

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 888

A bill to amend 1979 PA 218, entitled
"Adult foster care facility licensing act,"
by amending sections 3 and 10 (MCL 400.703 and 400.710), section 3
as amended by 1998 PA 442 and section 10 as amended by 2006 PA 201.

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 pursuant 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
9 is a facility located in a natural or rural environment.

10 (3) "Adult foster care congregate facility" means an adult

1 foster care facility with the approved capacity to receive more
2 than 20 adults to be provided with foster care.

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

11 (a) A nursing home licensed under article 17 of the public
12 health code, 1978 PA 368, MCL 333.20101 to 333.22260.

13 (b) A home for the aged licensed under article 17 of the
14 public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

15 (c) A hospital licensed under article 17 of the public health
16 code, 1978 PA 368, MCL 333.20101 to 333.22260.

17 (d) A hospital for the mentally ill or a facility for the
18 developmentally disabled operated by the department of community
19 health under the mental health code, 1974 PA 258, MCL 330.1001 to
20 330.2106.

21 (e) A county infirmary operated by a county department of
22 social services or family independence agency under section 55 of
23 the social welfare act, 1939 PA 280, MCL 400.55.

24 (f) A child caring institution, children's camp, foster family
25 home, or foster family group home licensed or approved under 1973
26 PA 116, MCL 722.111 to 722.128, if the number of residents who
27 become 18 years of age while residing in the institution, camp, or

1 home does not exceed the following:

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

3 (ii) Three, if the total number of residents is not less than
4 11 and not more than 14.

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

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

8 (g) A foster family home licensed or approved under 1973 PA
9 116, MCL 722.111 to 722.128, that has a person who is 18 years of
10 age or older placed in the foster family home under section 5(7) of
11 1973 PA 116, MCL 722.115.

12 (h) An establishment commonly described as an alcohol or a
13 substance abuse rehabilitation center, a residential facility for
14 persons released from or assigned to adult correctional
15 institutions, a maternity home, or a hotel or rooming house that
16 does not provide or offer to provide foster care.

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

18 **(J) AN AREA EXCLUDED FROM THE DEFINITION OF ADULT FOSTER CARE**
19 **FACILITY UNDER SECTION 17(3) OF THE CONTINUING CARE COMMUNITY**
20 **DISCLOSURE ACT, MCL 554.917.**

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

27 (6) "Adult foster care large group home" means an adult foster

1 care facility with the approved capacity to receive at least 13 but
2 not more than 20 adults to be provided with foster care.

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

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

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

16 Sec. 10. (1) The department shall promulgate rules pursuant to
17 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
18 to 24.328, in the areas provided under subsection (4).

19 (2) The bureau of fire services created in section 1b of the
20 fire prevention code, 1941 PA 207, MCL 29.1b, shall promulgate
21 rules providing for adequate fire prevention and safety in an adult
22 foster care facility licensed or proposed to be licensed for more
23 than 6 adults. The rules shall be promulgated in cooperation with
24 the department and the state fire safety board and shall provide
25 for the protection of the health, safety, and welfare of the adults
26 residing in a facility. The bureau of fire services shall
27 promulgate the rules pursuant to the administrative procedures act

1 of 1969, 1969 PA 306, MCL 24.201 to 24.328. A person may request a
2 variance from the application of a rule promulgated pursuant to
3 this subsection by application to the state fire marshal. The state
4 fire marshal may make a variance upon a finding that the variance
5 does not result in a hazard to life or property. The finding shall
6 be transmitted to the person requesting the variance and shall be
7 entered into the records of the bureau of fire services. If the
8 variance requested concerns a building, the finding shall also be
9 transmitted to the governing body of the city, village, or township
10 in which the building is located. The entire state fire safety
11 board shall act as a hearing body in accordance with the
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
13 24.328, to review and render decisions on a ruling of the state
14 fire marshal interpreting or applying these rules. After a hearing,
15 the state fire safety board may modify the ruling ~~or interpretation~~
16 of the state fire marshal if the enforcement of the ruling ~~or~~
17 ~~interpretation~~ would do manifest injustice and would be contrary to
18 the spirit and purpose of the rules or the public interest. A
19 decision of the state fire safety board to modify or change a
20 ruling of the state fire marshal ~~—~~shall specify in what manner the
21 modification or change is made, the conditions upon which it is
22 made, and the reasons for the modification or change.

23 (3) The department of human services shall promulgate rules
24 for the certification of specialized programs offered in an adult
25 foster care facility to a mentally ill or developmentally disabled
26 resident. The rules shall include provision for an appeal of a
27 denial or limitation of the terms of certification to the

1 department pursuant to chapter 4 of the administrative procedures
2 act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

3 (4) The rules promulgated by the department under this act
4 shall be restricted to the following:

5 (a) The operation and conduct of adult foster care facilities.

6 (b) The character, suitability, training, and qualifications
7 of applicants and other persons directly responsible for the care
8 and welfare of adults served.

9 (c) The general financial ability and competence of applicants
10 to provide necessary care for adults and to maintain prescribed
11 standards.

12 (d) The number of individuals or staff required to ensure
13 adequate supervision and care of the adults served.

14 (e) The appropriateness, safety, cleanliness, and general
15 adequacy of the premises, including maintenance of adequate health
16 standards to provide for the physical comfort, care, protection,
17 and well-being of the adults received and maintenance of adequate
18 fire protection for adult foster care facilities licensed to
19 receive 6 or fewer adults. Rules promulgated in the areas provided
20 by this subdivision shall be promulgated in cooperation with the
21 state fire safety board.

22 (f) Provisions for food, clothing, educational opportunities,
23 equipment, and individual supplies to ~~assure~~**ENSURE** the healthy
24 physical, emotional, and mental development of adults served.

25 (g) The type of programs and services necessary to provide
26 appropriate care to each resident admitted.

27 (h) Provisions to safeguard the rights of adults served,

1 including cooperation with rights protection systems established by
2 law.

3 (i) Provisions to prescribe the rights of licensees.

4 (j) Maintenance of records pertaining to admission, progress,
5 health, and discharge of adults. The rules promulgated under this
6 subdivision shall include a method by which a licensee promptly
7 shall notify the appropriate placement agency or responsible agent
8 of any indication that a resident's assessment plan is not
9 appropriate for that resident.

10 (k) Filing of reports with the department.

11 (l) Transportation safety.

12 (5) The rules **PROMULGATED UNDER SUBSECTION (1)** shall be
13 reviewed by the council not less than once every 5 years.

14 (6) **RULES PROMULGATED UNDER SUBSECTION (1) ARE SUBJECT TO**
15 **SECTION 17 OF THE CONTINUING CARE COMMUNITY DISCLOSURE ACT, MCL**
16 **554.917.**

17 Enacting section 1. This amendatory act does not take effect
18 unless all of the following bills of the 97th Legislature are
19 enacted into law:

20 (a) Senate Bill No. 886.

21 (b) Senate Bill No. 887.