

HOUSE BILL NO. 5488

February 22, 2024, Introduced by Rep. Schriver and referred to the Committee on Government Operations.

A bill to amend 1979 PA 218, entitled "Adult foster care facility licensing act," by amending sections 5 and 34b (MCL 400.705 and 400.734b), section 5 as amended by 2018 PA 557 and section 34b as amended by 2018 PA 558.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) "Good moral character" means good moral character
2 as defined in 1974 PA 381, MCL 338.41 to 338.47.

3 (2) "Licensed hospice program" means a health care program

1 that provides a coordinated set of services rendered at home or in
2 an outpatient or institutional setting for individuals suffering
3 from a disease or condition with a terminal prognosis and that is
4 licensed under article 17 of the public health code, 1978 PA 368,
5 MCL 333.20101 to ~~333.22260~~.**333.22121**.

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

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

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

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

25 Sec. 34b. (1) In addition to the restrictions prescribed in
26 sections 13, 22, and 31, and except as otherwise provided in
27 subsection (2), an adult foster care facility shall not employ or
28 independently contract with an individual who regularly has direct
29 access to or provides direct services to residents of the adult

1 foster care facility if the individual satisfies 1 or more of the
2 following:

3 (a) Has been convicted of a relevant crime described under 42
4 USC 1320a-7(a).

5 (b) Has been convicted of any of the following felonies, an
6 attempt or conspiracy to commit any of those felonies, or any other
7 state or federal crime that is similar to the felonies described in
8 this subdivision, other than a felony for a relevant crime
9 described under 42 USC 1320a-7(a), unless 15 years have lapsed
10 since the individual completed all of the terms and conditions of
11 his or her sentencing, parole, and probation for that conviction
12 before the date of application for employment or the date of the
13 execution of the independent contract:

14 (i) A felony that involves the intent to cause death or serious
15 impairment of a body function, that results in death or serious
16 impairment of a body function, that involves the use of force or
17 violence, or that involves the threat of the use of force or
18 violence.

19 (ii) A felony involving cruelty or torture.

20 (iii) A felony under chapter XXA of the Michigan penal code,
21 1931 PA 328, MCL 750.145m to 750.145r.

22 (iv) A felony involving criminal sexual conduct.

23 (v) A felony involving abuse or neglect.

24 (vi) A felony involving the use of a firearm or dangerous
25 weapon.

26 (vii) A felony involving the diversion or adulteration of a
27 prescription drug or other medications.

28 (c) Has been convicted of a felony or an attempt or conspiracy
29 to commit a felony, other than a felony for a relevant crime

1 described under 42 USC 1320a-7(a) or a felony described under
2 subdivision (b), unless 10 years have lapsed since the individual
3 completed all of the terms and conditions of his or her sentencing,
4 parole, and probation for that conviction before the date of
5 application for employment or the date of the execution of the
6 independent contract.

7 (d) Has been convicted of any of the following misdemeanors,
8 other than a misdemeanor for a relevant crime described under 42
9 USC 1320a-7(a), or a state or federal crime that is substantially
10 similar to the misdemeanors described in this subdivision, within
11 the 10 years immediately preceding the date of application for
12 employment or the date of the execution of the independent
13 contract:

14 (i) A misdemeanor involving the use of a firearm or dangerous
15 weapon with the intent to injure, the use of a firearm or dangerous
16 weapon that results in a personal injury, or a misdemeanor
17 involving the use of force or violence or the threat of the use of
18 force or violence.

19 (ii) A misdemeanor under chapter XXA of the Michigan penal
20 code, 1931 PA 328, MCL 750.145m to 750.145r.

21 (iii) A misdemeanor involving criminal sexual conduct.

22 (iv) A misdemeanor involving cruelty or torture unless
23 otherwise provided under subdivision (e).

24 (v) A misdemeanor involving abuse or neglect.

25 (e) Has been convicted of any of the following misdemeanors,
26 other than a misdemeanor for a relevant crime described under 42
27 USC 1320a-7(a), or a state or federal crime that is substantially
28 similar to the misdemeanors described in this subdivision, within
29 the 5 years immediately preceding the date of application for

1 employment or the date of the execution of the independent
2 contract:

3 (i) A misdemeanor involving cruelty if committed by an
4 individual who is less than 16 years of age.

5 (ii) A misdemeanor involving home invasion.

6 (iii) A misdemeanor involving embezzlement.

7 (iv) A misdemeanor involving negligent homicide or a violation
8 of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL
9 257.601d.

10 (v) A misdemeanor involving larceny unless otherwise provided
11 under subdivision (g).

12 (vi) A misdemeanor of retail fraud in the second degree unless
13 otherwise provided under subdivision (g).

14 (vii) Any other misdemeanor involving assault, fraud, theft, or
15 the possession or delivery of a controlled substance unless
16 otherwise provided under subdivision (d), (f), or (g).

17 (f) Has been convicted of any of the following misdemeanors,
18 other than a misdemeanor for a relevant crime described under 42
19 USC 1320a-7(a), or a state or federal crime that is substantially
20 similar to the misdemeanors described in this subdivision, within
21 the 3 years immediately preceding the date of application for
22 employment or the date of the execution of the independent
23 contract:

24 (i) A misdemeanor for assault if there was no use of a firearm
25 or dangerous weapon and no intent to commit murder or inflict great
26 bodily injury.

27 (ii) A misdemeanor of retail fraud in the third degree unless
28 otherwise provided under subdivision (g).

29 (iii) A misdemeanor under part 74 of the public health code,

1 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided
2 under subdivision (g).

3 (g) Has been convicted of any of the following misdemeanors,
4 other than a misdemeanor for a relevant crime described under 42
5 USC 1320a-7(a), or a state or federal crime that is substantially
6 similar to the misdemeanors described in this subdivision, within
7 the year immediately preceding the date of application for
8 employment or the date of the execution of the independent
9 contract:

10 (i) A misdemeanor under part 74 of the public health code, 1978
11 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of
12 conviction, is under the age of 18.

13 (ii) A misdemeanor for larceny or retail fraud in the second or
14 third degree if the individual, at the time of conviction, is under
15 the age of 16.

16 (h) Is the subject of an order or disposition under section
17 16b of chapter IX of the code of criminal procedure, 1927 PA 175,
18 MCL 769.16b.

19 (i) Engages in conduct that becomes the subject of a
20 substantiated finding of neglect, abuse, or misappropriation of
21 property by a state or federal agency according to an investigation
22 conducted in accordance with 42 USC 1395i-3 or 1396r.

23 (2) Except as otherwise provided in this subsection or
24 subsection (6), an adult foster care facility shall not employ or
25 independently contract with an individual who has direct access to
26 residents until the adult foster care facility or staffing agency
27 has conducted a criminal history check in compliance with this
28 section or has received criminal history record information in
29 compliance with subsections (3) and (11). This subsection and

1 subsection (1) do not apply to an individual who is employed by or
2 under contract to an adult foster care facility before April 1,
3 2006. On or before April 1, 2011, an individual who is exempt under
4 this subsection and who has not been the subject of a criminal
5 history check conducted in compliance with this section shall
6 provide the department of state police a set of fingerprints and
7 the department of state police shall input those fingerprints into
8 the automated fingerprint identification system database
9 established under subsection (14). An individual who is exempt
10 under this subsection is not limited to working within the adult
11 foster care facility with which he or she is employed by or under
12 independent contract with on April 1, 2006 but may transfer to
13 another adult foster care facility, mental health facility, or
14 covered health facility. If an individual who is exempt under this
15 subsection is subsequently convicted of a crime or offense
16 described under subsection (1)(a) to (g) or found to be the subject
17 of a substantiated finding described under subsection (1)(i) or an
18 order or disposition described under subsection (1)(h), or is found
19 to have been convicted of a relevant crime described under 42 USC
20 1320a-7(a), he or she is no longer exempt and shall be terminated
21 from employment or denied employment.

22 (3) An individual who applies for employment either as an
23 employee or as an independent contractor with an adult foster care
24 facility or staffing agency and who has not been the subject of a
25 criminal history check conducted in compliance with this section
26 shall give written consent at the time of application for the
27 department of state police to conduct a criminal history check
28 under this section, along with identification acceptable to the
29 department of state police. If the individual has been the subject

1 of a criminal history check conducted in compliance with this
2 section, the individual shall give written consent at the time of
3 application for the adult foster care facility or staffing agency
4 to obtain the criminal history record information as prescribed in
5 subsection (4) or (5) from the relevant licensing or regulatory
6 department and for the department of state police to conduct a
7 criminal history check under this section if the requirements of
8 subsection (11) are not met and a request to the Federal Bureau of
9 Investigation to make a determination of the existence of any
10 national criminal history pertaining to the individual is
11 necessary, along with identification acceptable to the department
12 of state police. ~~Upon~~**On** receipt of the written consent to obtain
13 the criminal history record information and identification required
14 under this subsection, the adult foster care facility or staffing
15 agency that has made a good-faith offer of employment or an
16 independent contract to the individual shall request the criminal
17 history record information from the relevant licensing or
18 regulatory department and shall make a request regarding that
19 individual to the relevant licensing or regulatory department to
20 conduct a check of all relevant registries in the manner required
21 in subsection (4). If the requirements of subsection (11) are not
22 met and a request to the Federal Bureau of Investigation to make a
23 subsequent determination of the existence of any national criminal
24 history pertaining to the individual is necessary, the adult foster
25 care facility or staffing agency shall proceed in the manner
26 required in subsection (5). A staffing agency that employs an
27 individual who regularly has direct access to or provides direct
28 services to residents under an independent contract with an adult
29 foster care facility shall submit information regarding the

1 criminal history check conducted by the staffing agency to the
2 adult foster care facility that has made a good-faith offer of
3 independent contract to that applicant.

4 (4) ~~Upon~~**On** receipt of the written consent to conduct a
5 criminal history check and identification required under subsection
6 (3), the adult foster care facility or staffing agency that has
7 made a good-faith offer of employment or independent contract to
8 the individual shall make a request to the department of state
9 police to conduct a criminal history check on the individual and
10 input the individual's fingerprints into the automated fingerprint
11 identification system database, and shall make a request to the
12 relevant licensing or regulatory department to perform a check of
13 all relevant registries established according to federal and state
14 law and regulations for any substantiated findings of abuse,
15 neglect, or misappropriation of property. The request ~~shall~~**must** be
16 made in a manner prescribed by the department of state police and
17 the relevant licensing or regulatory department or agency. The
18 adult foster care facility or staffing agency shall make the
19 written consent and identification available to the department of
20 state police and the relevant licensing or regulatory department or
21 agency. Until June 30, 2020, if the department of state police or
22 the Federal Bureau of Investigation charges a fee for conducting
23 the criminal history check, the charge shall be paid by or
24 reimbursed by the department. Until June 30, 2020, the adult foster
25 care facility or staffing agency shall not seek reimbursement for a
26 charge imposed by the department of state police or the ~~federal~~
27 ~~bureau of investigation~~**Federal Bureau of Investigation** from the
28 individual who is the subject of the criminal history check.
29 Beginning July 1, 2020, if the department of state police or the

1 Federal Bureau of Investigation charges a fee for conducting the
2 criminal history check, the charge shall be paid by the adult
3 foster care facility, the staffing agency, or the individual. The
4 department of state police shall conduct a criminal history check
5 on the individual named in the request. The department of state
6 police shall provide the department with a written report of the
7 criminal history check conducted under this subsection. The report
8 ~~shall~~**must** contain any criminal history record information on the
9 individual maintained by the department of state police.

10 (5) ~~Upon~~**On** receipt of the written consent to conduct a
11 criminal history check and identification required under subsection
12 (3), if the individual has applied for employment either as an
13 employee or as an independent contractor with an adult foster care
14 facility or staffing agency, the adult foster care facility or
15 staffing agency that has made a good-faith offer of employment or
16 independent contract shall comply with subsection (4) and shall
17 make a request to the department of state police to forward the
18 individual's fingerprints to the Federal Bureau of Investigation.
19 The department of state police shall request the Federal Bureau of
20 Investigation to make a determination of the existence of any
21 national criminal history pertaining to the individual. An
22 individual described in this subsection shall provide the
23 department of state police with a set of fingerprints. The
24 department of state police shall complete the criminal history
25 check under subsection (4) and, except as otherwise provided in
26 this subsection, provide the results of its determination under
27 subsection (4) and the results of the Federal Bureau of
28 Investigation determination to the department within 30 days after
29 the request is made. If the requesting adult foster care facility

1 or staffing agency is not a state department or agency and if
2 criminal history record information is disclosed on the written
3 report of the criminal history check or the Federal Bureau of
4 Investigation determination that resulted in a conviction, the
5 department shall notify the adult foster care facility or staffing
6 agency and the individual in writing of the type of crime disclosed
7 on the written report of the criminal history check or the Federal
8 Bureau of Investigation determination without disclosing the
9 details of the crime. The notification ~~shall~~**must** inform the adult
10 foster care facility or staffing agency and the applicant regarding
11 the appeal process in section 34c and ~~shall~~**must** include a
12 statement that the individual has a right to appeal the information
13 relied upon by the adult foster care facility or staffing agency in
14 making its decision regarding his or her employment eligibility
15 based on the criminal history check. Any charges imposed by the
16 department of state police or the Federal Bureau of Investigation
17 for conducting a criminal history check or making a determination
18 under this subsection ~~shall~~**must** be paid in the manner required
19 under subsection (4).

20 (6) If an adult foster care facility determines it necessary
21 to employ or independently contract with an individual before
22 receiving the results of the individual's criminal history check or
23 criminal history record information required under this section,
24 the adult foster care facility may conditionally employ the
25 individual if all of the following apply:

26 (a) The adult foster care facility requests the criminal
27 history check or criminal history record information required under
28 this section, ~~upon~~**on** conditionally employing the individual.

29 (b) The individual signs a written statement indicating all of

1 the following:

2 (i) That he or she has not been convicted of 1 or more of the
3 crimes that are described in subsection (1)(a) to (g) within the
4 applicable time period prescribed by subsection (1)(a) to (g).

5 (ii) That he or she is not the subject of an order or
6 disposition described in subsection (1)(h).

7 (iii) That he or she has not been the subject of a substantiated
8 finding as described in subsection (1)(i).

9 (iv) The individual agrees that, if the information in the
10 criminal history check conducted under this section does not
11 confirm the individual's statement under subparagraphs (i) to (iii),
12 his or her employment will be terminated by the adult foster care
13 facility as required under subsection (1) unless and until the
14 individual can prove that the information is incorrect.

15 (v) That he or she understands the conditions described in
16 subparagraphs (i) to (iv) that result in the termination of his or
17 her employment and that those conditions are good cause for
18 termination.

19 (c) Except as otherwise provided in this subdivision, the
20 adult foster care facility does not permit the individual to have
21 regular direct access to or provide direct services to residents in
22 the adult foster care facility without supervision until the
23 criminal history check or criminal history record information is
24 obtained and the individual is eligible for that employment. If
25 required under this subdivision, the adult foster care facility
26 shall provide on-site supervision of an individual in the facility
27 on a conditional basis under this subsection by an individual who
28 has undergone a criminal history check conducted in compliance with
29 this section. An adult foster care facility may permit an

1 individual in the facility on a conditional basis under this
2 subsection to have regular direct access to or provide direct
3 services to residents in the adult foster care facility without
4 supervision if all of the following conditions are met:

5 (i) The adult foster care facility, at its own expense and
6 before the individual has direct access to or provides direct
7 services to residents of the facility, conducts a search of public
8 records on that individual through the internet criminal history
9 access tool maintained by the department of state police and the
10 results of that search do not uncover any information that would
11 indicate that the individual is not eligible to have regular direct
12 access to or provide direct services to residents under this
13 section.

14 (ii) Before the individual has direct access to or provides
15 direct services to residents of the adult foster care facility, the
16 individual signs a statement in writing that he or she has resided
17 in this state without interruption for at least the immediately
18 preceding 12-month period.

19 (iii) If applicable, the individual provides to the department
20 of state police a set of fingerprints on or before the expiration
21 of 10 business days following the date the individual was
22 conditionally employed under this subsection.

23 (7) The department shall develop and distribute the model form
24 for the statements required under subsection (6) (b) and (c). The
25 department shall make the model form available to adult foster care
26 facilities ~~upon~~**on** request at no charge.

27 (8) If an individual is conditionally employed under
28 subsection (6), and the information under subsection (3) or report
29 under subsection (4) or (5), if applicable, does not confirm the

1 individual's statement under subsection (6) (b) (i) to (iii), the adult
2 foster care facility shall terminate the individual's employment as
3 required by subsection (1).

4 (9) An individual who knowingly provides false information
5 regarding his or her identity, criminal convictions, or
6 substantiated findings on a statement described in subsection
7 (6) (b) (i) to (iii) is guilty of a misdemeanor punishable by
8 imprisonment for not more than 93 days or a fine of not more than
9 \$500.00, or both.

10 (10) An adult foster care facility or staffing agency shall
11 use criminal history record information obtained under subsection
12 (3), (4), or (5) only for the purpose of evaluating an individual's
13 qualifications for employment in the position for which he or she
14 has applied and for the purposes of subsections (6) and (8). An
15 adult foster care facility or staffing agency or an employee of the
16 adult foster care facility or staffing agency shall not disclose
17 criminal history record information obtained under this section to
18 a person who is not directly involved in evaluating the
19 individual's qualifications for employment or independent contract.
20 An individual who knowingly uses or disseminates the criminal
21 history record information obtained under subsection (3), (4), or
22 (5) in violation of this subsection is guilty of a misdemeanor
23 punishable by imprisonment for not more than 93 days or a fine of
24 not more than \$1,000.00, or both. Except for a knowing or
25 intentional release of false information, an adult foster care
26 facility or staffing agency has no liability in connection with a
27 criminal history check conducted in compliance with this section or
28 the release of criminal history record information under this
29 subsection.

1 (11) ~~Upon~~**On** consent of an individual as required in
2 subsection (3) and ~~upon-on~~ request from an adult foster care
3 facility or staffing agency that has made a good-faith offer of
4 employment or an independent contract to the individual, the
5 relevant licensing or regulatory department shall review the
6 criminal history record information, if any, and notify the
7 requesting adult foster care facility or staffing agency of the
8 information in the manner prescribed in subsection (4) or (5).
9 Until the Federal Bureau of Investigation implements an automatic
10 notification system similar to the system required of the state
11 police under subsection (14) and federal regulations allow the
12 federal criminal record to be used for subsequent authorized uses,
13 as determined in an order issued by the department, an adult foster
14 care facility or staffing agency may rely on the criminal history
15 record information provided by the relevant licensing or regulatory
16 department under this subsection and a request to the Federal
17 Bureau of Investigation to make a subsequent determination of the
18 existence of any national criminal history pertaining to the
19 individual is not necessary if all of the following requirements
20 are met:

21 (a) The criminal history check was conducted during the
22 immediately preceding 24-month period.

23 (b) The individual has been continuously employed by an adult
24 foster care facility, mental health facility, or covered health
25 facility, or the staffing agency since the criminal history check
26 was conducted in compliance with this section or meets the
27 continuous employment requirement of this subdivision other than
28 being on layoff status for less than 1 year from an adult foster
29 care facility, mental health facility, or covered health facility.

1 (c) The individual can provide evidence acceptable to the
2 relevant licensing or regulatory department that he or she has been
3 a resident of this state for the immediately preceding 12-month
4 period.

5 (12) As a condition of continued employment, each employee or
6 independent contractor shall do both of the following:

7 (a) Agree in writing to report to the adult foster care
8 facility or staffing agency immediately upon being arraigned on 1
9 or more of the criminal offenses listed in subsection (1)(a) to
10 (g), upon being convicted of 1 or more of the criminal offenses
11 listed in subsection (1)(a) to (g), upon becoming the subject of an
12 order or disposition described under subsection (1)(h), and upon
13 becoming the subject of a substantiated finding described under
14 subsection (1)(i). Reporting of an arraignment under this
15 subdivision is not cause for termination or denial of employment.

16 (b) If a set of fingerprints is not already on file with the
17 department of state police, provide the department of state police
18 with a set of fingerprints.

19 (13) In addition to sanctions set forth in this act, a
20 licensee, owner, administrator, or operator of an adult foster care
21 facility or staffing agency who knowingly and willfully fails to
22 conduct the criminal history checks as required under this section
23 is guilty of a misdemeanor punishable by imprisonment for not more
24 than 1 year or a fine of not more than \$5,000.00, or both.

25 (14) In collaboration with the department of state police, the
26 department of technology, management, and budget shall establish
27 and maintain an automated fingerprint identification system
28 database that would allow the department of state police to store
29 and maintain all fingerprints submitted under this section and

1 would provide for an automatic notification at the time a
2 subsequent criminal arrest fingerprint card submitted into the
3 system matches a set of fingerprints previously submitted under
4 this section. ~~Upon~~**On** notification, the department of state police
5 shall immediately notify the department and the department shall
6 immediately contact each respective adult foster care facility or
7 staffing agency with which that individual is associated.
8 Information in the database established under this subsection is
9 confidential, is not subject to disclosure under the freedom of
10 information act, 1976 PA 442, MCL 15.231 to 15.246, and ~~shall~~**must**
11 not be disclosed to any person except for purposes of this act or
12 for law enforcement purposes.

13 (15) If an individual independently contracts with an adult
14 foster care facility, subsections (1) and (2) do not apply if the
15 individual is not under the adult foster care facility's control
16 and the contractual work performed by the individual is not
17 directly related to the clinical, health care, or personal services
18 delivered by the adult foster care facility or if the individual's
19 duties are not performed on an ongoing basis with direct access to
20 residents. This exception includes, but is not limited to, an
21 individual who independently contracts with the adult foster care
22 facility to provide utility, maintenance, construction, or
23 communication services.

24 (16) The department shall maintain an electronic web-based
25 system to assist the adult foster care facilities and staffing
26 agencies required to check relevant registries and conduct criminal
27 history checks of its employees and independent contractors and to
28 provide for an automated notice to the adult foster care facilities
29 and staffing agencies for the individuals entered in the system

1 who, since the initial criminal history check, have been convicted
2 of a disqualifying offense or have been the subject of a
3 substantiated finding of abuse, neglect, or misappropriation of
4 property. The department may charge a staffing agency a 1-time set-
5 up fee of up to \$100.00 for access to the electronic web-based
6 system under this section.

7 (17) As used in this section:

8 (a) "Convicted" means either of the following:

9 (i) For a crime that is not a relevant crime, a final
10 conviction, the payment of a fine, a plea of guilty or nolo
11 contendere if accepted by the court, or a finding of guilt for a
12 criminal law violation or a juvenile adjudication or disposition by
13 the juvenile division of probate court or family division of
14 circuit court for a violation that if committed by an adult would
15 be a crime.

16 (ii) For a relevant crime described under 42 USC 1320a-7(a),
17 convicted means that term as defined in 42 USC 1320a-7.

18 (b) "Covered health facility" means a nursing home, county
19 medical care facility, hospice, hospital that provides swing bed
20 services, home for the aged, or home health agency licensed under
21 article 17 of the public health code, 1978 PA 368, MCL 333.20101 to
22 ~~333.22260~~.**333.22121**.

23 (c) "Criminal history check conducted in compliance with this
24 section" includes a criminal history check conducted under this
25 section, under section 134a of the mental health code, 1974 PA 258,
26 MCL 330.1134a, or under section 20173a of the public health code,
27 1978 PA 368, MCL 333.20173a.

28 (d) "Direct access" means access to a resident or resident's
29 property, financial information, medical records, treatment

1 information, or any other identifying information.

2 (e) "Home health agency" means that term as defined in section
3 20173a of the public health code, 1978 PA 368, MCL 333.20173a.

4 (f) "Independent contract" means a contract entered into by an
5 adult foster care facility with an individual who provides the
6 contracted services independently or a contract entered into by an
7 adult foster care facility with a staffing agency that complies
8 with the requirements of this section to provide the contracted
9 services to the adult foster care facility on behalf of the
10 staffing agency.

11 (g) "Mental health facility" means a psychiatric facility or
12 other facility defined in 42 USC 1396d(d) as described under the
13 mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

14 (h) "Staffing agency" means an entity that recruits candidates
15 and provides temporary and permanent qualified staffing for adult
16 foster care facilities, including independent contractors.

17 ~~(i) "Title XIX" means title XIX of the social security act, 42~~
18 ~~USC 1396 to 1396w-5.~~

19 (i) ~~(j)~~ "Under the adult foster care facility's control" means
20 an individual employed by or under independent contract with an
21 adult foster care facility for whom the adult foster care facility
22 does both of the following:

23 (i) Determines whether the individual who has access to
24 residents may provide care, treatment, or other similar support
25 service functions to residents served by the adult foster care
26 facility.

27 (ii) Directs or oversees 1 or more of the following:

28 (A) The policy or procedures the individual must follow in
29 performing his or her duties.

1 (B) The tasks performed by the individual.

2 (C) The individual's work schedule.

3 (D) The supervision or evaluation of the individual's work or
4 job performance, including imposing discipline or granting
5 performance awards.

6 (E) The compensation the individual receives for performing
7 his or her duties.

8 (F) The conditions under which the individual performs his or
9 her duties.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. _____ or House Bill No. 5477 (request no.
12 01038'23) of the 102nd Legislature is enacted into law.