



HOUSE BILL No. 5538

January 31, 1996, Introduced by Reps. Brewer, DeMars, LaForge, Perricone, Cherry and Olshove and referred to the Committee on Health Policy.

A bill to amend Act No. 218 of the Public Acts of 1979, entitled as amended "Adult foster care facility licensing act," as amended, being sections 400.701 to 400.737 of the Michigan Compiled Laws, by adding sections 21a and 34a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 218 of the Public Acts of 1979, as
2 amended, being sections 400.701 to 400.737 of the Michigan
3 Compiled Laws, is amended by adding sections 21a and 34a to read
4 as follows:

5 SEC. 21A. A LICENSEE SHALL REPORT TO THE FAMILY INDEPEN-
6 DENCE AGENCY, FORMERLY KNOWN AS THE DEPARTMENT OF SOCIAL SERV-
7 ICES, DISCIPLINARY ACTION TAKEN BY THE LICENSEE AGAINST AN
8 EMPLOYEE THAT RESULTS IN A CHANGE IN THE EMPLOYEE'S EMPLOYMENT
9 STATUS AND THAT INVOLVES ABUSE, NEGLECT, PHYSICAL HARM, THEFT, OR

1 FRAUDULENT BEHAVIOR AGAINST A RESIDENT OF AN ADULT FOSTER CARE
2 FACILITY. A REPORT RECEIVED BY THE FAMILY INDEPENDENCE AGENCY
3 UNDER THIS SECTION IS PUBLIC INFORMATION.

4 SEC. 34A. (1) IN ADDITION TO THE RESTRICTIONS PRESCRIBED IN
5 SECTIONS 13, 22, AND 31, A LICENSEE SHALL NOT EMPLOY AN INDIVID-
6 UAL OR UTILIZE AN INDIVIDUAL AS A VOLUNTEER IN AN ADULT FOSTER
7 CARE FACILITY IF THE INDIVIDUAL HAS BEEN CONVICTED IN THIS STATE
8 OR IN ANOTHER STATE OR IN FEDERAL COURT OF EITHER OF THE
9 FOLLOWING:

10 (A) A FELONY OR AN ATTEMPT OR CONSPIRACY TO COMMIT A
11 FELONY.

12 (B) A MISDEMEANOR INVOLVING ABUSE, NEGLECT, ASSAULT, BAT-
13 TERY, OR FRAUD.

14 (2) A LICENSEE SHALL NOT EMPLOY AN INDIVIDUAL OR UTILIZE AN
15 INDIVIDUAL AS A VOLUNTEER IN AN ADULT FOSTER CARE FACILITY UNLESS
16 THE INDIVIDUAL PROVIDES THE LICENSEE AS PART OF THE APPLICATION
17 PROCESS WITH INFORMATION FROM THE STATE POLICE OBTAINED PURSUANT
18 TO SUBSECTIONS (3) AND (4).

19 (3) AN INDIVIDUAL WHO APPLIES FOR EMPLOYMENT OR TO VOLUNTEER
20 WITH A LICENSEE SHALL OBTAIN INFORMATION REGARDING A CRIMINAL
21 RECORD BY FOLLOWING THE PROCEDURE PROVIDED IN THIS SUBSECTION AND
22 SUBSECTION (4). UPON THE REQUEST OF THE INDIVIDUAL, A LAW
23 ENFORCEMENT AGENCY SHALL TAKE 2 SETS OF THE INDIVIDUAL'S FINGER-
24 PRINTS ON FORMS FURNISHED BY THE DEPARTMENT OF STATE POLICE AND
25 THE FEDERAL BUREAU OF INVESTIGATION. IF THE LAW ENFORCEMENT
26 AGENCY CHARGES A FEE FOR THIS SERVICE, THE INDIVIDUAL REQUESTING
27 THE SERVICE IS RESPONSIBLE FOR THE FEE. THE INDIVIDUAL SHALL

1 SUBMIT THE FINGERPRINT FORMS TO THE DEPARTMENT OF STATE POLICE
2 WITH THE APPROPRIATE STATE AND FEDERAL FEES.

3 (4) THE DEPARTMENT OF STATE POLICE SHALL COMPARE THE
4 INDIVIDUAL'S FINGERPRINTS WITH STATE CRIMINAL HISTORY RECORDS AND
5 SHALL SUBMIT THE OTHER SET OF FINGERPRINTS TO THE FEDERAL BUREAU
6 OF INVESTIGATION FOR COMPARISON WITH FEDERAL CRIMINAL HISTORY
7 RECORDS. THE DEPARTMENT OF STATE POLICE SHALL SEND BOTH OF THE
8 FOLLOWING TO THE LICENSEE:

9 (A) THE STATE CRIMINAL HISTORY RECORD.

10 (B) A STATEMENT STATING THAT, BASED UPON THE FEDERAL CRIMI-
11 NAL HISTORY RECORD COMPARISON UNDER THE CRITERIA DESCRIBED IN
12 SUBSECTION (1), THE INDIVIDUAL MAY OR MAY NOT MEET THE REQUIRE-
13 MENTS OF SUBSECTION (1).

14 (5) IF THE STATEMENT SENT UNDER SUBSECTION (4)(B) STATES
15 THAT THE INDIVIDUAL MAY NOT MEET THE REQUIREMENTS OF SUBSECTION
16 (1), THE LICENSEE SHALL NOTIFY THE INDIVIDUAL OF HIS OR HER RIGHT
17 TO OBTAIN FROM THE FEDERAL BUREAU OF INVESTIGATION A COPY OF HIS
18 OR HER FEDERAL CRIMINAL HISTORY RECORD AND TO CHALLENGE THE ACCU-
19 RACY OF THAT RECORD.

20 (6) A LICENSEE SHALL PROVIDE AN APPLICANT WITH INFORMATION
21 ON HOW AND WHERE TO OBTAIN THE INFORMATION REQUIRED BY THIS SEC-
22 TION ON A FORM PROVIDED BY THE FAMILY INDEPENDENCE AGENCY,
23 FORMERLY KNOWN AS THE DEPARTMENT OF SOCIAL SERVICES.

24 Section 2. This amendatory act shall not take effect unless
25 all of the following bills of the 88th Legislature are enacted
26 into law:

1 (a) Senate Bill No. _____ or House Bill No. 5537

2 (request no. 05514'95).

3 (b) Senate Bill No. _____ or House Bill No. 5539

4 (request no. 05514'95 c).