

HOUSE BILL No. 5448

November 29, 2005, Introduced by Reps. Vander Veen, Green and Zelenko and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending section 147 (MCL 330.1147), as amended by 1991 PA 40, and by adding section 134a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 134A. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
2 (2), A PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR
3 PEOPLE WITH MENTAL RETARDATION SHALL NOT EMPLOY, INDEPENDENTLY
4 CONTRACT WITH, OR GRANT CLINICAL PRIVILEGES TO AN INDIVIDUAL WHO
5 REGULARLY HAS DIRECT ACCESS TO OR PROVIDES DIRECT SERVICES TO
6 PATIENTS OR RESIDENTS IN THE PSYCHIATRIC FACILITY OR INTERMEDIATE
7 CARE FACILITY FOR PEOPLE WITH MENTAL RETARDATION AFTER THE
8 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION IF

1 THE INDIVIDUAL SATISFIES 1 OR MORE OF THE FOLLOWING:

2 (A) HAS BEEN CONVICTED OF A FELONY OR AN ATTEMPT OR
3 CONSPIRACY TO COMMIT A FELONY, OTHER THAN A FELONY FOR A RELEVANT
4 CRIME DESCRIBED UNDER 42 USC 1320A-7, UNLESS 15 YEARS HAVE LAPSED
5 SINCE THE INDIVIDUAL COMPLETED ALL OF THE TERMS AND CONDITIONS OF
6 HIS OR HER SENTENCING, PAROLE, AND PROBATION FOR THAT CONVICTION
7 BEFORE THE DATE OF APPLICATION FOR EMPLOYMENT OR CLINICAL
8 PRIVILEGES OR THE DATE OF THE EXECUTION OF THE INDEPENDENT
9 CONTRACT.

10 (B) HAS BEEN CONVICTED OF A MISDEMEANOR, OTHER THAN A
11 MISDEMEANOR FOR A RELEVANT CRIME DESCRIBED UNDER 42 USC 1320A-7,
12 INVOLVING ABUSE, NEGLIGENCE, ASSAULT, BATTERY, OR CRIMINAL SEXUAL
13 CONDUCT OR INVOLVING FRAUD OR THEFT AGAINST A VULNERABLE ADULT AS
14 THAT TERM IS DEFINED IN SECTION 145M OF THE MICHIGAN PENAL CODE,
15 1931 PA 328, MCL 750.145M, OR A STATE OR FEDERAL CRIME THAT IS
16 SUBSTANTIALLY SIMILAR TO A MISDEMEANOR DESCRIBED IN THIS
17 SUBDIVISION, WITHIN THE 10 YEARS IMMEDIATELY PRECEDING THE DATE
18 OF APPLICATION FOR EMPLOYMENT OR CLINICAL PRIVILEGES OR THE DATE
19 OF THE EXECUTION OF THE INDEPENDENT CONTRACT.

20 (C) HAS BEEN CONVICTED OF A RELEVANT CRIME DESCRIBED UNDER
21 42 USC 1320A-7.

22 (D) HAS BEEN THE SUBJECT OF A SUBSTANTIATED FINDING OF
23 NEGLIGENCE, ABUSE, OR MISAPPROPRIATION OF PROPERTY BY THE DEPARTMENT
24 PURSUANT TO AN INVESTIGATION CONDUCTED IN ACCORDANCE WITH 42 USC
25 1395I-3 OR 1396R.

26 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND
27 SUBSECTION (5), A PSYCHIATRIC FACILITY OR INTERMEDIATE CARE

1 FACILITY FOR PEOPLE WITH MENTAL RETARDATION SHALL NOT EMPLOY,
2 INDEPENDENTLY CONTRACT WITH, OR GRANT PRIVILEGES TO AN INDIVIDUAL
3 WHO REGULARLY HAS DIRECT ACCESS TO OR PROVIDES DIRECT SERVICES TO
4 PATIENTS OR RESIDENTS IN THE PSYCHIATRIC FACILITY OR INTERMEDIATE
5 CARE FACILITY FOR PEOPLE WITH MENTAL RETARDATION AFTER THE
6 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION
7 UNTIL THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR
8 PEOPLE WITH MENTAL RETARDATION COMPLIES WITH SUBSECTION (4). THIS
9 SUBSECTION AND SUBSECTION (1) DO NOT APPLY TO ANY OF THE
10 FOLLOWING:

11 (A) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBDIVISION, AN
12 INDIVIDUAL WHO IS EMPLOYED BY, UNDER INDEPENDENT CONTRACT TO, OR
13 GRANTED CLINICAL PRIVILEGES IN A PSYCHIATRIC FACILITY OR
14 INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL RETARDATION
15 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
16 SECTION. AN INDIVIDUAL WHO IS EXEMPT UNDER THIS SUBDIVISION IS
17 NOT LIMITED TO WORKING WITHIN THE PSYCHIATRIC FACILITY OR
18 INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL RETARDATION
19 WITH WHICH HE OR SHE IS EMPLOYED BY, UNDER INDEPENDENT CONTRACT
20 TO, OR GRANTED CLINICAL PRIVILEGES ON THE EFFECTIVE DATE OF THE
21 AMENDATORY ACT THAT ADDED THIS SECTION. THAT INDIVIDUAL MAY
22 TRANSFER TO ANOTHER PSYCHIATRIC FACILITY OR INTERMEDIATE CARE
23 FACILITY FOR PEOPLE WITH MENTAL RETARDATION IF A CRIMINAL HISTORY
24 CHECK BEING CONDUCTED IN ACCORDANCE WITH SUBSECTION (1) AND THIS
25 SUBSECTION DOES NOT INDICATE A PROHIBITED OFFENSE UNDER THIS ACT
26 SUBSEQUENT TO THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
27 THIS SECTION. IF THE INDIVIDUAL IS SUBSEQUENTLY CONVICTED OF A

1 CRIME DESCRIBED UNDER SUBSECTION (1)(A), (B), OR (C) OR FOUND TO
2 BE THE SUBJECT OF A SUBSTANTIATED FINDING DESCRIBED UNDER
3 SUBSECTION (1)(D), HE OR SHE IS SUBJECT TO THE REQUIREMENTS OF
4 SUBSECTION (1) AND THIS SUBSECTION AND MAY BE DENIED EMPLOYMENT OR
5 MAY BE TERMINATED FROM EMPLOYMENT.

6 (B) AN INDIVIDUAL WHO IS AN INDEPENDENT CONTRACTOR WITH A
7 PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE WITH
8 MENTAL RETARDATION IF THE SERVICES FOR WHICH HE OR SHE IS
9 CONTRACTED ARE NOT DIRECTLY RELATED TO PROVIDING SERVICES TO A
10 PATIENT OR RESIDENT OR IF THE SERVICES FOR WHICH HE OR SHE IS
11 INDEPENDENTLY CONTRACTED DO ALLOW FOR DIRECT ACCESS TO THE PATIENTS
12 OR RESIDENTS BUT ARE NOT PERFORMED ON AN ONGOING BASIS. THIS
13 EXCEPTION INCLUDES, BUT IS NOT LIMITED TO, INDEPENDENT CONTRACTORS
14 WHO PROVIDE UTILITY, MAINTENANCE, CONSTRUCTION, OR COMMUNICATIONS
15 SERVICES.

16 (3) AN INDIVIDUAL WHO APPLIES FOR EMPLOYMENT EITHER AS AN
17 EMPLOYEE OR AS AN INDEPENDENT CONTRACTOR OR FOR CLINICAL
18 PRIVILEGES WITH A PSYCHIATRIC FACILITY OR INTERMEDIATE CARE
19 FACILITY FOR PEOPLE WITH MENTAL RETARDATION AND HAS RECEIVED A
20 GOOD FAITH OFFER OF EMPLOYMENT, AN INDEPENDENT CONTRACT, OR
21 CLINICAL PRIVILEGES FROM THE PSYCHIATRIC FACILITY OR INTERMEDIATE
22 CARE FACILITY FOR PEOPLE WITH MENTAL RETARDATION SHALL GIVE
23 WRITTEN CONSENT AT THE TIME OF APPLICATION FOR THE DEPARTMENT OF
24 STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK UNDER SUBSECTION
25 (4), ALONG WITH IDENTIFICATION INFORMATION ACCEPTABLE TO THE
26 DEPARTMENT OF STATE POLICE FOR USE IN CONDUCTING THE CRIMINAL
27 HISTORY CHECK.

1 (4) UPON RECEIPT OF THE WRITTEN CONSENT AND IDENTIFICATION
2 REQUIRED UNDER SUBSECTION (3), A PSYCHIATRIC FACILITY OR
3 INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL RETARDATION
4 THAT HAS MADE A GOOD FAITH OFFER OF EMPLOYMENT OR AN INDEPENDENT
5 CONTRACT OR CLINICAL PRIVILEGES TO THE APPLICANT SHALL MAKE A
6 REQUEST TO THE DEPARTMENT OF STATE POLICE TO CONDUCT A CRIMINAL
7 HISTORY CHECK ON THE APPLICANT AND TO FORWARD THE APPLICANT'S
8 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION. THE
9 DEPARTMENT OF STATE POLICE SHALL REQUEST THE FEDERAL BUREAU OF
10 INVESTIGATION TO MAKE A DETERMINATION OF THE EXISTENCE OF ANY
11 NATIONAL CRIMINAL HISTORY PERTAINING TO THE APPLICANT. THE
12 APPLICANT SHALL PROVIDE THE DEPARTMENT OF STATE POLICE WITH A SET
13 OF FINGERPRINTS. THE REQUEST SHALL BE MADE IN A MANNER PRESCRIBED
14 BY THE DEPARTMENT OF STATE POLICE. THE PSYCHIATRIC FACILITY OR
15 INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL RETARDATION
16 SHALL MAKE THE WRITTEN CONSENT AND IDENTIFICATION INFORMATION
17 AVAILABLE TO THE DEPARTMENT OF STATE POLICE. THE PSYCHIATRIC
18 FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL
19 RETARDATION SHALL MAKE A REQUEST TO THE DEPARTMENT TO CONDUCT A
20 CHECK OF ALL RELEVANT REGISTRIES ESTABLISHED ACCORDING TO FEDERAL
21 REGULATIONS FOR ANY SUBSTANTIATED FINDINGS OF ABUSE, NEGLECT, OR
22 MISAPPROPRIATION OF PROPERTY. IF THERE IS A CHARGE FOR CONDUCTING
23 THE CRIMINAL HISTORY CHECK, THE PSYCHIATRIC FACILITY OR
24 INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL RETARDATION
25 REQUESTING THE CRIMINAL HISTORY CHECK SHALL PAY THE COST OF THE
26 CHARGE. THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR
27 PEOPLE WITH MENTAL RETARDATION SHALL NOT SEEK REIMBURSEMENT FOR

1 THE CHARGE FROM THE INDIVIDUAL WHO IS THE SUBJECT OF THE CRIMINAL
2 HISTORY CHECK. THE DEPARTMENT OF STATE POLICE SHALL CONDUCT A
3 CRIMINAL HISTORY CHECK ON THE APPLICANT NAMED IN THE REQUEST. THE
4 DEPARTMENT OF STATE POLICE SHALL PROVIDE THE DEPARTMENT WITH A
5 WRITTEN REPORT OF THE CRIMINAL HISTORY CHECK CONDUCTED UNDER THIS
6 SUBSECTION. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY RECORD
7 INFORMATION ON THE APPLICANT MAINTAINED BY THE DEPARTMENT OF STATE
8 POLICE. THE DEPARTMENT OF STATE POLICE SHALL PROVIDE THE RESULTS OF
9 THE FEDERAL BUREAU OF INVESTIGATION DETERMINATION TO THE DEPARTMENT
10 WITHIN 30 DAYS AFTER THE REQUEST IS MADE. THE DEPARTMENT SHALL
11 NOTIFY THE INDIVIDUAL WHO IS THE SUBJECT OF THE FEDERAL BUREAU OF
12 INVESTIGATION DETERMINATION IN WRITING OF THE TYPE OF CRIMINAL
13 CONVICTION DISCLOSED ON THE FEDERAL BUREAU OF INVESTIGATION
14 DETERMINATION WITHOUT DISCLOSING THE DETAILS OF THE CRIMINAL
15 CONVICTION. THE NOTICE SHALL INCLUDE A STATEMENT THAT THE
16 INDIVIDUAL HAS A RIGHT TO APPEAL A DECISION MADE BY THE DEPARTMENT
17 REGARDING HIS OR HER EMPLOYMENT ELIGIBILITY BASED ON THE CRIMINAL
18 BACKGROUND CHECK. THE NOTICE SHALL INCLUDE INFORMATION REGARDING
19 WHERE TO FILE THE APPEAL AND INFORMATION DESCRIBING THE APPELLATE
20 PROCEDURES ESTABLISHED UNDER SECTION 20173B OF THE PUBLIC HEALTH
21 CODE, 1978 PA 368, MCL 333.20173B.

22 (5) IF A PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY
23 FOR PEOPLE WITH MENTAL RETARDATION FINDS IT NECESSARY TO EMPLOY,
24 CONTRACT WITH, OR GRANT CLINICAL PRIVILEGES TO AN APPLICANT BEFORE
25 RECEIVING THE RESULTS OF THE APPLICANT'S CRIMINAL HISTORY CHECK
26 UNDER SUBSECTION (4), THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE
27 FACILITY FOR PEOPLE WITH MENTAL RETARDATION MAY CONDITIONALLY

1 EMPLOY, CONDITIONALLY CONTRACT WITH, OR CONDITIONALLY GRANT
2 CLINICAL PRIVILEGES TO THE INDIVIDUAL IF ALL OF THE FOLLOWING
3 APPLY:

4 (A) THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY
5 FOR PEOPLE WITH MENTAL RETARDATION REQUESTS THE CRIMINAL HISTORY
6 CHECK UNDER SUBSECTION (4) UPON CONDITIONALLY EMPLOYING,
7 CONDITIONALLY CONTRACTING WITH, OR CONDITIONALLY GRANTING CLINICAL
8 PRIVILEGES TO THE INDIVIDUAL.

9 (B) THE INDIVIDUAL SIGNS A STATEMENT IN WRITING THAT INDICATES
10 ALL OF THE FOLLOWING:

11 (i) THAT HE OR SHE HAS NOT BEEN CONVICTED OF 1 OR MORE OF THE
12 CRIMES THAT ARE DESCRIBED IN SUBSECTION (1)(A), (B), AND (C) WITHIN
13 THE APPLICABLE TIME PERIOD PRESCRIBED BY SUBSECTION (1)(A) AND (B).

14 (ii) THAT HE OR SHE HAS NOT BEEN THE SUBJECT OF A SUBSTANTIATED
15 FINDING AS DESCRIBED IN SUBSECTION (1)(D).

16 (iii) THE INDIVIDUAL AGREES THAT, IF THE INFORMATION IN THE
17 CRIMINAL HISTORY CHECK CONDUCTED UNDER SUBSECTION (4) DOES NOT
18 CONFIRM THE INDIVIDUAL'S STATEMENTS UNDER SUBPARAGRAPHS (i) AND (ii),
19 HIS OR HER EMPLOYMENT OR CLINICAL PRIVILEGES WILL BE TERMINATED BY
20 THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE
21 WITH MENTAL RETARDATION AS REQUIRED UNDER SUBSECTION (1) UNTIL THE
22 INDIVIDUAL APPEALS AND CAN PROVE THAT THE INFORMATION IS INCORRECT.
23 THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE
24 WITH MENTAL RETARDATION SHALL PROVIDE A COPY OF THE RESULTS OF THE
25 CRIMINAL HISTORY CHECK CONDUCTED UNDER SUBSECTION (4) TO THE
26 APPLICANT.

27 (iv) THAT HE OR SHE UNDERSTANDS THE CONDITIONS DESCRIBED IN

1 SUBPARAGRAPHS (i), (ii), AND (iii) THAT RESULT IN THE TERMINATION OF
2 HIS OR HER EMPLOYMENT OR CLINICAL PRIVILEGES AND THAT THOSE
3 CONDITIONS ARE GOOD CAUSE FOR TERMINATION.

4 (6) ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
5 THIS SECTION, THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE A
6 MODEL FORM FOR THE STATEMENT REQUIRED UNDER SUBSECTION (5)(B).
7 THE DEPARTMENT SHALL MAKE THE MODEL FORM AVAILABLE TO THE
8 PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE
9 WITH MENTAL RETARDATION SUBJECT TO THIS SECTION UPON REQUEST AT
10 NO CHARGE.

11 (7) IF AN INDIVIDUAL IS EMPLOYED AS A CONDITIONAL EMPLOYEE
12 OR IS GRANTED CONDITIONAL CLINICAL PRIVILEGES UNDER SUBSECTION
13 (5), AND THE REPORT DESCRIBED IN SUBSECTION (4) DOES NOT CONFIRM
14 THE INDIVIDUAL'S STATEMENT UNDER SUBSECTION (5)(B)(i) AND (ii),
15 THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE
16 WITH MENTAL RETARDATION SHALL TERMINATE THE INDIVIDUAL'S
17 EMPLOYMENT OR CLINICAL PRIVILEGES AS REQUIRED BY SUBSECTION (1).

18 (8) AN INDIVIDUAL WHO KNOWINGLY PROVIDES FALSE INFORMATION
19 REGARDING CRIMINAL CONVICTIONS OR SUBSTANTIATED FINDINGS ON A
20 STATEMENT DESCRIBED IN SUBSECTION (5)(B)(i) OR (ii) IS GUILTY OF
21 A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93
22 DAYS OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

23 (9) A PSYCHIATRIC FACILITY OR INTERMEDIATE CARE
24 FACILITY FOR PEOPLE WITH MENTAL RETARDATION SHALL USE
25 CRIMINAL HISTORY RECORD INFORMATION OBTAINED UNDER
26 SUBSECTION (4) OR (5) ONLY FOR THE PURPOSE OF EVALUATING AN
27 APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT, AN INDEPENDENT

1 CONTRACT, OR CLINICAL PRIVILEGES IN THE POSITION FOR WHICH
2 HE OR SHE HAS APPLIED AND FOR THE PURPOSES OF SUBSECTIONS
3 (5) AND (7). A PSYCHIATRIC FACILITY OR INTERMEDIATE CARE
4 FACILITY FOR PEOPLE WITH MENTAL RETARDATION OR AGENCY OR AN
5 EMPLOYEE OF THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE
6 FACILITY FOR PEOPLE WITH MENTAL RETARDATION SHALL NOT
7 DISCLOSE CRIMINAL HISTORY RECORD INFORMATION OBTAINED UNDER
8 SUBSECTION (4) TO A PERSON WHO IS NOT DIRECTLY INVOLVED IN
9 EVALUATING THE APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT, AN
10 INDEPENDENT CONTRACT, OR CLINICAL PRIVILEGES. AN INDIVIDUAL
11 WHO KNOWINGLY USES OR DISSEMINATES THE CRIMINAL HISTORY
12 RECORD INFORMATION OBTAINED UNDER SUBSECTION (4) IN
13 VIOLATION OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR
14 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A
15 FINE OF NOT MORE THAN \$1,000.00, OR BOTH. A PERSON WHO
16 SUFFERS INJURY AS A RESULT OF A VIOLATION OF THIS SUBSECTION
17 MAY BRING A CIVIL CAUSE OF ACTION FOR DAMAGES AGAINST THE
18 PERSON WHO VIOLATES THIS SUBSECTION. UPON WRITTEN REQUEST
19 FROM ANOTHER HEALTH FACILITY OR AGENCY, PSYCHIATRIC FACILITY
20 OR INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL
21 RETARDATION, OR ADULT FOSTER CARE FACILITY THAT IS
22 CONSIDERING EMPLOYING, INDEPENDENTLY CONTRACTING WITH, OR
23 GRANTING CLINICAL PRIVILEGES TO AN INDIVIDUAL, OR AGENCY
24 THAT HAS OBTAINED CRIMINAL HISTORY RECORD INFORMATION UNDER
25 THIS SECTION ON THAT INDIVIDUAL SHALL SHARE, WITH THE
26 CONSENT OF THE APPLICANT, THE INFORMATION WITH THE
27 REQUESTING HEALTH FACILITY OR AGENCY, PSYCHIATRIC FACILITY

1 OR INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL
2 RETARDATION, OR ADULT FOSTER CARE FACILITY. EXCEPT FOR A
3 KNOWING OR INTENTIONAL RELEASE OF FALSE INFORMATION, A
4 PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE
5 WITH MENTAL RETARDATION HAS NO LIABILITY IN CONNECTION WITH
6 THE RELEASE OF CRIMINAL HISTORY RECORD INFORMATION UNDER
7 THIS SUBSECTION.

8 (10) AS A CONDITION OF CONTINUED EMPLOYMENT, EACH EMPLOYEE,
9 INDEPENDENT CONTRACTOR, OR INDIVIDUAL GRANTED CLINICAL
10 PRIVILEGES SHALL AGREE IN WRITING TO REPORT TO THE PSYCHIATRIC
11 FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE WITH MENTAL
12 RETARDATION IMMEDIATELY UPON EITHER OF THE FOLLOWING:

13 (A) BEING CONVICTED OF 1 OR MORE OF THE CRIMINAL OFFENSES
14 LISTED IN SUBSECTION (1)(A), (B), AND (C).

15 (B) BEING THE SUBJECT OF A SUBSTANTIATED FINDING OF NEGLECT,
16 ABUSE, OR MISAPPROPRIATION OF PROPERTY AS DESCRIBED IN SUBSECTION
17 (1)(D).

18 (11) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE
19 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL
20 SUBMIT A WRITTEN REPORT TO THE LEGISLATURE REGARDING THE IMPACT
21 AND EFFECTIVENESS OF THE PROVISIONS OF THE AMENDATORY ACT THAT
22 ADDED THIS SECTION AND ON THE FEASIBILITY OF IMPLEMENTING
23 CRIMINAL HISTORY CHECKS ON VOLUNTEERS WHO WORK IN THE PSYCHIATRIC
24 FACILITIES OR INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH MENTAL
25 RETARDATION.

26 (12) AS USED IN THIS SECTION:

27 (A) "ADULT FOSTER CARE FACILITY" MEANS AN ADULT FOSTER CARE

1 FACILITY LICENSED UNDER THE ADULT FOSTER CARE FACILITY LICENSING
2 ACT, 1979 PA 218, MCL 400.701 TO 400.737.

3 (B) "HOME HEALTH AGENCY" MEANS A PERSON CERTIFIED BY
4 MEDICARE WHOSE BUSINESS IS TO PROVIDE TO INDIVIDUALS IN THEIR
5 PLACES OF RESIDENCE OTHER THAN IN A HOSPITAL, NURSING HOME, OR
6 COUNTY MEDICAL CARE FACILITY 1 OR MORE OF THE FOLLOWING SERVICES:
7 NURSING SERVICES, THERAPEUTIC SERVICES, SOCIAL WORK SERVICES,
8 HOMEMAKER SERVICES, HOME HEALTH AIDE SERVICES, OR OTHER RELATED
9 SERVICES.

10 (C) "INDEPENDENT CONTRACT" MEANS A CONTRACT ENTERED INTO BY
11 A HEALTH FACILITY OR AGENCY WITH AN INDIVIDUAL WHO PROVIDES THE
12 CONTRACTED SERVICES INDEPENDENTLY OR A CONTRACT ENTERED INTO BY A
13 PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR PEOPLE
14 WITH MENTAL RETARDATION WITH AN ORGANIZATION OR AGENCY THAT
15 EMPLOYS OR CONTRACTS WITH AN INDIVIDUAL AFTER COMPLYING WITH THE
16 REQUIREMENTS OF THIS SECTION TO PROVIDE THE CONTRACTED SERVICES
17 TO THE PSYCHIATRIC FACILITY OR INTERMEDIATE CARE FACILITY FOR
18 PEOPLE WITH MENTAL RETARDATION ON BEHALF OF THE ORGANIZATION OR
19 AGENCY.

20 (D) "MEDICARE" MEANS BENEFITS UNDER THE FEDERAL MEDICARE
21 PROGRAM ESTABLISHED UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
22 42 USC 1395 TO 1395GGG.

23 Sec. 147. Except as otherwise provided in ~~section 149b~~
24 SECTIONS 134A AND 149B, psychiatric hospitals or units operated by
25 the state or federal government are exempt from sections 134
26 through 150.