

Legislative Analysis



ADULT FACILITY LICENSING

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 1101 (Substitute S-3)
Sponsor: Sen. Mike Nofs

Senate Bill 1102 (Substitute S-3)
Sponsor: Sen. Dennis Olshove
House Committee: Families and Children's Services
Senate Committee: Families and Human Services

Complete to 6-29-10

A REVISED SUMMARY OF SENATE BILLS 1101 AND 1102 AS PASSED BY THE SENATE ON 4-20-10

Senate Bill 1101 would amend the Adult Foster Care Facility Licensing Act (MCL 400.704 et al.) to do the following:

- Require an applicant for a license, if an individual, and a licensee designee to consent to a criminal history check and a criminal records check.
- Require an owner, partner, or director of an applicant who has direct access to residents of an adult foster care facility or who has on-site facility operational responsibilities to consent to a criminal history check and a criminal records check.
- Prohibit the Department of Human Services (DHS) from issuing a license to or renewing the license of an applicant, a licensee designee, or an owner, partner, or director who has regular direct access to residents or on-site operational responsibilities, if he or she had been convicted of a misdemeanor under Chapter 20A of the Michigan Penal Code (vulnerable adult abuse) or another specified misdemeanor within 10 years before the application, or had been convicted of a felony under Chapter 20A at any time.
- Prohibit a licensee, licensee designee, or owner, partner, or director of a licensee from being permitted on the premises of a facility if he or she had been convicted of adult abuse, neglect, or financial exploitation, or a listed offense under the Sex Offenders Registration Act.

The bill would define "*direct access*" to mean access to a resident or to a resident's property, financial information, medical records, treatment information, or other identifying information. The bill would also define "*licensee designee*" to mean the individual designated in writing by the owner or person with legal authority to act on behalf of the company or organization on licensing matters. The licensee designee who

is not an owner, partner, or director of the applicant could not sign the original license application or amendments to the application.

Senate Bill 1102 would amend the Public Health Code (MCL 333.20102 et al.) to do the following in regard to Homes for the Aged:

- Require an applicant for a license, if an individual, and an authorized representative to consent to a criminal history check and a criminal records check.
- Require an owner, operator, or member of the governing body of a home for the aged who has direct access to residents or who has on-site facility operational responsibilities to consent to a criminal history check and a criminal records check.
- Prohibit the DHS from issuing a license to or renewing the license of an applicant, an authorized representative, or an owner, operator, or governing body member who has regular direct access to residents or on-site operational responsibilities, if he or she had been convicted of a misdemeanor under Chapter 20A of the Penal Code or another specified misdemeanor within 10 years before the application, or had been convicted of a felony under Chapter 20A at any time.
- Require the owner, operator, or member of the governing body of a home for the aged and the authorized representative to be of good moral character.
- Prohibit an applicant, owner, operator, member of a governing body, or authorized representative from being present in a home for the aged if he or she had been convicted of adult abuse, neglect, or financial exploitation, or a listed offense under the Sex Offenders Registration Act.

The bill would define "*authorized representative*" to mean the individual designated in writing by the Board of Directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing matters. The authorized representative who is not an owner or licensee could not sign the original license application or amendments to the application. The bill would define "*direct access*" to mean access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information. The term "*good moral character*" would be defined to mean that term as defined in Public Act 381 of 1974.

Both bills also would require the Department of State Police to conduct the criminal history check, and allow the Department to charge the person subject to the checks a fee that did not exceed the actual and reasonable cost and also require the State Police to maintain fingerprints in a database that provided for automatic notification of subsequent criminal arrests.

The bills are tie-barred to each other.

FISCAL IMPACT:

SB 1101 and 1102 would have a small to negligible fiscal impact on the Bureau of Child and Adult Licensing within the Department of Human Services (DHS). The increase would be associated with the new requests for criminal history checks for the applicant, owner, partner, or director who has regular direct access to residents or who have on-site operational responsibility to consent to a criminal history check with the Department of State Police.

The bills would require the Department of State Police to run criminal history and criminal records background checks for licensees of all adult foster care and homes for the aged. The State Police charges a fee of \$54.00 per check to cover the cost for each check. The bill has permissive language that allows the State Police to pass the cost of licensees' criminal history checks on to the licensees. So any new costs from additional background checks would be a policy decision within State Police rather than a fiscal impact from this bill. The Department of State Police has stated that they will pass to cost on to the licensees.

Legislative Analyst: E. Best
Fiscal Analyst: Kevin Koorstra

■ 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.