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BILL ANALYSIS

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Senate Bill 1101 (as introduced 2-3-10)
Sponsor: Senator Mike Nofs
Committee: Families and Human Services

Date Completed: 2-22-10

CONTENT

The bill would amend the Adult Foster Care Facility Licensing Act to do the following:

- **Require the applicant for a license and a licensee designee to consent to a criminal history check and a criminal records check.**
- **Require the Department of Human Services (DHS) to request criminal history and criminal records checks.**
- **Require the Department of State Police to conduct criminal history checks.**
- **Require all licensees and licensee designees to comply with the criminal history and record check requirements within one year after the bill's effective date.**
- **Require the State Police to maintain fingerprints in a database that provided for automatic notification of subsequent criminal arrests.**
- **Prohibit the DHS from issuing a license to an applicant who had been convicted of a specified misdemeanor within 10 years before applying.**
- **Prohibit a licensee or licensee designee from being permitted on the premises of a facility if he or she had been convicted of a specified offense.**

Licensee Designee; Application

The bill would define "licensee designee" as 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.

A license application would have to be signed by the owner in the case of the individual or member of the corporation, company, or organization.

Criminal History & Records Checks

Under the bill, a person or partner at the time of original license application, or a licensee designee at the time of appointment, would have to give written consent for the Michigan Department of State Police (MSP) to conduct the criminal history check and criminal records check required by the bill.

The DHS would have to request a criminal history check and criminal records check in the manner prescribed by the MSP. The MSP would have to conduct the criminal history check and give a report of the results to the licensing or regulatory bureau of the DHS. The report would have to contain any criminal history information on the person maintained by the

MSP and the results of the criminal records check from the FBI. The MSP could charge the applicant, licensee, or licensee designee a fee for the checks that did not exceed the actual and reasonable cost of conducting them.

Within one year after the bill's effective date, all adult foster care licensees and licensee designees of facilities licensed on that date would have to complete a criminal history check and criminal records check.

If a person applied to renew a license and he or she or the licensee designee had previously undergone a criminal history check and criminal records check, and had remained continuously licensed after the checks had been performed, that person would not be required to submit to another criminal history or records check when renewing the license.

The MSP would have to store and maintain all fingerprints submitted under the Act in an automated fingerprint identification system database that provided for an automatic notification when a subsequent criminal arrest fingerprint card submitted into the system matched a set of prints submitted under the Act. Upon notification, the MSP immediately would have to notify the DHS, which would have to take appropriate action.

Criminal Convictions

The Act prohibits the DHS from issuing a license to, or renewing the license of, a person who has been convicted of a felony under the Act or under Chapter 20A of the Michigan Penal Code, or who has been convicted of a misdemeanor under the Act or under Chapter 20A for 10 years after the misdemeanor conviction. (Chapter 20A of the Penal Code prescribes felony and misdemeanor penalties for vulnerable adult abuse.)

The bill, instead, would prohibit the DHS from issuing a license to, or renewing the license of, an applicant if the individual applicant, or the owner, partner, or director of the applicant, if other than an individual, had been convicted of one or more of the following:

- A felony under the Act or Chapter 20A of the Penal Code.
- A misdemeanor under the Act or Chapter 20A within the 10 years immediately before the application.
- A misdemeanor involving abuse, neglect, assault, battery, or criminal sexual conduct or involving fraud or theft against a vulnerable adult, or a substantially similar state or Federal crime, within the 10 years immediately before the application.

(The bill would refer to a vulnerable adult as that term is defined in Section 145m of the Penal Code. That section defines "vulnerable adult" as an individual at least 18 years old who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently. The term also includes a person placed in an adult foster care family home or an adult foster care small group home under certain circumstances, and a vulnerable person at least 18 years old who is believed to be abused, neglected, or exploited.)

The bill also would prohibit a licensee or licensee designee from being permitted on the premises of an adult foster care facility if he or she had been convicted of adult abuse, neglect, or financial exploitation, or a listed offense as defined in the Sex Offenders Registration Act.

FISCAL IMPACT

The bill could lead to increases in administrative cost to the DHS. These increases would be largely tied to expanded need to request criminal history checks with the Department of State Police and ensuring that all adult foster care licensees and their designees had a complete criminal history check.

The bill would require the Department of State police to run criminal history and criminal records background checks for license applicants and licensees of adult foster care facilities, the cost of which is \$49.25 per check, to be borne by the applicant or licensee.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.