

SENATE BILL NO. 539

October 02, 2019, Introduced by Senator BIZON and referred to the Committee on Families, Seniors and Veterans.

A bill to amend 1973 PA 116, entitled

"An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,"

by amending sections 5d and 5k (MCL 722.115d and 722.115k), as amended by 2017 PA 256.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5d. (1) Before a child care organization makes ~~an a~~
2 **conditional** offer of employment to a person, ~~or allows a person to~~
3 ~~regularly and continuously work under contract at the child care~~
4 ~~organization,~~ the child care organization shall perform a criminal
5 history background check on that person using the department of
6 state police's internet criminal history access tool (ICHAT) or
7 equivalent check on that person from the state or province of
8 residence.

9 (2) If a search of the department of state police's ICHAT or
10 equivalent check on the person from the state or province of
11 residence reveals that the person described in subsection (1) has
12 been convicted of a listed offense, the child care organization
13 shall not make an offer of employment to that person. ~~or allow that~~
14 ~~person to regularly and continuously work under contract at the~~
15 ~~child care organization.~~ If a search of the department of state
16 police's ICHAT reveals that a current employee has been convicted
17 of a listed offense, the child care organization shall not continue
18 to employ that person. If a search of the department of state
19 police's ICHAT or equivalent check on that person from the state or
20 province of residence reveals that a person who regularly and
21 continuously works under contract at the child care organization
22 has been convicted of a listed offense, the child care organization
23 shall not allow that person to regularly or continuously work under
24 contract at the child care organization.

25 (3) A child care organization may pass along the actual cost
26 of a search of the department of state police's ICHAT or equivalent
27 check on that person from the state or province of residence to the
28 employee or applicant on whom the search is being performed.

1 (4) A child caring institution subject to section 671 of title
2 IV-E of the social security act, 42 USC 671, shall not permit a
3 child caring institution staff member to begin working unless all
4 of the following have been completed:

5 (a) The department receives written consent from the child
6 caring institution staff member to conduct a criminal history
7 check. The department shall require the person to submit his or her
8 fingerprints to the department of state police and the Federal
9 Bureau of Investigation for the criminal history check.

10 (b) The child caring institution receives the results of the
11 criminal history check from the department.

12 (c) If the employee has a criminal conviction, the child
13 caring institution shall complete a written evaluation that
14 addresses the nature of the conviction, the length of time since
15 the conviction was entered, and the relationship between the
16 conviction and regulated activity in the child caring institution
17 for the purpose of determining suitability for employment in the
18 child caring institution.

19 (5) If a child caring institution is applying to renew its
20 license, a staff member, who has previously undergone a criminal
21 history check required under subsection (4) (a) and has remained
22 continuously employed with the child caring institution that is
23 seeking renewal, is not required to submit to another criminal
24 history check upon renewal of the child caring institution's
25 license.

26 Sec. 5k. (1) The department of state police shall store and
27 retain all fingerprints submitted under this act in an automated
28 fingerprint identification system database that provides for an
29 automatic notification at the time a subsequent criminal arrest

1 fingerprint card submitted into the system matches a set of
2 fingerprints previously submitted in accordance with this act. Upon
3 that notification, the department of state police shall immediately
4 notify the department and the department shall immediately contact
5 the respective child care organization with which that individual
6 is associated. Except for child placing agencies **and child caring**
7 **organizations**, the criminal history record information shall only
8 be released to the individual to whom the criminal history record
9 information pertains. Information in the database retained under
10 this section is confidential, is not subject to disclosure under
11 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
12 and shall not be disclosed to any person except for purposes of
13 this act or for law enforcement purposes.

14 (2) When the department of state police is able to participate
15 with the Federal Bureau of Investigation's automatic notification
16 system similar to the system administered by the department of
17 state police under subsection (1), all fingerprints submitted to
18 the Federal Bureau of Investigation may be stored and retained.
19 When a subsequent criminal arrest fingerprint card submitted into
20 the system matches a set of fingerprints for an individual retained
21 in accordance with this act, the department of state police shall
22 immediately notify the department. The department shall immediately
23 contact the child care organization with which the individual is
24 associated if a conviction results from the arrest. Except for
25 child placing agencies **and child caring organizations**, the criminal
26 history record information shall only be released to the individual
27 to whom the criminal history record information pertains.

28 Enacting section 1. This amendatory act does not take effect
29 unless all of the following bills of the 100th Legislature are

1 enacted into law:

2 (a) Senate Bill No. 466.

3 (b) Senate Bill No. 467.

4 (c) Senate Bill No. 468.

5 (d) Senate Bill No. 469.