

Act No. 388
Public Acts of 2018
Approved by the Governor
December 19, 2018
Filed with the Secretary of State
December 19, 2018
EFFECTIVE DATE: March 19, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senators Schmidt, MacGregor, Hansen, Brandenburg, Marleau, Knezek and Hertel

ENROLLED SENATE BILL No. 962

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 licensing and regulatory affairs and other departments; to prescribe certain fees; to prescribe penalties; and to repeal certain acts and parts of acts,” 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:

Sec. 3. (1) “Adult” means:

- (a) A person 18 years of age or older.
- (b) A person who is placed in an adult foster care family home or an adult foster care small group home according to section 5(6) or (8) of 1973 PA 116, MCL 722.115.
- (2) “Adult foster care camp” or “adult camp” means an adult foster care facility with the approved capacity to receive more than 4 adults to be provided foster care. An adult foster care camp is a facility located in a natural or rural environment.
- (3) “Adult foster care congregate facility” means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.
- (4) “Adult foster care facility” means a governmental or nongovernmental establishment that provides foster care to adults. Subject to section 26a(1), adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include any of the following:
 - (a) A nursing home licensed under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e.
 - (b) A home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.
 - (c) A hospital licensed under part 215 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21571.
 - (d) A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of health and human services under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.
 - (e) A county infirmary operated by a county department of health and human services under section 55 of the social welfare act, 1939 PA 280, MCL 400.55.
 - (f) A child caring institution, children’s camp, foster family home, or foster family group home licensed under 1973 PA 116, MCL 722.111 to 722.128, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:
 - (i) Two, if the total number of residents is 10 or fewer.

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

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

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

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

(h) An establishment commonly described as an alcohol or a substance use disorder rehabilitation center, except if licensed as both a substance use disorder program and an adult foster care facility and approved as a co-occurring enhanced crisis residential program, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

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

(j) An area excluded from the definition of adult foster care facility under section 17(3) of the continuing care community disclosure act, 2014 PA 448, MCL 554.917.

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

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

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

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

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

Sec. 4. (1) "Co-occurring enhanced crisis residential program" means a program approved by the department of health and human services for providing short-term intensive mental health and substance use disorder services that is able to address the mental health needs, substance use disorder needs, or both of an individual through enhanced programming and staffing patterns that are reviewed and approved by the department of health and human services.

(2) "Council" means the adult foster care licensing advisory council created in section 8.

(3) "Department" means the department of licensing and regulatory affairs.

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

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

(6) "Director" means the director of the department.

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

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

Sec. 26a. (1) A resident of an adult foster care facility who is enrolled in a licensed hospice program is not considered to require continuous nursing care for the purpose of section 3(4).

(2) A resident of an adult foster care facility, which facility is also licensed as a substance use disorder program and is approved as a co-occurring enhanced crisis residential program, is not considered to require continuous nursing care for the purpose of section 3(4).

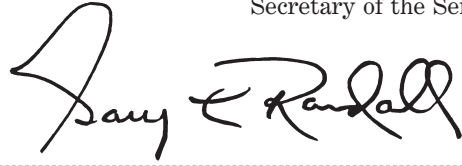
(3) A licensee providing foster care to a resident who is enrolled in a licensed hospice program and whose assessment plan includes a do-not-resuscitate order or a validly executed POST form under part 56B of the public health code, 1978 PA 368, MCL 333.5671 to 333.5685, is considered to be providing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

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor