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House Bill 6056 (Substitute H-1 as passed by the House)  
House Bill 6057 (as passed by the House)  
House Bill 6058 (Substitute H-1 as passed by the House)  
Sponsor: Representative Bert Johnson (H.B. 6056 & 6058)  
Representative Shanelle Jackson (H.B. 6057)  
House Committee: Appropriations  
Senate Committee: Appropriations

Date Completed: 12-9-08

## **BACKGROUND**

Section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 (PL 108-173) authorized the U.S. Department of Health and Human Services (HHS) to establish pilot programs in up to 10 states for conducting background checks of prospective employees of long-term care facilities. In January 2005, Michigan was awarded a three-year pilot program, becoming one of seven states in receipt of Federal funds under Section 307 of the MMA. The grant awarded to the State of Michigan totaled \$3.5 million.

With the expiration of the Federal pilot program following FY 2006-07, the State was forced to identify alternative funds to cover the costs of these criminal background checks. In FY 2007-08, the Department of Community Health (DCH) spent approximately \$6.2 million in support of the Background Check Program. A change in the Public Health Code (Public Act 173 of 2008) allowed the use of unreserved balances from the licensing fees and assessments for health facilities, to support the Background Check Program. Ultimately, a mixture of these health systems fees, Federal Title XIX funds, and General Fund dollars financed the program.

The FY 2008-09 DCH appropriations act (Public Act 246 of 2008) assumes that health facilities, psychiatric facilities, and intermediate care facilities with mental retardation (ICF/MR) will now be responsible for costs associated with the criminal background checks required under State law.

## **CONTENT**

House Bill 6056 (H-1) would amend the Public Health Code to require nursing homes, county medical care facilities, hospices, hospitals that provide swing services, and home health agencies to pay the costs of the initial criminal background check of prospective employees conducted by the Michigan Department of State Police (MSP) or the Federal Bureau of Investigation (FBI). However, homes for the aged would be exempt from this mandate; the DCH would be required to pay and/or reimburse such homes for the costs of background checks.

House Bill 6057 would amend the Mental Health Code to require psychiatric facilities and ICF/MRs to pay the costs of the initial background check of prospective employees conducted by the MSP or the FBI.

In addition, the bill would eliminate provisions in the Mental Health Code that require the DCH to submit a written report to the Legislature by April 1, 2007, on each of the following: the impact and effectiveness of Public Act 27 of 1996; the feasibility of implementing criminal history checks on volunteers who work in psychiatric facilities of ICF/MRs or State employees involved in the licensing of those facilities and regulation of those employees; the amount of Federal funds provided to implement the pilot program for national and State background checks on employees of long-term care facilities; and the amount of those funds spent to date and remaining. These requirements were included to ensure that members of the Legislature would be kept abreast of the implementation and evolution of the Federal pilot program. With the expiration of the Federal background check grant, these reports would no longer provide relevant information.

House Bill 6058 (H-1) would amend the Adult Foster Care Facility Licensing Act by eliminating a reference to the Federally funded background check pilot program that, until FY 2007-08, had been used to cover costs associated with background checks of prospective employees and independent contractors conducted by the MSP or the FBI. Removal of this reference would require the DCH to cover these costs with alternative State funds.

MCL 333.20173a (H.B. 6056)  
330.1134a (H.B. 6057)  
400.734b (H.B. 6058)

### **FISCAL IMPACT**

The FY 2008-09 DCH appropriations act includes \$4.0 million for the Background Check Program. A detailed spending plan prepared by the Department anticipates that actual spending under this line item will be approximately \$3.7 million.

An analysis conducted by the House Fiscal Agency suggests that the costs of criminal background checks for prospective employees of homes for the aged and adult foster care facilities totaled about \$1.9 million in FY 2007-08. The Department expects that the initial appropriation for the Background Check Program will be sufficient to cover these costs in FY 2008-09. Total costs related to criminal background checks for homes for the aged and adult foster care facilities will ultimately hinge on the number of background checks that must be completed during the course of the current fiscal year.

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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.