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BILL ANALYSIS



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House Bill 5391 (Substitute H-4 as passed by the House)
Sponsor: Representative Matt Huuki
House Committee: Transportation
Senate Committee: Transportation

Date Completed: 9-24-12

CONTENT

The bill would create a new act to do the following:

- **Allow a transit service provider to require the fingerprinting of an employee (a bus driver applicant) who came into contact with a vulnerable population, for the purpose of obtaining criminal history record information.**
- **Allow the fingerprints to be submitted to the Michigan Department of State Police (MSP) or to the FBI for a criminal history record check.**
- **Require the MSP to give the requesting transit service provider a report of the results, including convictions for specified crimes.**
- **Require a transit service provider that fingerprinted employees to develop a fingerprint policy and give employees a synopsis.**
- **Require the MSP to store the fingerprints in an automated identification system database, and notify the applicable transit service provider when a criminal arrest fingerprint card submitted into the system matched a set of prints previously submitted.**
- **Exempt criminal history data kept on file by a transit service provider from disclosure under the Freedom of Information Act.**

The bill would take effect 90 days after it was enacted.

Specifically, notwithstanding any other provision of law to the contrary, a transit service provider could require the fingerprinting of an employee who came into contact with a vulnerable population, for the purpose of obtaining criminal history record information.

("Transit service provider" would mean a public transportation authority formed under any of the following:

- Public Act 55 of 1963 (which governs mass transportation system authorities).
- The Metropolitan Transportation Authorities Act.
- The Urban Cooperation Act.
- Public Act 8 of 1967 (Ex Sess) (which regulates intergovernmental transfers of functions and responsibilities).
- Public Act 35 of 1951 (which governs intergovernmental contracts between municipal corporations).
- The Public Transportation Authority Act.
- The Nonprofit Corporation Act.
- The Revenue Bond Act.
- The Home Rule City Act.
- The Charter Township Act.

"Employee" would mean an individual applying for employment as a bus driver with a transit service provider. "Vulnerable population" would mean children, the elderly, or individuals with disabilities.

"Criminal history record information" would mean that term as defined in Public Act 289 of 1925, i.e., name; date of birth; fingerprints; photographs, if available; personal descriptions; aliases and previous names; Social Security number; driver's license number and other identifying numbers; and information on misdemeanor and felony arrests and convictions.)

Fingerprints obtained under the bill could be submitted to the MSP for a criminal history record check or to the FBI for a national criminal history record check.

A fingerprint-based criminal history check would have to be conducted in a manner prescribed by the MSP. The MSP would have to conduct the check and provide a report of the results to the requesting transit service provider. The report would have to indicate whether the employee had been convicted of a violation or attempted violation of any of the following:

- Criminal sexual conduct (CSC), assault with intent to commit CSC, or an attempt to commit CSC, in any degree.
- A felony involving a criminal assault or battery on an individual.
- A crime involving felonious assault on a child, first-degree child abuse, cruelty, torture, or indecent exposure involving a child.
- A felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to engage in any of those activities.
- A felony conviction involving fraud as an element of the crime.
- Operating a vehicle while intoxicated, while impaired, or with any bodily amount of a Schedule 1 controlled substance or cocaine.
- Vulnerable adult abuse in any degree.

The MSP could charge a fee for the criminal history check. The fee could not exceed the actual and reasonable cost of conducting the check.

A transit service provider that fingerprinted employees would have to develop a written fingerprint policy and give the employees a written synopsis that described how fingerprints were taken, to whom they were sent, and how they were used.

The MSP would have to store and maintain all fingerprints submitted under the proposed 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 fingerprints previously submitted in accordance with the proposed act. Upon a match, the MSP would have to notify the applicable transit service provider immediately.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would allow, but not require, a transit service provider to require fingerprinting and analysis of certain employees. The Department of State Police charges \$49 (\$30 State, \$19 Federal) for each set of fingerprints analyzed for a criminal history background check through State and Federal data systems. This fee reflects the actual cost of this service to the Department.

Fiscal Analyst: Bruce Baker

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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.