

HOUSE BILL NO. 6124

August 17, 2020, Introduced by Reps. Hall, Cambensy, Crawford and Wozniak and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1981 PA 180, entitled
"Older Michiganians act,"
(MCL 400.581 to 400.594) by adding section 6/.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6/. (1) Beginning January 1, 2021, each area agency on
2 aging must conduct or cause to be conducted a criminal background
3 check that reveals information similar or substantially similar to
4 information found on an internet criminal history access tool
5 (ICHAT) check and a national and state sex offender registry check



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1 for each new employee, employee, subcontractor, subcontractor
2 employee, or volunteer who has in-person client contact, in-home
3 client contact, access to a client's personal property, or access
4 to confidential client information.

5 (2) Beginning January 1, 2021, each area agency on aging must
6 conduct or cause to be conducted a central registry criminal
7 background check for each new employee, employee, subcontractor,
8 subcontractor employee, or volunteer who has in-person client
9 contact or in-home client contact.

10 (3) A criminal background check for a new hire must be
11 completed before the individual begins working directly with a
12 client or has access to a client's personal property or
13 confidential client information.

14 (4) Each area agency on aging must update criminal background
15 checks for all employees and volunteers every 3 years to identify a
16 conviction in the event a conviction occurs while an individual is
17 employed or providing volunteer service.

18 (5) An employee or volunteer hired before the effective date
19 of the amendatory act that added this section must be screened
20 within 90 days after the effective date of the amendatory act that
21 added this section. After that, a criminal background check for
22 each employee and volunteer must be completed no later than 30 days
23 after every third anniversary from the date of his or her last
24 background check.

25 (6) An updated criminal background check for each employee or
26 volunteer hired after the effective date of the amendatory act that
27 added this section must be completed no later than 30 days after
28 every third anniversary of the employee's or volunteer's date of
29 hire or start date.



1 (7) Information obtained from a criminal background check
2 shall only be used to determine suitability for employment or
3 volunteer opportunities. Each area agency on aging is required to
4 maintain a copy of the results of each criminal background check
5 for paid and volunteer staff in a confidential and controlled
6 access file. The information must not be used in violation of
7 applicable federal or state equal employment opportunity law or
8 regulation.

9 (8) An employee or volunteer shall not be permitted to work
10 directly with a client or have access to a client's personal
11 property or confidential client information if 1 or more of the
12 following apply:

13 (a) The results of the criminal background check show that the
14 individual has a federal or state felony conviction related to 1 or
15 more of the following crimes:

16 (i) A crime against a vulnerable adult as set forth in chapter
17 XXXA of the Michigan penal code, 1931 PA 328, MCL 750.145n to
18 750.145r.

19 (ii) A violent crime including, but not limited to, murder,
20 manslaughter, kidnapping, arson, assault, battery, or domestic
21 violence.

22 (iii) A financial crime including, but not limited to, fraud,
23 forgery, counterfeiting, embezzlement, or tax evasion.

24 (iv) A sex crime including, but not limited to, rape, sexual
25 abuse, criminal sexual conduct, or prostitution.

26 (v) Cruelty or torture.

27 (vi) Abuse or neglect.

28 (vii) Felony involving the use of a firearm or dangerous
29 weapon.



1 (b) The results of the criminal background check show that the
2 individual has a federal or state felony conviction within the
3 preceding 10 years from the date of the criminal background check,
4 including, but not limited to, 1 or more of the following:

5 (i) A crime involving a state, federal, or local government
6 assistance program.

7 (ii) A theft crime including, but not limited to, larceny,
8 burglary, robbery, extortion, false pretenses, false
9 representation, or conversion.

10 (iii) A drug crime including, but not limited to, possession,
11 delivery, or manufacturing.

12 (c) The results of the criminal background check show that the
13 individual has a federal or state misdemeanor conviction within the
14 preceding 5 years from the date of the criminal background check,
15 including, but not limited to, 1 or more of the following:

16 (i) A crime involving a state, federal, or local government
17 assistance program.

18 (ii) A crime against a vulnerable adult as set forth in chapter
19 XXA of the Michigan penal code, 1931 PA 328, MCL 750.145n to
20 750.145r.

21 (iii) A financial crime including, but not limited to, fraud,
22 forgery, counterfeiting, embezzlement, or tax evasion.

23 (iv) A theft crime including, but not limited to, larceny,
24 burglary, robbery, extortion, false pretenses, false
25 representation, or conversion.

26 (v) A sex crime including, but not limited to, rape, sexual
27 abuse, criminal sexual conduct, or prostitution.

28 (vi) A drug crime including, but not limited to, possession,



1 delivery, or manufacturing.

2 (vii) Cruelty or torture.

3 (viii) Abuse or neglect.

4 (ix) Home invasion.

5 (x) Assault or battery.

6 (xi) A misdemeanor involving using a firearm or dangerous
7 weapon with intent to injure, using a firearm or dangerous weapon
8 that results in a personal injury, or using force or violence or
9 the threat of using force or violence.

10 (9) For the purposes of the excluded offenses identified in
11 subsection (8), an individual is considered to have been convicted
12 of a criminal offense if 1 of the following occurs:

13 (a) A judgment of conviction has been entered against the
14 individual by a federal, state, tribal, or local court regardless
15 of whether there is an appeal pending.

16 (b) There has been a finding of guilt against the individual
17 by a federal, state, tribal, or local court.

18 (c) A plea of guilty or nolo contendere by the individual has
19 been accepted by a federal, state, tribal, or local court.

20 (10) An arrest record alone does not disqualify an individual
21 from employment with or volunteering at an area agency on aging.

22 (11) Each area agency on aging is required to maintain
23 documentation of all criminal background checks, including a list
24 of all paid and volunteer staff that are subject to this section,
25 the date of the most recently completed criminal background check,
26 and the source of the criminal background check. An employee hired
27 before the effective date of the amendatory act that added this
28 section is not exempt from the requirements of this section.

