

SENATE BILL No. 567

October 29, 1991, Introduced by Senators BOUCHARD and
HONIGMAN and referred to the Committee on Family Law,
Criminal Law, and Corrections.

A bill to require disclosures of criminal convictions by
certain persons; to require criminal history checks of such per-
sons; to prescribe the powers and duties and limit the liability
of certain state and local departments and agencies; and to pre-
scribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "child-related employment criminal history check act".

3 Sec. 2. As used in this act:

4 (a) "Applicant" means a person seeking to become an employee
5 or volunteer of an employer.

6 (b) "Criminal history check" means a determination through
7 the use of the law enforcement information network and the
8 national crime information center of whether a person has been

1 convicted of a crime described in section 3(1) and the nature of
2 the crime.

3 (c) "Department" means the department of state police.

4 (d) "Employee" means an employer's paid employee who is 17
5 years of age or older, whether of a full-time, part-time, or tem-
6 porary nature.

7 (e) "Employer" means any of the following that employs or
8 uses the services of an employee or volunteer:

9 (i) A child care organization as defined in section 1 of Act
10 No. 116 of the Public Acts of 1973, being section 722.111 of the
11 Michigan Compiled Laws.

12 (ii) An adult foster care family home or adult foster care
13 small group home as defined in section 3 of the adult foster care
14 facility licensing act, Act No. 218 of the Public Acts of 1979,
15 being section 400.703 of the Michigan Compiled Laws.

16 (iii) A private or public school with a preschool or any
17 grade from kindergarten to twelfth grade.

18 (iv) A public or private intermediate or long-term care
19 facility providing care or treatment for a mental, physical, emo-
20 tional, or rehabilitative condition or disease for a minor.

21 (v) A juvenile facility as defined in section 2 of the juve-
22 nile facilities act, Act No. 73 of the Public Acts of 1988, being
23 section 803.222 of the Michigan Compiled Laws.

24 (vi) Any other business, organization, or association that
25 has the care of, or supervisory or disciplinary powers over, a
26 minor, including, but not limited to, providers of recreational
27 or similar activities.

1 (f) "Law enforcement agency" means a sheriff's department or
2 the organized police department of a city, village, or township.

3 (g) "Volunteer" means a person who is 17 years of age or
4 older providing voluntary services to an employer.

5 Sec. 3. (1) An employer shall obtain from each applicant,
6 employee, or volunteer a signed statement of whether the appli-
7 cant, employee, or volunteer has ever been convicted of any of
8 the following offenses in this state or under a law of the United
9 States or another state and, if so, the details of the
10 conviction:

11 (a) A felony.

12 (b) A misdemeanor that is a sexual offense, or that involves
13 child abuse or an act of violence against a minor.

14 (c) An attempt or conspiracy to commit an offense described
15 in subdivision (a) or (b).

16 (2) An applicant, employee, or volunteer who knowingly or
17 intentionally makes a false statement or withholds information in
18 connection with the signed statement required under subsection
19 (1) is guilty of a misdemeanor, punishable by imprisonment for
20 not more than 6 months or a fine of not more than \$1,000.00, or
21 both.

22 (3) An employee or volunteer who violates subsection (2) is
23 also subject to immediate disciplinary action, up to and includ-
24 ing discharge.

25 Sec. 4. (1) An applicant, employee, or volunteer shall give
26 written consent for his or her employer to conduct a criminal
27 history check. The applicant, employee, or volunteer shall also

1 provide to the law enforcement agency or the department
2 conducting the criminal history check any information necessary
3 for the criminal history check, including, but not limited to,
4 fingerprints. Subject to section 3 of Act No. 120 of the Public
5 Acts of 1935, being section 28.273 of the Michigan Compiled Laws,
6 and any other applicable limitations, the employer shall pay the
7 fee for the criminal history check.

8 (2) An employer shall request a law enforcement agency or
9 the department to conduct a criminal history check on an appli-
10 cant, employee, or volunteer who has given written consent pursu-
11 ant to subsection (1).

12 (3) The law enforcement agency or the department shall con-
13 duct the criminal history check upon request. With regard to
14 fingerprinting necessary for the criminal history check, a law
15 enforcement agency shall comply with Act No. 120 of the Public
16 Acts of 1935, being sections 28.271 to 28.273 of the Michigan
17 Compiled Laws, and with any applicable procedure established by
18 the department for such checks.

19 (4) The law enforcement agency or the department shall com-
20 plete the criminal history check and provide the results to the
21 employer and to the applicant, employee, or volunteer within 72
22 hours after the request. Pursuant to this subsection, the law
23 enforcement agency or the department shall only provide informa-
24 tion concerning a conviction for a crime described in section
25 3(1).

26 (5) An employer may refuse to hire an applicant who does not
27 give consent for a criminal history check pursuant to this act.

1 (6) The department shall prescribe the form of the request
2 and necessary information for a criminal history check pursuant
3 to this act and the form for providing the results pursuant to
4 subsection (4).

5 Sec. 5. If a parent or guardian of a minor hires or intends
6 to hire a person who has or will have the care of, or supervisory
7 or disciplinary powers over, a child in that parent's or
8 guardian's custody, the parent or guardian may request a criminal
9 history check of that person. Upon request, the local law
10 enforcement agency or the department shall conduct the criminal
11 history check for the parent or guardian upon the same terms as
12 it would for an employer pursuant to section 4.

13 Sec. 6. If an employer hires an applicant or retains an
14 employee or volunteer whose criminal history check reveals a con-
15 viction for a crime listed in section 3(1), the employer shall
16 notify the parent or guardian of each minor who uses the services
17 of the employer of the fact of the conviction and its nature.

18 Sec. 7. Except for a knowing or intentional release of
19 false information, the department, a local law enforcement
20 agency, and the employees of the department or local law enforce-
21 ment agency have no liability in connection with a criminal his-
22 tory check conducted pursuant to this act.