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## ADULT FOSTER CARE; CRIMINAL HISTORY CHECK ON EMPLOYEES

House Bill 4453

Sponsor: Rep. Gary Woronchak

Committee: Senior Health, Security and  
Retirement

Complete to 3-16-01

### A SUMMARY OF HOUSE BILL 4453 AS INTRODUCED 3-13-01

The bill would amend the Adult Foster Care Facility Licensing Act to require background checks on new employees of adult foster care facilities. Under the bill, an adult foster care facility could not employ or independently contract with an individual who would be providing direct services to residents after the bill's effective date if he or she had been convicted in Michigan of either a felony or an attempt or conspiracy to commit a felony within the previous fifteen years, or a misdemeanor that involved abuse, neglect, assault, battery, or criminal sexual conduct or fraud or theft against a vulnerable adult (as defined under the Michigan Penal Code) within the previous ten years. Further, an adult foster care facility would be prohibited from employing or contracting with an individual without first running a criminal history check on the person. However, these provisions would not apply to individuals who were employed by or under contract to a facility on the effective date of the bill.

A person who had applied for employment or contract services in an adult foster care facility and had received a good faith offer of employment would have to give written consent for the Department of State Police (DSP) or other authorized law enforcement agency to conduct a criminal history check. If a criminal history check had been performed on the applicant within the previous six months, a certified copy of the criminal history check could be used in lieu of obtaining written consent and requesting a new check. However, if the person was applying for employment as an independent contractor and was using a prior criminal history check, the facility would have to receive a certified copy of the previous criminal history check directly from the previous employer or from the law enforcement agency that conducted the check.

After receiving the signed consent form from the applicant, the facility would have to request the DSP or other agency to conduct a criminal history check on the applicant. The facility would have to bear any cost of the criminal history check, and would be prohibited from seeking reimbursement from the applicant. The law enforcement agency conducting the check would have to provide the facility with a report containing any criminal history record information on the applicant maintained by the agency. Further, each report would have to be certified with an official seal or other symbol of authenticity.

An adult foster care facility could employ or contract with an applicant as a conditional employee before receiving the results of the criminal history check as long as the criminal history check had been requested and the applicant signed a statement that he or she had not been convicted of a felony or the listed misdemeanor offenses, and that he or she understood that if the criminal history check did not confirm the applicant's statements, that his or her employment

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would be terminated. Knowingly providing false information would constitute a misdemeanor punishable by 90 days imprisonment and a fine of up to \$500, or both.

Within 90 days after the effective date of the bill, the Department of Consumer and Industry Services (DCIS) would have to develop and distribute a model form for the statement of prior criminal convictions at no cost to facilities.

Information provided on a criminal history record could only be used for evaluating an applicant's qualifications, and a facility would be prohibited from disclosing information to a person who was not directly involved in evaluating the applicant's qualifications.

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■ 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.