**
22 **THE CHILD PROTECTION LAW, 1975 PA 238, MCL 722.625 AND 722.627,**
23 **INFORMATION OR RECORDS IN THE POSSESSION OF THE DEPARTMENT OR THE**
24 **DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MAY BE SHARED TO THE**
25 **EXTENT NECESSARY FOR THE PROPER FUNCTIONING OF THE DEPARTMENT OR**
26 **THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS IN ADMINISTERING**
27 **ADULT WELFARE OR ADULT FOSTER CARE LICENSING UNDER THIS ACT OR IN**

1 AN INVESTIGATION CONDUCTED UNDER SECTION 43B OF THE SOCIAL WELFARE
2 ACT, 1939 PA 280, MCL 400.43B. INFORMATION OR RECORDS SHARED UNDER
3 THIS SUBSECTION SHALL NOT BE RELEASED BY THE DEPARTMENT OR THE
4 DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS UNLESS OTHERWISE
5 PERMITTED UNDER THIS ACT OR OTHER STATE OR FEDERAL LAW.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.