

SENATE BILL No. 38

January 18, 2017, Introduced by Senator JONES and referred to the Committee on Judiciary.

A bill to amend 1935 PA 120, entitled

"An act to prescribe a method for the fingerprinting of residents of the state; to provide for the recording and filing of the fingerprints by the central records division of the department of state police; and to impose a fee,"

by amending section 1 (MCL 28.271), as amended by 1985 PA 175, and by adding section 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. Except as provided in section 4 of the child
2 identification and protection act, ~~when—1985 PA 176, MCL 722.774,~~
3 **IF** a resident of this state appears before any sheriff or police
4 agency for the county in which he or she resides ~~—~~and requests an
5 impression of his or her fingerprints, the agency shall comply with
6 the request and make at least 2 copies of the impression, 1 for the
7 files of the local police and the other to be forwarded to the
8 central records division of the department of state police.

1 SEC. 4. (1) A PARENT OR GUARDIAN OF AN INDIVIDUAL WITH SPECIAL
2 HEALTH CARE NEEDS MAY SUBMIT A WRITTEN REQUEST TO A DEPARTMENT-
3 APPROVED ENTITY TO TAKE THE FINGERPRINTS AND PHOTOGRAPH OF THE
4 INDIVIDUAL WITH SPECIAL HEALTH CARE NEEDS AND ADD THEM TO THE
5 AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS) DATABASE AND THE
6 STATEWIDE NETWORK OF AGENCY PHOTOS MAINTAINED BY THE DEPARTMENT.

7 (2) A WRITTEN REQUEST MADE UNDER SUBSECTION (1) MUST BE MADE
8 ON A FORM POSTED ON THE DEPARTMENT'S WEBSITE. ALONG WITH THE FORM,
9 THE DEPARTMENT SHALL PROVIDE A LIST OF DEPARTMENT-APPROVED ENTITIES
10 ON THE DEPARTMENT'S WEBSITE.

11 (3) THE DEPARTMENT MAY CHARGE A FEE SUFFICIENT TO REIMBURSE
12 THE DEPARTMENT FOR THE COSTS ASSOCIATED WITH PROCESSING A REQUEST
13 UNDER SUBSECTION (1).

14 (4) AT THE TIME AN INDIVIDUAL WITH SPECIAL HEALTH CARE NEEDS
15 IS PRESENTED AT A DEPARTMENT-APPROVED ENTITY TO HAVE HIS OR HER
16 FINGERPRINTS AND PHOTOGRAPH TAKEN, THE DEPARTMENT-APPROVED ENTITY
17 TAKING THE FINGERPRINTS AND PHOTOGRAPH SHALL REQUIRE THE PARENT OR
18 GUARDIAN PRESENTING THE INDIVIDUAL WITH SPECIAL HEALTH CARE NEEDS
19 TO EXECUTE A SIGNED WAIVER ALLOWING THE INDIVIDUAL'S FINGERPRINTS
20 AND PHOTOGRAPH TO BE COLLECTED.

21 (5) AT THE TIME AN INDIVIDUAL WITH SPECIAL HEALTH CARE NEEDS
22 IS PRESENTED AT A DEPARTMENT-APPROVED ENTITY TO HAVE HIS OR HER
23 FINGERPRINTS AND PHOTOGRAPH TAKEN, THE DEPARTMENT-APPROVED ENTITY
24 TAKING THE FINGERPRINTS AND PHOTOGRAPH SHALL REQUIRE THE PARENT OR
25 GUARDIAN PRESENTING THE INDIVIDUAL WITH SPECIAL HEALTH CARE NEEDS
26 TO REMIT THE FEE DESCRIBED IN SUBSECTION (3). THE DEPARTMENT-
27 APPROVED ENTITY SHALL FORWARD THE FEE COLLECTED UNDER THIS

1 SUBSECTION TO THE DEPARTMENT IN THE MANNER THE DEPARTMENT
2 PRESCRIBES.

3 (6) THE DEPARTMENT SHALL FORWARD THE FINGERPRINTS AND
4 PHOTOGRAPHS TAKEN UNDER THIS SECTION TO THE DIRECTOR OF THE FEDERAL
5 BUREAU OF INVESTIGATION ON FORMS FURNISHED BY OR IN A MANNER
6 PRESCRIBED BY THE DIRECTOR FOR REGISTRATION, STORAGE, AND USE FOR
7 IDENTIFICATION PURPOSES BY THE FEDERAL BUREAU OF INVESTIGATION.

8 (7) A PARENT OR GUARDIAN MAY MAKE A WRITTEN REQUEST TO THE
9 DEPARTMENT TO HAVE THE FINGERPRINTS AND PHOTOGRAPH OF AN INDIVIDUAL
10 WITH SPECIAL HEALTH CARE NEEDS TAKEN UNDER THIS SECTION REMOVED
11 FROM THE AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS)
12 DATABASE AND THE STATEWIDE NETWORK OF AGENCY PHOTOS. THE DEPARTMENT
13 SHALL REMOVE THE FINGERPRINTS AND PHOTOGRAPH OF AN INDIVIDUAL WITH
14 SPECIAL HEALTH CARE NEEDS TAKEN UNDER THIS SECTION FROM THE
15 AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS) DATABASE AND THE
16 STATEWIDE NETWORK OF AGENCY PHOTOS UPON RECEIPT OF A WRITTEN
17 REQUEST MADE BY A PARENT OR GUARDIAN UNDER THIS SUBSECTION.

18 (8) AS USED IN THIS SECTION:

19 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

20 (B) "DEPARTMENT-APPROVED ENTITY" MEANS AN ENTITY, INCLUDING A
21 LOCAL LAW ENFORCEMENT AGENCY OR A PRIVATE COMPANY, APPROVED BY THE
22 DEPARTMENT TO TAKE THE FINGERPRINTS AND PHOTOGRAPH OF AN INDIVIDUAL
23 WITH SPECIAL HEALTH CARE NEEDS AS PROVIDED IN THIS SECTION.

24 (C) "GUARDIAN" MEANS A PERSON WHO HAS QUALIFIED AS A GUARDIAN
25 OF A MINOR OR A LEGALLY INCAPACITATED INDIVIDUAL UNDER A PARENTAL
26 OR SPOUSAL NOMINATION OR A COURT ORDER ISSUED UNDER SECTION 19A OR
27 19C OF CHAPTER XIIA OF THE PROBATE CODE OF 1939, MCL 712A.19A AND

1 712A.19C, SECTION 5204, 5205, OR 5306 OF THE ESTATES AND PROTECTED
2 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5204, 700.5205, AND
3 700.5306, OR SECTIONS 600 TO 644 OF THE MENTAL HEALTH CODE, 1974 PA
4 258, MCL 330.1600 TO 330.1644. GUARDIAN MAY ALSO INCLUDE A PERSON
5 APPOINTED BY A TRIBAL COURT UNDER TRIBAL CODE OR CUSTOM. GUARDIAN
6 DOES NOT INCLUDE A GUARDIAN AD LITEM.

7 (D) "INDIVIDUAL WITH SPECIAL HEALTH CARE NEEDS" MEANS A SINGLE
8 OR MARRIED INDIVIDUAL WHOSE ACTIVITY IS OR MAY BECOME SO RESTRICTED
9 BY DISEASE OR SPECIFIED MEDICAL CONDITION AS TO REDUCE THE
10 INDIVIDUAL'S NORMAL CAPACITY FOR EDUCATION AND SELF-SUPPORT.

11 (E) "PARENT" MEANS THE NATURAL OR ADOPTIVE PARENT OF AN
12 INDIVIDUAL WITH SPECIAL HEALTH CARE NEEDS WHO HAS EITHER OR BOTH
13 SOLE OR JOINT LEGAL OR PHYSICAL CUSTODY OF THE CHILD IF A COURT
14 ORDER DICTATING CUSTODY IS IN PLACE, OR THE NATURAL OR ADOPTIVE
15 PARENT OF AN INDIVIDUAL WITH SPECIAL HEALTH CARE NEEDS IF THERE IS
16 NO COURT ORDER DICTATING CUSTODY IN PLACE.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.