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Senate Bills 934 and 1006 (as enrolled)
Sponsor: Senator Joel D. Gougeon (Senate Bill 934)
Senator George Z. Hart (Senate Bill 1006)
Senate Committee: Judiciary
House Committee: Transportation

PUBLIC ACTS 318 & 258 of 2002

Date Completed: 1-21-03

CONTENT

The bills amended the Aeronautics Code to require that a flight school request a criminal history check from the Department of State Police criminal records division, and a criminal records check through the Federal Bureau of Investigation (FBI), on any applicant for training at the flight school. The bills were tie-barred to each other and took effect May 1, 2002.

Senate Bill 934

Senate Bill 934 provides that, at the time of application, a flight school applicant must consent, in writing, to criminal history and records checks. The school must require the applicant to submit his or her fingerprints to the Department of State Police for the checks. The school may charge the applicant a fee for the criminal history check and the criminal records check, and the Department may charge a fee.

As a condition of enrolling an applicant, a flight school must request from the Department of State Police criminal records division a criminal history check and criminal records check through the FBI on the applicant. The school is required to make the request on a form and in a manner prescribed by the division.

Before enrolling the applicant, the school must receive a report on the criminal check from the Department. The school may enroll the applicant as a conditional student, however, without first receiving the report, if 1) the school requests the criminal history and records checks before the conditional

enrollment, and 2) the applicant signs a statement identifying all crimes for which he or she has been convicted, if any, and agreeing that, if the report from the Department is not consistent with the applicant's statement, his or her enrollment contract will be void. If the statement of convictions includes a felony conviction or incarceration, probation, or parole for a felony conviction within the preceding seven years, the enrollment contract will be void.

If an applicant is enrolled as a conditional student, and the Department's report is not the same as the applicant's statement, the flight school will have to void the applicant's enrollment contract. If the contract is voided, the applicant's enrollment will be terminated and the flight school will not be liable for the termination or any money paid toward enrollment.

If an applicant is being considered for enrollment by more than one flight school and agrees in writing to allow a flight school to share the criminal history and records report from the Department of State Police with another flight school, the school may satisfy the bill's requirements by obtaining a copy of the report from another flight school.

Within 30 days after receiving a proper request from a flight school, the criminal records division must conduct the criminal history check, initiate the criminal records check, and provide a report of the results to the flight school. The report must contain any criminal history record information on the applicant that is maintained by the criminal records division and include information

regarding the criminal records check of the FBI's records.

A flight school may use criminal history record information received from the division only for the purposes of evaluating an applicant's qualifications for enrollment and comparing the information to that in a conditional student's statement of criminal convictions. The school may not disclose the report or its contents to anyone who is not directly involved in evaluating the applicant's qualifications for enrollment. If an applicant has agreed, in writing, to allow the school to share the report with another flight school, however, the report may be provided to an appropriate representative of another flight school. A violation of this disclosure provision is a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$500.

"Criminal history record information" means that term as defined in the fingerprinting law: name; date of birth; fingerprints; photographs, if available; personal descriptions, including physical measurements, identifying marks, scars, amputation, and tattoos; aliases and prior names; Social Security and driver's license numbers and other identifying numbers; and information on misdemeanor convictions and felony arrests and convictions (MCL 28.241a).

Senate Bill 1006

The bill requires a flight school to request a criminal history check and a criminal records check on an applicant as provided in Senate Bill 934. Under Senate Bill 1006, the applicant must cooperate with the school in completing the criminal history and criminal records checks.

The bill provides that the flight school may not enroll the applicant or must terminate his or her enrollment if, in the preceding seven years, the applicant was convicted of, or was incarcerated or on probation or parole for a violent or other felony. The bill defines "violent or other felony" as a violation of a penal law of Michigan, another state, or the United States for which the offender, upon conviction, may be punished by death or imprisonment for more than one year, or an offense expressly designated by law to be a felony.

MCL 259.85a (S.B. 934)
259.85 (S.B. 1006)

Legislative Analyst: Claire Layman

FISCAL IMPACT

State Police. The bills will have a minimal fiscal impact on the Department of State Police. The Department routinely provides criminal history background checks at a cost of \$15 and fingerprint records checks at the State level for \$30 and through the FBI for \$24 under circumstances provided by State law.

Corrections. The bills will have an indeterminate impact on local government. There are no data to indicate how many people will be convicted of disclosing information from a flight school applicant's criminal history record. A convicted offender may be fined up to \$500. Public libraries will benefit as they receive all penal fine revenue.

Transportation. The Michigan State Aeronautics Commission is responsible for licensing flight schools. The bills will not affect the activities of the Commission and therefore will not have a fiscal impact on the Michigan Department of Transportation.

Fiscal Analyst: Bruce Baker
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.