

Legislative Analysis



INCREASE NUMBER OF CHILDREN ALLOWED IN CERTAIN RESIDENTIAL CARE FACILITIES

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House Bill 4095 (H-2) as reported from committee
Sponsor: Rep. John Reilly
1st Committee: Local Government and Municipal Finance
2nd Committee: Ways and Means
Complete to 5-7-19

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4095 would amend the Michigan Zoning Enabling Act to increase the number of children allowed to live at certain state licensed residential facilities.

FISCAL IMPACT: House Bill 4095 would have an indeterminate, but likely negligible, fiscal impact on local units of government. The expanded definition of state licensed residential facility under the bill would reduce any local government administrative costs and charged fees related to special use or conditional use zoning permits for certain qualifying facilities licensed under the Child Care Licensing Act, 1973 PA 116.

THE APPARENT PROBLEM:

Michigan's foster care system is intended to provide homes for approximately 13,000 children in need of safe and supportive homes, either temporarily or permanently. The limit of 6 or fewer children per residential facility under the act is understood as encouraging a child-to-adult ratio that ensures that each child gets the attention and care that he or she needs. As of November 28, 2018, however, over 300 children in Michigan still needed adoption, leading some to dispute the limit under certain circumstances.

THE CONTENT OF THE BILL:

Currently, the Michigan Zoning Enabling Act defines a *state licensed residential facility* as one that provides residential services for 6 or fewer individuals under 24-hour supervision or care. Such a facility is designated under the act to be a residential use of property for zoning purposes and a permitted use in all residential zones that is not subject to a special use or conditional use permit or procedure that differs from permits or procedures required for other dwellings of similar density in the same zone.

The bill would change the definition of state licensed residential facility to also include a facility that is providing residential services care to 7 to 10 individuals under 24-hour supervision or care, that is licensed under 1973 PA 116 (commonly known as the Child Care Licensing Act), and that is located on a parcel of at least 20 acres in size. Such a facility would also be a residential use of property under the Zoning Enabling Act.

The bill would take effect 90 days after its enactment.

MCL 125.3102

BACKGROUND INFORMATION:

The bill is a reintroduction of HB 6499 of the 2017-18 legislative session, which was passed by the House and Senate and enrolled, but was vetoed by the governor on December 28, 2018.

In his veto message, Governor Snyder wrote that the critical needs of fostered youth must be “balanced with the ability to effectively provide them with the precious care that they deserve.” He stated that increasing the cap on foster children in a home from 6 to 10 compromised that balance and would ultimately negatively impact the children that the bill is intended to help.

ARGUMENTS:

For:

Proponents of HB 4095 argued that the bill is necessary to provide children in rural counties with the help and care that they need and that, while the six-child limit works in urban areas such as Detroit, it is burdensome in low-density counties, where fewer foster homes are available. They argued that the bill will help provide homes for the hundreds of children who still need adoption by letting some facilities take on more children.

Against:

Opponents expressed concern with the local preemption of the bill; they would have preferred the bill to require a residential home to seek a variance with the relevant local unit of government to ensure that there is no conflict with local codes or planning. Opponents argued that the bill strips the ability of a local governmental unit to write its own ordinances regarding residential facilities. They argued that the bill goes against the intent of the Michigan Zoning Enabling Act by allowing large-scale facilities to be created in single-family residential neighborhoods and that such an incompatible land use could put an undue burden on many communities.

Opponents also expressed concern as to whether an enlarged facility can provide the proper individual treatment that foster children need. They argued that children in foster care—especially those who have been through hardship—need special attention and care, and that putting too many of them into individual homes will deny them that care.

POSITIONS:

A representative of the House of Providence testified in support of the bill. (3-13-19)

The Department of Health and Human Services indicated a neutral position. (4-25-19)

Representatives of the following organizations testified in opposition to the bill:

Michigan Municipal League (4-25-19)

Michigan Townships Association (4-25-19)

Rose Township Zoning Board of Appeals (4-25-19)

Rose Township (4-25-19)

Groveland Township (4-25-19)

Oxford Neighbors Association (4-25-19)

The Preservation of Hunt Country Neighbors indicated opposition to the bill. (3-13-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.