



House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

## CRIMINAL CHECKS ON HEALTH FACILITY EMPLOYEES

**House Bill 5033**  
**Sponsor: Rep. Lingg Brewer**  
**Committee: Health Policy**

**Complete to 8-23-00**

### **A SUMMARY OF HOUSE BILL 5033 AS INTRODUCED 10-26-99**

The bill would amend Part 201 of Article 17 of the Public Health Code, which regulates health facilities and agencies, to require background checks on employees of nursing homes, county medical facilities, and homes for the aged. Under the code, the definition of health facilities and agencies includes medical first response services, clinical laboratories, hospitals, nursing homes, hospices, and homes for the aged. Under the bill, a nursing home, county medical facility, or home for the aged could not employ, grant clinical privileges to, or independently contract with an individual who provided direct services to patients or residents after the bill's effective date if he or she had been convicted in Michigan of either a felony or an attempt or conspiracy to commit a felony within the previous fifteen years, or a misdemeanor that involved abuse, neglect, assault, battery, or criminal sexual conduct or fraud or theft against a vulnerable adult (as defined under the Michigan Penal Code) within the previous ten years. For those individuals who have been employed by, under contract to, or granted clinical privileges in the health facility prior to the bill's enactment date, the time frames would be 15 years preceding the most recent criminal check performed under the bill for a felony conviction and 10 years for a misdemeanor. The bill would not apply to a current employee or person under contract or with clinical privileges who had an equivalent criminal history check performed within the two years immediately preceding the bill's effective date.

Under the bill, any applicant for employment, contract services, or clinical privileges in a nursing home, county medical facility, or home for the aged would first have to give written consent for the Department of State Police (DSP) or other authorized law enforcement agency to conduct a criminal history check. A facility would be prohibited from employing, contracting with, or granting privileges to an individual without first running a criminal history check on the person. After receiving the signed consent form from the applicant, the facility would have to request the DSP or other agency to conduct a criminal history check on the applicant. The facility would have to bear any cost of the criminal history check, and would be prohibited from seeking reimbursement from the applicant. The law enforcement agency conducting the check would have to provide the facility with a report containing any criminal history record information on the applicant maintained by the agency.

If a criminal history check had been conducted on an applicant within the previous six months, the health facility could use a certified copy of that criminal history check in lieu of obtaining written consent and requesting a new criminal history check. If the applicant was applying for employment as an independent contractor and would be using a prior criminal history check, the health facility could only accept the certified copy of the criminal history check from the firm or agency that employs the individual or from the DSP. The DSP would also have to certify each report with an official seal or other symbol of authenticity.

A nursing home, county medical facility, or home for the aged could employ or grant clinical privileges to an applicant as a conditional employee or staff member before receiving the results of the criminal history check as long as the criminal history check had been requested and the applicant signed a statement that he or she had not been convicted of crimes described in the bill and that employment could be terminated if the criminal history check differed from the signed statement. The Department of Consumer and Industry Services (DCIS) would have to develop and distribute a model form for the statement of prior criminal convictions at no cost to facilities. A conditional employee whose information on the statement form differed from the criminal history check could be terminated by the facility. Knowingly providing false information regarding criminal convictions would constitute a misdemeanor punishable by 90 days imprisonment and a fine of up to \$500, or both.

Information provided on a criminal history record could only be used for evaluating an applicant's qualifications, and a facility would be prohibited from disclosing information to a person who was not directly involved in evaluating the applicant's qualifications for employment or clinical privileges. All criminal history record information obtained under the bill or by other means would have to be reported to the DCIS.

In addition, all health facilities and agencies would have to report to the DCIS any disciplinary action taken by a facility against an employee that involved sexual or other abuse, neglect, physical harm, theft, or fraudulent behavior against a patient of the facility, as well as report all criminal history record information obtained under the bill's provisions. (This report would be in addition to a report currently required regarding disciplinary actions against employees licensed or registered under the code). Such a report, as well as reports currently required by law regarding licensed and registered employees, would be public information. Further, failure to report under either of these requirements would be added to the list of actions that can result in the denial, limitation, suspension, or revocation of a facility's or agency's license or certification.

The bill would take effect January 1, 2000.

MCL 333.20165 and 333.20175.

Analyst: S. Stutzky

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