

HOUSE BILL No. 6233

December 3, 1992, Introduced by Rep. Varga and referred to the Committee on Social Services and Youth.

A bill to amend Act No. 280 of the Public Acts of 1939, entitled as amended

"The social welfare act,"

as amended, being sections 400.1 to 400.119b of the Michigan Compiled Laws, by adding sections 10a, 10b, 10c, and 10d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 280 of the Public Acts of 1939, as
2 amended, being sections 400.1 to 400.119b of the Michigan
3 Compiled Laws, is amended by adding sections 10a, 10b, 10c, and
4 10d to read as follows:

5 SEC. 10A. AS USED IN THIS SECTION AND SECTIONS 10B TO 10D:

6 (A) "ADULT FOSTER CARE FACILITY" MEANS THAT TERM AS DEFINED
7 IN SECTION 3 OF THE ADULT FOSTER CARE FACILITY LICENSING ACT, ACT
8 NO. 218 OF THE PUBLIC ACTS OF 1979, BEING SECTION 400.703 OF THE
9 MICHIGAN COMPILED LAWS.

1 (B) "DEPARTMENT" MEANS THE STATE DEPARTMENT OF SOCIAL
2 SERVICES.

3 (C) "EMERGENCY" MEANS A SITUATION WHICH PRESENTS AN IMMINENT
4 DANGER OF DEATH OR SERIOUS PHYSICAL OR MENTAL HARM TO A RESIDENT
5 OF AN ADULT FOSTER CARE FACILITY.

6 (D) "FACILITY" MEANS AN ADULT FOSTER CARE FACILITY.

7 (E) "RESIDENT" MEANS AN INDIVIDUAL WHO RESIDES IN AN ADULT
8 FOSTER CARE FACILITY.

9 SEC. 10B. (1) THE DEPARTMENT MAY TAKE TEMPORARY PROTECTIVE
10 CUSTODY OF A RESIDENT AND REMOVE THE RESIDENT FROM A FACILITY IF
11 1 OR MORE OF THE FOLLOWING CONDITIONS EXIST:

12 (A) THE FACILITY IS OPERATING WITHOUT A LICENSE.

13 (B) THE DEPARTMENT HAS SUSPENDED, REVOKED, OR REFUSED TO
14 RENEW THE LICENSE OF THE FACILITY.

15 (C) THE DEPARTMENT HAS INITIATED SUSPENSION, REVOCATION, OR
16 NONRENEWAL ACTION AND HAS DETERMINED THAT THE LIFE, HEALTH,
17 SAFETY, OR WELFARE OF THE RESIDENT CANNOT BE ADEQUATELY ASSURED
18 PENDING A FULL HEARING ON LICENSE SUSPENSION, REVOCATION, OR
19 NONRENEWAL.

20 (D) THE FACILITY HAS REQUESTED THE ASSISTANCE OF THE DEPART-
21 MENT IN THE REMOVAL OF THE RESIDENT AND THE DEPARTMENT FINDS THAT
22 THE RESIDENT CONSENTS TO REMOVAL OR THAT THE REMOVAL IS FOR VALID
23 MEDICAL REASONS OR FOR THE WELFARE OF THE RESIDENT OR OTHER
24 RESIDENTS.

25 (E) THE FACILITY IS CLOSING OR INTENDS TO CLOSE AND ADEQUATE
26 ARRANGEMENTS FOR RELOCATION OF THE RESIDENT HAVE NOT BEEN MADE AT
27 LEAST 30 DAYS BEFORE CLOSURE.

1 (F) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS,
2 WHICH REQUIRES IMMEDIATE REMOVAL OF THE RESIDENT.

3 (2) IN DECIDING WHETHER TO REMOVE A RESIDENT FROM A FACILI-
4 TY, THE DEPARTMENT SHALL BALANCE THE LIKELIHOOD OF SERIOUS HARM
5 TO THE RESIDENT WHICH MAY RESULT FROM THE REMOVAL AGAINST THE
6 LIKELIHOOD OF SERIOUS HARM WHICH MAY RESULT IF THE RESIDENT
7 REMAINS IN THE FACILITY.

8 SEC. 10C. (1) IF THE DEPARTMENT DETERMINES THAT REMOVAL OF
9 A RESIDENT FROM A FACILITY IS APPROPRIATE PURSUANT TO SECTION
10 10B, THE DEPARTMENT SHALL OFFER REMOVAL AND RELOCATION ASSISTANCE
11 TO RESIDENTS, INCLUDING INFORMATION ON AVAILABLE ALTERNATIVE
12 PLACEMENTS. RESIDENTS SHALL BE INVOLVED IN PLANNING FOR REMOVAL
13 FROM THE FACILITY AND SHALL CHOOSE AMONG ALTERNATIVE PLACEMENTS,
14 EXCEPT THAT WHEN AN EMERGENCY SITUATION MAKES PRIOR RESIDENT
15 INVOLVEMENT IMPOSSIBLE, THE DEPARTMENT MAY MAKE A TEMPORARY
16 PLACEMENT UNTIL A FINAL PLACEMENT CAN BE ARRANGED. RESIDENTS MAY
17 CHOOSE THEIR FINAL ALTERNATIVE PLACEMENT AND SHALL BE GIVEN
18 ASSISTANCE IN TRANSFERRING TO THE NEW PLACEMENT. IF THE DEPART-
19 MENT MAKES OR PARTICIPATES IN MAKING THE RELOCATION DECISION, IT
20 SHALL CONSIDER PROXIMITY TO THE RESIDENT'S RELATIVES AND
21 FRIENDS.

22 (2) THE DEPARTMENT SHALL PREPARE RESIDENT REMOVAL PLANS AND
23 TRANSFER TRAUMA MITIGATION CARE PLANS TO ASSURE SAFE AND ORDERLY
24 RESIDENT RELOCATION AND TO PROTECT A RESIDENT'S HEALTH, SAFETY,
25 WELFARE, AND RIGHTS.

26 (3) IN NONEMERGENCY SITUATIONS, AND WHEN POSSIBLE IN
27 EMERGENCY SITUATIONS, THE DEPARTMENT SHALL PREPARE TRANSFER

1 TRAUMA MITIGATION CARE PLANS FOR THE INDIVIDUAL RESIDENT AND
2 IMPLEMENT SUCH CARE IN ADVANCE OF REMOVAL.

3 (4) THE DEPARTMENT MAY PLACE RELOCATION TEAMS IN ANY FACIL-
4 ITY FROM WHICH RESIDENTS ARE BEING REMOVED, DISCHARGED, OR TRANS-
5 FERRED FOR ANY REASON, FOR THE PURPOSE OF IMPLEMENTING REMOVAL
6 PLANS AND TO PROVIDE ASSISTANCE IN THE ORDERLY RELOCATION OF
7 RESIDENTS.

8 SEC. 10D. IN AN EMERGENCY, THE DEPARTMENT SHALL NOTIFY THE
9 FACILITY AND ANY RESIDENT TO BE REMOVED THAT AN EMERGENCY HAS
10 BEEN FOUND TO EXIST AND THAT RESIDENT REMOVAL WILL OCCUR.
11 FOLLOWING EMERGENCY REMOVAL, THE DEPARTMENT SHALL PROVIDE WRITTEN
12 NOTICE TO THE FACILITY, THE RESIDENT, THE RESIDENT'S GUARDIAN, IF
13 ANY, AND A MEMBER OF THE RESIDENT'S FAMILY, WHEN PRACTICABLE, OF
14 THE BASIS FOR THE FINDING THAT AN EMERGENCY EXISTED AND OF THE
15 RIGHT TO APPEAL THE DEPARTMENT'S DECISION PURSUANT TO THE ADMIN-
16 ISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS
17 OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
18 LAWS.