

# SENATE BILL No. 787

November 1, 2011, Introduced by Senators NOFS, PAPPAGEORGE, BOOHER, GREGORY, JONES, PROOS, ROCCA, EMMONS, CASPERSON, JANSEN and MARLEAU and referred to the Committee on Health Policy.

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.

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

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

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

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

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

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

26 ~~—— (6) An owner, operator, or member of the governing body who~~  
27 ~~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.~~

(5) EACH PERSON APPLYING FOR A LICENSE TO OPERATE A HOME FOR THE AGED SHALL, AT THE TIME OF THE LICENSE APPLICATION, GIVE WRITTEN CONSENT FOR THE DEPARTMENT OF STATE POLICE TO CONDUCT BOTH OF THE FOLLOWING ON THE APPLICANT:

(A) A CRIMINAL HISTORY CHECK.

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

(6) UNLESS ALREADY SUBMITTED UNDER SUBSECTION (5), IF AN ORGANIZATION APPLIES FOR OR APPLIES TO RENEW A LICENSE FOR A HOME FOR THE AGED, THE DEPARTMENT OF HUMAN SERVICES SHALL REQUEST THAT THE DEPARTMENT OF STATE POLICE CONDUCT A CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK DESCRIBED IN SUBSECTION (5). THE DEPARTMENT OF HUMAN SERVICES SHALL REQUIRE THE OWNER, OPERATOR, OR MEMBER OF THE GOVERNING BODY WHO HAS ON-SITE 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 SUBSECTION (5).

(7) Not later than 1 year after the effective date of the ~~2010~~ 2011 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 representatives shall comply with the requirements of this section.

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

14           **(9) BEGINNING THE EFFECTIVE DATE OF THE 2011 AMENDATORY ACT**  
15 **THAT ADDED THIS SUBSECTION, IF AN APPLICANT OR LICENSEE DESIGNEE OR**  
16 **PERSON DESCRIBED IN SUBSECTION (6) APPLIES FOR A LICENSE OR TO**  
17 **RENEW A LICENSE TO OPERATE A HOME FOR THE AGED AND HE OR SHE OR THE**  
18 **LICENSEE DESIGNEE PREVIOUSLY UNDERWENT A CRIMINAL HISTORY CHECK AND**  
19 **CRIMINAL RECORDS CHECK REQUIRED UNDER SUBSECTION (5) OR (6) OR**  
20 **UNDER SECTION 134A OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL**  
21 **330.1134A, AND HAS REMAINED CONTINUOUSLY LICENSED OR CONTINUOUSLY**  
22 **EMPLOYED UNDER SECTION 20173A OR UNDER SECTION 34B OF THE ADULT**  
23 **FOSTER CARE FACILITY LICENSING ACT, 1979 PA 218, MCL 400.734B,**  
24 **AFTER THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK HAVE**  
25 **BEEN PERFORMED, THAT PERSON IS NOT REQUIRED TO SUBMIT TO ANOTHER**  
26 **CRIMINAL HISTORY CHECK OR CRIMINAL RECORDS CHECK UPON RENEWAL OF**  
27 **THE LICENSE OBTAINED UNDER THIS SECTION.**

1           (10) ~~(9)~~—The department of state police shall store and  
2 maintain all fingerprints submitted under this act in an automated  
3 fingerprint identification system database that provides for an  
4 automatic notification at the time a subsequent criminal arrest  
5 fingerprint card submitted into the system matches a set of  
6 fingerprints previously submitted in accordance with this act. At  
7 the time of that notification, the department of state police shall  
8 immediately notify the department of human services. The department  
9 of human services shall take the appropriate action upon  
10 notification by the department of state police under this  
11 subsection.

12           (11) ~~(10)~~—An applicant, owner, operator, member of a governing  
13 body, or authorized representative of a home for the aged shall not  
14 be present in a home for the aged if he or she has been convicted  
15 of either of the following:

16           (a) Vulnerable adult abuse, neglect, or financial  
17 exploitation.

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