

SUBSTITUTE FOR  
HOUSE BILL NO. 5244

A bill to amend 1939 PA 280, entitled  
"The social welfare act,"  
(MCL 400.1 to 400.119b) by adding section 74a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 74A. (1) EXCEPT AS PROVIDED IN SUBSECTION (13), WHEN THE  
2 DEPARTMENT ENROLLS AN INDIVIDUAL AS AN ENROLLED PROVIDER, THE  
3 DEPARTMENT SHALL REQUEST THE DEPARTMENT OF STATE POLICE TO PERFORM  
4 BOTH OF THE FOLLOWING ON THAT INDIVIDUAL:

5           (A) CONDUCT A CRIMINAL HISTORY CHECK ON THE PERSON.

6           (B) CONDUCT A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL  
7 BUREAU OF INVESTIGATION ON THE PERSON.

8           (2) EACH INDIVIDUAL ENROLLING AS AN ENROLLED PROVIDER SHALL  
9 GIVE WRITTEN CONSENT AT THE TIME OF ENROLLMENT FOR THE DEPARTMENT  
10 OF STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK AND A CRIMINAL

1 RECORDS CHECK REQUIRED UNDER THIS SECTION. THE DEPARTMENT SHALL  
2 REQUIRE THE INDIVIDUAL TO SUBMIT HIS OR HER FINGERPRINTS TO THE  
3 DEPARTMENT OF STATE POLICE FOR THE CRIMINAL HISTORY CHECK AND  
4 CRIMINAL RECORDS CHECK DESCRIBED IN SUBSECTION (1).

5 (3) THE DEPARTMENT SHALL REQUEST A CRIMINAL HISTORY CHECK AND  
6 CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION ON A FORM AND IN  
7 THE MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE.

8 (4) WITHIN A REASONABLE TIME AFTER RECEIVING A COMPLETE  
9 REQUEST BY THE DEPARTMENT FOR A CRIMINAL HISTORY CHECK ON AN  
10 INDIVIDUAL UNDER THIS SECTION, THE DEPARTMENT OF STATE POLICE SHALL  
11 CONDUCT THE CRIMINAL HISTORY CHECK AND PROVIDE A REPORT OF THE  
12 RESULTS TO THE DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL  
13 HISTORY RECORD INFORMATION ON THE INDIVIDUAL MAINTAINED BY THE  
14 DEPARTMENT OF STATE POLICE.

15 (5) WITHIN A REASONABLE TIME AFTER RECEIVING A PROPER REQUEST  
16 BY THE DEPARTMENT FOR A CRIMINAL RECORDS CHECK UNDER THIS SECTION,  
17 THE DEPARTMENT OF STATE POLICE SHALL INITIATE THE CRIMINAL RECORDS  
18 CHECK. AFTER RECEIVING THE RESULTS OF THE CRIMINAL RECORDS CHECK  
19 FROM THE FEDERAL BUREAU OF INVESTIGATION, THE DEPARTMENT OF STATE  
20 POLICE SHALL PROVIDE A REPORT OF THE RESULTS TO THE DEPARTMENT.

21 (6) THE ENROLLED PROVIDER SHALL PAY THE FEE FOR A CRIMINAL  
22 HISTORY CHECK OR A CRIMINAL RECORDS CHECK REQUIRED UNDER THIS  
23 SECTION THAT DOES NOT EXCEED THE ACTUAL AND REASONABLE COST OF  
24 CONDUCTING THE CHECK. THE DEPARTMENT SHALL REIMBURSE THE ENROLLED  
25 PROVIDER FOR THE COST OF THE CRIMINAL HISTORY CHECK AND CRIMINAL  
26 RECORDS CHECK REQUIRED UNDER THIS SECTION AFTER HE OR SHE HAS  
27 PROVIDED CHILD CARE SERVICES AS AN ENROLLED PROVIDER FOR 6

1 CONSECUTIVE MONTHS.

2 (7) AN ENROLLED PROVIDER SHALL REPORT TO THE DEPARTMENT WITHIN  
3 3 BUSINESS DAYS AFTER HE OR SHE HAS BEEN ARRAIGNED FOR 1 OR MORE OF  
4 THE FOLLOWING CRIMES:

5 (A) ANY FELONY.

6 (B) ANY OF THE FOLLOWING MISDEMEANORS:

7 (i) CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE OR AN ATTEMPT  
8 TO COMMIT CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.

9 (ii) CHILD ABUSE IN THE THIRD OR FOURTH DEGREE OR AN ATTEMPT TO  
10 COMMIT CHILD ABUSE IN THE THIRD OR FOURTH DEGREE.

11 (iii) A MISDEMEANOR INVOLVING CRUELTY, TORTURE, OR INDECENT  
12 EXPOSURE INVOLVING A CHILD.

13 (iv) A MISDEMEANOR VIOLATION OF SECTION 7410 OF THE PUBLIC  
14 HEALTH CODE, 1978 PA 368, MCL 333.7410.

15 (v) A VIOLATION OF SECTION 115, 141A, 145A, 335A, OR 359 OF  
16 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.115, 750.141A,  
17 750.145A, 750.335A, AND 750.359, OR A MISDEMEANOR VIOLATION OF  
18 SECTION 81, 81A, OR 145D OF THE MICHIGAN PENAL CODE, 1931 PA 328,  
19 MCL 750.81, 750.81A, AND 750.145D.

20 (vi) A MISDEMEANOR VIOLATION OF SECTION 701 OF THE MICHIGAN  
21 LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL 436.1701.

22 (vii) ANY MISDEMEANOR THAT IS A LISTED OFFENSE.

23 (C) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER  
24 STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,  
25 OR OF THE UNITED STATES.

26 (8) AN INDIVIDUAL WHO VIOLATES SUBSECTION (7) IS GUILTY OF A  
27 CRIME AS FOLLOWS:

1 (A) IF THE INDIVIDUAL VIOLATES SUBSECTION (7) AND THE CRIME  
2 INVOLVED IN THE VIOLATION IS A MISDEMEANOR THAT IS A LISTED OFFENSE  
3 OR IS A FELONY, THE INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY  
4 IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN  
5 \$2,000.00, OR BOTH.

6 (B) IF THE INDIVIDUAL VIOLATES SUBSECTION (7) AND THE CRIME  
7 INVOLVED IN THE VIOLATION IS A MISDEMEANOR THAT IS NOT A LISTED  
8 OFFENSE, THE INDIVIDUAL IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
9 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN  
10 \$1,000.00, OR BOTH.

11 (9) THE DEPARTMENT SHALL DELETE FROM THE ENROLLED PROVIDER'S  
12 RECORDS ALL INFORMATION RELATING TO AN ARRAIGNMENT REQUIRED TO BE  
13 REPORTED UNDER THIS SECTION IF THE DEPARTMENT RECEIVES  
14 DOCUMENTATION THAT THE INDIVIDUAL ARRAIGNED FOR THE CRIME IS  
15 SUBSEQUENTLY NOT CONVICTED OF ANY CRIME AFTER THE COMPLETION OF  
16 JUDICIAL PROCEEDINGS RESULTING FROM THAT ARRAIGNMENT.

17 (10) NOT LATER THAN 12 MONTHS AFTER THE EFFECTIVE DATE OF THE  
18 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL INFORM  
19 ALL PERSONS CURRENTLY ENROLLED AS ENROLLED PROVIDERS AND ALL  
20 APPLICANTS FOR ENROLLMENT AS ENROLLED PROVIDERS OF THE REQUIREMENT  
21 TO REPORT CERTAIN ARRAIGNMENTS AS REQUIRED IN THIS SECTION AND THE  
22 PENALTY FOR NOT REPORTING THOSE ARRAIGNMENTS.

23 (11) AT THE TIME THE DEPARTMENT ENROLLS AN INDIVIDUAL AS AN  
24 ENROLLED PROVIDER, THE DEPARTMENT SHALL NOTIFY THE INDIVIDUAL OF  
25 THE REQUIREMENT TO REPORT CERTAIN ARRAIGNMENTS AS REQUIRED IN THIS  
26 SECTION AND THE PENALTY FOR NOT REPORTING THOSE ARRAIGNMENTS.

27 (12) NOT LATER 12 MONTHS AFTER THE EFFECTIVE DATE OF THE

1 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL  
2 CONDUCT A CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK ON ALL  
3 CURRENT ENROLLED PROVIDERS.

4 (13) BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
5 ADDED THIS SECTION, IF AN INDIVIDUAL BEING ENROLLED AS AN ENROLLED  
6 PROVIDER HAS PREVIOUSLY UNDERGONE A CRIMINAL HISTORY CHECK AND  
7 CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION AND HAS BEEN  
8 CONTINUOUSLY ENROLLED AS AN ENROLLED PROVIDER AFTER THE CRIMINAL  
9 HISTORY CHECK AND CRIMINAL RECORDS CHECK HAVE BEEN PERFORMED, THAT  
10 INDIVIDUAL IS NOT REQUIRED TO SUBMIT TO ANOTHER CRIMINAL HISTORY  
11 CHECK OR CRIMINAL RECORDS CHECK.

12 (14) THE DEPARTMENT OF STATE POLICE SHALL USE THE AUTOMATED  
13 FINGERPRINT IDENTIFICATION SYSTEM DATABASE ESTABLISHED UNDER  
14 SECTION 5K OF 1973 PA 116, MCL 722.115K, TO PROVIDE FOR AN  
15 AUTOMATIC NOTIFICATION AT THE TIME A SUBSEQUENT CRIMINAL ARREST  
16 FINGERPRINT CARD SUBMITTED INTO THE SYSTEM MATCHES A SET OF  
17 FINGERPRINTS PREVIOUSLY SUBMITTED IN ACCORDANCE WITH THIS SECTION.  
18 UPON NOTIFICATION, THE DEPARTMENT OF STATE POLICE SHALL IMMEDIATELY  
19 NOTIFY THE DEPARTMENT AND THE DEPARTMENT SHALL IMMEDIATELY CONTACT  
20 THE RESPECTIVE ENROLLED PROVIDER. INFORMATION IN THE DATABASE  
21 ESTABLISHED UNDER THIS SUBSECTION IS CONFIDENTIAL, IS NOT SUBJECT  
22 TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442,  
23 MCL 15.231 TO 15.246, AND SHALL NOT BE DISCLOSED TO ANY PERSON  
24 EXCEPT FOR PURPOSES OF THIS ACT OR FOR LAW ENFORCEMENT PURPOSES.

25 (15) AS USED IN THIS SECTION, "LISTED OFFENSE" MEANS THAT TERM  
26 AS DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994  
27 PA 295, MCL 28.722.

1           Enacting section 1. This amendatory act does not take effect  
2 unless House Bill No. 5838 of the 95th Legislature is enacted into  
3 law.