

## LOCAL GOVERNMENT FINGERPRINTING

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**House Bill 5543 (Substitute H-1)**

**Sponsor: Rep. Richard LeBlanc**

**Committee: Intergovernmental, Urban, and Regional Affairs**

### **First Analysis (1-30-08)**

**BRIEF SUMMARY:** The bill creates a new act to allow officials in local governments (counties, cities, villages, townships, or charter townships) to fingerprint applicants or licensees in certain occupations for the purpose of obtaining state and national criminal history record information.

**FISCAL IMPACT:** To the extent a local unit makes use of this provision, there would be an indeterminate increase in local costs and in state revenue.

### **THE APPARENT PROBLEM:**

Local officials in counties, cities, villages, and townships sometimes require potential licensees intending to operate in their communities to submit their fingerprints to the police, in order to get their licenses. The fingerprints are sent to the Michigan State Police and the Federal Bureau of Investigation to be cross-checked against their electronic law enforcement information data systems. If a history of criminal activity is revealed during the screening process, the potential licensees are prohibited from operating in the community.

To make certain that local government criminal background checks are authorized by state statute, legislation has been introduced.

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

House Bill 5543 (H-1) proposes a new act to allow officials in local governments to fingerprint applicants or licensees in certain occupations for the purpose of obtaining state and national criminal history record information. [As used in the bill, "local unit of government" is defined to mean a county, city, village, township, or charter township.]

The bill specifies that notwithstanding other provisions of law, a local unit of government could, by ordinance, require the fingerprinting of applicants or licensees in certain occupations, for the purpose of obtaining criminal history record information on those applicants. Fingerprints obtained would be submitted to the Department of State Police for a state criminal history record check and, if necessary, to the Federal Bureau of Investigation for a national criminal history record check.

Under the bill, the Department of State Police would serve as the sole source for receiving fingerprint submissions from local units of government and for receiving the

responses to those fingerprint submissions from the Federal Bureau of Investigation. The department would then disseminate the criminal history information to the local unit of government. Finally, the bill requires that the local unit of government transmit the appropriate fees for the state and national criminal history record checks to the Department of State Police.

The bill specifies that as used in this act, "criminal history record information" means that term as defined in Section 1a of 1925 PA 289, MCL 28.241a. [There, in the Michigan State Police Criminal Identification and Records Law, the definition reads: "'Criminal history record information' means name, date of birth; fingerprints; photographs, if available; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; Social Security number, driver's license number, and other identifying numbers; and information on misdemeanor arrest and convictions and felony arrests and convictions."]

### ***ARGUMENTS:***

#### ***For:***

This bill is voluntary, not mandatory. It allows local officials in counties, cities, villages, and townships to fingerprint and conduct criminal background checks on those applying for certain business licenses. The fingerprints would be submitted to the Department of State Police and the Federal Bureau of Investigation to be checked against the electronic law enforcement information data systems. Although some local governments already require a criminal history check for door-to-door solicitors and other potential licensees within their communities, House Bill 5543 would help ensure that the protocols followed by local government officials are lawful.

#### ***Against:***

The Michigan Townships Association notes that while the bill is a good one, as presently drafted it does not allow local units of government to charge a fee for the criminal history records checks they require. (It does require local officials to transmit the appropriate fees to the Department of State Police.) The bill should be amended, to ensure that government officials can collect a reasonable fee for the fingerprinting and background checks, in order to recover their costs.

#### ***Against:***

The bill, as drafted, appears too broad in its application, allowing local governments far too much discretion in its implementation. For example, what kinds of information can local officials collect? Where and under what conditions can the information be held? What arrangements are necessary to ensure privacy? How long can the information be retained on file? The bill should be amended to answer these questions.

#### ***Response:***

The bill was amended in the House Committee on Intergovernmental, Urban, and Regional Affairs to answer the first of these questions: what kind of information can be collected? House Bill 5543 (H-1) defines "criminal history record information" in the same manner the term is defined in the Michigan State Police Criminal Identification and

Records Law. There, the definition reads: "'Criminal history record information' means name, date of birth; fingerprints; photographs, if available; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; Social Security number, driver's license number, and other identifying numbers; and information on misdemeanor arrest and convictions and felony arrests and convictions."

***POSITIONS:***

The Michigan Townships Association supports the bill in concept. (1-23-08)

The Michigan State Police is neutral on the bill. (1-23-08)

The Service Employees International Union opposes the bill. (1-23-08)

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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.