

# HOUSE BILL NO. 4325

February 24, 2021, Introduced by Rep. Hall and referred to the Committee on Families, Children, and Seniors.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           Sec. 6/. (1) Beginning October 1, 2020, 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

1 (ICHAT) check and a national and state sex offender registry check  
2 for each new employee, employee, subcontractor, subcontractor  
3 employee, or volunteer who has in-person client contact, in-home  
4 client contact, access to a client's personal property, or access  
5 to confidential client information.

6 (2) A criminal background check for a new hire or new  
7 volunteer must be completed before the individual begins working  
8 directly with a client or has access to a client's personal  
9 property or confidential client information.

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

14 (4) An employee hired before or a volunteer who started  
15 volunteering before October 1, 2020 must be screened within 90 days  
16 after the effective date of the amendatory act that added this  
17 section, unless the area agency on aging has conducted a criminal  
18 background check on the employee or volunteer that meets the  
19 requirements of a criminal background check described in this  
20 section on or after October 1, 2020. After that, a criminal  
21 background check for each employee and volunteer must be completed  
22 no later than 30 days after every third anniversary from the date  
23 of his or her last background check.

24 (5) An updated criminal background check for each employee  
25 hired on or after or volunteer who started volunteering on or after  
26 August 1, 2020 must be completed no later than 30 days after every  
27 third anniversary of the employee's date of hire or volunteer's  
28 start date.

29 (6) Information obtained from a criminal background check

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

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

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

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

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

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

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

25 (v) Cruelty or torture.

26 (vi) Abuse or neglect.

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

29 (b) The results of the criminal background check show that the

1 individual has a federal or state felony conviction within the  
2 preceding 10 years from the date of the criminal background check,  
3 including, but not limited to, 1 or more of the following:

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

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

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

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

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

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

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

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

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

27 (vi) A drug crime including, but not limited to, possession,  
28 delivery, or manufacturing.

29 (vii) Cruelty or torture.

1 (viii) Abuse or neglect.

2 (ix) Home invasion.

3 (x) Assault or battery.

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

8 (8) For the purposes of the excluded offenses identified in  
9 subsection (7), an individual is considered to have been convicted  
10 of a criminal offense if 1 of the following occurs:

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

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

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

18 (9) An arrest record alone does not disqualify an individual  
19 from employment with or volunteering at an area agency on aging.

20 (10) Each area agency on aging is required to maintain  
21 documentation of all criminal background checks, including a list  
22 of all paid and volunteer staff that are subject to this section,  
23 the date of the most recently completed criminal background check,  
24 and the source of the criminal background check. An employee hired  
25 before October 1, 2020 is not exempt from the requirements of this  
26 section.