

# HOUSE BILL NO. 4841

June 22, 2023, Introduced by Reps. Young, MacDonell, Brenda Carter, O'Neal, Grant, Miller, Neeley, Dievendorf, Pohutsky, Haadsma, Farhat, Byrnes, Hill, Arbit, Brabec, Conlin, Martus, Skaggs, Churches, Weiss, Glanville, Hood, McKinney, Andrews, Whitsett, Scott, Tsernoglou, Brixie, Wegela, Edwards, Paiz and Aiyash and referred to the Committee on Families, Children and Seniors.

A bill to amend 1979 PA 218, entitled "Adult foster care facility licensing act," by amending sections 3, 4, 5, 6, 7, 13, 24, and 31 (MCL 400.703, 400.704, 400.705, 400.706, 400.707, 400.713, 400.724, and 400.731), sections 3, 4, 5, 7, and 13 as amended by 2018 PA 557, section 6 as amended by 2017 PA 156, section 24 as amended by 2018 PA 558, and section 31 as amended by 1994 PA 150, and by adding sections 9a, 28, 28a, 28b, 28c, 28d, and 28e.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3. (1) "Abuse" means willfully inflicting injury,  
2 unreasonable confinement, intimidation, or punishment with  
3 resulting physical harm, pain, or mental anguish. Abuse includes  
4 mental abuse, physical abuse, sexual abuse, and verbal abuse.

5           (2) ~~(1)~~—"Adult" means 1 of the following:

6           (a) ~~A person~~—An individual 18 years of age or older.

7           (b) ~~A person~~—An individual who is placed in an adult foster  
8 care family home or an adult foster care small group home according  
9 to section 5(6) or (8) of 1973 PA 116, MCL 722.115.

10          (3) ~~(2)~~—"Adult foster care camp" or "adult camp" means an  
11 adult foster care facility with the approved capacity to receive  
12 more than 4 adults to be provided foster care. An adult foster care  
13 camp is a facility located in a natural or rural environment.

14          (4) ~~(3)~~—"Adult foster care congregate facility" means an adult  
15 foster care facility with the approved capacity to receive more  
16 than 20 adults to be provided with foster care.

17          (5) ~~(4)~~—"Adult foster care facility" means a home or facility  
18 that provides foster care to adults. Subject to section 26a(1),  
19 adult foster care facility includes facilities and foster care  
20 family homes for adults who are aged, mentally ill, developmentally  
21 disabled, or physically disabled who require supervision on an  
22 ongoing basis but who do not require continuous nursing care. Adult  
23 foster care facility does not include any of the following:

24          (a) A nursing home licensed under part 217 of the public  
25 health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

26          (b) A home for the aged licensed under part 213 of the public  
27 health code, 1978 PA 368, MCL 333.21301 to 333.21335.

28          (c) A hospital licensed under part 215 of the public health  
29 code, 1978 PA 368, MCL 333.21501 to 333.21571.

1 (d) A hospital for the mentally ill or a facility for the  
2 developmentally disabled operated by the department of health and  
3 human services under the mental health code, 1974 PA 258, MCL  
4 330.1001 to 330.2106.

5 (e) A county infirmary operated by a county department of  
6 health and human services under section 55 of the social welfare  
7 act, 1939 PA 280, MCL 400.55.

8 (f) A child caring institution, children's camp, foster family  
9 home, or foster family group home licensed or approved under 1973  
10 PA 116, MCL 722.111 to 722.128, if the number of residents who  
11 become 18 years of age while residing in the institution, camp, or  
12 home does not exceed the following:

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

14 (ii) Three, if the total number of residents is not less than  
15 11 and not more than 14.

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

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

19 (g) A foster family home licensed or approved under 1973 PA  
20 116, MCL 722.111 to 722.128, that has ~~a person~~ **an individual** who is  
21 18 years of age or older placed in the foster family home under  
22 section 5(7) of 1973 PA 116, MCL 722.115.

23 (h) An establishment commonly described as an alcohol or a  
24 substance use disorder rehabilitation center, except if licensed as  
25 both a substance use disorder program and an adult foster care  
26 facility and approved as a co-occurring enhanced crisis residential  
27 program, a residential facility for ~~persons~~ **individuals** released  
28 from or assigned to adult correctional institutions, a maternity  
29 home, or a hotel or rooming house that does not provide or offer to

1 provide foster care.

2 (i) A facility created by **former** 1885 PA 152. ~~7, MCL 36.1 to~~  
3 ~~36.12.~~

4 (j) An area excluded from the definition of adult foster care  
5 facility under section 17(3) of the continuing care community  
6 disclosure act, 2014 PA 448, MCL 554.917.

7 (k) A private residence with the capacity to receive at least  
8 1 but not more than 4 adults who all receive benefits from a  
9 community mental health services program if the local community  
10 mental health services program monitors the services being  
11 delivered in the residential setting.

12 (6) ~~(5)~~—"Adult foster care family home" means a private  
13 residence with the approved capacity to receive at least 3 but not  
14 more than 6 adults to be provided with foster care. The adult  
15 foster care family home licensee must be a member of the household  
16 and an occupant of the residence.

17 (7) ~~(6)~~—"Adult foster care large group home" means an adult  
18 foster care facility with the approved capacity to receive at least  
19 13 but not more than 20 adults to be provided with foster care.

20 (8) ~~(7)~~—"Adult foster care small group home" means an adult  
21 foster care facility with the approved capacity to receive at least  
22 3 but not more than 12 adults to be provided with foster care.

23 (9) ~~(8)~~—"Aged" means an adult whose chronological age is 60  
24 years of age or older or whose biological age, as determined by a  
25 physician, is 60 years of age or older.

26 (10) ~~(9)~~—"Assessment plan" means a written statement prepared  
27 in cooperation with a responsible agency or person that identifies  
28 the specific care and maintenance, services, and resident  
29 activities appropriate for each individual resident's physical and

1 behavioral needs and well-being and the methods of providing the  
 2 care and services taking into account the preferences and  
 3 competency of the individual.

4 (11) ~~(10)~~—"Board" means food service provided at the adult  
 5 foster care facility.

6 Sec. 4. (1) **"Certified nurse assistant" means an individual**  
 7 **who is certified through the nurse aide training program**  
 8 **administered by the department and whose certification has been**  
 9 **verified by the management of the adult foster care facility.**

10 (2) ~~(1)~~—"Co-occurring enhanced crisis residential program"  
 11 means a program approved by the department of health and human  
 12 services for providing short-term intensive mental health and  
 13 substance use disorder services that is able to address the mental  
 14 health needs, substance use disorder needs, or both of an  
 15 individual through enhanced programming and staffing patterns that  
 16 are reviewed and approved by the department of health and human  
 17 services.

18 (3) ~~(2)~~—"Council" means the adult foster care licensing  
 19 advisory council created in section 8.

20 (4) ~~(3)~~—"Department" means the department of licensing and  
 21 regulatory affairs.

22 (5) ~~(4)~~—"Developmental disability" means that term as defined  
 23 in section 100a of the mental health code, 1974 PA 258, MCL  
 24 330.1100a.

25 (6) ~~(5)~~—"Direct access" means access to a resident or to a  
 26 resident's property, financial information, medical records,  
 27 treatment information, or any other identifying information.

28 (7) ~~(6)~~—"Director" means the director of the department.

29 (8) ~~(7)~~—"Do-not-resuscitate order" means a document executed

1 under the Michigan do-not-resuscitate procedure act, 1996 PA 193,  
2 MCL 333.1051 to 333.1067, directing that, in the event a resident  
3 suffers cessation of both spontaneous respiration and circulation,  
4 no resuscitation will be initiated.

5 (9) ~~(8)~~ "Foster care" means ~~the provision of~~ **providing**  
6 supervision, personal care, and protection in addition to room and  
7 board, for 24 hours a day, 5 or more days a week, and for 2 or more  
8 consecutive weeks for compensation provided at a single address.  
9 Providing room under a landlord and tenant arrangement does not, by  
10 itself, exclude a person from the licensure requirement under this  
11 act.

12 Sec. 5. (1) "Good moral character" means good moral character  
13 as defined ~~in~~ **and determined under** 1974 PA 381, MCL 338.41 to  
14 338.47.

15 (2) "Licensed hospice program" means a health care program  
16 that provides a coordinated set of services rendered at home or in  
17 an outpatient or institutional setting for individuals suffering  
18 from a disease or condition with a terminal prognosis and that is  
19 licensed under article 17 of the public health code, 1978 PA 368,  
20 MCL 333.20101 to 333.22260.

21 (3) "Licensed practical nurse" means **an individual who is**  
22 **licensed or otherwise authorized to engage in the practice of**  
23 **nursing as a licensed practical nurse under part 172 of the public**  
24 **health code, 1978 PA 368, MCL 333.17201 to 333.17242.**

25 (4) "Licensed staff" means a health care provider licensed  
26 under article 15 of the public health code, 1978 PA 368, MCL  
27 333.16101 to 333.18868. **Licensed staff includes a registered nurse**  
28 **and a licensed practical nurse.**

29 (5) ~~(3)~~ "Licensee" means the agency, association, corporation,

1 organization, person, or department or agency of the state, county,  
2 city, or other political subdivision, that has been issued a  
3 license to operate an adult foster care facility.

4 (6) ~~(4)~~—"Licensee designee" means the individual designated in  
5 writing by the owner or person with legal authority to act on  
6 behalf of the company or organization on licensing matters. The  
7 licensee designee must meet the licensee qualification requirements  
8 of this act and rules promulgated under this act. The licensee  
9 designee who is not an owner, partner, or director of the applicant  
10 shall not sign the original license application or amendments to  
11 the application.

12 (7) **"Mental abuse" means a willful act directed at a resident**  
13 **that is likely to result in mental distress or mental anguish.**  
14 **Mental abuse includes humiliation, harassment, threat of**  
15 **punishment, or threat of deprivation.**

16 (8) ~~(5)~~—"Mental illness" means a substantial disorder of  
17 thought or mood that significantly impairs judgment, behavior,  
18 capacity to recognize reality, or ability to cope with the ordinary  
19 demands of life.

20 (9) **"Neglect" means failure to provide goods and services to a**  
21 **resident that are necessary to avoid physical harm, pain, mental**  
22 **anguish, mental stress, or emotional distress.**

23 (10) ~~(6)~~—"New construction" means a newly constructed facility  
24 or a facility that has been completely renovated for use as an  
25 adult foster care facility.

26 Sec. 6. (1) "Personal care" means personal assistance provided  
27 by a licensee or an agent or employee of a licensee to a resident  
28 who requires assistance with dressing, personal hygiene, grooming,  
29 ~~maintenance of~~ **maintaining** a medication schedule as directed and

1 supervised by the resident's physician, or ~~the development of~~  
 2 **developing** those personal and social skills required to live in the  
 3 least restrictive environment.

4 (2) "Physical abuse" means a willful act directed at a  
 5 resident that is likely to result in injury or pain. Physical abuse  
 6 includes, but is not limited to, slapping, pinching, kicking,  
 7 shoving, corporal punishment, rough handling during caregiving or  
 8 when moving a resident, isolating a resident from visitors or other  
 9 residents, and abandonment.

10 (3) ~~(2)~~—"Physical disability" means a determinable physical  
 11 characteristic of an individual that may result from disease,  
 12 injury, congenital condition of birth, or functional disorder.

13 (4) ~~(3)~~—"Physical plant" means the structure in which a  
 14 facility is located and all physical appurtenances to the facility.

15 (5) ~~(4)~~—"Physician orders for scope of treatment form" or  
 16 "POST form" means that term as defined in section 5674 of the  
 17 public health code, 1978 PA 368, MCL 333.5674.

18 (6) ~~(5)~~—"Protection", subject to ~~section 26a(2)~~, **sections**  
 19 **26a(3) and 31(4)(c)**, means the continual responsibility of the  
 20 licensee to take reasonable action to ensure the health, safety,  
 21 and well-being of a resident, including protection from physical  
 22 harm, **emotional harm, mental harm**, humiliation, intimidation, and  
 23 social, moral, financial, and personal exploitation while on the  
 24 premises, while under the supervision of the licensee or an agent  
 25 or employee of the licensee, or when the resident's assessment plan  
 26 states that the resident needs continuous supervision.

27 (7) ~~(6)~~—"Provisional license" means a license issued to a  
 28 facility that has previously been licensed under this act or an act  
 29 repealed by this act but is temporarily unable to conform to the



1 requirements of a regular license prescribed in this act or rules  
2 promulgated under this act.

3 **(8) ~~(7)~~**—"Quality of care" means the foster care of residents  
4 of a facility and other similar items not related to the physical  
5 plant that address themselves to the general physical and mental  
6 health, welfare, and well-being of residents.

7 Sec. 7. (1) "Regular license" means a license issued to an  
8 adult foster care facility that is in compliance with this act and  
9 the rules promulgated under this act.

10 (2) "Related" means any of the following relationships by  
11 marriage, blood, or adoption: spouse, child, parent, brother,  
12 sister, grandparent, grandchild, aunt, uncle, stepparent,  
13 stepbrother, stepsister, or cousin.

14 **(3) "Resident" includes a vulnerable adult.**

15 **(4) "Resident designee" means the person designated by the**  
16 **resident in writing or by a court order with legal authority to act**  
17 **on the resident's behalf.**

18 **(5) "Self-administration of medication" means the removal and**  
19 **understanding of the correct dosage from the pharmaceutical**  
20 **container, understanding the reason for medication, and self-**  
21 **injecting, self-ingesting, or self-applying the medication by the**  
22 **resident with no assistance. Qualified personnel of the facility**  
23 **may assist with providing reminders of frequency, opening**  
24 **containers, pouring medication, and physically bringing medication**  
25 **to the resident.**

26 **(6) "Sexual abuse" means sexually oriented behavior directed**  
27 **at a resident by a staff member, sexually oriented behavior between**  
28 **residents that is not fully and freely consented to by both**  
29 **residents involved, sexually oriented behavior between residents**

1 when either or both residents are incapable of consenting to the  
2 behavior, or any sexually oriented behavior by a visitor directed  
3 at a resident incapable of consenting to the behavior.

4 (7) ~~(3)~~—"Short-term operation" means an adult foster care  
5 facility that operates for a period of time less than 6 months  
6 within a calendar year.

7 (8) "Special compensation" means payment to an adult foster  
8 care facility to ensure the provision of a specialized program in  
9 addition to the basic payment for adult foster care. Special  
10 compensation does not include payment received by the adult foster  
11 care facility directly from the Medicaid program for personal care  
12 services for a resident, or payment received under the supplemental  
13 security income program under title XVI of the social security act,  
14 42 USC 1381 to 1383f.

15 (9) ~~(4)~~—"Special license" means a license issued for the  
16 duration of the operation of an adult foster care facility if the  
17 licensee is a short-term operation.

18 (10) ~~(5)~~—"Specialized program" means a program of services or  
19 treatment provided in an adult foster care facility licensed under  
20 this act that is designed to meet the unique programmatic needs of  
21 the residents of that home as set forth in the assessment plan for  
22 each resident and for which the facility receives special  
23 compensation.

24 ~~(6) "Special compensation" means payment to an adult foster~~  
25 ~~care facility to ensure the provision of a specialized program in~~  
26 ~~addition to the basic payment for adult foster care. Special~~  
27 ~~compensation does not include payment received by the adult foster~~  
28 ~~care facility directly from the Medicaid program for personal care~~  
29 ~~services for a resident, or payment received under the supplemental~~

1 ~~security income program under title XVI of the social security act,~~  
2 ~~42 USC 1381 to 1383f.~~

3 (11) ~~(7)~~—"Supervision" means guidance of a resident in the  
4 activities of daily living, including 1 or more of the following:

5 (a) Reminding a resident to maintain his or her medication  
6 schedule, as directed by the resident's physician.

7 (b) Reminding a resident of important activities to be carried  
8 out.

9 (c) Assisting a resident in keeping appointments.

10 (d) Being aware of a resident's general whereabouts even  
11 though the resident may travel independently about the community.

12 (12) ~~(8)~~—"Temporary license" means a license issued to a  
13 facility that has not previously been licensed under this act or  
14 under former 1972 PA 287.

15 (13) "Verbal abuse" means using oral, written, or gestured  
16 language that willfully includes disparaging or derogatory terms to  
17 residents or their families, or that is used or uttered within  
18 hearing distance of residents or their families, regardless of  
19 their age, ability to comprehend, or disability.

20 (14) "Vulnerable adult" means that term as defined in section  
21 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

22 Sec. 9a. (1) The department shall provide the following  
23 information to the public in compliance with the freedom of  
24 information act, 1976 PA 442, MCL 15.231 to 15.246:

25 (a) Facility ownership information, including the owner's  
26 name, address, telephone number, and whether the facility is profit  
27 or nonprofit.

28 (b) The adult foster care facility's name, address, and  
29 telephone number, and the administrator's name.

1 (c) The staff-to-resident ratio.

2 (d) The total number of beds in a facility.

3 (e) A list of services and specialty services provided by the  
4 adult foster care facility.

5 (f) The number of current violations for which the adult  
6 foster care facility has been cited for violating a specific rule  
7 promulgated under this act.

8 (g) A link to a detailed report of the adult foster care  
9 facility's violations or a special investigation report regarding  
10 the adult foster care facility.

11 (h) The education requirements of the staff.

12 (i) Certifications required for staff members.

13 (j) The number of complaints filed against the adult foster  
14 care facility.

15 (k) The number of violations that have been repeated more than  
16 1 time.

17 (2) The department must post the information listed in  
18 subsection (1) online to be accessed as part of the adult foster  
19 care facility search tool.

20 Sec. 13. (1) A person, partnership, corporation, association,  
21 or a department or agency of the state, county, city, or other  
22 political subdivision shall not establish or maintain an adult  
23 foster care facility unless licensed by the department.

24 (2) Application for a license ~~shall~~**must** be made on forms  
25 provided and in the manner prescribed by the department. The  
26 application ~~shall~~**must** be accompanied by the fee prescribed in  
27 section 13a.

28 (3) Before issuing or renewing a license, the department ~~shall~~  
29 **must** investigate the activities and standards of care of the

1 applicant and ~~shall~~ make an on-site evaluation of the facility. On-  
2 site inspections conducted in response to the application may be  
3 conducted without prior notice to the applicant. On-site  
4 inspections conducted for renewing a license may be conducted  
5 within 12 months before the expiration date of the current license  
6 without impact on the license renewal date or the license fee. **The**  
7 **department staff conducting an inspection upon license renewal must**  
8 **include a registered nurse licensed or otherwise authorized under**  
9 **part 172 of the public health code, 1978 PA 368, MCL 333.17201 to**  
10 **333.17242, a dietitian, and a social worker licensed or otherwise**  
11 **authorized to engage in the practice of social work under part 185**  
12 **of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.**

13 Subject to subsections (9), (10), and (11), the department shall  
14 issue or renew a license if satisfied as to all of the following:

15 (a) The financial stability of the facility.

16 (b) The applicant's compliance with this act and rules  
17 promulgated under this act.

18 (c) The good moral character of the applicant, or owners,  
19 partners, or directors of the facility, if other than an  
20 individual. Each of these persons ~~shall~~**must** be not less than 18  
21 years of age.

22 (d) The physical and emotional ability of the applicant, and  
23 the person responsible for the daily operation of the facility to  
24 operate an adult foster care facility.

25 (e) The good moral character of the licensee or licensee  
26 designee, owner, partner, director, and person responsible for the  
27 daily operation of the facility. The applicant is responsible for  
28 assessing the good moral character of the employees of the  
29 facility. The person responsible for the daily operation of the

1 facility ~~shall~~**must** be not less than 18 years of age.

2 (4) The department shall require an applicant or a licensee to  
3 disclose the names, addresses, and official positions of all  
4 persons who have an ownership interest in the adult foster care  
5 facility. If the adult foster care facility is located on or in  
6 real estate that is leased, the applicant or licensee ~~shall~~**must**  
7 disclose the name of the lessor of the real estate and any direct  
8 or indirect interest that the applicant or licensee has in the  
9 lease other than as lessee.

10 (5) Each license ~~shall~~**must** state the maximum number of  
11 ~~persons~~**individuals** to be received for foster care at 1 time.

12 (6) If applicable, a license ~~shall~~**must** state the type of  
13 specialized program for which certification has been received from  
14 the department.

15 (7) A license shall be issued to a specific person for a  
16 facility at a specific location and is nontransferable.

17 (8) An applicant or licensee proposing a sale of an adult  
18 foster care facility or home to another owner ~~shall~~**must** provide  
19 the department with advance notice of the proposed sale in writing.  
20 The applicant or licensee and other parties to the sale ~~shall~~**must**  
21 arrange to meet with specified department representatives and ~~shall~~  
22 obtain before the sale a determination of the items of  
23 noncompliance with applicable law and rules that ~~shall~~**must** be  
24 corrected. The department ~~shall~~**must** notify the respective parties  
25 of the items of noncompliance before the change of ownership, ~~shall~~  
26 **must** indicate that the items of noncompliance ~~shall~~**must** be  
27 corrected as a condition of issuance of a license to the new owner,  
28 and ~~shall~~**must** notify the prospective purchaser of all licensure  
29 requirements.

1           (9) The department shall not issue a license to or renew the  
2 license of an owner, partner, or director of the applicant, who has  
3 regular direct access to residents or who has on-site facility  
4 operational responsibilities, or an applicant or the licensee  
5 designee, if any of those individuals have been convicted of 1 or  
6 more of the following:

7           (a) A felony under this act or under chapter XXA of the  
8 Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

9           (b) A misdemeanor under this act or under chapter XXA of the  
10 Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, within  
11 the 10 years immediately preceding the **date of the** application.

12           (c) A misdemeanor involving abuse, neglect, assault, battery,  
13 or criminal sexual conduct or involving fraud or theft against a  
14 vulnerable adult as that term is defined in section 145m of the  
15 Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or  
16 federal crime that is substantially similar to a misdemeanor  
17 described in this subdivision within the 10 years immediately  
18 preceding the **date of the** application.

19           (10) If the department has revoked, suspended, or refused to  
20 renew a person's license, or denied an application for a license,  
21 for an adult foster care facility according to section 22, the  
22 department may refuse to issue a license to or renew a license of  
23 that person for a period of 5 years after the suspension,  
24 revocation, or nonrenewal of the license, or denial of the  
25 application.

26           (11) The department may refuse to issue a license to or renew  
27 the license of an applicant if the department determines that the  
28 applicant has a relationship with a former licensee whose license  
29 under this act has been suspended, revoked, or nonrenewed under

1 subsection (9) or section 22, ~~or~~ a convicted person to whom a  
2 license has been denied under subsection (9), **or a person whose**  
3 **license was not renewed due to not meeting the requirements of**  
4 **subsection (27)**. This subsection applies for 5 years after the  
5 suspension, revocation, or nonrenewal of the former licensee's  
6 license or the denial of the convicted person's license. For  
7 purposes of this subsection, an applicant has a relationship with a  
8 former licensee or convicted person if the former licensee or  
9 convicted person is involved with the facility in 1 or more of the  
10 following ways:

11 (a) Participates in the administration or operation of the  
12 facility.

13 (b) Has a financial interest in the operation of the facility.

14 (c) Provides care to residents of the facility.

15 (d) Has contact with residents or staff on the premises of the  
16 facility.

17 (e) Is employed by the facility.

18 (f) Resides in the facility.

19 (12) If the department determines that an unlicensed facility  
20 is an adult foster care facility, the department ~~shall~~**must** notify  
21 the owner or operator of the facility that it is required to be  
22 licensed under this act. A person receiving the notification  
23 required under this section who does not apply for a license within  
24 30 days is subject to the penalties described in subsection (13).

25 (13) Subject to subsection (12), a person who violates  
26 subsection (1) is guilty of a misdemeanor, punishable by  
27 imprisonment for not more than 2 years or a fine of not more than  
28 \$50,000.00, or both. A person who has been convicted of a violation  
29 of subsection (1) who commits a second or subsequent violation is



1 guilty of a felony, punishable by imprisonment for not more than 5  
2 years or a fine of not more than \$75,000.00, or both.

3 (14) The department ~~shall~~**must** issue an initial or renewal  
4 license not later than 6 months after the applicant files a  
5 completed application. Receipt of the application is considered the  
6 date the application is received by an agency or department of this  
7 state. If the application is considered incomplete by the  
8 department, the department ~~shall~~**must** notify the applicant in  
9 writing or make notice electronically available within 30 days  
10 after receipt of the incomplete application, describing the  
11 deficiency and requesting additional information. If the department  
12 identifies a deficiency or requires the fulfillment of a corrective  
13 action plan, the 6-month period is tolled until either of the  
14 following occurs:

15 (a) Upon notification by the department of a deficiency, until  
16 the date the requested information is received by the department.

17 (b) Upon notification by the department that a corrective  
18 action plan is required, until the date the department determines  
19 the requirements of the corrective action plan have been met.

20 (15) The determination of the completeness of an application  
21 does not operate as an approval of the application for the license  
22 and does not confer eligibility of an applicant determined  
23 otherwise ineligible for issuance of a license.

24 (16) If the department fails to issue or deny a license within  
25 the time required by this section, the department ~~shall~~**must** return  
26 the license fee and ~~shall~~**must** reduce the license fee for the  
27 applicant's next renewal application, if any, by 15%. Failure to  
28 issue or deny a license within the time period required under this  
29 section does not allow the department to otherwise delay processing

1 an application. The completed application ~~shall~~**must** be placed in  
2 sequence with other completed applications received at that same  
3 time. The department shall not discriminate against an applicant in  
4 ~~the processing of~~ an application based on the fact that the  
5 application fee was refunded or discounted under this subsection.

6 (17) If, on a continual basis, inspections performed by a  
7 local health department delay the department in issuing or denying  
8 licenses under this act within the 6-month period, the department  
9 may use department staff to complete the inspections instead of the  
10 local health department causing the delays.

11 (18) The department director ~~shall~~**must** submit a report by  
12 December 1 of each year to the standing committees and  
13 appropriations subcommittees of the senate and house of  
14 representatives concerned with human services issues. The  
15 department director ~~shall~~**must** include all of the following  
16 information in the report concerning the preceding fiscal year:

17 (a) The number of initial and renewal applications the  
18 department received and completed within the 6-month time period  
19 described in subsection (14).

20 (b) The number of applications requiring a request for  
21 additional information.

22 (c) The number of applications rejected.

23 (d) The number of licenses not issued within the 6-month  
24 period.

25 (e) The average processing time for initial and renewal  
26 licenses granted after the 6-month period.

27 (19) An applicant, if an individual, or an owner, partner, or  
28 director of the applicant who has regular direct access to  
29 residents or who has on-site facility operational responsibilities

1 ~~shall~~**must** give written consent at the time of original license  
2 application and a licensee designee ~~shall~~**must** give written consent  
3 at the time of appointment for the department of state police to  
4 conduct both of the following:

5 (a) A criminal history check.

6 (b) A criminal records check through the Federal Bureau of  
7 Investigation.

8 (20) An owner, partner, or director of the applicant who has  
9 regular direct access to residents or who has on-site facility  
10 operational responsibilities is exempt from the requirements of  
11 subsection (19) if he or she has already submitted consent  
12 described in subsection (19) and were continuously affiliated with  
13 a licensed adult foster care facility as an applicant, owner,  
14 partner, or director.

15 (21) The department shall require the applicant, if an  
16 individual, the licensee designee, owner, partner, or director of  
17 the applicant who has regular direct access to residents or who has  
18 on-site facility operational responsibilities to submit his or her  
19 fingerprints to the department of state police for the criminal  
20 history check and criminal records check described in subsection  
21 (19).

22 (22) The department shall request a criminal history check and  
23 criminal records check required under this section in the manner  
24 prescribed by the department of state police. The department of  
25 state police ~~shall~~**must** conduct the criminal history check and  
26 provide a report of the results to the licensing or regulatory  
27 bureau of the department. The report ~~shall~~**must** contain any  
28 criminal history information on the person maintained by the  
29 department of state police and the results of the criminal records

1 check from the Federal Bureau of Investigation. The department of  
 2 state police may charge the person on whom the criminal history  
 3 check and criminal records check are performed under this section a  
 4 fee that does not exceed the actual and reasonable cost of  
 5 conducting the checks.

6 (23) ~~Beginning March 13, 2012, if~~ **If** an applicant or licensee  
 7 designee or person described in subsection (20) applies for a  
 8 license or to renew a license to operate an adult foster care  
 9 facility and he or she or the licensee designee previously  
 10 underwent a criminal history check and criminal records check  
 11 required under subsection (19) or under section 134a of the mental  
 12 health code, 1974 PA 258, MCL 330.1134a, and has remained  
 13 continuously licensed or continuously employed under section 34b or  
 14 under section 20173a of the public health code, 1978 PA 368, MCL  
 15 333.20173a, after the criminal history check and criminal records  
 16 check have been performed, that person is not required to submit to  
 17 another criminal history check or criminal records check upon  
 18 renewal of the license obtained under subsection (3).

19 (24) The department of state police ~~shall~~ **must** store and  
 20 maintain all fingerprints submitted under this act in an automated  
 21 fingerprint identification system database that provides for an  
 22 automatic notification at the time of a subsequent criminal arrest  
 23 fingerprint card submitted into the system that matches a set of  
 24 fingerprints previously submitted in accordance with this act. Upon  
 25 notification, the department of state police shall immediately  
 26 notify the department and the department shall take the appropriate  
 27 action.

28 (25) A licensee, licensee designee, owner, partner, or  
 29 director of the licensee shall not be permitted on the premises of

1 an adult foster care facility or have direct access to residents or  
2 resident records if he or she has been convicted of any of the  
3 following: adult abuse, neglect, or financial exploitation; or  
4 listed offenses as defined in section 2 of the sex offenders  
5 registration act, 1994 PA 295, MCL 28.722.

6 (26) An adult foster **care** family ~~care~~-home, **an adult foster**  
7 **care large group home**, or an adult foster care **small** group home  
8 shall not be concurrently licensed as a group child care home or a  
9 family child care home.

10 (27) In addition to the license renewal requirements under  
11 this section, the department must also consider the following when  
12 a licensee applies for renewal:

13 (a) The licensee's training plan for direct care staff and  
14 direct care staff's completion of that training and completion of  
15 mandated continuing education core classes as required in section  
16 28c(1) and yearly competency tests.

17 (b) Successful completion of annual training and educational  
18 assessments by each of the direct care staff.

19 (c) Posting in a conspicuous area of the contact information  
20 for all agencies that investigate complaints regarding an adult  
21 foster care facility and contact information for adult protective  
22 services.

23 (d) The number of new and repeated violations since the last  
24 license renewal.

25 (e) Civil penalties and any late fines assessed by the  
26 department currently unpaid at the time of renewal.

27 (f) Any incomplete corrective action plan past the completion  
28 date. If so, the license may be renewed for a 3-month period, at  
29 which time the corrective action plan must be completed in order

1 for the license to be renewed. If the corrective action plan is  
2 still incomplete at the end of the 3-month period, the license  
3 shall not be renewed.

4 (g) Resident satisfaction survey results from residents,  
5 residents' family, or a resident's designee.

6 (h) Interviews with residents and family councils where  
7 applicable.

8 (i) Staff satisfaction surveys.

9 (28) For the owner or licensee of 1 adult foster care group  
10 home or family home, the department may waive certain requirements  
11 if the department determines those requirements will cause the  
12 facility financial hardship.

13 (29) ~~(27)~~As used in this section, "completed application"  
14 means an application complete on its face with all requested  
15 information provided and answers to all questions provided and  
16 submitted with any applicable licensing fees as well as any other  
17 information, records, approval, security, or similar item required  
18 by law or rule from a local unit of government, a federal agency,  
19 or a private entity but not from another department or agency of  
20 this state. A completed application does not include a health  
21 inspection performed by a local health department.

22 Sec. 24. (1) A person who believes that this act or a rule  
23 promulgated under this act may have been violated may request an  
24 investigation of an adult foster care facility. The request ~~shall~~  
25 **must** be submitted to the department in writing or the department  
26 ~~shall~~**must** assist the person in reducing an oral complaint to  
27 writing within 7 days after the oral request is made.

28 (2) The substance of the complaint ~~shall~~**must** be provided to  
29 the licensee not earlier than at the commencement of the on-site

1 inspection of the adult foster care facility that takes place  
2 according to the complaint.

3 (3) The complaint, a copy of the complaint, or a record  
4 published, released, or otherwise disclosed to the adult foster  
5 care facility shall not disclose the name of the complainant or an  
6 adult resident named in the complaint unless the complainant or an  
7 adult resident consents in writing to the disclosure or the  
8 investigation results in an administrative hearing or a judicial  
9 proceeding, or unless disclosure is considered essential to the  
10 investigation by the department. If disclosure is considered  
11 essential to the investigation, the complainant ~~shall~~**must** be given  
12 the opportunity to withdraw the complaint before disclosure.

13 (4) Upon receipt of a complaint, the department shall  
14 determine, based on the allegations presented, whether this act or  
15 a rule promulgated under this act has been, is, or is in danger of  
16 being violated. The department shall investigate the complaint  
17 according to the urgency determined by the department. The  
18 initiation of a complaint investigation ~~shall~~**must** commence within  
19 15 days after receipt of the written complaint by the department.

20 (5) The department ~~shall~~**must** inform the complainant of its  
21 findings. Within 30 days after the receipt of **a** complaint, the  
22 department ~~shall~~**must** provide the complainant a copy, if any, of  
23 the written determination or a status report indicating when these  
24 documents may be expected. The final report ~~shall~~**must** include a  
25 copy of the original complaint. The complainant may request  
26 additional copies of the documents listed in this subsection and  
27 ~~shall~~**must** reimburse the department for the copies according to the  
28 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

29 (6) The department ~~shall~~**must** inform the licensee of the

1 department's findings at the same time that the department informs  
2 the complainant under subsection (5).

3 (7) A written determination concerning a complaint shall be  
4 available for public inspection, but the name of the complainant or  
5 adult resident shall not be disclosed without the complainant's or  
6 adult resident's **or the resident's designee's** consent.

7 (8) A complainant who is dissatisfied with the determination  
8 or investigation by the department may request an administrative  
9 review by the department. A request ~~shall~~**must** be submitted in  
10 writing to the director within 30 days after the mailing of the  
11 department's findings as described in subsection (5). The  
12 administrative review shall be conducted based on pertinent  
13 documentation or a verifiable statement submitted in writing by the  
14 complainant. The department shall send the results of the  
15 administrative review to the complainant. If the administrative  
16 review results in reconsideration of a complaint against the adult  
17 foster care facility, the department ~~shall~~**must** reopen the  
18 complaint investigation.

19 (9) Notwithstanding subsection (3) and sections 5 and 7(2) of  
20 the child protection law, 1975 PA 238, MCL 722.625 and 722.627,  
21 information or records in the possession of the department of  
22 health and human services or the department may be shared to the  
23 extent necessary for the proper functioning of the department of  
24 health and human services or the department in administering adult  
25 welfare or adult foster care licensing under this act or in an  
26 investigation conducted under section 43b of the social welfare  
27 act, 1939 PA 280, MCL 400.43b. Information or records shared under  
28 this subsection shall not be released by the department of health  
29 and human services or the department unless otherwise permitted



1 under this act or other state or federal law.

2 (10) The department complaint process must include all of the  
3 following:

4 (a) A clear and concise overview of the complaint process,  
5 including how to file a complaint, the steps in the process, and  
6 information on how the complainant shall be kept informed on every  
7 step of the process.

8 (b) Escalation procedures if the complainant is not satisfied  
9 at any step of the process.

10 (c) The ability for a complainant to participate and give  
11 verbal input for each step of the complaint process, including the  
12 administrative review process.

13 (d) A complainant satisfaction survey at the completion or  
14 closure of a complaint or investigation, including the  
15 administrative review process.

16 (e) The appeals process for a complainant if the complainant  
17 is not satisfied with the outcome of an investigation.

18 Sec. 28. (1) A licensee must identify the facility as an adult  
19 foster care facility in all legal and marketing documents.

20 (2) Before a resident is admitted to an adult foster care  
21 facility, the licensee must inform the resident or the resident's  
22 designee, verbally and in a written copy that is signed by both the  
23 licensee and resident or the resident's designee, of all of the  
24 following:

25 (a) The facility's designation as an adult foster care  
26 facility governed by the adult foster care facility licensing act,  
27 1979 PA 218, MCL 400.701 to 400.737, and the rules promulgated  
28 under this act. This notification must be made both in writing and  
29 verbally.

1 (b) The resident's rights and the right to file a complaint  
2 without intimidation, retaliation, or threat of retaliation. This  
3 notification must be made both in writing and verbally in a manner  
4 that is easily understandable and must be communicated in a  
5 language that is understood by the resident and the resident's  
6 designee.

7 (c) The facility's complaint policy, process, contact  
8 information, and website information for the following entities:

9 (i) The adult foster care facility's internal complaint  
10 department.

11 (ii) The local long-term care ombudsman.

12 (iii) The department's bureau of community and health systems.

13 (iv) The local law enforcement agency.

14 (d) All violations currently pending and cited against the  
15 adult foster care facility.

16 (e) The licensee's medication administration policy and  
17 standards.

18 (f) The staff-to-resident ratio.

19 (g) Information regarding staff training, education, and  
20 certification.

21 (3) Each adult foster care facility must establish and  
22 maintain a structured and documented internal complaint policy and  
23 process. This internal complaint policy and process must include  
24 all of the following:

25 (a) Designating a staff person who is responsible for  
26 receiving complaints and determining resolution of complaints.

27 (b) Investigating and resolving complaints. The adult foster  
28 care facility must respond in writing to a complainant within 7  
29 business days after receiving the complaint.

1 (c) Maintaining a log of all complaints and resolutions of  
2 complaints. This log must be made available to the department at  
3 the time of its review of the adult foster care facility's next  
4 licensing renewal application.

5 Sec. 28a. (1) An adult foster care facility must meet all of  
6 the following staffing requirements:

7 (a) The facility administrator must be competent in the  
8 following areas:

9 (i) Knowledge of the physical, emotional, and mental health  
10 needs of the facility's residents being housed and cared for.

11 (ii) Knowledge of residents' rights.

12 (iii) Capable of developing training and education courses for  
13 direct care staff in order for them to understand the physical,  
14 emotional, mental, and social needs of the residents they are hired  
15 to serve.

16 (b) Maintain a licensed practical nurse on duty on the  
17 premises 24 hours per day, 5 days per week.

18 (c) Maintain a staff member on duty on the premises 24 hours  
19 per day, 7 days per week who holds a valid certification in  
20 cardiopulmonary resuscitation issued by the American Heart  
21 Association, American Red Cross, or a similar nationally recognized  
22 association.

23 (d) Maintain a social worker who is licensed, registered, or  
24 otherwise authorized under part 185 of the public health code, 1978  
25 PA 368, MCL 333.18501 to 333.18518, on staff with a minimum  
26 availability for 1 hour per week for each resident.

27 (2) Except for a registered nurse, only a staff member who has  
28 successfully completed a department-approved diabetic continuing  
29 education course may administer an insulin injection.

1           Sec. 28b. (1) In addition to the rights, benefits, and  
2 privileges guaranteed by other provisions of law, the state  
3 constitution of 1963, and the Constitution of the United States, a  
4 resident has the rights guaranteed by this section unless otherwise  
5 restricted by law.

6           (2) The resident or the resident's designee must be provided  
7 with a written copy of the resident's rights described in this  
8 section and a written copy of the complaint process. The documents  
9 required under this subsection must be signed by both the resident  
10 or the resident's designee and an individual representing the adult  
11 foster care facility.

12           (3) A licensee must conspicuously post in an area of the adult  
13 foster care facility accessible to residents, employees, and  
14 visitors the resident's rights, the adult foster care facility's  
15 internal complaint process, and the contact information and website  
16 information for the entities listed in section 28(2)(c).

17           (4) A licensee must accept and respond to, without retaliation  
18 or threat of retaliation, an oral or written complaint from any  
19 source regarding an alleged violation of a resident's rights,  
20 quality of care, or any other matter.

21           (5) A licensee must conspicuously post on the premises contact  
22 information for all agencies that investigate complaints regarding  
23 an adult foster care facility and contact information for adult  
24 protective services.

25           (6) A resident or a resident's designee has the right to  
26 request meals be delivered to his or her room. A resident cannot be  
27 forced to accept or eat a meal in a dining room.

28           (7) A resident or a resident's designee must be given 60 days'  
29 notice before a new rule or update to a rule takes effect.

1           (8) A resident must not be deprived of his or her rights under  
2 this act. A waiver of a resident's rights is void and  
3 unenforceable. A resident's rights must not be used as a reward or  
4 sanction.

5           (9) An adult foster care facility must ensure a resident's  
6 physical, emotional, and mental health needs are met and that the  
7 resident is protected from Neglect and abuse, including physical  
8 abuse, mental abuse, verbal abuse, and sexual abuse. Additionally,  
9 the adult foster care facility must ensure that a resident's rights  
10 are protected.

11           (10) This section does not affect any right of a resident to  
12 damages under any other law.

13           (11) An adult foster care facility must ensure a resident is  
14 treated with dignity and respect.

15           Sec. 28c. (1) In addition to in-service training or on-the-job  
16 training, a direct care staff member, who is not a certified nurse  
17 assistant, must be educated to understand the physical and  
18 emotional needs of the population the direct care staff member is  
19 hired to serve by completing the following continuing education  
20 core classes within 90 days after the date of hire:

21           (a) Empathy and simulation of the aging process. The course  
22 must provide staff members with the experience of sensory  
23 challenges related to aging and the emotional challenges that come  
24 with the loss of independence, home, and relationships with family  
25 and friends. The preferred method of delivery for this course is in  
26 person. A direct care staff member must demonstrate comprehension  
27 by passing an examination related to the course content.

28           (b) Dignity and sensitivity. The course must include basic  
29 techniques for effectively and compassionately communicating with

1 the elderly, including those experiencing hearing loss, dementia,  
2 or other issues that impair communication for the population being  
3 served, and how to handle and defuse difficult situations in a  
4 respectful manner. The preferred method of delivery for this course  
5 is in person. A direct care staff member must demonstrate  
6 comprehension by passing an examination related to the course  
7 content.

8 (c) Death and dying. The course must provide basic  
9 understanding of end-of-life issues and the impact on the resident,  
10 including appropriate behavior and communication with the resident  
11 and resident's family. The preferred method of delivery for this  
12 course is in person. A direct care staff member must demonstrate  
13 comprehension by passing an examination related to the course  
14 content.

15 (d) Resident rights. The course must instruct staff members on  
16 all rights granted to the resident. The preferred method of  
17 delivery for this course is in person. The staff member must  
18 demonstrate comprehension by passing an examination related to the  
19 course content.

20 (e) Basic medication training for staff assisting with self-  
21 administration. The course must be provided by a registered nurse  
22 to an unlicensed direct care worker employed by the adult foster  
23 care facility who will be assisting in self-administration of  
24 medication. The course must include appropriate medication  
25 handling.

26 (f) Understanding dementia. The course must instruct the staff  
27 member on the fundamentals of dementia, including how to recognize  
28 signs of dementia, effects on the resident, effective  
29 communication, and proper care standards of a resident with

1 dementia. The preferred method of delivery for this course is in  
2 person. The staff member must demonstrate comprehension by passing  
3 an examination related to the course content.

4 (g) Identifying and reporting abuse, neglect, and  
5 exploitation. The preferred method of delivery for this course is  
6 in person.

7 (2) An adult foster care facility must conduct training  
8 assessments annually, separate from examinations given upon  
9 completion of a training or educational course to ensure that staff  
10 members recall what they learned during training and educational  
11 programs and are implementing this knowledge appropriately while  
12 providing care.

13 (3) A staff member shall not have unsupervised contact with a  
14 resident before completing the training and educational course  
15 requirements.

16 (4) A licensee must maintain a written training plan for all  
17 staff members and a record of all training and educational  
18 requirements that must be retained for a period of 3 years,  
19 including all of the following:

20 (a) The staff member's name and title.

21 (b) The date the course was taken and completed.

22 (c) The source of the course.

23 (d) The course name, instructor's name, instructor's  
24 qualifications, and course location.

25 (e) Documentation of successful completion of the course.

26 (5) Acceptable sponsors of the training required in this  
27 section include any of the following:

28 (a) Training offered by a nationally recognized or state-  
29 recognized health-related organization.

1 (b) Training offered by, or in conjunction with, a state or  
2 federal agency.

3 (c) Training obtained in an educational program that has been  
4 approved by any board created under article 15 of the public health  
5 code, 1978 PA 368, MCL 333.16101 to 333.18838, except under part  
6 188 of the public health code, 1978 PA 368, MCL 333.18801 to  
7 333.18838, for initial licensure or registration or for the  
8 accumulation of continuing education credits.

9 (d) Training offered by an accredited college or university.

10 (e) Training offered by an organization specializing in  
11 diversity, equity, and inclusion issues.

12 (6) Acceptable modalities of the training required in this  
13 section include any of the following:

14 (a) A teleconference or webinar that allows live synchronous  
15 interaction that provides for the opportunity for participants to  
16 interact with the instructor and other participants.

17 (b) A live presentation that provides for the opportunity for  
18 participants to interact with the instructor and other  
19 participants.

20 (c) An asynchronous teleconference or webinar.

21 (7) After 1 year of employment at a facility, a direct care  
22 worker, who is not a certified nurse assistant, must annually  
23 complete an additional 8 hours of continuing education. The subject  
24 matter of the continuing education must address the unique needs of  
25 residents in an adult foster care facility.

26 Sec. 28d. (1) The department must create resident satisfaction  
27 surveys and staff surveys to be presented to residents and staff of  
28 an adult foster care facility.

29 (2) The resident satisfaction surveys described in subsection



1 (1) must measure the following:

2 (a) Satisfaction with the facility's physical environment,  
3 including, but not limited to, the resident's room, dining  
4 facilities, and social gathering places.

5 (b) The staff's competency, kindness, and empathy.

6 (c) Whether the facility and staff are meeting the resident's  
7 physical and emotional needs.

8 (d) If the resident feels safe and cared for in the facility.

9 (e) If the resident feels respected and honored in the  
10 facility.

11 (f) Satisfaction with the quality of the facility's meals and  
12 snacks provided to the resident.

13 (g) Satisfaction with the quality and quantity of activities  
14 available to the resident.

15 (3) The staff surveys described in subsection (1) must measure  
16 the following:

17 (a) Whether the staff feels sufficiently trained or educated  
18 to care for residents.

19 (b) Whether staff feel supported by management.

20 (c) Staff's job satisfaction.

21 (d) Staff's challenges on the job.

22 (4) An adult foster care facility must present the resident  
23 satisfaction survey described in subsection (1) to each resident or  
24 resident designee annually and upon discharge from the adult foster  
25 care facility. A resident or resident designee must be able to  
26 complete the resident satisfaction survey anonymously.

27 (5) The adult foster care facility must present the staff  
28 surveys described in subsection (1) to staff on an annual basis.  
29 The staff must be allowed to complete the surveys anonymously.

1           (6) The adult foster care facility must maintain the surveys  
2 and make them available to the department for review upon license  
3 renewal. The adult foster care facility must maintain the surveys  
4 described in subsection (1) for a period of 3 years.

5           Sec. 28e. (1) Medication shall be administered only by  
6 licensed staff or, under the direction of the resident or  
7 resident's delegate, a certified nurse assistant. A certified nurse  
8 assistant may administer medication only if the certified nurse  
9 assistant has successfully completed a certified medication aide  
10 training program and passed the examination that meets the  
11 medication assistant certified model curriculum adopted by the  
12 National Council of State Boards of Nursing.

13           (2) Unlicensed staff may assist a resident with self-  
14 administration of medication only if both of the following occur:

15           (a) It is done under the direction of a registered nurse or  
16 licensed practical nurse.

17           (b) The unlicensed staff has completed all training and  
18 education requirements under this act and as required by the  
19 department.

20           Sec. 31. (1) Except as otherwise provided in section 13 or  
21 section 22, a person, adult foster care facility, agency, or  
22 representative or officer of a corporation, association, or  
23 organization who violates this act is guilty of a misdemeanor,  
24 punishable by imprisonment for not more than 1 year or a fine of  
25 not more than \$1,000.00, or both.

26           (2) A person convicted of a misdemeanor under this act or  
27 under chapter XXA of the Michigan penal code, ~~Act No. 328 of the~~  
28 ~~Public Acts of 1931, being sections 750.145m to 750.145r of the~~  
29 ~~Michigan Compiled Laws, 1931 PA 328, MCL 750.145m to 750.145r,~~

1 shall not be involved with an adult foster care facility for a  
2 period of 5 years after the conviction in any of the following  
3 ways:

4 (a) Participate in the administration or operation of the  
5 facility.

6 (b) Have a financial interest in the operation of the  
7 facility.

8 (c) Provide care to residents of the facility.

9 (d) Have contact with residents or staff on the premises of  
10 the facility.

11 (e) Be employed by the facility.

12 (f) Reside in the facility.

13 (3) A person convicted of a felony under this act or under  
14 chapter XXA of ~~Act No. 328 of the Public Acts of 1931~~ **the Michigan**  
15 **penal code, 1931 PA 328, MCL 750.145m to 750.145r**, shall not be  
16 involved with an adult foster care facility in any of the following  
17 ways:

18 (a) Participate in the administration or operation of the  
19 facility.

20 (b) Have a financial interest in the operation of the  
21 facility.

22 (c) Provide care to residents of the facility.

23 (d) Have contact with residents or staff on the premises of  
24 the facility.

25 (e) Be employed by the facility.

26 (f) Reside in the facility.

27 **(4) The department may assess a civil penalty of not less than**  
28 **\$500.00 and not more than \$5,000.00 for each occurrence or act by**  
29 **the facility that does any of the following:**

1 (a) Inflicts on the resident, willfully or not, physical harm  
2 or injury, emotional distress, or mental anguish.

3 (b) Violates a resident's rights.

4 (c) Fails to ensure the resident's safety or protection.

5 (d) Fails to ensure the resident is treated with dignity and  
6 respect.

7 (e) Neglects a resident.

8 (f) Abuses a resident physically, mentally, verbally,  
9 financially, or sexually.

10 (5) A facility may appeal a decision to impose a civil penalty  
11 under subsection (4). An appeal must be filed no later than 14 days  
12 after the civil penalty is assessed. A hearing for an appeal under  
13 this section must be conducted as a contested case under the  
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
15 24.328. Once an appeal has been heard, if the appeal determination  
16 upholds the assessed civil penalty, the facility must pay the civil  
17 penalty not later than 14 days after the date of the appeal  
18 determination.

19 (6) A civil penalty assessed under this section must be paid  
20 within 30 days after the date the civil penalty was assessed if an  
21 appeal has not been filed. If the civil penalty is not paid by the  
22 due date, a late fee of 1.5% shall be assessed for every day the  
23 payment is late. A licensee shall not avoid payment of a civil  
24 penalty by closing, selling, or otherwise transferring the license  
25 to a third party.

26 (7) Civil penalties and fees assessed by the department that  
27 are collected under this section shall be credited to the general  
28 fund of the state to be appropriated by the legislature to the  
29 department for the purpose of adequate staffing to conduct

1 inspections that are either scheduled or resulting from a complaint  
2 and for managing and administering the civil penalty and appeals  
3 process.

4 (8) When a violation has been cited, a licensee must submit a  
5 specific, measurable, achievable realistic time-bound corrective  
6 action plan that does all of the following:

7 (a) Describes the issue that needs to be corrected.

8 (b) Establishes what caused the issue.

9 (c) Determines and implements action to prevent the issue from  
10 reoccurring.

11 (d) Provides a method for measuring compliance with and  
12 effectiveness of the corrective action plan.

13 (9) Not later than 30 days after the implementation date of  
14 the corrective action plan required under subsection (8), the  
15 department must follow up with the licensee. Failure of the  
16 licensee to comply with the corrective action plan within 30 days  
17 after the plan's implementation date shall result in an additional  
18 10% fine of the amount described in subsection (1).

19 (10) Documentation of a violation, including special  
20 investigation reports, must remain on the licensee's record for  
21 public disclosure for at least 7 years.