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**BILL ANALYSIS**

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House Bill 5448 (Substitute S-1 as reported)
Sponsor: Representative Barbara Vander Veen
House Committee: Senior Health, Security, and Retirement
Senate Committee: Health Policy

CONTENT

The bill would amend the Mental Health Code to require criminal history checks on individuals seeking employment, an independent contract, or clinical privileges with a psychiatric facility or intermediate care facility for people with mental retardation. Specifically, the bill would do the following:

- Prohibit a facility described above from employing, independently contracting with, or granting clinical privileges to an individual who regularly had direct access to or provided direct services to patients or residents if he or she had been convicted of certain crimes; had been the subject of a substantiated finding of neglect, abuse, or misappropriation of property in a nursing facility; or had been found not guilty by reason of insanity.
- Require a facility to request that the Michigan Department of State Police (MSP) conduct a criminal history check on an applicant for employment, enter the applicant's fingerprints into an automated fingerprint identification system database, and forward the fingerprints to the FBI to determine the existence of any national criminal history.
- Provide that if the MSP or FBI charged for conducting an initial criminal history check, the Department of Community Health (DCH) would have to pay or reimburse the charge with Federal funds provided to implement a pilot project under a Federal Medicare law.
- Prohibit a facility from employing, contracting with, or granting privileges to an individual with direct access to patients or residents until it complied with the criminal history check requirements, subject to specified exceptions.
- Allow a facility conditionally to employ or grant privileges to an individual before receiving criminal history check results under certain circumstances.
- Require an employee, independent contractor, or individual granted privileges to report to the facility immediately if he or she were arraigned for or convicted of certain crimes.
- Prescribe criminal penalties for an applicant who knowingly provided false information regarding his or her criminal history, an individual who used an applicant's criminal history information in violation of the bill, and the director of a facility who did not conduct the required criminal history checks.
- Require the Department of Information Technology, in collaboration with the MSP, to establish an automated fingerprint identification system database that would allow the MSP to maintain all fingerprints submitted under the bill and provide for an automatic notification when a criminal arrest fingerprint card submitted into the system matched a set of fingerprints previously submitted.
- Require the DCH and the MSP to develop and implement an electronic web-based system to assist facilities required to conduct criminal history checks and provide automated notice to facilities for individuals who were disqualified from employment under the bill after the initial criminal history check was conducted.
- Require the DCH to report to the Legislature one year after the bill took effect on its impact and effectiveness, the feasibility of extending the criminal history check requirements to facility volunteers, and Federal funding provided for background checks on long-term care facility employees.

The bill would take effect 60 days after the DCH secured the necessary Federal approval or waiver to use Federal funds to enable the Department to pay for or reimburse the costs incurred by adult foster care facilities for requesting a national criminal history check to be conducted by the FBI; and filed with the Secretary of State a written notice that the approval or waiver had been secured.

The bill is tie-barred to House Bill 5168 and Senate Bills 621 and 622. House Bill 5168 would amend the Public Health Code to enact similar employment prohibitions and criminal history check requirements for other health professionals. Senate Bill 621 would amend the Code to revise provisions that disqualify a person from employment with a nursing home for certain convictions and require criminal history checks of employment applicants. Senate Bill 622 would make similar amendments to the Adult Foster Care Facility Licensing Act.

MCL 330.1147 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The Department of Community Health has received a grant from the Federal Centers for Medicare and Medicaid Services for \$5.0 million to provide criminal background checks for health facility employees. This grant would cover costs of providing criminal background checks from 2005 through 2007. The State could incur some additional administrative expense associated with managing the criminal background check process and meeting the reporting requirements proposed by the bill.

Additionally, State and locally operated psychiatric facilities and locally operated intermediate care facilities for the mentally retarded would see increased administrative cost associated with processing criminal history requests for job applicants.

There are no data to indicate how many individuals would be convicted of the proposed misdemeanors. Local government would incur the cost of incarceration in a local facility, which varies by county. Additional penal fine revenue would benefit public libraries.

Criminal history fingerprint background checks required under the bill would cost \$54 each, with the amount to be paid to the Department of State Police to cover real and actual costs of the analysis and report.

The bill also would require the establishment of a fingerprint database and notification system for facilities' employees processed under the bill. The State Police reports that such a database has been in operation for school and child care employees since November 2005, and the additional employee data required under House Bill 5448 (S-1) would need no additional funding to maintain.

Date Completed: 1-31-06

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