

Act No. 492
Public Acts of 2016
Approved by the Governor
January 5, 2017
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senator Emmons

ENROLLED SENATE BILL No. 1041

AN ACT to amend 1979 PA 218, 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 certain fees; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 24 (MCL 400.724).

The People of the State of Michigan enact:

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

(2) The substance of the complaint shall be provided to the licensee not earlier than at the commencement of the on-site inspection of the adult foster care facility that takes place according to the complaint.

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

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

(5) The department shall inform the complainant of its findings. Within 30 days after the receipt of complaint, the department shall provide the complainant a copy, if any, of the written determination or a status report indicating when these documents may be expected. The final report shall include a copy of the original complaint. The complainant may request additional copies of the documents listed in this subsection and shall reimburse the department for the copies according to established policies and procedures.

(6) The department shall inform the licensee of the department's findings at the same time that the department informs the complainant under subsection (5).

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

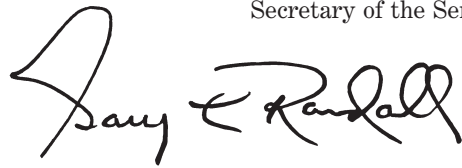
(8) A complainant who is dissatisfied with the determination or investigation by the department may request a hearing. A request for a hearing shall be submitted in writing to the director within 30 days after the mailing of the department's findings as described in subsection (5). Notice of the time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

(9) Notwithstanding subsection (3) and sections 5 and 7(2) of the child protection law, 1975 PA 238, MCL 722.625 and 722.627, information or records in the possession of the department or the department of licensing and regulatory affairs may be shared to the extent necessary for the proper functioning of the department or the department of licensing and regulatory affairs in administering adult welfare or adult foster care licensing under this act or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by the department or the department of licensing and regulatory affairs unless otherwise permitted under this act or other state or federal law.

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



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor