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Senate Bills 787 and 788 (as introduced 11-1-11)
Sponsor: Senator Mike Nofs
Committee: Health Policy

Date Completed: 12-1-11

CONTENT

Senate Bills 787 and 788 would amend 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 would revise references to the people subject to the requirements, and would require applicants to consent to a criminal records check through the FBI. Senate Bill 788 also would revise provisions that exempt applicants who were previously subject to criminal records and history checks and remained continuously licensed, and Senate Bill 787 would add similar provisions to the Public Health Code.

Senate Bill 787 would apply to a home for the aged. Senate Bill 788 would apply to an adult foster care facility.

Currently, an applicant for a license for a home for the aged or adult foster care facility, if an individual, must give written consent at the time of application for the Michigan State Police (MSP) to conduct a criminal history check and criminal records check. 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.

The bills would delete all of this language. Instead, at the time of application for a license to operate a home for the aged or adult foster care facility, each applicant would have to give written consent for the MSP to conduct on the applicant a criminal history check, as well as a criminal records check through the Federal Bureau of Investigation (FBI).

Unless already submitted, if an organization applied for a license or a license renewal, the Department of Human Services (DHS) would have to request that the MSP conduct a criminal history check and criminal records check. Under Senate Bill 787, the DHS would have to require the owner, operator, or member of the governing body of a home for the aged who had on-site operational responsibilities to submit his or her fingerprints to the MSP for the required checks. Senate Bill 788 would establish a similar requirement for the owner, partner, or director of an adult foster care facility applicant or any individual who had on-site operational responsibilities.

Under Senate Bill 787, all owners, operators, and members of the governing body of homes for the aged who had on-site operational responsibilities and all authorized representatives would have to comply with these requirements within one year after the bill's effective date. Senate Bill 788 would establish a similar requirement applicable to all adult foster care licensees and licensee designees, as well as all owners, partners, or directors of license applicants and individual who had 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. Senate Bill 788 also would refer to 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). Under the bill, this provision also would apply to a person who had previously undergone a required check and, since the check was performed, was continuously employed by a facility to which the background check requirements apply. Any individual who had on-site operational responsibilities also would be subject to this provision.

Senate Bill 787 would add a similar provision to the Public Health Code applicable to an applicant, licensee designee, owner, operator, or member of the governing body of a home for the aged who had on-site operational responsibilities.

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

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would 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.