

**House Bills 5236-5238**  
**Sponsor: Rep. Justine Barns**  
**Committee: Senior Citizens**  
**and Retirement**

**Complete to 2-11-92**

**A SUMMARY OF HOUSE BILLS 5236-5238 AS INTRODUCED 10-9-91**

The bills would establish separate crimes against senior citizens and handicapped individuals, require mandatory sentencing for such crimes, and prohibit the employment of people with criminal histories by adult foster care facilities.

House Bill 5236 would amend the Michigan Penal Code (MCL 750.411h) to establish as separate crimes those involving handicapped individuals and senior citizens of 60 years and older, and would provide the following mandatory sentencing:

--A person who committed or attempted to commit a felony in which the victim was an elderly or a handicapped person would be guilty of a felony, punishable by imprisonment for two years. A second conviction would result in imprisonment for five years. A third or subsequent conviction would result in imprisonment for ten years.

--A person who committed or attempted to commit a misdemeanor against an elderly or handicapped person would be guilty of a misdemeanor, punishable by imprisonment for two years. A second or subsequent offense would be a felony. A second conviction of a misdemeanor in this case would result in imprisonment for two years; a third conviction would result in imprisonment for five years; and a fourth or subsequent conviction would result in imprisonment for ten years.

Under the bill, the above terms could not be suspended, and prisoners would not be eligible for parole or probation. In addition, a person could be charged and convicted of a violation of the above crimes in addition to any charge or conviction for the underlying felony, misdemeanor, or attempt.

House Bill 5237 would amend Public Act 2 of 1867 (MCL 51.222), the act regulating county sheriffs, to require a sheriff, when requested by a licensed adult foster care facility administrator, to conduct a criminal history check through the use of the Law Enforcement Information Network (LIEN) and records to which the sheriff had access, to determine whether an applicant for a position with the facility had been convicted, in this or another state, of any of the following offenses:

--A felony.

--A misdemeanor committed against an individual who was aged, or who had a developmental disability, mental illness, or physical disability.

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--An attempt or conspiracy to commit one of the above offenses.

Under the bill, the sheriff would be required to issue a report to the adult foster care facility administrator, stating whether the applicant had been convicted of any of the above offenses, and, if so, the nature of the offense and the conviction. The sheriff could charge a fee, not to exceed the actual cost, for taking and processing an applicant's fingerprints and criminal record check.

House Bill 5238 would amend the Adult Foster Care Facility Licensing Act (MCL 400.734 et al.) to prohibit licensed adult foster care facilities from employing or using as volunteers people who had been convicted of any of the following crimes, in Michigan or in another state:

--A felony.

--A misdemeanor committed against an individual who was aged, or who had a developmental disability, mental illness, or physical disability.

--An attempt or conspiracy to commit one of the above offenses.

Under the bill, a licensee would have to require that each applicant sign a statement as to whether he or she had ever been convicted of any of the above offenses, appear before the local sheriff to be fingerprinted, and consent in writing to allow the sheriff to conduct a criminal history check. A licensee would also be required to ask the local sheriff to take and process the fingerprints and conduct a criminal history check of each applicant for a position with the facility. An applicant, employee, or volunteer who knowingly or intentionally made a false statement, or withheld information in connection with the signed statement, would be guilty of a misdemeanor, punishable by imprisonment for up to six months, a fine of up to \$1,000, or both.