

**CRIMINAL HISTORY CHECKS FOR  
CHILD CARE WORKERS**

**House Bill 4058**  
**Sponsor: Rep. Bob Brown**  
**Committee: Family and Children  
Services**

**Complete to 9-12-01**

**A SUMMARY OF HOUSE BILL 4058 AS INTRODUCED 1-31-01**

House Bill 4058 would amend the Child Care Licensing Act to prohibit a license or certificate of registration for a child care organization from being issued or renewed without a request for a criminal history check and criminal records check. In addition, the bill would require a child care organization to request a criminal history check and criminal records check for all job applicants and current employees. Convictions for certain “listed” offenses (see below) would disqualify an individual for licensure or employment as a child care provider. The Department of State Police could charge a reasonable fee for conducting the criminal history check and the criminal records check.

Licensure and Registration of a Child Care Organization. The Department of Consumer and Industry Services (DCIS) would request the Department of State Police to conduct a criminal records check (through the FBI) and a criminal history check on each partner, officer, or manager of a child care organization that applies for an initial license or a renewal. In the case of a child care facility that is a private residence, the two background checks would be done on each individual who is at least 17 years of age and resides or intends to reside in that residence. At the time of application, each individual would give his or her written consent to conduct the background checks and would submit a set of fingerprints to the Department of State Police.

The Department of State Police would conduct the criminal history check within 45 days after receiving the request from the DCIS. The Department of State Police would then report the results to the DCIS. The Department of State Police would initiate a criminal records check within seven days from receiving the request from the DCIS. Once the Department of State Police received the results of the records check from the FBI, it would report the results to the DCIS. A license or certificate of registration could not be renewed until the DCIS received the results of the two background checks.

If either of the background checks revealed a criminal conviction for an offense that was *not* a “listed conviction”, the DCIS could consider the conviction when determining whether or not to issue or renew the license. If either of the background checks revealed a criminal conviction that *was* a “listed conviction,” an initial license could not be issued, and the DCIS could consider the conviction when deciding whether to renew a license. If the license were renewed, the child care organization would be required to notify the parent or guardian of each child in its care of the fact and nature of the conviction. The Department of State Police could charge a reasonable fee for conducting the two background checks.

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Job Applicants and Current Employees. When a child care organization made an offer of initial employment to an individual at least 16 years of age, the organization would have to request that the Department of State Police conduct a criminal records check (through the FBI) and a criminal history check. The Department of State Police would then report to the child care organization the results of the criminal history check within 45 days after receiving the request.

The Department of State Police would initiate the criminal records check within seven days after receiving the request from the child care organization. If the child care organization was a state agency, the Department of State Police would report the results to the organization. If the child care organization was not a state agency, the Department of State Police would report any conviction that is found on the criminal records check, but not listed in the criminal history check, to the organization.

An individual could not be employed by a child care organization until the organization received the result of the two background checks. If a child care organization had received only the results of the criminal history check and found it necessary to hire an individual, the individual could be employed on a conditional basis, pending the results of the criminal records check.

In addition, a child care organization would be required to request a criminal history check and criminal records check of all current employees at least 16 years of age, according to a schedule contained in the bill. For the calendar year in which the bill took effect, the organization would request background checks for all employees who started in that calendar year and in the two previous calendar years. For each subsequent year, background checks would be required on employees who began in that year and those who began in the next two prior years. This process would continue until all employees were covered.

If the criminal history check revealed a “listed” conviction, a current employee would be terminated and an applicant would not be hired. Further, if the criminal records check revealed a criminal history that was not disclosed in the criminal history check and included a “listed conviction”, a current employee would be terminated and an applicant would not be hired.

Information revealed in a criminal history check and a criminal records check could only be used by the child care organization to determine the qualifications of an applicant or to determine whether or not to retain a current employee. Except for information regarding a felony conviction or misdemeanor conviction involving sexual or physical abuse, the results of the two background checks could not be revealed to a person not directly involved in evaluating the qualifications of an applicant or current employee. A violation of this provision would be a misdemeanor punishable by a fine not exceeding \$10,000.

Parent or Guardian Request. A parent or guardian could request the Department of State Police to conduct a criminal history check and/or a criminal records check for individuals at least 16 years of age whom he or she hired or intended to hire to provide care, custody, and supervision of a child. The background checks would be conducted in the same manner as for a child care organization described above.

“Listed” Convictions. Convictions of any of the following crimes would be grounds for license refusal or termination of employment as a child care provider:

- A violation of the Youth Employment Standards Act, involving the employment of a minor.
- A violation of section 701 of the Michigan Liquor Control Code, involving selling or furnishing alcohol to a minor.
- A violation of section 703 (2) of the Michigan Liquor Control Code, involving furnishing fraudulent identification.
- A violation of the Child Care Licensing Act.
- Aiding or abetting a child to violate a court order or concealing or harboring a runaway.
- Failure to report suspected child abuse or neglect, by a person required to do so by law.
- Intentionally making a false report of child abuse or neglect.
- Selling, giving, or furnishing tobacco to minors.
- Furnishing or displaying sexually explicit material to minors.
- Knowingly making the false claim of being the parent/guardian of a minor, or claiming that a minor is at least 18 years old for the purposes of disseminating sexually explicit material.
- Aiding a minor, less than 16 years of age, to violate the law.
- Simple assault or aggravated assault against a minor.
- Disseminating or possessing with the intent to disseminate any obscene material.

In addition, a “listed conviction” would include a violation of the Michigan Penal Code that involved any of the following: furnishing a minor with any cereal beverage with alcohol content; burning a dwelling, house, other real property, or insured property; felonious assault; assault with the intent to murder, to do great bodily harm, to maim, to commit burglary or another felony, or to rob and steal; sexual intercourse under the pretext of medical treatment; assault against a pregnant woman resulting in or intending to cause a miscarriage or injury to the fetus; attempted murder by a means other than assault with the intent to murder; breaking and entering; home invasion; entering without breaking; burglary with explosives; exposing a child under 6 years of age with the intent to injure or abandon; child abuse; purchase from a minor without parental consent; interfering with the legal custody of dependent, neglected, and delinquent children; exhibition, use, or employment of children for certain purposes; permitting a child in certain establishments; consumption or possession of alcohol by a minor at social gatherings; furnishing obscene publications to minors; exhibition of obscene material to minors; unlicensed maintenance of a boarding home for children; contributing to the neglect or delinquency of a minor; soliciting a minor for an immoral purpose; enticing a child for the purpose of producing child sexually abusive material; soliciting another person to commit

murder; inducing a minor to commit a felony; spousal or child abandonment; deserting a spouse to escape prosecution; refusing to support one's family when the person has sufficient ability; prostitution; window peeping; engaging in indecent or obscene conduct in a public place; loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced; sending explosives with the intent to kill or injure; sending a device with the intent to terrorize; placing explosives with the intent to destroy; placing offensive substances with the intent to injure; possessing an explosive substance in a public place; possessing substances that when combined will become explosive; possession with the intent to use unlawfully a device designed to explode; extortion; unlawfully selling a firearm to a minor; unlawful manufacture, sale, or possession of a weapon; offenses involving a portable weapon emitting and electrical current, short-barreled shotgun or rifle, or armor piercing ammunition; carrying a dangerous weapon or firearm; unlawfully carrying a concealed weapon, committing or attempting to commit a violent act while wearing body armor; intentionally discharging a firearm from a motor vehicle, at a dwelling or occupied structure, at a emergency or law enforcement vehicle; first or second-degree murder; manslaughter; selling bulk gunpowder, dynamite, blasting caps, or nitroglycerine; placing explosives with the intent to destroy; indecent exposure; kidnapping; taking another prisoner hostage; enticing away a child under 14 years of age; mayhem; placing a harmful substance in food; stalking; aggravated stalking; various prostitution offenses; first-, second-, third-, or fourth-degree criminal sexual conduct (CSC); assault with the intent to commit CSC; unarmed or armed robbery; carjacking; or bank robbery.

In addition, a "listed conviction" would include:

- A violation of a former Michigan law or an ordinance or former ordinance of a political subdivision of the state substantially corresponding to a law included in the definition of a "listed conviction."
- A violation of a law or former law of the United States or another state or an ordinance or former ordinance of a political subdivision of another state substantially corresponding to a law included in the definition of a "listed conviction."
- An attempt or conspiracy to commit an offense included as a "listed conviction".

MCL 722.115 et al.

Analyst: M. Wolf

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