

# Legislative Analysis



## CRIMINAL HISTORY CHECKS FOR HORSE RACING

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**House Bill 4233 as introduced**  
**Sponsor: Rep. Morris Hood III**  
**Committee: Judiciary**

### **First Analysis (2-17-05)**

**BRIEF SUMMARY:** The bill would amend the Horse Racing Law of 1995 to require applicants for an occupational license required under the act to submit to a criminal records check by the state police and FBI.

**FISCAL IMPACT:** Since the bill requires the applicant to pay for the criminal background check, there would be minimal fiscal impact on the state or on local units of government.

### **THE APPARENT PROBLEM:**

The Horse Racing Law of 1995 generally provides for the licensing of individuals participating in activities related to pari-mutuel wagering – such as racing officials, jockeys, and trainers – by the racing commissioner under rules promulgated by the commissioner. The HRL further provides that the racing commissioner shall not issue an occupational license to a person who, within the previous six years, was convicted of a felony (or two years for a misdemeanor conviction) involving theft, dishonesty, misrepresentation, fraud, corruption, drug possession, or other criminal misconduct related to the applicant's ability and likelihood to perform the functions of the occupation in a lawful manner.

Applications for an occupational license are accompanied by a set of fingerprints, which are then forwarded to the Michigan State Police and, subsequently, the Federal Bureau of Investigation for a criminal records check. Public Law 92-544 (86 Stat 1115), provides the FBI with the authority to conduct criminal record checks for non-criminal justice licensing or employment related purposes if that criminal records check is authorized by state statute. Among other requirements, the authorization must be a result of legislative enactment (or its functional equivalent), require fingerprinting the applicant, and authorize the use of FBI records in screening the applicant. While the HRL does not meet those standards, the FBI has, as a courtesy, allowed a temporary exemption and continues to provide a criminal records check for those license applications. However, the FBI may soon stop providing criminal records checks for those license applications in the absence of specific authorizing statute.

### **THE CONTENT OF THE BILL:**

The bill would amend the Horse Racing Law of 1995 to require an applicant, when applying for an occupational license required under the act, to provide the racing

commissioner with one or more sets of his or her fingerprints and to provide payment for the cost of the fingerprint check.

In order to determine if the applicant has been convicted of a crime in any state, the racing commissioner would have to submit the fingerprints and the appropriate state and federal fees to the Michigan Department of State Police for a criminal history check. The MSP could forward the fingerprints to the Federal Bureau of Investigation for a criminal history check. Information obtained could only be used to determine the character and fitness of the applicant for licensing purposes.

MCL 431.316

***ARGUMENTS:***

***For:***

The bill is necessary to comply with federal law as it relates to conducting criminal records checks through the FBI and to ensure that horse racing-related occupational licensees continue to be subject to a criminal records check.

***POSITIONS:***

The Department of State Police supports the bill. (2-16-05)

The Department of Agriculture supports the bill. (2-16-05)

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