

# Legislative Analysis

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## **BACKGROUND CHECK PROGRAM**

### *House Bill 6056*

**Sponsor: Representative Bert Johnson**

**Committee: Appropriations**

### *House Bill 6057*

**Sponsor: Representative Shanelle Jackson**

**Committee: Appropriations**

### *House Bill 6058*

**Sponsor: Representative Bert Johnson**

**Committee: Appropriations**

**Date of Analysis: December 2, 2008**

## **SUMMARY OF HOUSE BILLS 6056, 6057, and 6058:**

House Bill 6056, as introduced on May 6, 2008, amends the Public Health Code by requiring a nursing home, county medical care facility, hospice, hospital that provides swing bed services, and home health agency to pay the costs for the initial criminal check of prospective employees of health facilities conducted by Department of State Police (DPS) or Federal Bureau of Investigation (FBI). However, the Department of Community Health (DCH) would be required to pay the cost of and/or reimburse a home for the aged for the initial employee criminal history check conducted by DPS or FBI.

Furthermore, the proposal eliminates provisions in the Public Health Code that requires the submission of a written report by DCH on April 1, 2007 to the Legislature on each of the following: the impact and effectiveness of Public Act 621 of 2006; the feasibility of implementing criminal history checks on volunteers who work in health facilities or state employees involved in the licensing of health facilities and regulation of those employees; the amount of federal funds provided to implement a pilot program for national and state background checks on direct access employees of long-term care facilities or providers; and the amount of those funds expended to date and remaining. Also, DCH and DPS would be required to maintain an electronic web-based system to assist health facilities required to check relevant registries and conduct criminal history checks of its employees and independent contractors.

House Bill 6057, as introduced on May 6, 2008, amends the Mental Health Code by requiring a psychiatric facility or intermediate care facility for people with mental retardation (ICF/MR) to pay the costs for the initial criminal check of prospective employees of these facilities conducted by the DPS or FBI.

Furthermore, the proposal eliminates provisions in the Mental Health Code that requires the submission of a written report by DCH on April 1, 2007 to the Legislature on each of the following: the impact and effectiveness of Public Act 27 of 2006; the feasibility of implementing criminal history checks on volunteers who work in psychiatric facilities or ICF/MRs or state employees involved in the licensing of those facilities and regulation of those employees; the amount of federal funds provided to implement a pilot program for national and state background checks on direct access employees of long-term care facilities or providers; and the amount of those funds expended to date and remaining. Also, DCH and DPS would be required to maintain

an electronic web-based system to assist psychiatric facilities and ICF\MRs required to check relevant registries and conduct criminal history checks of its employees and independent contractors.

House Bill 6058, as introduced on May 6, 2008, amends the Adult Foster Care Facility Licensing Act by eliminating a reference to a federally-funded pilot program that had been used to cover the costs of background checks conducted by the DPS or FBI on prospective employees and independent contractors of adult foster care facilities. Since this pilot program has now expired, the State would have to take on these costs.

### **FISCAL IMPACT:**

House Bills 6056, 6057 and 6058 have fiscal implications for the DCH and DHS. As the FY 2008-09 appropriations act for DCH (Public Act 246 of 2008) assumes that health facilities, psychiatric facilities, and ICF\MRs would be required to pay the costs of criminal background checks for employees, statutory changes to the Public Health Code and Mental Health Code are required. Current provisions in law require these costs be paid for by a federal background check pilot grant which is no longer available to support the DCH budget.

In FY 2007-08, \$6.2 million was expended for the Background Check Program. A change in the Public Health Code (Public Act 173 of 2008) allowed for the use of unreserved balances from licensing fees and assessments for health facilities to support the Background Check Program.

Included in the FY 2008-09 appropriations act for DCH is \$4.0 million for the Background Check Program although a spending plan prepared by DCH anticipates that only \$3.7 million in revenue will be available to support this line item. Of this total amount, \$567,800 supports salary and wage, contractual services, supplies, and materials, and travel costs. The remaining \$3.1 million support contracts with the Department of Information Technology (\$9,000), Integrated Biometric Technology (\$2.5 million), Michigan State Police (\$153,400), and Michigan State University (\$433,110).

Data from DCH indicate that background check costs related to adult foster care facilities and homes for the aged during FY 2008 were around \$1.9 million. Without the federal funding from the pilot program, these costs would now be met out of other state resources.

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