

SENATE BILL No. 1041

September 6, 2016, Introduced by Senator EMMONS and referred to the Committee on Families, Seniors and Human Services.

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~~ takes place

1 ~~pursuant~~ **ACCORDING** to the complaint.

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

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

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

1 (6) The department shall inform the licensee of the
2 department's findings at the same time that the department informs
3 the complainant ~~pursuant to~~**UNDER** subsection (5).

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

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

22 **(9) NOTWITHSTANDING SUBSECTION (3) AND SECTION 13(3),**
23 **INFORMATION OR RECORDS THAT THE DEPARTMENT HAS IN ITS POSSESSION**
24 **MAY BE DISCLOSED TO THE EXTENT NECESSARY FOR THE PROPER FUNCTIONING**
25 **OF THE DEPARTMENT OR ANOTHER STATE DEPARTMENT.**

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