

JUVENILE RESIDENTIAL CARE FACILITIES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4218 (reported as substitute H-1)

Sponsor: Rep. Eric Leutheuser

Committee: Judiciary

Complete to 10-30-17

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 12 of 2018)

BRIEF SUMMARY: The bill would allow a court-operated juvenile residential care facility in a county with a population of less than 50,000 to hire as a direct care worker a person who has a high school diploma or the equivalent.

FISCAL IMPACT: House Bill 4218 would have no fiscal impact on the state of Michigan and minimal fiscal impact on local units of government. To the extent that the bill's provisions might enable the relevant county to hire employees with less experience or fewer completed college courses, the bill could potentially produce some cost savings to the county concerning wages. The amount of any possible savings gained is indeterminate and would depend upon the number of new employees hired under the bill's stipulations and any savings that might have been generated through the hiring of personnel with reduced education or experience requirements compared to current policy.

THE APPARENT PROBLEM:

The Hillsdale County Juvenile Drug Court operates a residential treatment facility for youths with multiple drug offenses. Lately, the facility has had difficulty filling direct care worker positions. Under departmental rules, a direct care worker must have completed at least 30 semester hours at a college or have a high school diploma or the equivalent and 2 years of work experience in a court-operated facility or a child caring institution. The problem, according to those who administer the program, is that many of the positions in the facility are part-time, and college students and graduates are unwilling or unable to take a part-time position that pays only \$11 an hour, and high school graduates with at least 2 years' experience are equally hard to come by in rural counties. In spring of this year, the facility had to seek an emergency waiver from the educational requirements from the Michigan Department of Health and Human Services in order to meet critical staffing needs. Similar youth treatment programs operated by counties are under a different educational requirement; direct workers in county-operated programs need only a high school diploma or GED.

Since the emergency waiver is a temporary measure, legislation has been sought to find a permanent solution by amending the Social Welfare Act to allow a court-operated juvenile treatment program in smaller counties to use the same educational requirements for direct care workers as county-operated programs.

THE CONTENT OF THE BILL:

House Bill 4218 would add a new section to the Social Welfare Act to specify that a direct care worker would be qualified to work, and must be allowed to work, in certain court-operated juvenile residential care facilities if the worker had completed high school or obtained a general equivalency diploma (GED). The bill would apply to a facility located in a county with a population of less than 50,000. If an administrative rule conflicts with the bill's provisions, the bill's provisions would prevail.

The bill would take effect 90 days after enactment.

[A juvenile court-operated residential facility is a 24-hour residential care facility operated by a juvenile court for children and youth. The facility can be open or secure. Section 14 of the Social Welfare Act conveys the authority to regulate these facilities to the Bureau of Children and Adult Licensing within the Michigan Department of Health and Human Services. Currently, departmental rules require a direct care worker to have completed 30 semester hours of college or equivalent quarter hours or have a minimum of a high school diploma or its equivalent *and* 2 years of work experience in a facility or child caring institution (R 400.10121). Regarding a diploma for a person who was home-schooled, the rule is interpreted to mean that unless the home-schooled person passed a GED or had a diploma from a nationally accredited Home School Association that does standardized testing to prove competence, the diploma may not be recognized.]

MCL 400.119d

ARGUMENTS:

For:

Proponents say the bill would create hiring parity between court-operated juvenile treatment facilities in small, rural counties and similar facilities operated by counties. In particular, the bill would bring relief to the Hillsdale County Juvenile Drug Court program and enable it to sufficiently staff its unsecure, residential treatment facility. To administrators of the program, it makes no sense that secure facilities operated by counties have a less stringent educational requirement for direct care workers than an unsecure one operated by a court. Since the Hillsdale court-operated facility trains each employee, the youthful residents benefit from the same level of care from all direct care workers. Further, by making employment as a direct care worker more accessible, future staffing issues may be avoided by enabling more to get the experience needed to move up to a full-time position.

Against:

Opponents argue that the bill is the wrong solution to the problem and that, rather than focusing on a statutory fix, the departmental rule creating the problem should be fixed. Rules can be amended through the administrative rule process. It is a slower process than amending a statute, but it would be the appropriate way to fix a perceived problem with an administrative rule. The process also provides an opportunity for public input, which could

lead to a rule change that may benefit more programs or be a better solution. Meanwhile, the Department of Health and Human Services could continue to keep the emergency waiver in force so that the Hillsdale court facility could continue to meet critical staffing needs while the rule change completes the process.

POSITIONS:

Representatives of the Hillsdale Juvenile Court testified in support of the bill. (10-3-17)

The Michigan Association of Family Court Administration (MAFCA) indicated support for the bill. (10-24-17)

The Division of Child Welfare Licensing indicated a neutral position on the bill. (10-3-17)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Viola Bay Wild

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.