

# Legislative Analysis

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## CRIMINAL HISTORY CHECK FOR POLYGRAPH EXAMINERS

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### Senate Bill 137 (Substitute H-1)

Sponsor: Sen. Alan Cropsey

House Committee: Judiciary

Senate Committee: Judiciary

### First Analysis (3-2-05)

**BRIEF SUMMARY:** The bill would require a federal criminal background check to be conducted for applicants seeking licensure as forensic polygraph examiners.

**FISCAL IMPACT:** Since the bill requires the applicant to pay for the criminal background check, there is no fiscal impact on the State of Michigan or local units of government.

### **THE APPARENT PROBLEM:**

Currently, under the Forensic Polygraph Examiners Act, an applicant for a polygraph examiners license is required to submit two copies his or her fingerprints to the Board of Polygraph Examiners. The act provides that an applicant does not qualify for a license if, among other requirements, he or she has been under sentence for the commission of a felony within five years prior to his application, and further provides that the board may suspend, revoke, or refuse to issue a license to an individual who has been convicted of a felony, a misdemeanor punishable by more than one year of imprisonment, or any crime involving moral turpitude.

The act does not specifically state that the fingerprints submitted to the board are to be used for a criminal history check conducted by the state police and the Federal Bureau of Investigation. However, federal Public Law 92-544 (86 State 1115) provides the FBI with the authority to conduct criminal history checks for non-criminal justice licensing or employment related purposes if that criminal history check is authorized by state statute. Among other requirements, the authorization must be a result of legislative enactment (or its functional equivalent), require fingerprinting the applicant, and authorize the use of FBI records in screening the applicant. While the Forensic Polygraph Examiners Act does not meet those standards, the FBI has, as a courtesy, allowed a temporary exemption and continues to provide a criminal history check for those license applications. However, the FBI will soon stop providing criminal history checks for those license applications in the absence of specific authorizing statute.

### **THE CONTENT OF THE BILL:**

Senate Bill 137 would amend the Forensic Polygraph Examiners Act to require an applicant for a polygraph examiner license to submit a completed fingerprint card and

arrange and pay for a criminal history check undertaken by the Department of State Police, working with the Federal Bureau of Investigation.

Currently, upon application and payment of the required license fee, applicants must furnish the Board of Forensic Polygraph Examiners with "completed fingerprint cards in duplicate," and other identifying information or certification as to their authenticity as the board requires. Under the bill, an applicant would have to furnish the Department of Labor and Economic Growth with a single completed fingerprint card, along with other required information, and arrange for "the conduct of a criminal history check that fails to demonstrate ineligibility" under the act.

The bill would require the department to submit the fingerprints along with the appropriate state and federal fees to the Department of State Police for a criminal history check. The department then could forward the fingerprints to the FBI for a criminal history check. The applicant would have to pay the fee when submitting the fingerprints to the department. Information obtained from the criminal history check would be limited to an official determination of the applicant's character and fitness for licensing purposes.

MCL 338.1710

***HOUSE COMMITTEE ACTION:***

The House Committee on Judiciary adopted a substitute that replaced references to the Board of Forensic Polygraph Examiners with the Department of Labor and Economic Growth.

***ARGUMENTS:***

***For:***

The bill is necessary to comply with federal law on conducting criminal history checks through the FBI and to ensure that applicants for forensic polygraph examiners licenses continue to be subject to a criminal history check.

***POSITIONS:***

The Department of State Police supports the bill. (3-2-05)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.