

**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

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

3 (A) A CRIMINAL HISTORY CHECK.

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

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

13 (A) A CRIMINAL HISTORY CHECK.

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

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

23 (8) ~~(7)~~ Not later than 1 year after the effective date of the  
24 ~~2010-2012~~ amendatory act that ~~added~~ AMENDED this subsection, all  
25 owners, operators, and members of the governing body of homes for  
26 the aged who have regular direct access to residents or who have  
27 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.