



HOUSE BILL No. 4119

January 17, 1995, Introduced by Rep. Varga and referred to the Committee on Human Services.

A bill to amend Act No. 258 of the Public Acts of 1974, entitled as amended "Mental health code," as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, by adding sections 247, 248, 249, and 250.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 258 of the Public Acts of 1974, as
2 amended, being sections 330.1001 to 330.2106 of the Michigan
3 Compiled Laws, is amended by adding sections 247, 248, 249, and
4 250 to read as follows:

5 SEC. 247. AS USED IN THIS SECTION AND SECTIONS 248 TO 250:

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) "EMERGENCY" MEANS A SITUATION THAT PRESENTS AN IMMINENT
2 DANGER OF DEATH OR SERIOUS PHYSICAL OR MENTAL HARM TO A RESIDENT
3 OF AN ADULT FOSTER CARE FACILITY.

4 (C) "FACILITY" MEANS AN ADULT FOSTER CARE FACILITY.

5 (D) "RESIDENT" MEANS AN INDIVIDUAL WHO RESIDES IN AN ADULT
6 FOSTER CARE FACILITY.

7 SEC. 248. (1) A COUNTY PROGRAM THAT HAS PLACED A RESIDENT
8 IN AN ADULT FOSTER CARE FACILITY MAY TAKE TEMPORARY PROTECTIVE
9 CUSTODY OF THE RESIDENT AND REMOVE THE RESIDENT FROM THE FACILITY
10 IF 1 OR MORE OF THE FOLLOWING CONDITIONS EXIST:

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

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

14 (C) THE DEPARTMENT OF SOCIAL SERVICES HAS INITIATED SUSPEN-
15 SION, REVOCATION, OR NONRENEWAL ACTION AND THE COUNTY PROGRAM HAS
16 DETERMINED THAT THE LIFE, HEALTH, SAFETY, OR WELFARE OF THE RESI-
17 DENT CANNOT BE ADEQUATELY ASSURED PENDING A FULL HEARING ON
18 LICENSE SUSPENSION, REVOCATION, OR NONRENEWAL.

19 (D) THE FACILITY HAS REQUESTED THE ASSISTANCE OF THE COUNTY
20 PROGRAM IN THE REMOVAL OF THE RESIDENT AND THE COUNTY PROGRAM
21 FINDS THAT THE RESIDENT CONSENTS TO REMOVAL OR THAT THE REMOVAL
22 IS FOR VALID MEDICAL REASONS OR FOR THE WELFARE OF THE RESIDENT
23 OR OTHER RESIDENTS.

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

1 (F) THE COUNTY PROGRAM DETERMINES THAT AN EMERGENCY REQUIRES
2 IMMEDIATE REMOVAL OF THE RESIDENT.

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

8 SEC. 249. (1) IF A COUNTY PROGRAM DETERMINES THAT REMOVAL
9 OF A RESIDENT FROM A FACILITY IS APPROPRIATE PURSUANT TO SECTION
10 248, THE COUNTY PROGRAM SHALL OFFER REMOVAL AND RELOCATION
11 ASSISTANCE TO THE RESIDENT, INCLUDING INFORMATION ON AVAILABLE
12 ALTERNATIVE PLACEMENTS. A RESIDENT SHALL BE INVOLVED IN PLANNING
13 FOR REMOVAL FROM THE FACILITY AND SHALL CHOOSE AMONG ALTERNATIVE
14 PLACEMENTS, EXCEPT THAT WHEN AN EMERGENCY MAKES PRIOR RESIDENT
15 INVOLVEMENT IMPOSSIBLE, THE COUNTY PROGRAM MAY MAKE A TEMPORARY
16 PLACEMENT UNTIL A FINAL PLACEMENT CAN BE ARRANGED. A RESIDENT
17 MAY CHOOSE HIS OR HER FINAL ALTERNATIVE PLACEMENT AND SHALL BE
18 GIVEN ASSISTANCE IN TRANSFERRING TO THE NEW PLACEMENT. IF THE
19 COUNTY PROGRAM MAKES OR PARTICIPATES IN MAKING THE RELOCATION
20 DECISION, IT SHALL CONSIDER PROXIMITY TO THE RESIDENT'S RELATIVES
21 AND FRIENDS.

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

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

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

3 (4) THE COUNTY PROGRAM MAY PLACE RELOCATION TEAMS IN ANY
4 FACILITY FROM WHICH RESIDENTS ARE BEING REMOVED, DISCHARGED, OR
5 TRANSFERRED FOR ANY REASON, FOR THE PURPOSE OF IMPLEMENTING
6 REMOVAL PLANS AND TO PROVIDE ASSISTANCE IN THE ORDERLY RELOCATION
7 OF RESIDENTS.

8 SEC. 250. IN AN EMERGENCY, THE COUNTY PROGRAM SHALL NOTIFY
9 THE 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 COUNTY PROGRAM SHALL PROVIDE
12 WRITTEN NOTICE TO THE FACILITY, THE RESIDENT, THE RESIDENT'S
13 GUARDIAN, IF ANY, AND A MEMBER OF THE RESIDENT'S FAMILY, WHEN
14 PRACTICABLE, OF THE BASIS FOR THE FINDING THAT AN EMERGENCY
15 EXISTED AND OF THE RIGHT TO APPEAL THE COUNTY PROGRAM'S DECISION
16 PURSUANT TO RULES PROMULGATED BY THE DEPARTMENT.