

**SUBSTITUTE FOR
HOUSE BILL NO. 5391**

A bill to authorize transit service providers to fingerprint certain individuals for the purpose of receiving criminal history record information from the department of state police and the federal bureau of investigation; to prescribe the powers and duties of certain state departments and officers; and to provide for the collection of fees.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Bus" means a motor bus as defined in section 3 of the
3 motor bus transportation act, 1982 PA 432, MCL 474.103.

4 (b) "Criminal history record information" means that term as
5 defined in section 1a of 1925 PA 289, MCL 28.241a.

6 (c) "Employee" means an individual applying for employment as

1 a bus driver with a transit service provider.

2 (d) "Transit service provider" means a public transportation
3 authority formed under any of the following:

4 (i) 1963 PA 55, MCL 124.351 to 124.359.

5 (ii) The metropolitan transportation authorities act of 1967,
6 1967 PA 204, MCL 124.401 to 124.426.

7 (iii) The urban cooperation act of 1967, 1967 (Ex Sess) PA 7,
8 MCL 124.501 to 124.512.

9 (iv) 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

10 (v) 1951 PA 35, MCL 124.1 to 124.13.

11 (vi) The public transportation authority act, 1986 PA 196, MCL
12 124.451 to 124.479.

13 (vii) The nonprofit corporation act, 1982 PA 162, MCL 450.2101
14 to 450.3192.

15 (viii) The revenue bond act of 1933, 1933 PA 94, MCL 141.101 to
16 141.140.

17 (ix) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

18 (x) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.

19 (e) "Vulnerable population" means children, the elderly, or
20 individuals with disabilities.

21 Sec. 2. (1) Notwithstanding any other provision of law to the
22 contrary, a transit service provider may require the fingerprinting
23 of an employee who comes into contact with a vulnerable population
24 for the purpose of obtaining criminal history record information.
25 Fingerprints obtained pursuant to this section may be submitted to
26 the department of state police for a state criminal history record
27 check or to the federal bureau of investigation for a national

1 criminal history record check.

2 (2) A fingerprint-based criminal history check under this act
3 shall be conducted in a manner prescribed by the department of
4 state police. The department of state police shall conduct the
5 fingerprint-based criminal history check and provide a report of
6 the results to the requesting transit service provider. The report
7 shall indicate whether the employee has been convicted of a
8 violation or attempted violation of any of the following:

9 (a) Criminal sexual conduct, assault with intent to commit
10 criminal sexual conduct, or an attempt to commit criminal sexual
11 conduct, in any degree under sections 520b to 520g of the Michigan
12 penal code, 1931 PA 328, MCL 750.520b to 750.520g.

13 (b) A felony involving a criminal assault or battery on an
14 individual.

15 (c) A crime involving felonious assault on a child, child
16 abuse in the first degree, cruelty, torture, or indecent exposure
17 involving a child.

18 (d) A felony involving the manufacture, distribution, or
19 dispensing of a controlled substance or possession with intent to
20 manufacture, distribute, or dispense a controlled substance.

21 (e) A felony conviction involving fraud as an element of the
22 crime.

23 (f) A violation of section 625(1), (3), or (8) of the Michigan
24 vehicle code, 1949 PA 300, MCL 257.625.

25 (g) A violation of section 145n of the Michigan penal code,
26 1931 PA 328, MCL 750.145n.

27 (3) The department of state police may charge a fee for the

1 fingerprint-based criminal history check. A fee for a fingerprint-
2 based criminal history check charged under this subsection shall
3 not exceed the actual and reasonable cost of conducting the check.

4 (4) A transit service provider that fingerprints employees
5 under this section shall develop a written fingerprint policy and
6 shall provide those employees with a written synopsis of the
7 fingerprinting policy that describes how fingerprints are taken, to
8 whom the fingerprints are sent, and how the fingerprints are used.

9 (5) The department of state police shall store and maintain
10 all fingerprints submitted under this act in an automated
11 fingerprint identification system database that provides for an
12 automatic notification when a subsequent criminal arrest
13 fingerprint card submitted into the system matches a set of
14 fingerprints previously submitted in accordance with this act. Upon
15 a match, the department of state police shall immediately notify
16 the transit service provider that employs the employee.

17 (6) Any criminal history data kept on file by the transit
18 service provider are exempt from disclosure under section 13(1)(d)
19 of the freedom of information act, 1976 PA 442, MCL 15.243.

20 Enacting section 1. This act takes effect 90 days after the
21 date it is enacted into law.