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BILL



ANALYSIS

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Senate Bills 787 and 788 (as enacted)  
Sponsor: Senator Mike Nofs  
Senate Committee: Health Policy  
House Committee: Health Policy

**PUBLIC ACTS 51 & 52 of 2012**

Date Completed: 4-24-13

**CONTENT**

**Senate Bills 787 and 788 amended the Public Health Code and the Adult Foster Care Facility Licensing Act, respectively, to revise provisions requiring a criminal history check and criminal records check of an applicant for a license to operate a home for the aged or an adult foster care facility. The bills require applicants to consent to a criminal records check through the FBI. Senate Bill 788 also expanded provisions that exempt applicants who previously underwent criminal records and history checks and have remained continuously licensed, and Senate Bill 787 added similar provisions to the Public Health Code.**

Senate Bill 787 applies to a home for the aged. Senate Bill 788 applies to an adult foster care facility. Both bills took effect on March 13, 2012.

Under the statutes, an applicant for a license for a home for the aged or an adult foster care facility, if an individual, must give written consent at the time of application for a criminal history check and a criminal records check to be conducted. The authorized representative of a home for the aged and the licensee designee of an adult foster care facility must give consent for a criminal history check and criminal records check at the time of appointment. In the case of a home for the aged, an owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities also must give consent at the time of license application for the criminal history and criminal records checks. The

same requirement applies to an owner, partner, or director of an adult foster care facility license applicant who has regular direct access to residents or on-site facility operational responsibilities.

Previously, the individuals in question had to give consent for the Department of State Police to conduct the criminal history check and the criminal records check. Under the bills, the individuals must consent to a) a criminal history check; and b) a criminal records check through the Federal Bureau of Investigation (FBI).

Under Senate Bill 787, the Department of Human Services must require the applicant, authorized representative, owner, operator, or member of the governing body of a home for the aged who has regular direct access to residents or on-site facility operational responsibilities to submit his or her fingerprints to the State Police for the required checks. Senate Bill 788 contains a similar requirement for the applicant, if an individual, the licensee designee, owner, partner, or director of the applicant who has regular direct access to residents or on-site facility operational responsibilities.

Under Senate Bill 787, all owners, operators, and members of the governing body of homes for the aged with regular direct access to residents or on-site operational responsibilities, and all authorized representatives, had to comply with these requirements within one year after the bill's effective date. Senate Bill 788 established a similar requirement applicable to all adult foster care licensees and licensee designees, as well as all owners, partners, or directors

of license applicants with direct access to residents or on-site operational responsibilities.

Under the Adult Foster Care Facility Licensing Act, if an applicant or licensee designee, or an owner, partner, or director of the applicant, applies for a license or license renewal and he or she or the licensee designee previously underwent a criminal history check and criminal records check required under the Act, and has remained continuously licensed after the checks have been performed, he or she does not have to submit to another criminal history or records check upon renewal of the license. Under Senate Bill 788, this also applies to a person who underwent a previous check required under Section 134a of the Mental Health Code (which pertains to employment with a psychiatric facility or intermediate care facility for people with mental retardation). In addition, the bill extends this provision to a person who previously underwent a required check and has remained continuously employed by an adult foster care facility or by a covered facility under the Public Health Code (a nursing home, county medical care facility, hospice, hospital that provides swing-bed services, home for the aged, or home health agency).

Senate Bill 787 added a similar provision to the Public Health Code concerning an applicant, authorized representative, owner, operator, or governing body member with direct access to residents or on-site operational responsibilities, who applies for a license or to renew a license to operate a home for the aged and previously underwent criminal history and criminal records checks.

MCL 333.21313 (S.B. 787)  
400.713 (S.B. 788)

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### **FISCAL IMPACT**

The bills will have no fiscal impact on State or local government.

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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.