

SUBSTITUTE FOR
SENATE BILL NO. 787

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 21313 (MCL 333.21313), as amended by 2010 PA
381.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21313. (1) The owner, operator, and governing body of a
2 home for the aged are responsible for all phases of the operation
3 of the home and shall assure that the home maintains an organized
4 program to provide room and board, protection, supervision,
5 assistance, and supervised personal care for its residents.

6 (2) The owner, operator, and governing body shall assure the
7 availability of emergency medical care required by a resident.

1 (3) The owner, operator, or member of the governing body of a
2 home for the aged and the authorized representative shall be of
3 good moral character.

4 (4) The department **OF HUMAN SERVICES** shall not issue a license
5 to or renew the license of an owner, operator, or member of the
6 governing body, who has regular direct access to residents or who
7 has on-site facility operational responsibilities, or an applicant,
8 if an individual or the authorized representative, if any of those
9 individuals have been convicted of 1 or more of the following:

10 (a) A felony under this act or under chapter XXA of the
11 Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

12 (b) A misdemeanor under this act or under chapter XXA of the
13 Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, within
14 the 10 years immediately preceding the application.

15 (c) A misdemeanor involving abuse, neglect, assault, battery,
16 or criminal sexual conduct or involving fraud or theft against a
17 vulnerable adult as that term is defined in section 145m of the
18 Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or
19 federal crime that is substantially similar to a misdemeanor
20 described in this subdivision within the 10 years immediately
21 preceding the application.

22 (5) The applicant for a license for a home for the aged, if an
23 individual, shall give written consent at the time of license
24 application ~~for the department of state police to conduct a~~
25 ~~criminal history check and criminal records check. The~~ **AND THE**
26 authorized representative shall give written consent at the time of
27 appointment, for the department of state police to conduct a

~~criminal history check and criminal records check.~~ BOTH OF THE
FOLLOWING:

(A) A CRIMINAL HISTORY CHECK.

(B) A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL BUREAU OF
INVESTIGATION.

(6) ~~An~~ UNLESS ALREADY SUBMITTED UNDER SUBSECTION (5), AN
owner, operator, or member of the governing body who has regular
direct access to residents or who has on-site facility operational
responsibilities for a home for the aged shall give written consent
at the time of license application for the department of state
police to conduct ~~a criminal history check and criminal records~~
~~check.~~ BOTH OF THE FOLLOWING:

(A) A CRIMINAL HISTORY CHECK.

(B) A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL BUREAU OF
INVESTIGATION.

(7) THE DEPARTMENT OF HUMAN SERVICES SHALL REQUIRE THE
APPLICANT, AUTHORIZED REPRESENTATIVE, OWNER, OPERATOR, OR MEMBER OF
THE GOVERNING BODY WHO HAS REGULAR DIRECT ACCESS TO RESIDENTS OR
WHO HAS ON-SITE FACILITY OPERATIONAL RESPONSIBILITIES TO SUBMIT HIS
OR HER FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE FOR THE
CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK DESCRIBED IN
SUBSECTIONS (5) AND (6).

(8) ~~(7)~~ Not later than 1 year after the effective date of the
2010-2012 amendatory act that ~~added~~ AMENDED this subsection, all
owners, operators, and members of the governing body of homes for
the aged who have regular direct access to residents or who have
on-site facility operational responsibilities and all authorized

1 representatives shall comply with the requirements of this section.

2 (9) ~~(8)~~—The department of human services shall request a
3 criminal history check and criminal records check in the manner
4 prescribed by the department of state police. The department of
5 state police shall conduct the criminal history check and provide a
6 report of the results to the licensing or regulatory bureau of the
7 department of human services. The report shall contain any criminal
8 history information on the person maintained by the department of
9 state police and the results of the criminal records check from the
10 federal bureau of investigation. The department of state police may
11 charge the person on whom the criminal history check and criminal
12 records check are performed under this section a fee for the checks
13 required under this section that does not exceed the actual cost
14 and reasonable cost of conducting the checks.

15 (10) BEGINNING THE EFFECTIVE DATE OF THE 2012 AMENDATORY ACT
16 THAT ADDED THIS SUBSECTION, IF AN APPLICANT, AUTHORIZED
17 REPRESENTATIVE, OWNER, OPERATOR, OR MEMBER OF THE GOVERNING BODY
18 WHO HAS REGULAR DIRECT ACCESS TO RESIDENTS OR WHO HAS ON-SITE
19 FACILITY OPERATIONAL RESPONSIBILITIES APPLIES FOR A LICENSE OR TO
20 RENEW A LICENSE TO OPERATE A HOME FOR THE AGED AND PREVIOUSLY
21 UNDERWENT A CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK
22 REQUIRED UNDER SUBSECTION (5) OR (6) OR UNDER SECTION 134A OF THE
23 MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1134A, AND HAS REMAINED
24 CONTINUOUSLY LICENSED OR CONTINUOUSLY EMPLOYED UNDER SECTION 20173A
25 OR UNDER SECTION 34B OF THE ADULT FOSTER CARE FACILITY LICENSING
26 ACT, 1979 PA 218, MCL 400.734B, AFTER THE CRIMINAL HISTORY CHECK
27 AND CRIMINAL RECORDS CHECK HAVE BEEN PERFORMED, THE APPLICANT,

1 AUTHORIZED REPRESENTATIVE, OWNER, OPERATOR, OR MEMBER OF THE
2 GOVERNING BODY WHO HAS REGULAR DIRECT ACCESS TO RESIDENTS OR WHO
3 HAS ON-SITE FACILITY OPERATIONAL RESPONSIBILITIES IS NOT REQUIRED
4 TO SUBMIT TO ANOTHER CRIMINAL HISTORY CHECK OR CRIMINAL RECORDS
5 CHECK UPON RENEWAL OF THE LICENSE OBTAINED UNDER THIS SECTION.

6 (11) ~~(9)~~—The department of state police shall store and
7 maintain all fingerprints submitted under this act in an automated
8 fingerprint identification system database that provides for an
9 automatic notification at the time a subsequent criminal arrest
10 fingerprint card submitted into the system matches a set of
11 fingerprints previously submitted in accordance with this act. At
12 the time of that notification, the department of state police shall
13 immediately notify the department of human services. The department
14 of human services shall take the appropriate action upon
15 notification by the department of state police under this
16 subsection.

17 (12) ~~(10)~~—An applicant, owner, operator, member of a governing
18 body, or authorized representative of a home for the aged shall not
19 be present in a home for the aged if he or she has been convicted
20 of either of the following:

21 (a) Vulnerable adult abuse, neglect, or financial
22 exploitation.

23 (b) A listed offense as defined in section 2 of the sex
24 offenders registration act, 1994 PA 295, MCL 28.722.