

Act No. 194  
Public Acts of 1996  
Approved by the Governor  
May 13, 1996  
Filed with the Secretary of State  
May 13, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

Introduced by Senators Shugars and Schwarz

# **ENROLLED SENATE BILL No. 836**

AN ACT to amend sections 3, 4, 5, and 6 of Act No. 218 of the Public Acts of 1979, entitled as amended "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 social services and other departments; to prescribe certain fees; to prescribe penalties; and to repeal certain acts and parts of acts," section 3 as amended by Act No. 82 of the Public Acts of 1995 and section 5 as amended by Act No. 40 of the Public Acts of 1984, being sections 400.703, 400.704, 400.705, and 400.706 of the Michigan Compiled Laws; and to add section 26a.

*The People of the State of Michigan enact:*

Section 1. Sections 3, 4, 5, and 6 of Act No. 218 of the Public Acts of 1979, section 3 as amended by Act No. 82 of the Public Acts of 1995 and section 5 as amended by Act No. 40 of the Public Acts of 1984, being sections 400.703, 400.704, 400.705, and 400.706 of the Michigan Compiled Laws, are amended and section 26a is added to read as follows:

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 pursuant to section 5(6) or (8) of Act No. 116 of the Public Acts of 1973, being section 722.115 of the Michigan Compiled Laws.
- (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 handicapped 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 article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws.
  - (b) A home for the aged licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978.
  - (c) A hospital licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978.
  - (d) A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of mental health under the mental health code, Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(e) A county infirmary operated by a county department of social services under section 55 of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.55 of the Michigan Compiled Laws.

(f) A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.127 of the Michigan Compiled Laws, 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 or approved under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.127 of the Michigan Compiled Laws, that has a person who is 18 years of age or older placed in the foster family home under section 5(7) of Act No. 116 of the Public Acts of 1973, being section 722.115 of the Michigan Compiled Laws.

(h) An establishment commonly described as an alcohol or a substance abuse rehabilitation center, 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 Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Michigan Compiled Laws.

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

(2) "Department" means the family independence agency.

(3) "Developmental disability" means a disability as defined in section 500(h) of Act No. 258 of the Public Acts of 1974, being section 330.1500 of the Michigan Compiled Laws.

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

(5) "Do-not-resuscitate order" means a document executed pursuant to section 3 of the Michigan do-not-resuscitate procedure act directing that, in the event a resident suffers cessation of both spontaneous respiration and circulation, no resuscitation will be initiated.

(6) "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. 5. (1) "Good moral character" means good moral character as defined in Act No. 381 of the Public Acts of 1974, being sections 338.41 to 338.47 of the Michigan Compiled Laws.

(2) "Licensed hospice program" means a health care program that provides a coordinated set of services rendered at home or in an outpatient or institutional setting for individuals suffering from a disease or condition with a terminal prognosis and that is licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws.

(3) "Licensee" means the agency, association, corporation, organization, person, or department or agency of the state, county, city, or other political subdivision, that has been issued a license to operate an adult foster care facility.

(4) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(5) "New construction" means a newly constructed facility or a facility that has been completely renovated for use as an adult foster care facility.

Sec. 6. (1) "Personal care" means personal assistance provided by a licensee or an agent or employee of a licensee to a resident who requires assistance with dressing, personal hygiene, grooming, maintenance of a medication schedule as directed and supervised by the resident's physician, or the development of those personal and social skills required to live in the least restrictive environment.

(2) "Physical handicap" means a determinable physical characteristic of an individual which may result from disease, injury, congenital condition of birth, or functional disorder.

(3) "Physical plant" means the structure in which a facility is located and all physical appurtenances to the facility.

(4) "Protection", subject to section 26a(2), means the continual responsibility of the licensee to take reasonable action to insure the health, safety, and well-being of a resident, including protection from physical harm, humiliation, intimidation, and social, moral, financial, and personal exploitation while on the premises, while under the supervision of the licensee or an agent or employee of the licensee, or when the resident's assessment plan states that the resident needs continuous supervision.

(5) "Provisional license" means a license issued to a facility that has previously been licensed under this act or an act repealed by this act but is temporarily unable to conform to the requirements of a regular license prescribed in this act or rules promulgated under this act.

(6) "Quality of care" means the foster care of residents of a facility and other similar items not related to the physical plant that address themselves to the general physical and mental health, welfare, and well-being of residents.

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 purposes of section 3(4).

(2) 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 is considered to be providing protection to the resident for purposes of section 6(4) 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.

Section 2. This amendatory act shall take effect August 1, 1996.

Section 3. This amendatory act shall not take effect unless Senate Bill No. 452 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

-----  
Secretary of the Senate.

-----  
Clerk of the House of Representatives.

Approved -----

-----  
Governor.