



HOUSE BILL No. 4034

January 11, 1995, Introduced by Rep. Profit and referred to the Committee on Human Services.

A bill to amend section 10 of Act No. 218 of the Public Acts of 1979, entitled as amended "Adult foster care facility licensing act," as amended by Act No. 257 of the Public Acts of 1986, being section 400.710 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 10 of Act No. 218 of the Public Acts of
2 1979, as amended by Act No. 257 of the Public Acts of 1986, being
3 section 400.710 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 10. (1) The department shall promulgate rules pursuant
6 to the administrative procedures act of 1969, Act No. 306 of the
7 Public Acts of 1969, as amended, being sections 24.201 to 24.328

1 of the Michigan Compiled Laws, in the areas provided under
2 subsection (4).

3 (2) The state fire safety board created under the fire pre-
4 vention code, Act No. 207 of the Public Acts of 1941, as amended,
5 being sections 29.1 to 29.33 of the Michigan Compiled Laws, shall
6 promulgate rules providing for adequate fire prevention and
7 safety in an adult foster care facility licensed or proposed to
8 be licensed for more than 6 adults. The rules shall be promul-
9 gated in cooperation with the department and shall provide for
10 the protection of the health, safety, and welfare of the adults
11 residing in a facility. The state fire safety board shall
12 promulgate rules pursuant to Act No. 306 of the Public Acts of
13 1969, as amended. A person may request a variance from the
14 application of a rule promulgated pursuant to this subsection by
15 application to the state fire marshal. The state fire marshal
16 may make a variance upon a finding that the variance does not
17 result in a hazard to life or property. The finding shall be
18 transmitted to the person requesting the variance and shall be
19 entered into the records of the department of state police. If
20 the variance requested concerns a building, the finding shall
21 also be transmitted to the governing body of the city, village,
22 or township in which the building is located. The entire state
23 fire safety board shall act as a hearing body in accordance with
24 Act No. 306 of the Public Acts of 1969 to review and render deci-
25 sions on a rule promulgated pursuant to this subsection or a
26 ruling of the state fire marshal in the marshal's interpretation
27 or application of these rules. After a hearing, the state fire

1 safety board may vary the application of a rule or may modify the
2 ruling or interpretation of the state fire marshal if the
3 enforcement of the ruling or interpretation would do manifest
4 injustice and would be contrary to the spirit and purpose of the
5 rules or the public interest. A decision of the state fire
6 safety board to vary the application of a rule PROMULGATED UNDER
7 THIS SUBSECTION, or to modify or change a ruling of the state
8 fire marshal MADE UNDER THIS SUBSECTION, shall specify in what
9 manner the variance, modification, or change is made, the condi-
10 tions upon which it is made, and the reasons for the variance,
11 modification, or change.

12 (3) The department of mental health shall promulgate rules
13 for the certification of specialized programs offered in an adult
14 foster care facility to a mentally ill or developmentally dis-
15 abled resident. The rules shall ~~include provision~~ PROVIDE for
16 an appeal of a denial or limitation of the terms of certification
17 to the department pursuant to chapter 4 of the administrative
18 procedures act of 1969, being sections 24.271 to .24.287 of the
19 Michigan Compiled Laws.

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

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

24 (b) The character, suitability, training, and qualifications
25 of applicants and other persons directly responsible for the care
26 and welfare of adults served.

1 (c) The general financial ability and competence of
2 applicants to provide necessary care for adults and to maintain
3 prescribed standards.

4 (d) The number of individuals or staff required to insure
5 adequate supervision and care of the adults served.

6 (e) The appropriateness, safety, cleanliness, and general
7 adequacy of the premises, including maintenance of adequate
8 health standards to provide for the physical comfort, care, pro-
9 tection, and well-being of the adults received and maintenance of
10 adequate fire protection for adult foster care facilities
11 licensed to receive 6 or fewer adults. Rules promulgated in the
12 areas provided by this subdivision shall be promulgated in coop-
13 eration with the state fire safety board.

14 (f) Provisions for food, clothing, educational opportuni-
15 ties, equipment, and individual supplies to assure the healthy
16 physical, emotional, and mental development of adults served.

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

19 (h) Provisions to safeguard the rights of adults served,
20 including cooperation with rights protection systems established
21 by law.

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

23 (j) Maintenance of records pertaining to admission,
24 progress, health, and discharge of adults. The rules promulgated
25 under this subdivision shall include a method by which a licensee
26 promptly shall notify the appropriate placement agency or

1 responsible agent of any indication that a resident's assessment
2 plan is not appropriate for that resident.

3 (k) Filing of reports with the department.

4 (l) Transportation safety.

5 (M) PROVISIONS TO ENSURE THAT LICENSING OF FACILITIES DOES
6 NOT PERPETUATE OR TEND TO PERPETUATE SEGREGATED HOUSING PATTERNS.

7 (5) ~~(4)~~ The rules shall be reviewed by the council not
8 less than once every 5 years.