

SENATE BILL No. 962

April 24, 2018, Introduced by Senators SCHMIDT, MACGREGOR, HANSEN,
BRANDENBURG, MARLEAU, KNEZEK and HERTEL and referred to the Committee
on Health Policy.

A bill to amend 1979 PA 218, entitled
"Adult foster care facility licensing act,"
by amending sections 3, 4, and 26a (MCL 400.703, 400.704, and
400.726a), sections 3 and 4 as amended by 2016 PA 525 and section
26a as amended by 2017 PA 156.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3. (1) "Adult" means:
- 2 (a) A person 18 years of age or older.
- 3 (b) A person who is placed in an adult foster care family home
- 4 or an adult foster care small group home according to section 5(6)
- 5 or (8) of 1973 PA 116, MCL 722.115.
- 6 (2) "Adult foster care camp" or "adult camp" means an adult
- 7 foster care facility with the approved capacity to receive more
- 8 than 4 adults to be provided foster care. An adult foster care camp

1 is a facility located in a natural or rural environment.

2 (3) "Adult foster care congregate facility" means an adult
3 foster care facility with the approved capacity to receive more
4 than 20 adults to be provided with foster care.

5 (4) "Adult foster care facility" means a governmental or
6 nongovernmental establishment that provides foster care to adults.
7 Subject to section 26a(1), adult foster care facility includes
8 facilities and foster care family homes for adults who are aged,
9 mentally ill, developmentally disabled, or physically disabled who
10 require supervision on an ongoing basis but who do not require
11 continuous nursing care. Adult foster care facility does not
12 include any of the following:

13 (a) A nursing home licensed under ~~article 17~~ **PART 217** of the
14 public health code, 1978 PA 368, MCL ~~333.20101 to~~
15 ~~333.22260.333.21701 TO 333.21799E.~~

16 (b) A home for the aged licensed under ~~article 17~~ **PART 213** of
17 the public health code, 1978 PA 368, MCL ~~333.20101 to~~
18 ~~333.22260.333.21301 TO 333.21335.~~

19 (c) A hospital licensed under ~~article 17~~ **PART 215** of the
20 public health code, 1978 PA 368, MCL ~~333.20101 to~~
21 ~~333.22260.333.21501 TO 333.21571.~~

22 (d) A hospital for the mentally ill or a facility for the
23 developmentally disabled operated by the department of health and
24 human services under the mental health code, 1974 PA 258, MCL
25 330.1001 to 330.2106.

26 (e) A county infirmary operated by a county department of
27 health and human services under section 55 of the social welfare

1 act, 1939 PA 280, MCL 400.55.

2 (f) A child caring institution, children's camp, foster family
3 home, or foster family group home licensed ~~or approved~~ under 1973
4 PA 116, MCL 722.111 to 722.128, if the number of residents who
5 become 18 years of age while residing in the institution, camp, or
6 home does not exceed the following:

7 (i) Two, if the total number of residents is 10 or fewer.

8 (ii) Three, if the total number of residents is not less than
9 11 and not more than 14.

10 (iii) Four, if the total number of residents is not less than
11 15 and not more than 20.

12 (iv) Five, if the total number of residents is 21 or more.

13 (g) A foster family home licensed ~~or approved~~ under 1973 PA
14 116, MCL 722.111 to 722.128, that has a person who is 18 years of
15 age or older placed in the foster family home under section 5(7) of
16 1973 PA 116, MCL 722.115.

17 (h) An establishment commonly described as an alcohol or a
18 substance use disorder rehabilitation center, **EXCEPT IF LICENSED AS**
19 **BOTH A SUBSTANCE USE DISORDER PROGRAM AND AN ADULT FOSTER CARE**
20 **FACILITY AND APPROVED AS A CO-OCCURRING ENHANCED CRISIS RESIDENTIAL**
21 **PROGRAM**, a residential facility for persons released from or
22 assigned to adult correctional institutions, a maternity home, or a
23 hotel or rooming house that does not provide or offer to provide
24 foster care.

25 (i) A facility created by 1885 PA 152, MCL 36.1 to 36.12.

26 (j) An area excluded from the definition of adult foster care
27 facility under section 17(3) of the continuing care community

1 disclosure act, 2014 PA 448, MCL 554.917.

2 (5) "Adult foster care family home" means a private residence
3 with the approved capacity to receive 6 or fewer adults to be
4 provided with foster care for 5 or more days a week and for 2 or
5 more consecutive weeks. The adult foster care family home licensee
6 ~~shall~~**MUST** be a member of the household, and an occupant of the
7 residence.

8 (6) "Adult foster care large group home" means an adult foster
9 care facility with the approved capacity to receive at least 13 but
10 not more than 20 adults to be provided with foster care.

11 (7) "Adult foster care small group home" means an adult foster
12 care facility with the approved capacity to receive 12 or fewer
13 adults to be provided with foster care.

14 (8) "Aged" means an adult whose chronological age is 60 years
15 of age or older or whose biological age, as determined by a
16 physician, is 60 years of age or older.

17 (9) "Assessment plan" means a written statement prepared in
18 cooperation with a responsible agency or person that identifies the
19 specific care and maintenance, services, and resident activities
20 appropriate for each individual resident's physical and behavioral
21 needs and well-being and the methods of providing the care and
22 services taking into account the preferences and competency of the
23 individual.

24 **Sec. 4. (1) "CO-OCCURRING ENHANCED CRISIS RESIDENTIAL PROGRAM"**
25 **MEANS A PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH AND HUMAN**
26 **SERVICES FOR PROVIDING SHORT-TERM INTENSIVE MENTAL HEALTH AND**
27 **SUBSTANCE USE DISORDER SERVICES THAT IS ABLE TO ADDRESS THE MENTAL**

1 HEALTH NEEDS, SUBSTANCE USE DISORDER NEEDS, OR BOTH OF AN
2 INDIVIDUAL THROUGH ENHANCED PROGRAMMING AND STAFFING PATTERNS THAT
3 ARE REVIEWED AND APPROVED BY THE DEPARTMENT OF HEALTH AND HUMAN
4 SERVICES.

5 (2) ~~(1)~~—"Council" means the adult foster care licensing
6 advisory council created in section 8.

7 (3) ~~(2)~~—"Department" means the department of licensing and
8 regulatory affairs.

9 (4) ~~(3)~~—"Developmental disability" means that term as defined
10 in section 100a of the mental health code, 1974 PA 258, MCL
11 330.1100a.

12 (5) ~~(4)~~—"Direct access" means access to a resident or to a
13 resident's property, financial information, medical records,
14 treatment information, or any other identifying information.

15 (6) ~~(5)~~—"Director" means the director of the department.

16 (7) ~~(6)~~—"Do-not-resuscitate order" means a document executed
17 under the Michigan do-not-resuscitate procedure act, 1996 PA 193,
18 MCL 333.1051 to 333.1067, directing that, in the event a resident
19 suffers cessation of both spontaneous respiration and circulation,
20 no resuscitation will be initiated.

21 (8) ~~(7)~~—"Foster care" means the provision of supervision,
22 personal care, and protection in addition to room and board, for 24
23 hours a day, 5 or more days a week, and for 2 or more consecutive
24 weeks for compensation.

25 Sec. 26a. (1) A resident of an adult foster care facility who
26 is enrolled in a licensed hospice program is not considered to
27 require continuous nursing care for ~~purposes~~ **THE PURPOSE** of section

1 3(4).

2 (2) A RESIDENT OF AN ADULT FOSTER CARE FACILITY, WHICH
3 FACILITY IS ALSO LICENSED AS A SUBSTANCE USE DISORDER PROGRAM AND
4 IS APPROVED AS A CO-OCCURRING ENHANCED CRISIS RESIDENTIAL PROGRAM,
5 IS NOT CONSIDERED TO REQUIRE CONTINUOUS NURSING CARE FOR THE
6 PURPOSE OF SECTION 3(4).

7 (3) ~~(2)~~—A licensee providing foster care to a resident who is
8 enrolled in a licensed hospice program and whose assessment plan
9 includes a do-not-resuscitate order or a validly executed POST form
10 under part 56B of the public health code, 1978 PA 368, MCL 333.5671
11 to 333.5685, is considered to be providing protection to the
12 resident for purposes of section 6(5) and the rules promulgated
13 under this act if, in the event the resident suffers cessation of
14 both spontaneous respiration and circulation, the licensee contacts
15 the licensed hospice program.

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