

(c) Cruelty, torture, or indecent exposure involving a child.

(d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7410, and 333.7416.

(e) A violation of section 83, 89, 91, 145a, 316, 317, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, 750.316, 750.317, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

(f) Any other crime listed in subsection (1), if the superintendent of public instruction determines the public health, safety, or welfare requires emergency action based on the circumstances underlying the conviction.

(3) The superintendent of public instruction after a hearing shall not take action against a person's state board approval under subsection (1) or (2) unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's state board approval under subsection (1) or (2) based on a conviction that occurred before the effective date of the amendatory act that added this subsection if the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state.

(4) After the completion of the person's sentence, the person may request a hearing before the superintendent of public instruction on reinstatement of his or her state board approval. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's state board approval. The superintendent of public instruction shall not reinstate a person's state board approval unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's state board approval will not adversely affect the health, safety, and welfare of pupils.

(5) All of the following apply to a person described in this section whose conviction is reversed upon final appeal:

(a) The person's state board approval shall be reinstated upon his or her notification to the superintendent of public instruction of the reversal.

(b) If the suspension of the state board approval was the sole cause of his or her discharge from employment, the person shall be reinstated upon his or her notification to the appropriate local or intermediate school board of the reversal, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed.

(6) Not later than 15 days after the date of the conviction, the prosecuting attorney in charge of a case in which a person who holds state board approval was convicted of a crime described in subsection (1) or (2) and the court that convicted the person shall notify the superintendent of public instruction, and any public school, school district, intermediate school district, or nonpublic school in which the person is employed, of that conviction, of the name and address of the person convicted, and of the sentence imposed on the person. A prosecuting attorney in charge of a case in which a person is convicted of a crime described in subsection (1) or (2), and a court that convicts a person of a crime described in subsection (1) or (2) shall inquire whether the person holds state board approval. The superintendent of public instruction shall make available to prosecuting attorneys and courts a list of school occupations that commonly require state board approval.

(7) Not later than 5 working days after receiving notification of a person's conviction from the prosecuting attorney or the court under subsection (6), the superintendent of public instruction shall request the court that convicted the person to provide a certified copy of the judgment of conviction and sentence to the superintendent of public instruction and shall pay any fees required by the court. The court shall provide this certified copy within 5 working days after receiving the request and fees under this section.

(8) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified by a prosecuting attorney or court or learns through an authoritative source that a person who holds state board approval and who is employed by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1) or (2), the superintendent, chief administrative officer, or board president shall notify the superintendent of public instruction of that conviction within 15 days after learning of the conviction.

(9) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's state board approval.

(10) For any hearing under subsection (1), if the superintendent of public instruction does not complete the hearing procedures and make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to complete the hearing procedures and make a final decision and order within this 120 working day time limit, or the failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's state board approval.

(11) Beginning 3 months after the effective date of the amendatory act that added this subsection, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's state board approval during the preceding quarter. The report shall contain at least all of the following with respect to each person whose state board approval has been affected:

(a) The person's name, as it appears on the state board approval.

(b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.

(c) The offense for which the person was convicted and the date of the offense and date of the conviction.

(d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the state board approval.

(12) Not later than 6 months after the effective date of the amendatory act that added this subsection, the superintendent of public instruction shall submit to the legislature an

inventory report with information on all final actions taken under this section for the time period from June 23, 1992 until the effective date of the amendatory act that added this subsection. The report shall contain at least all of the information required in the quarterly report under subsection (11) with respect to each person whose state board approval was affected during that time period. If the superintendent of public instruction determines that the information required for the report is not available for any portion of that time period, the superintendent of public instruction shall include with the report a detailed explanation of the information that is not available and the reasons why the information is not available.

(13) This section does not do any of the following:

(a) Prohibit a person who holds state board approval from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds state board approval.

(c) Exempt a person who holds state board approval from the operation of section 1535a if the person holds a certificate subject to that section.

(d) Limit the ability of a state licensing body to take action against a person's license or registration for the same conviction.

(14) The superintendent of public instruction may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) As used in this section:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(c) "State board approval" means a license, certificate, approval not requiring a teaching certificate, or other evidence of qualifications to hold a particular position in a school district or intermediate school district or in a nonpublic school, other than a teacher's certificate subject to section 1535a, that is issued to a person by the state board or the superintendent of public instruction under this act or a rule promulgated under this act.

### **Repeal of MCL 380.1539a.**

Enacting section 1. Section 1539a of the revised school code, 1976 PA 451, MCL 380.1539a, is repealed.

This act is ordered to take immediate effect.

Approved April 1, 2004.

Filed with Secretary of State April 1, 2004.

**[No. 52]****(HB 4308)**

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 307, 328, 732, 732a, 810b, and 907 (MCL 257.307, 257.328, 257.732, 257.732a, 257.810b, and 257.907), section 307 as amended and section 810b as added by 2003 PA 152, section 328 as amended by 1995 PA 287, section 732 as amended by 2002 PA 534, section 732a as added by 2003 PA 165, and section 907 as amended by 2003 PA 73.

*The People of the State of Michigan enact:*

**257.307 Application for operator’s or chauffeur’s license; manner; contents; image and signature; equipment; use of image and information; access by law enforcement agency; signature and certification; fee; refund; organ donor registration; driving record from another jurisdiction; application for original, renewal, or upgrade of vehicle group designation or indorsement; issuing renewal license by mail or other methods; information manual; disclosure or display of social security number.**

Sec. 307. (1) An applicant for an operator’s or chauffeur’s license shall supply a birth certificate attesting to his or her age or other sufficient documents or identification as the secretary of state may require. An application for an operator’s or chauffeur’s license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant’s full name, date of birth, residence address, height, sex, eye color, signature, other information required or permitted on the license under this chapter, and, to the extent required to comply with federal law, the applicant’s social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant’s residence address on the qualified voter file for voter registration and voting:

“NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in

this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located.”.

(c) For an operator’s or chauffeur’s license with a vehicle group designation or indorsement, the following certifications by the applicant:

(i) The applicant meets the applicable federal driver qualification requirements under 49 CFR part 391 if the applicant operates or intends to operate in interstate commerce or meets the applicable qualifications under the rules promulgated by the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, if the applicant operates or intends to operate in intrastate commerce.

(ii) The vehicle in which the applicant will take the driving skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(iii) The applicant is not subject to disqualification, suspension, revocation, or cancellation for conviction of an offense described in section 312f or 319b.

(iv) The applicant does not have a driver’s license from more than 1 state.

(d) An applicant for an operator’s or chauffeur’s license with a vehicle group designation and a hazardous material indorsement (H vehicle indorsement) shall provide his or her fingerprints that were taken by a law enforcement official or a designated representative for investigation as required by the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56.

(2) Except as provided in this subsection, an applicant for an operator’s or chauffeur’s license may have his or her image and signature captured or reproduced when the application for the license is made. An applicant required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator’s or chauffeur’s license or official state personal identification card shall have his or her image and signature captured or reproduced when the application for the license is made. The secretary of state shall acquire by purchase or lease the equipment for capturing the images and signatures and may furnish the equipment to a local unit authorized by the secretary of state to license drivers. The secretary of state shall acquire equipment purchased or leased pursuant to this section under standard purchasing procedures of the department of management and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. An image and signature captured pursuant to this section shall appear on the applicant’s operator’s or chauffeur’s license. Except as provided in this subsection, the secretary of state may retain and use a person’s image and signature described in this subsection only for programs administered by the secretary of state. Except as provided in this subsection, the secretary of state shall not use a person’s image or signature, or both, unless the person grants written permission for that purpose to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state has access to information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless otherwise prohibited by law. The department of state police shall provide to the secretary of state updated lists of persons required to be registered under the sex offenders registration

act, 1994 PA 295, MCL 28.721 to 28.732, and the secretary of state shall make the images of those persons available to the department of state police as provided in that act.

(3) An application shall contain a signature or verification and certification by the applicant, as determined by the secretary of state, and shall be accompanied by the proper fee. The secretary of state shall collect the application fee with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license.

(4) In conjunction with the issuance of an operator's or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Written information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(ii) Written information describing the organ donation registry program maintained by Michigan's federally designated organ procurement organization or its successor organization. The written information required under this subparagraph shall include, in a type size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization, along with an advisory to call Michigan's federally designated organ procurement organization or its successor organization with questions about the organ donor registry program.

(iii) Written information giving the applicant the opportunity to be placed on the organ donation registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant in writing that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the organ donor registry described in subdivision (a)(ii), the secretary of state will forward the applicant's name and address to the organ donation registry maintained by Michigan's federally designated organ procurement organization or its successor organization, as required by subsection (6).

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) If an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (4)(a)(ii), the secretary of state shall within 10 days forward the applicant's name and address to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of

the name or address of an individual who indicates a willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry that is obtained by the secretary of state under subsection (4) and forwarded under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state. If the application is for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall check the applicant's driving record with the national driver register and the federal commercial driver license information system before issuing that group designation or indorsement.

(8) Except for a vehicle group designation or indorsement or as provided in this subsection, the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period by mail or by other methods prescribed by the secretary of state. The secretary of state shall issue a renewal license only in person if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(9) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 CFR part 383.

(10) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with 49 USC 31301 to 31317 and regulations and state law and rules related to this chapter.

(b) Through the law enforcement information network, to carry out the purposes of section 466(a) of the social security act, 42 USC 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) As otherwise required by law.

(11) The secretary of state shall not display a person's social security number on the person's operator's or chauffeur's license.

(12) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The secretary of state shall inform the applicant of this possible exemption.

**257.328 Producing evidence of motor vehicle insurance upon request of police officer; violation as civil infraction; certificate of insurance as prima facie evidence that insurance in force; contents; presentation of proof of insurance to court; civil infraction determination; surrendering license unless proof of insurance submitted to court; suspension of license by secretary of state; order; fee; renewal, transfer, or replacement of registration plate; producing false evidence as misdemeanor; penalty; points; section inapplicable to owner or operator of motor vehicle registered in other state or foreign country or province.**

Sec. 328. (1) The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the highways of this state or the operator of the motor vehicle shall produce, pursuant to subsection (2), upon the request of a police officer, evidence that the motor vehicle is insured under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179. Subject to section 907(16), an owner or operator of a motor vehicle who fails to produce evidence of insurance under this subsection when requested to produce that evidence or who fails to have motor vehicle insurance for the vehicle as required under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179, is responsible for a civil infraction.

(2) A certificate of insurance, issued by an insurance company, that certifies that the security that meets the requirements of sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, is in force shall be accepted as prima facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person named on the policy, policy declaration, or a declaration certificate whose operation of the vehicle would cause the liability coverage of that insurance to become void.

(3) If, before the appearance date on the citation, the person submits proof to the court that the motor vehicle had insurance meeting the requirements of sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, at the time the violation of subsection (1) occurred, all of the following apply:

(a) The court shall not assess a fine or costs.

(b) The court shall not cause an abstract of the court record to be forwarded to the secretary of state.

(c) The court may assess a fee of not more than \$25.00, which shall be paid to the court funding unit.

(4) If an owner or operator of a motor vehicle is determined to be responsible for a violation of subsection (1), the court in which the civil infraction determination is entered may require the person to surrender his or her operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, is submitted to the court. If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license. The court shall immediately destroy the license and shall forward to the secretary of state an abstract of the court record as required by section 732. Upon receipt of the abstract, the secretary of state shall suspend the person's license beginning with the date on which a person is determined to be responsible for the civil infraction for a period of 30 days or until proof of insurance meeting the requirements of sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, is submitted to the secretary of state, whichever occurs later.



A person who submits proof of insurance to the secretary of state under this subsection shall pay a service fee of \$25.00 to the secretary of state. The person shall not be required to be examined as set forth in section 320c and shall not be required to pay a replacement license fee.

(5) If an owner or operator of a motor vehicle is determined to be responsible for a violation of subsection (1), the court in which the civil infraction determination is entered shall notify the secretary of state of the vehicle registration number and the year and make of the motor vehicle being operated at the time of the violation. This notification shall be made on the abstract or on a form approved by the supreme court administrator. Upon receipt, the secretary of state shall immediately enter this information in the records of the department. The secretary of state shall not renew, transfer, or replace the registration plate of the vehicle involved in the violation or allow the purchase of a new registration plate for the vehicle involved in the violation until the owner meets the requirements of section 227a or unless the vehicle involved in the violation is transferred or sold to a person other than the owner's spouse, mother, father, sister, brother, or child.

(6) An owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

(7) Points shall not be entered on a driver's record pursuant to section 320a for a violation of this section.

(8) This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign country or province.

**257.732 Record of cases; forwarding abstract of record or report to secretary of state; statement; abstracts forwarded; noncompliance as misconduct in office; location and public inspection of abstracts; entering abstracts on master driving record; exceptions; informing courts of violations; entering order of reversal in book or index; modifications; abstract as part of written notice to appear; expunction prohibited.**

Sec. 732. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways and with those offenses pertaining to the operation of ORVs or snowmobiles for which points are assessed under section 320a(1)(c) or (h). Except as provided in subsection (15), the municipal judge or clerk of the court of record shall prepare and forward to the secretary of state an abstract of the court record as follows:

(a) Within 14 days after a conviction, forfeiture of bail, or entry of a civil infraction determination or default judgment upon a charge of or citation for violating or attempting to violate this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways.

(b) Immediately for each case charging a violation of section 625(1), (3), (4), (5), (6), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m in which the charge is dismissed or the defendant is acquitted.

(c) Immediately for each case charging a violation of section 82127(1) or (3), 81134, or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a local ordinance substantially corresponding to those sections.

(2) If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance substantially corresponding to this act, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state. An abstract shall be certified by signature, stamp, or facsimile signature of the person required to prepare the abstract as correct. An abstract or report shall include all of the following:

(a) The name, address, and date of birth of the person charged or cited.

(b) The number of the person's operator's or chauffeur's license, if any.

(c) The date and nature of the violation.

(d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation and indorsement classification.

(e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.

(f) Whether bail was forfeited.

(g) Any license restriction, suspension, or denial ordered by the court as provided by law.

(h) The vehicle identification number and registration plate number of all vehicles that are ordered immobilized or forfeited.

(i) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction involving any of the following:

(a) A violation of section 413, 414, or 479a of the Michigan penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

(b) A violation of section 1 of former 1931 PA 214.

(c) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle.

(d) A violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section.

(e) A violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a.

(f) A violation of motor carrier safety regulations, 49 CFR 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(g) A violation of section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(h) A violation of motor carrier safety regulations, 49 CFR 392.10 or 392.11, as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(i) An attempt to violate, a conspiracy to violate, or a violation of part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, or a local ordinance that prohibits conduct prohibited under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless the convicted person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense.

(j) An attempt to commit an offense described in subdivisions (a) to (h).

(k) A violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(l) A violation of section 3101, 3102(1), or 3103 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and 500.3103.

(5) As used in subsections (6) to (8), “felony in which a motor vehicle was used” means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

- (a) The vehicle was used as an instrument of the felony.
- (b) The vehicle was used to transport a victim of the felony.
- (c) The vehicle was used to flee the scene of the felony.
- (d) The vehicle was necessary for the commission of the felony.

(6) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

“You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”

(7) If a juvenile is accused of an act, the nature of which constitutes a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney or family division of circuit court shall include the following statement on the petition filed in the court:

“You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”

(8) If the court determines as part of the sentence or disposition that the felony for which the person was convicted or adjudicated and with respect to which notice was given under subsection (6) or (7) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(9) As used in subsections (10) and (11), “felony in which a commercial motor vehicle was used” means a felony during the commission of which the person operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

- (a) The vehicle was used as an instrument of the felony.
- (b) The vehicle was used to transport a victim of the felony.
- (c) The vehicle was used to flee the scene of the felony.
- (d) The vehicle was necessary for the commission of the felony.

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(iii), 319b(1)(d), 319b(1)(e)(iii), or 319b(1)(f)(i), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

“You are charged with the commission of a felony in which a commercial motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in

which a commercial motor vehicle was used, as defined in section 319b of the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle group designations on your driver's license shall be suspended or revoked by the secretary of state.”.

(11) If the judge determines as part of the sentence that the felony for which the defendant was convicted and with respect to which notice was given under subsection (10) is a felony in which a commercial motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(12) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

- (a) The name and title of the person required to forward abstracts.
- (b) The court for which the certification is filed.
- (c) The time period covered by the certification.
- (d) The following statement:

“I certify that all abstracts required by section 732 of the Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period \_\_\_\_\_ through \_\_\_\_\_ have been forwarded to the secretary of state.”.

- (e) Other information the secretary of state considers necessary.
- (f) The signature of the person required to forward abstracts.

(13) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(14) Except as provided in subsection (15), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office and the abstracts shall be open for public inspection during the office's usual business hours. Each abstract shall be entered upon the master driving record of the person to whom it pertains.

(15) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination for any of the following violations:

- (a) The parking or standing of a vehicle.
- (b) A nonmoving violation that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.
- (c) A violation of chapter II that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.
- (d) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.
- (e) A violation of section 710e or a local ordinance substantially corresponding to section 710e.

(f) A violation of section 328(1) if, before the appearance date on the citation, the person submits proof to the court that the motor vehicle had insurance meeting the requirements of sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102, at the time the citation was issued. Insurance obtained subsequent to the time of the violation does not make the violation an exception under this subsection.

(16) The secretary of state shall discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside this state. However, the secretary of state shall retain and enter on the master driving record an abstract of an out-of-state bond forfeiture for an offense that occurred in connection with the operation of a commercial motor vehicle.

(17) The secretary of state shall inform the courts of this state of the nonmoving violations and violations of chapter II that are used by the secretary of state as the basis for the suspension, restriction, revocation, or denial of an operator's or chauffeur's license.

(18) If a conviction or civil infraction determination is reversed upon appeal, the person whose conviction or determination has been reversed may serve on the secretary of state a certified copy of the order of reversal. The secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination.

(19) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appear, authorized in section 728(1) or 742(1), the form of the written notice and report shall be as prescribed by the secretary of state.

(20) Except as provided in this act and notwithstanding any other provision of law, a court shall not order expunction of any violation reportable to the secretary of state under this section.

**257.732a Driver responsibility fee; assessment; notice; payment by installment; failure to pay fee; fire protection fund; creation; disposition of funds; transmission of funds to state treasurer; appropriation.**

Sec. 732a. (1) An individual, whether licensed or not, who accumulates 7 or more points on his or her driving record pursuant to sections 320a and 629c within a 2-year period for any violation not listed under subsection (2) shall be assessed a \$100.00 driver responsibility fee. For each additional point accumulated above 7 points not listed under subsection (2), an additional fee of \$50.00 shall be assessed. The secretary of state shall collect the fees described in this subsection once each year that the point total on an individual driving record is 7 points or more.

(2) An individual, whether licensed or not, who violates any of the following sections or another law or local ordinance that substantially corresponds to those sections shall be assessed a driver responsibility fee as follows:

(a) Upon posting of an abstract that an individual has been found guilty for a violation of law listed or described in this subdivision, the secretary of state shall assess a \$1,000.00 driver responsibility fee each year for 2 consecutive years:

(i) Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile.

(ii) Section 601b(2) or (3), 601c(1) or (2), or 653a(3) or (4).

(iii) Section 625(1), (4), or (5), section 625m, or section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, or a law or ordinance substantially corresponding to section 625(1), (4), or (5), section 625m, or section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134.

(iv) Failing to stop and disclose identity at the scene of an accident when required by law.

(v) Fleeing or eluding an officer.

(b) Upon posting of an abstract that an individual has been found guilty for a violation of law listed in this subdivision, the secretary of state shall assess a \$500.00 driver responsibility fee each year for 2 consecutive years:

(i) Section 625(3), (6), (7), or (8).

(ii) Section 626.

(iii) Section 904.

(iv) Section 3101, 3102(1), or 3103 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and 500.3103.

(c) Upon posting of an abstract that an individual has been found guilty for a violation of section 301, the secretary of state shall assess a \$150.00 driver responsibility fee each year for 2 consecutive years.

(d) Subject to subsection (8), upon posting of an abstract that an individual has been found guilty or determined responsible for a violation listed in section 328, the secretary of state shall assess a \$200.00 driver responsibility fee each year for 2 consecutive years.

(3) The secretary of state shall send a notice of the driver responsibility assessment, as prescribed under subsection (1) or (2), to the individual by regular mail to the address on the records of the secretary of state. If payment is not received within 30 days after the notice is mailed, the secretary of state shall send a second notice that indicates that if payment is not received within the next 30 days, the driver's driving privileges will be suspended.

(4) The secretary of state may authorize payment by installment for an amount of \$500.00 or more for a period not to exceed 12 months.

(5) If payment is not received or an installment plan is not established after the time limit required by the second notice prescribed under subsection (3) expires, the secretary of state shall suspend the driving privileges until the assessment and any other fees prescribed under this act are paid.

(6) A fee shall not be assessed under this section for 7 points or more on a driving record on October 1, 2003. Points assigned after October 1, 2003 shall be assessed as prescribed under subsections (1) and (2).

(7) A driver responsibility fee shall be assessed under this section in the same manner for a conviction or determination of responsibility for a violation or an attempted violation of a law of this state, of a local ordinance substantially corresponding to a law of this state, or of a law of another state substantially corresponding to a law of this state.

(8) Not more than 60 days after the effective date of the amendatory act that added this subsection, if an individual who was issued a citation for a violation of section 328(1) for failing to produce a certificate of insurance from October 1, 2003 until the date the amendatory act that added this subsection takes effect presents a certificate of insurance that was in effect at the time the individual was issued the citation to the court that forwarded the abstract, the court shall rescind the abstract. After the court rescinds the abstract as described in this subsection, the court shall notify the secretary of state, which shall refund, waive, or both refund and waive the driver responsibility fee corresponding to the violation, as appropriate.

(9) The fire protection fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of consumer and industry services shall expend money from the fund, upon appropriation, only for fire protection grants to cities, villages, and townships with state owned facilities for fire services, as provided in 1977 PA 289, MCL 141.951 to 141.956.

(10) The secretary of state shall transmit the fees collected under this section to the state treasurer. The state treasurer shall credit fee money received under this section in each fiscal year as follows:

(a) The first \$65,000,000.00 shall be credited to the general fund.

(b) If more than \$65,000,000.00 is collected under this section, the next amount collected in excess of \$65,000,000.00 up to \$68,500,000.00 shall be credited to the fire protection fund created in this section.

(c) If more than \$100,000,000.00 is collected under this section, the next amount collected in excess of \$100,000,000.00 up to \$105,000,000.00 shall be credited to the fire protection fund created in this section.

(d) Any amount collected after crediting the amounts under subdivisions (a), (b), and (c) shall be credited to the general fund.

(11) For fiscal year 2003-2004, \$3,500,000.00 is appropriated from the fire protection fund described in subsection (9) to the department of consumer and industry services for the purposes described under subsection (9).

### **257.810b Transportation administration collection fund; creation; investment, disposition, and expenditure of money.**

Sec. 810b. (1) The transportation administration collection fund is created within the state treasury.

(2) The state treasurer may receive money from the collections authorized under this act for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall not lapse into the Michigan transportation fund.

(4) The department of state shall expend money from the fund, upon appropriation, to pay the necessary expenses incurred by the department of state in the administration and enforcement of sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810.

(5) The department of treasury shall expend money in the fund, upon appropriation, to defray the costs of collecting motor fuel taxes.

### **257.907 Civil infraction not crime; payment of civil fine and costs; program of treatment, education, or rehabilitation; sanctions; schedule of civil fines and costs; recommended range of civil fines and costs; certification of repair of defective equipment; collection of civil fines or costs; noncompliance with order or judgment; additional assessment; waiver of fines and costs; failure to produce certificate of insurance.**

Sec. 907. (1) A violation of this act, or a local ordinance substantially corresponding to a provision of this act, which is designated a civil infraction shall not be considered a lesser included offense of a criminal offense.

(2) If a person is determined pursuant to sections 741 to 750 to be responsible or responsible “with explanation” for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge or district court magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (4). However, for a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$250.00. For a violation of section 328, the civil fine ordered under this subsection shall be not more than \$50.00. For a violation of section 710d, the civil fine ordered under this subsection shall not exceed \$10.00. For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be \$25.00. For a violation of section 682 or a local ordinance substantially corresponding to section 682, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$500.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

(3) Except as provided in this subsection, if a person is determined to be responsible or responsible “with explanation” for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act while driving a commercial motor vehicle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$250.00. If a person is determined to be responsible or responsible “with explanation” for a civil infraction under section 319g or a local ordinance substantially corresponding to section 319g, that person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$10,000.00.

(4) If a civil fine is ordered under subsection (2) or (3), the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Costs shall not be ordered in excess of \$100.00. A civil fine ordered under subsection (2) or (3) shall not be waived unless costs ordered under this subsection are waived. Except as otherwise provided by law, costs are payable to the general fund of the plaintiff.

(5) In addition to a civil fine and costs ordered under subsection (2) or (3) and subsection (4) and the justice system assessment ordered under subsection (14), the judge or district court magistrate may order the person to attend and complete a program of treatment, education, or rehabilitation.

(6) A district court magistrate shall impose the sanctions permitted under subsections (2), (3), and (5) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(7) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for civil infractions which occur within the respective district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all violations which are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant’s prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation is not binding upon the courts having jurisdiction over civil infractions



but is intended to act as a normative guide for judges and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state.

(9) If a person has received a civil infraction citation for defective safety equipment on a vehicle under section 683, the court shall waive a civil fine, costs, and assessments upon receipt of certification by a law enforcement agency that repair of the defective equipment was made before the appearance date on the citation.

(10) A default in the payment of a civil fine or costs ordered under subsection (2), (3), or (4) or a justice system assessment ordered under subsection (14), or an installment of the fine, costs, or assessment, may be collected by a means authorized for the enforcement of a judgment under chapter 40 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(11) If a person fails to comply with an order or judgment issued pursuant to this section, within the time prescribed by the court, the driver's license of that person shall be suspended pursuant to section 321a until full compliance with that order or judgment occurs. In addition to this suspension, the court may also proceed under section 908.

(12) The court shall waive any civil fine, cost, or assessment against a person who received a civil infraction citation for a violation of section 710d if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d.

(13) Until October 1, 2003, in addition to any civil fines and costs ordered to be paid under this section, the judge or district court magistrate shall levy an assessment of \$5.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. An assessment paid before October 1, 2003 shall be transmitted by the clerk of the court to the state treasurer to be deposited into the Michigan justice training fund. An assessment ordered before October 1, 2003 but collected on or after October 1, 2003 shall be transmitted by the clerk of the court to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(14) Effective October 1, 2003, in addition to any civil fines and costs ordered to be paid under this section, the judge or district court magistrate shall order the defendant to pay a justice system assessment of \$40.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. Upon payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(15) If a person has received a citation for a violation of section 223, the court shall waive any civil fine, costs, and assessment, upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation of section 223 occurred.

(16) If a person has received a citation for a violation of section 328(1) for failing to produce a certificate of insurance pursuant to section 328(2), the court may waive the fee described in section 328(3)(c) and shall waive any fine, costs, and any other fee or assessment otherwise authorized under this act upon receipt of verification by the court that the person, before the appearance date on the citation, produced valid proof of

insurance that was in effect at the time the violation of section 328(1) occurred. Insurance obtained subsequent to the time of the violation does not make the person eligible for a waiver under this subsection.

**Effective date.**

Enacting section 1. This amendatory act takes effect 30 days after it is enacted.

This act is ordered to take immediate effect.

Approved April 1, 2004.

Filed with Secretary of State April 1, 2004.

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**[No. 53]**

**(HB 5200)**

AN ACT to designate October 18 of each year as Willie Horton Day in the state of Michigan.

*The People of the State of Michigan enact:*

**435.321 “Willie Horton Day.”**

Sec. 1. The legislature recognizes the fundamental contribution that Willie Horton has made to the city of Detroit and the state of Michigan through his humanitarian works. Raised in a Detroit housing project, Willie fulfilled a boyhood dream by playing for his hometown team, the Detroit Tigers. Throughout his career, Willie has been involved with such organizations as the United Way, the Boys and Girls Club of America, Meals on Wheels, and the Foundation Fighting Blindness. His dedication to helping the youth of his city and beyond has been a hallmark of his playing career and in the years since he left the game. In 1967, Willie used his ambassadorship and goodwill to help crush the violence that erupted during the riots in Detroit. In 2000, the Detroit Tigers further honored this man by retiring his number and erecting a statue in his image at Comerica Park. In recognition of this great man, the legislature declares October 18 of each year to be known as “Willie Horton Day”.

This act is ordered to take immediate effect.

Approved April 7, 2004.

Filed with Secretary of State April 8, 2004.

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**[No. 54]**

**(HB 5117)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task

forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” (MCL 333.1101 to 333.25211) by adding section 20531.

*The People of the State of Michigan enact:*

**333.20531 Lead analysis; clinical laboratory reporting requirements.**

Sec. 20531. Not later than 90 days after the effective date of this section, the department shall mail a notice to each clinical laboratory doing business in this state explaining the reporting requirements of this section. Beginning October 1, 2005, a clinical laboratory that analyzes a blood sample for lead shall report the results of the blood lead analysis to the department electronically in a format as prescribed by the department. The clinical laboratory shall submit the report to the department as required under this section within 5 days after the analysis is completed.

This act is ordered to take immediate effect.

Approved April 12, 2004.

Filed with Secretary of State April 12, 2004.

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**[No. 55]**

**(HB 5119)**

AN ACT to amend 1939 PA 280, entitled “An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other

state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates,” (MCL 400.1 to 400.119b) by adding section 111k.

*The People of the State of Michigan enact:*

**400.111k Lead screening on children enrolled in medicaid.**

Sec. 111k. (1) Beginning October 1, 2007, the department of community health shall ensure that, as a condition of participation and funding, all health professionals, facilities, or health maintenance organizations receiving medicaid payments under this act are in substantial compliance with federal standards for lead screening for children enrolled in medicaid.

(2) The department of community health shall determine the statewide average of lead screening being performed on children who are enrolled in medicaid on October 1, 2007 and shall determine whether the rate of children who are enrolled in medicaid receiving a lead screening is substantially in compliance with the federal standards for lead screening for children enrolled in medicaid. If the rate of children who are enrolled in medicaid receiving a lead screening is below 80%, the director of the department of community health shall present to the senate and house health policy committees a written report detailing why the rate is not in substantial compliance with the federally required standards for lead screening and the department of community health’s recommendations for improving the rate. If the statewide lead screening testing rate does not equal or exceed 80% for medicaid-enrolled children by October 1, 2007, the department of community health may, with funds appropriated for medicaid managed care or medicaid fee for services, contract with community agencies to provide the percentage of lead screening tests needed to reach an 80% lead screening testing rate. A contracting organization that meets or surpasses contract performance requirements is entitled to share in financial bonuses awarded under the performance bonus program and receive not less than 10% of the beneficiaries who do not voluntarily select a specific health plan at the time of managed care enrollment in addition to any other auto assignments to which the contracting organization is entitled.

(3) As used in this section, “medicaid” means the program of medical assistance administered by the state under section 105.

This act is ordered to take immediate effect.

Approved April 12, 2004.

Filed with Secretary of State April 12, 2004.

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**[No. 56]**

**(HB 5280)**

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate

school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” (MCL 380.1 to 380.1852) by adding section 1305.

*The People of the State of Michigan enact:*

### **380.1305 Bomb threat; search by school employee.**

Sec. 1305. If a public or nonpublic school is closed or vacated due to a bomb threat, a school official shall not require a school employee to remain in or to search the school unless the governing body that operates the school has ensured that employee has received appropriate training approved by the appropriate law enforcement agency dealing with bomb threats.

This act is ordered to take immediate effect.

Approved April 12, 2004.

Filed with Secretary of State April 12, 2004.

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**[No. 57]**

**(HB 4179)**

AN ACT to amend 2000 PA 499, entitled “An act to create certain prescription programs relating to the elderly; to enhance access to prescription drugs to certain elderly residents of the state; to prescribe the powers and duties of certain state departments and agencies; and to repeal acts and parts of acts,” by amending section 3 (MCL 550.2003).

*The People of the State of Michigan enact:*

### **550.2003 EPIC program; provisions; eligibility requirements; enrollment; assessment for medicaid; “institution” explained; business with not more than 1 employee and less than \$200,000.00 in assets.**

Sec. 3. (1) The EPIC program shall provide prescription drug coverage, including related supplies as determined by the department in consultation with the advisory committee established in section 7, to each person to whom all of the following apply:

- (a) The person is a noninstitutionalized Michigan resident 65 years of age or older.
- (b) The person has a household income at or below 200% of the federal poverty guidelines.
- (c) The person is not currently a medicaid recipient.
- (d) Excluding medicare supplemental insurance or a federal program described in section 9(2), the person is not covered by other insurance that provides prescription drug coverage.

(2) The department shall give initial enrollment priority to applicants who in the 12 months preceding October 1, 2001 participated in the MEPPS. A second enrollment priority will be afforded to applicants with annual household incomes up to 150% of the federal poverty guidelines who received a senior prescription tax credit in former section 273 of the income tax act of 1967, 1967 PA 281. Enrollment in the EPIC program for eligible applicants who formerly participated in the MEPPS program shall take effect not later than October 1, 2001. Enrollment in the EPIC program for eligible applicants who formerly received a senior prescription tax credit shall take effect not later than December 1, 2001. Other applicants with incomes up to 200% of the federal poverty guidelines will be enrolled contingent upon available money.

(3) An individual or married couple meeting the basic eligibility criteria established in subsection (1) may apply for enrollment in the EPIC program as follows:

(a) Submit an annual application to the department, or the department's designee, that, at a minimum, attests to the age, residence, and household income of the individual applicant or couple, if married. A refundable administrative fee must be included with the application and shall be returned to an applicant who the department determines is not eligible for the EPIC program. The administrative fee is \$25.00.

(b) Upon notification of eligibility, the enrollee may access the EPIC program by meeting the cost-sharing obligation through a copayment on each prescription that does not exceed 20% of the cost of the prescription being purchased, with a maximum monthly copayment amount calculated based on 1 of the following:

(i) If the applicant's household income is at or below 100% of the federal poverty guidelines, the monthly copayment is 1/12 of 1% of household income as established during the annual application process.

(ii) If the applicant's household income is at or below 125% but greater than 100% of the federal poverty guidelines, the monthly copayment is 1/12 of 2% of household income as established during the annual application process.

(iii) If the applicant's household income is at or below 150% but greater than 125% of the federal poverty guidelines, the monthly copayment is 1/12 of 3% of household income as established during the annual application process.

(iv) If the applicant's household income is at or below 175% but greater than 150% of the federal poverty guidelines, the monthly copayment is 1/12 of 4% of household income as established during the annual application process.

(v) If the applicant's household income is at or below 200% but greater than 175% of the federal poverty guidelines, the monthly copayment is 1/12 of 5% of household income as established during the annual application process.

(4) Subsequent to enrollment in the EPIC program, an applicant who has a household income at or below 100% of the federal poverty guidelines shall be referred to the local family independence agency for assessment of eligibility for medicaid. Nothing in this subsection shall be construed as mandating that an applicant found eligible for medicaid must enroll in that program in lieu of enrollment in the EPIC program.

(5) For the purpose of determining eligibility under this section, an institution is a facility in which an individual resides and receives medical care through the facility, including prescription drugs. An institution may include a hospital, nursing home, convalescent center, mental health or psychiatric facility, or jail, prison, or other correctional facility. An adult foster care home, a home for the aged, or an assisted living facility is not an institution for purposes of determining eligibility under this section.

(6) For an owner of a sole proprietorship whose business has not more than 1 employee and has less than \$200,000.00 in assets or for the owner of a family-owned farm with less

than \$200,000.00 in assets, household income for the purposes of determining income eligibility under this section shall be determined after excluding business or farm expenses deducted for federal tax purposes.

This act is ordered to take immediate effect.

Approved April 12, 2004.

Filed with Secretary of State April 12, 2004.

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**[No. 58]**

**(HB 5104)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 316 (MCL 750.316), as amended by 1999 PA 189.

*The People of the State of Michigan enact:*

**750.316 First degree murder; penalty; definitions.**

Sec. 316. (1) A person who commits any of the following is guilty of first degree murder and shall be punished by imprisonment for life:

(a) Murder perpetrated by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing.

(b) Murder committed in the perpetration of, or attempt to perpetrate, arson, criminal sexual conduct in the first, second, or third degree, child abuse in the first degree, a major controlled substance offense, robbery, carjacking, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, kidnapping, or vulnerable adult abuse in the first and second degree under section 145n.

(c) A murder of a peace officer or a corrections officer committed while the peace officer or corrections officer is lawfully engaged in the performance of any of his or her duties as a peace officer or corrections officer, knowing that the peace officer or corrections officer is a peace officer or corrections officer engaged in the performance of his or her duty as a peace officer or corrections officer.

(2) As used in this section:

(a) “Arson” means a felony violation of chapter X.

(b) “Corrections officer” means any of the following:

(i) A prison or jail guard or other prison or jail personnel.

(ii) Any of the personnel of a boot camp, special alternative incarceration unit, or other minimum security correctional facility.

(iii) A parole or probation officer.

(c) “Major controlled substance offense” means any of the following:

(i) A violation of section 7401(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401.

(ii) A violation of section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7403.

(iii) A conspiracy to commit an offense listed in subparagraph (i) or (ii).

(d) “Peace officer” means any of the following:

(i) A police or conservation officer of this state or a political subdivision of this state.

(ii) A police or conservation officer of the United States.

(iii) A police or conservation officer of another state or a political subdivision of another state.

**Effective date.**

Enacting section 1. This amendatory act takes effect 60 days after the date it is enacted.

This act is ordered to take immediate effect.

Approved April 12, 2004.

Filed with Secretary of State April 12, 2004.

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**[No. 59]**

**(HB 5184)**

AN ACT to amend 1979 PA 218, entitled “An act to provide for the licensing and regulation of adult foster care facilities; to provide for the establishment of standards of care for adult foster care facilities; to prescribe powers and duties of the department of social services and other departments; to prescribe certain fees; to prescribe penalties; and to repeal certain acts and parts of acts,” by amending sections 13, 22, and 36 (MCL 400.713, 400.722, and 400.736), sections 13 and 22 as amended by 1994 PA 150 and section 36 as added by 1984 PA 140, and by adding section 34a.

*The People of the State of Michigan enact:*

**400.713 License required; application; form; investigation; on-site evaluation; issuance or renewal of license; disclosures; maximum number of persons; stating type of specialized program; issuance of license to specific person at specific location; transferability of license; sale of facility; notice; items of noncompliance; refusal by department to issue or renew license; conditions; unlicensed facility; violation as misdemeanor; penalty.**

Sec. 13. (1) A person, partnership, corporation, association, or a department or agency of the state, county, city, or other political subdivision shall not establish or maintain an adult foster care facility unless licensed by the department.

(2) Application for a license shall be made on forms provided and in the manner prescribed by the department. The application shall be accompanied by the fee prescribed in section 13a.

(3) Before issuing or renewing a license, the department shall investigate the activities and standards of care of the applicant and shall make an on-site evaluation of the facility. On-site inspections conducted in response to the application may be conducted without



prior notice to the applicant. Subject to subsections (9), (10), and (11), the department shall issue or renew a license if satisfied as to all of the following:

(a) The financial stability of the facility.

(b) The applicant's compliance with this act and rules promulgated under this act.

(c) The good moral character of the applicant, or owners, partners, or directors of the facility, if other than an individual. Each of these persons shall be not less than 18 years of age.

(d) The physical and emotional ability of the applicant, and the person responsible for the daily operation of the facility to operate an adult foster care facility.

(e) The good moral character of the person responsible for the daily operations of the facility and all employees of the facility. The applicant shall be responsible for assessing the good moral character of the employees of the facility. The person responsible for the daily operation of the facility shall be not less than 18 years of age.

(4) The department shall require an applicant or a licensee to disclose the names, addresses, and official positions of all persons who have an ownership interest in the adult foster care facility. If the adult foster care facility is located on or in real estate that is leased, the applicant or licensee shall disclose the name of the lessor of the real estate and any direct or indirect interest that the applicant or licensee has in the lease other than as lessee.

(5) Each license shall state the maximum number of persons to be received for foster care at 1 time.

(6) If applicable, a license shall state the type of specialized program for which certification has been received from the department.

(7) A license shall be issued to a specific person for a facility at a specific location, shall be nontransferable, and shall remain the property of the department. The prohibition against transfer of a license to another location does not apply if a licensee's adult foster care facility or home is closed as a result of eminent domain proceedings, if the facility or home, as relocated, otherwise meets the requirements of this act and the rules promulgated under this act.

(8) An applicant or licensee proposing a sale of an adult foster care facility or home to another owner shall provide the department with advance notice of the proposed sale in writing. The applicant or licensee and other parties to the sale shall arrange to meet with specified department representatives and shall obtain before the sale a determination of the items of noncompliance with applicable law and rules that shall be corrected. The department shall notify the respective parties of the items of noncompliance before the change of ownership, shall indicate that the items of noncompliance shall be corrected as a condition of issuance of a license to the new owner, and shall notify the prospective purchaser of all licensure requirements.

(9) The department shall not issue a license to or renew the license of a person who has been convicted of a felony under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r. The department shall not issue a license to or renew the license of a person who has been convicted of a misdemeanor under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, for a period of 10 years after the conviction.

(10) If the department has revoked, suspended, or refused to renew a person's license for an adult foster care facility according to section 22, the department may refuse to issue a license to or renew a license of that person for a period of 5 years after the suspension, revocation, or nonrenewal of the license.

(11) The department may refuse to issue a license to or renew the license of an applicant if the department determines that the applicant has a relationship with a former licensee whose license under this act has been suspended, revoked, or nonrenewed under subsection (9) or section 22 or a convicted person to whom a license has been denied under subsection (9). This subsection applies for 5 years after the suspension, revocation, or nonrenewal of the former licensee's license or the denial of the convicted person's license. For purposes of this subsection, an applicant has a relationship with a former licensee or convicted person if the former licensee or convicted person is involved with the facility in 1 or more of the following ways:

- (a) Participates in the administration or operation of the facility.
- (b) Has a financial interest in the operation of the facility.
- (c) Provides care to residents of the facility.
- (d) Has contact with residents or staff on the premises of the facility.
- (e) Is employed by the facility.
- (f) Resides in the facility.

(12) If the department determines that an unlicensed facility is an adult foster care facility, the department shall notify the owner or operator of the facility that it is required to be licensed under this act. A person receiving the notification required under this section who does not apply for a license within 30 days is subject to the penalties described in subsection (13).

(13) Subject to subsection (12), a person who violates subsection (1) is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years or a fine of not more than \$50,000.00, or both. A person who has been convicted of a violation of subsection (1) who commits a second or subsequent violation is guilty of a felony, punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

#### **400.722 Denying, suspending, revoking, refusing to renew, or modifying license; grounds; notice; hearing; decision; protest; receiving or maintaining adults requiring foster care as felony; penalty; relocation services; emergency license.**

Sec. 22. (1) The department may deny, suspend, revoke, or refuse to renew a license, or modify a regular license to a provisional license, if the licensee falsifies information on the application for license or willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license.

(2) The department may suspend, revoke, or modify a license of an applicant if the department determines that the applicant has a relationship with a former licensee whose license under this act has been suspended, revoked, or nonrenewed under this section or section 13(9) or a convicted person to whom a license has been denied under section 13(9). This subsection applies for 10 years after the suspension, revocation, or nonrenewal of the former licensee's license or the denial of the convicted person's license. As used in this subsection, an applicant has a relationship with a former licensee or convicted person if the former licensee or convicted person is involved with the facility in 1 or more of the following ways:

- (a) Participates in the administration or operation of the facility.
- (b) Has a financial interest in the operation of the facility.
- (c) Provides care to residents of the facility.
- (d) Has contact with residents or staff on the premises of the facility.
- (e) Is employed by the facility.
- (f) Resides in the facility.

(3) A license shall not be denied, suspended, or revoked, a renewal shall not be refused, and a regular license shall not be modified to a provisional license unless the department gives the licensee or applicant written notice of the grounds of the proposed denial, revocation, refusal to renew, or modification. If the licensee or applicant appeals the denial, revocation, refusal to renew, or modification by filing a written appeal with the director within 30 days after receipt of the written notice, the director or the director's designated representative shall conduct a hearing at which the licensee or applicant may present testimony and confront witnesses. Notice of the hearing shall be given to the licensee or applicant by personal service or delivery to the proper address by registered mail not less than 2 weeks before the date of the hearing. The decision of the director shall be made and forwarded to the protesting party by registered mail not more than 30 days after the hearing. If the proposed denial, revocation, refusal to renew, or modification is not protested within 30 days, the license shall be denied, revoked, refused, or modified.

(4) If the department has revoked, suspended, or refused to renew a license, the former licensee shall not receive or maintain in that facility an adult who requires foster care. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

(5) If the department has revoked, suspended, or refused to renew a license, relocation services shall be provided to adults who were being served by the formerly licensed facility, upon the department's determination that the adult or his or her designated representative is unable to relocate the adult in another facility without assistance. The relocation services shall be provided by the responsible agency, as defined in administrative rules, or, if the adult has no agency designated as responsible, by the department.

(6) In the case of facilities that are operated under lease with a state department or a community mental health services board, the department may issue an emergency license for a 90-day period to avoid relocation of residents following the revocation, suspension, or nonrenewal of a license, if all of the following requirements are met:

(a) The leased physical plant is in substantial compliance with all licensing requirements.

(b) The applicant for the emergency license is a licensee who is in compliance with all applicable regulations under this act and under contract with a state department or a community mental health services board to operate the leased physical plant temporarily.

(c) The former licensee's access to the facility according to a lease, sublease, or contract has been lawfully terminated by the owner or lessee of the facility.

#### **400.734a Adult foster care facility; employment of individual providing direct services; criminal history check.**

Sec. 34a. (1) In addition to the restrictions prescribed in sections 13, 22, and 31, and except as otherwise provided in subsection (2), an adult foster care facility shall not employ or independently contract with an individual who regularly provides direct services to residents of the adult foster care facility after the effective date of the amendatory act that added this section if the individual has been convicted of 1 or more of the following:

(a) A felony or an attempt or conspiracy to commit a felony within the 15 years immediately preceding the date of application for employment or the date of the execution of the independent contract.

(b) A misdemeanor involving abuse, neglect, assault, battery, or criminal sexual conduct or involving fraud or theft against a vulnerable adult as that term is defined in section 145m

of the Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or federal crime that is substantially similar to a misdemeanor described in this subdivision within the 10 years immediately preceding the date of application for employment or the date of the execution of the contract.

(c) An offense listed under R 400.1152 of the Michigan administrative code.

(2) Except as otherwise provided in this subsection and subsection (7), an adult foster care facility shall not employ or independently contract with an individual who regularly provides direct services to residents after the effective date of the amendatory act that added this section until the adult foster care facility complies with subsection (4), (5), or (6). This subsection and subsection (1) do not apply to an individual who is employed by or under contract to an adult foster care facility before the effective date of the amendatory act that added this subsection.

(3) An individual who applies for employment either as an employee or as an independent contractor with an adult foster care facility and has received a good faith offer of employment or independent contract from the adult foster care facility shall give written consent at the time of application for the department of state police to conduct a criminal history check under this section, along with identification acceptable to the department of state police. If the department of state police or equivalent state agency under subsection (6) has conducted a criminal history check on the individual within the 24 months immediately preceding the date of application and the individual provides written consent for release of information for the purposes of this section, the adult foster care facility may use a copy of that criminal history check instead of obtaining written consent and requesting a new criminal history check under this section. If the individual is using a prior criminal history check as described in this subsection, the adult foster care facility shall accept the copy of the results of the criminal history check only from the adult foster care facility or health facility or agency that previously employed or independently contracted with the individual.

(4) Upon receipt of the written consent and identification required under subsection (3), if the individual has resided in this state for 3 or more years preceding the good faith offer of employment or independent contract, the adult foster care facility that has made a good faith offer of employment or independent contract shall make a request to the department of state police to conduct a criminal history check on the individual. The request shall be made in a manner prescribed by the department of state police. The adult foster care facility shall make the written consent and identification available to the department of state police. If there is a charge for conducting the criminal history check, the adult foster care facility requesting the criminal history check shall pay the cost of the charge. The adult foster care facility shall not seek reimbursement for the charge from the individual who is the subject of the criminal history check. The department of state police shall conduct a criminal history check on the individual named in the request. The department of state police shall provide the adult foster care facility with a written report of the criminal history check. The report shall contain any criminal history record information on the individual maintained by the department of state police. As a condition of employment, an individual shall sign a written statement that he or she has been a resident of this state for 3 or more years preceding the good faith offer of employment or independent contract.

(5) Upon receipt of the written consent and identification required under subsection (3), if the individual has applied for employment either as an employee or as an independent contractor with an adult foster care facility licensed for more than 6 persons and has resided in this state for less than 3 years preceding the good faith offer of employment or independent contract, the adult foster care facility that has made a good faith offer of employment or independent contract shall comply with subsection (4) and shall make a

request to the department of state police to forward the individual's fingerprints to the federal bureau of investigation. The department of state police shall request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the individual. An individual described in this subsection shall provide the department of state police with 2 sets of fingerprints. The department of state police shall complete the criminal history check under subsection (4) and, except as otherwise provided in this subsection, provide the results of its determination under subsection (4) to the adult foster care facility and the results of the federal bureau of investigation determination to the department of consumer and industry services within 30 days after the request is made. If the requesting adult foster care facility is not a state department or agency and if a crime is disclosed on the federal bureau of investigation determination, the department shall notify the adult foster care facility in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. The charges for fingerprinting or a federal bureau of investigation determination under this subsection shall be paid in the manner required under subsection (4).

(6) Upon receipt of the written consent and identification required under subsection (3), if the individual has applied for employment either as an employee or as an independent contractor with an adult foster care facility licensed for 6 persons or less and has resided in this state for less than 3 years preceding the good faith offer of employment or independent contract, the adult foster care facility that has made the good faith offer of employment or independent contract shall comply with subsection (4) and shall make a request to the department of state police or state agency responsible for maintaining statewide criminal history information of all the states in which the individual resided during the preceding 5 years to conduct a criminal history check on the individual.

(7) If an adult foster care facility determines it necessary to employ or independently contract with an individual before receiving the results of the individual's criminal history check required under this section, the adult foster care facility may conditionally employ the individual if both of the following apply:

(a) The adult foster care facility requests the criminal history check required under this section, upon conditionally employing the individual.

(b) The individual signs a written statement indicating all of the following:

(i) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) and (b) within the applicable time period prescribed by subsection (1)(a) and (b).

(ii) The individual agrees that, if the information in the criminal history check conducted under this section does not confirm the individual's statement under subparagraph (i), his or her employment will be terminated by the adult foster care facility as required under subsection (1) unless and until the individual can prove that the information is incorrect. The adult foster care facility shall provide a copy of the results of the criminal history check conducted under this section, to the individual upon request.

(iii) That he or she understands the conditions described in subparagraphs (i) and (ii) that result in the termination of his or her employment and that those conditions are good cause for termination.

(8) On the effective date of the amendatory act that added this subsection, the department of consumer and industry services shall develop and distribute a model form for the statement required under subsection (7)(b). The department of consumer and industry services shall make the model form available to adult foster care facilities upon request at no charge.

(9) If an individual is conditionally employed under subsection (7), and the report described in subsection (4), (5), or (6), if applicable, does not confirm the individual's statement under subsection (7)(b)(i), the adult foster care facility shall terminate the individual's employment as required by subsection (1).

(10) An individual who knowingly provides false information regarding a criminal conviction on a statement described in subsection (7)(b)(i) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(11) An adult foster care facility shall use criminal history record information obtained under subsection (4), (5), or (6) only for the purpose of evaluating an individual's qualifications for employment in the position for which he or she has applied and for the purposes of subsections (7) and (9). An adult foster care facility or an employee of the adult foster care facility shall not disclose criminal history record information obtained under this section to a person who is not directly involved in evaluating the individual's qualifications for employment or independent contract. Upon written request from another adult foster care facility or health facility or agency that is considering employing or independently contracting with an individual, an adult foster care facility that has obtained criminal history record information under this section on that individual shall share the information with the requesting adult foster care facility or health facility or agency. Except for a knowing or intentional release of false information, an adult foster care facility has no liability in connection with a background check conducted under this section or the release of criminal history record information under this subsection.

(12) As a condition of continued employment, each employee or independent contractor shall agree in writing to report to the adult foster care facility immediately upon being arrested for or convicted of 1 or more of the criminal offenses listed in subsection (1)(a) and (b).

(13) As used in this section:

(a) "Health facility or agency" means a health facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(b) "Independent contract" means a contract entered into by an adult foster care facility with an individual who provides the contracted services independently or a contract entered into by an adult foster care facility with an organization or agency that employs or contracts with an individual after complying with the requirements of this section to provide the contracted services to the adult foster care facility on behalf of the organization or agency.

#### **400.736 Concurrent license as foster family home or foster family group home; receiving additional minor children; definitions.**

Sec. 36. (1) An adult foster care family home may be concurrently licensed as a foster family home or a foster family group home. Except as provided in subsection (2), additional minor children who are not related to a resident of the adult foster care family home shall not be received in the adult foster care family home after the filing of an application for a license under this act.

(2) A licensee may receive a minor child placed in foster care under the laws of this state after filing an application for a license under this act. A placement under this subsection shall be approved at the discretion of the director or his or her designee and shall be based upon a recommendation by a licensed child placing agency or an approved governmental unit and shall be subject to appropriate terms and conditions determined by the department.

(3) As used in this section:

(a) “Foster family home” means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) “Foster family group home” means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

**Effective date.**

Enacting section 1. This amendatory act takes effect August 1, 2004.

This act is ordered to take immediate effect.

Approved April 12, 2004.

Filed with Secretary of State April 12, 2004.

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**[No. 60]**

**(HB 5344)**

AN ACT to amend 1992 PA 147, entitled “An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units,” by amending section 4 (MCL 207.774), as amended by 2003 PA 199.

*The People of the State of Michigan enact:*

**207.774 Neighborhood enterprise zone certificate; application; filing; manner and form; contents; effective date of certificate.**

Sec. 4. (1) The owner or developer or prospective owner or developer of a proposed new facility or an owner or developer or prospective developer proposing to rehabilitate property located in a neighborhood enterprise zone may file an application for a neighborhood enterprise zone certificate with the clerk of the local governmental unit. The application shall be filed in the manner and form prescribed by the commission. Except as provided in subsection (2), the application shall be filed before a building permit is issued for the new construction or rehabilitation of the facility.

(2) An application may be filed after a building permit is issued only if 1 or more of the following apply:

(a) For the rehabilitation of a facility if the area in which the facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in the calendar year 1992 and if the building permit is issued for the rehabilitation before December 31, 1994 and after the date on which the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit.

(b) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local

governmental unit in calendar year 1992 or 1993 and if the building permit is issued for that new facility before December 31, 1995 and after January 1, 1993.

(c) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1997 and if the building permit is issued for that new facility on February 3, 1998.

(d) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1996 and if the building permit was issued for that facility on or before July 3, 2001.

(e) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in October 1994 and if the building permit was issued for that facility on or before April 25, 1997.

(f) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in September 2001 and if the building permit is issued for that new facility on March 3, 2003.

(3) The application shall contain or be accompanied by all of the following:

(a) A general description of the new facility or proposed rehabilitated facility.

(b) The dimensions of the parcel on which the new facility or proposed rehabilitated facility is or is to be located.

(c) The general nature and extent of the construction to be undertaken.

(d) A time schedule for undertaking and completing the rehabilitation of property or the construction of the new facility.

(e) Any other information required by the local governmental unit.

(4) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(c), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the commission.

(5) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(d) or the amendatory act that added subsection (2)(e), the effective date of the certificate shall be January 1, 2001.

This act is ordered to take immediate effect.

Approved April 12, 2004.

Filed with Secretary of State April 12, 2004.

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**[No. 61]**

**(SB 189)**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environ-



mental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 16263, 16348, 18501, 18503, 18505, 18507, 18509, 18511, 18513, and 18515 (MCL 333.16263, 333.16348, 333.18501, 333.18503, 333.18505, 333.18507, 333.18509, 333.18511, 333.18513, and 333.18515), section 16263 as amended by 2004 PA 3 and sections 16348, 18501, 18503, 18505, 18507, 18509, 18511, 18513, and 18515 as added by 2000 PA 11, and by adding sections 18504, 18506, 18506a, 18516, 18517, and 18518.

*The People of the State of Michigan enact:*

### **333.16263 Restricted use of words, titles, or letters.**

Sec. 16263. (1) Except as provided in subsection (2), the following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this article to use the terms and in a way prescribed in this article:

(a) “Chiropractic”, “doctor of chiropractic”, “chiropractor”, “d.c.”, and “chiropractic physician”.

(b) “Dentist”, “doctor of dental surgery”, “oral and maxillofacial surgeon”, “orthodontist”, “prosthodontist”, “periodontist”, “endodontist”, “oral pathologist”, “pediatric dentist”, “dental hygienist”, “registered dental hygienist”, “dental assistant”, “registered dental assistant”, “r.d.a.”, “d.d.s.”, “d.m.d.”, and “r.d.h.”.

(c) “Doctor of medicine” and “m.d.”.

(d) “Physician’s assistant” and “p.a.”.

(e) “Registered professional nurse”, “registered nurse”, “r.n.”, “licensed practical nurse”, “l.p.n.”, “nurse midwife”, “nurse anesthetist”, “nurse practitioner”, “trained attendant”, and “t.a.”.

(f) “Doctor of optometry”, “optometrist”, and “o.d.”.

(g) “Osteopath”, “osteopathy”, “osteopathic practitioner”, “doctor of osteopathy”, “diplomat in osteopathy”, and “d.o.”.

(h) “Pharmacy”, “pharmacist”, “apothecary”, “drugstore”, “druggist”, “medicine store”, “prescriptions”, and “r.ph.”.

(i) “Physical therapy”, “physical therapist”, “physiotherapist”, “registered physical therapist”, “licensed physical therapist”, “physical therapy technician”, “p.t.”, “r.p.t.”, “l.p.t.”, and “p.t.t.”.

(j) “Chiropodist”, “chiropody”, “chiropodical”, “podiatry”, “podiatrist”, “podiatric”, “doctor of podiatric medicine”, “foot specialist”, “podiatric physician and surgeon”, and “d.p.m.”.

(k) “Consulting psychologist”, “psychologist”, “psychological assistant”, “psychological examiner”, “licensed psychologist”, and “limited licensed psychologist”.

(l) “Licensed professional counselor”, “licensed counselor”, “professional counselor”, and “l.p.c.”.

(m) “Sanitarian”, “registered sanitarian”, and “r.s.”.

(n) Until July 1, 2005, “social worker”, “certified social worker”, “social work technician”, “s.w.”, “c.s.w.”, and “s.w.t.”. Beginning July 1, 2005, “social worker”, “licensed master’s social worker”, “licensed bachelor’s social worker”, “registered social service technician”, “social service technician”, “l.m.s.w.”, “l.b.s.w.”, and “r.s.s.t.”.

(o) “Veterinary”, “veterinarian”, “veterinary doctor”, “veterinary surgeon”, “doctor of veterinary medicine”, “v.m.d.”, “d.v.m.”, “animal technician”, or “animal technologist”.

(p) “Occupational therapist”, “occupational therapist registered”, “certified occupational therapist”, “o.t.”, “o.t.r.”, “c.o.t.”, “certified occupational therapy assistant”, “occupational therapy assistant”, or “c.o.t.a.”.

(q) “Marriage advisor” or “marriage consultant”; “family counselor”, “family advisor”, “family therapist”, or “family consultant”; “family guidance counselor”, “family guidance advisor”, or “family guidance consultant”; “marriage guidance counselor”, “marriage guidance advisor”, or “marriage guidance consultant”; “family relations counselor”, “marriage relations counselor”, “marriage relations advisor”, or “marriage relations consultant”; “marital counselor” or “marital therapist”; “limited licensed marriage and family therapist” or “limited licensed marriage counselor”; “licensed marriage and family therapist” or “licensed marriage counselor”; and “l.m.ft.”.

(r) “Nursing home administrator”.

(s) “Respiratory therapist”, “respiratory care practitioner”, “licensed respiratory therapist”, “licensed respiratory care practitioner”, “r.t.”, “r.c.p.”, “l.r.t.”, and “l.r.c.p.”.

(2) Notwithstanding section 16261, a person who was specially trained at an institution of higher education in this state to assist a physician in the field of orthopedics and upon completion of training, received a 2-year associate of science degree as an orthopedic physician’s assistant before January 1, 1977, may use the title “orthopedic physician’s assistant” whether or not the person is licensed under this article.

**333.16348 Licensed bachelor’s social worker, licensed master’s social worker, or registered social service technician; fees.**

Sec. 16348. Fees for a person licensed or seeking licensure as a licensed bachelor’s social worker or a licensed master’s social worker or a person registered or seeking registration as a registered social service technician under part 185 are as follows:

(a) Application processing fee.....	\$ 15.00
(b) License fee, per year:	
(i) Licensed bachelor’s social worker.....	25.00
(ii) Licensed master’s social worker.....	25.00
(c) Registration fee, per year, for a social service technician.....	25.00

**333.18501 Definitions; scope.**

Sec. 18501. (1) As used in this part:

(a) “Health facility” means a health facility or agency licensed under article 17 or a hospital, psychiatric hospital, or psychiatric unit licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(b) “Licensed bachelor’s social worker” means an individual licensed under this article to engage in the practice of social work at the bachelor’s level.

(c) “Licensed master’s social worker” means an individual licensed under this article to engage in the practice of social work at the master’s level.

(d) “Practice of medicine” means that term as defined in section 17001.

(e) “Practice of osteopathic medicine and surgery” means that term as defined in section 17501.

(f) “Practice of social work at the bachelor’s level” means, subject to subsections (2) and (4), all of the following applied within the scope of social work values, ethics, principles, and skills:

(i) The application of social work theory, knowledge, methods, and ethics to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, or communities, with particular attention to the person-in-environment configuration.

(ii) Social work case management and casework, including assessments, planning, referral, and intervention with individuals, families, couples, groups, communities, or organizations within the context of social work values, ethics, principles, and skills.

(iii) Helping communities, organizations, individuals, or groups improve their social or health services by utilizing social work practice skills.

(iv) The administration of assessment checklists that do not require special training and that do not require interpretation.

(g) “Practice of social work at the master’s level” means, subject to subsection (5), all of the following applied within the scope of social work values, ethics, principles, and advanced skills:

(i) The advanced application of the knowledge of human development and behavior and social, economic, and cultural institutions.

(ii) The advanced application of macro social work processes and systems to improve the social or health services of communities, groups, or organizations through planned interventions.

(iii) The application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. Treatment methods include the provision of advanced social work case management and casework and individual, couple, family, or group counseling and psychotherapy whether in private practice or other settings.

(h) “Social service technician” means an individual registered under this article who is specially trained to practice only under the supervision of a licensed master’s social worker or a licensed bachelor’s social worker.

(2) An individual who performs 1 or more of the functions described in subdivision (f)(i) through (iv) but not all of those functions is not considered engaged in the practice of social work at the bachelor’s level.

(3) In addition to the definitions of this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

(4) The practice of social work at the bachelor’s level does not include the practice of medicine or the practice of osteopathic medicine and surgery, including, but not limited to, the prescribing of drugs, the administration of electroconvulsive therapy, the practice of psychotherapy, and other advanced clinical skills pursuant to section 18501(g)(iii) or the

administration or interpretation of psychological tests, except as otherwise provided in subdivision (f)(iv).

(5) The practice of social work at the master's level does not include the practice of medicine or the practice of osteopathic medicine and surgery, including, but not limited to, the prescribing of drugs or administration of electroconvulsive therapy.

### **333.18503 Representation or use of title; prohibition.**

Sec. 18503. (1) An individual shall not represent that he or she is a social service technician or use a title including "social service technician" or an abbreviation of those terms or the letters "s.s.t." or similar words which would indicate that he or she is registered under this article unless the individual is registered in that capacity under this article.

(2) Only a licensed bachelor's social worker shall use the title "licensed bachelor's social worker", "social worker", or "l.b.s.w.". Only a licensed master's social worker shall use the title "licensed master's social worker", "social worker", or "l.m.s.w.".

### **333.18504 License required.**

Sec. 18504. (1) An individual shall not engage in the practice of social work at the bachelor's or master's level or use a title described in section 18503 unless licensed or otherwise allowed under this part.

(2) The department shall issue a license or registration under this part for a duration of 3 years.

### **333.18505 Michigan board of social work; creation; membership.**

Sec. 18505. (1) Subject to section 18515(2) and subsection (2), the Michigan board of social work is created in the department and consists of the following 9 voting members who meet the requirements of part 161:

(a) Until July 1, 2004, 4 certified social workers and 2 social workers who meet the requirements of section 16135(2). Beginning July 1, 2004, 6 individuals engaged primarily in the practice of social work.

(b) Three public members.

(2) For board members appointed on or after July 1, 2004, the 6 members appointed that are primarily engaged in the practice of social work shall be licensed under this part by July 1, 2008.

### **333.18506 Postdegree experience; limited license.**

Sec. 18506. An individual who is granted a limited license under section 18509(2) to engage in the 2-year postdegree experience in the practice of social work at the bachelor's or master's level shall practice under the supervision of a licensed master's social worker and confine his or her practice to an agency, a health facility, an institution, or another entity approved by the board.

### **333.18506a Applicability of part.**

Sec. 18506a. (1) This part does not apply to any of the following:

(a) An individual who is engaged in a course of study leading to a degree in social work and participating in an internship or field placement supervised by a licensed master's social worker.

(b) An individual who is not licensed or otherwise authorized under this part to engage in the practice of social work at the bachelor's or master's level or registered as a social service technician who donates his or her services, other than psychotherapy services, to a charitable nonprofit organization so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part.

(c) An ordained cleric or other religious practitioner if elements of section 18501(f) or (g) are incidental to his or her religious duties performed under the auspices or recognition of a church, denomination, religious association, or sect that has tax-exempt status pursuant to section 501(c)(3) of the internal revenue code of 1986, if he or she does not hold himself or herself out as a social worker licensed, registered, or otherwise authorized under this part.

(d) A certified, licensed, or otherwise statutorily recognized member of any other profession who practices his or her profession as authorized by law so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part.

(e) An individual who is a participant in a self-help, peer counseling, or support services program provided by either a charitable or labor organization exempt from taxation under section 501(c)(3) or 501(c)(5) of the internal revenue code of 1986, so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part. The exemption for a participant in a program described under this subdivision does not otherwise provide an exemption from licensure or registration under this part for an employee of the charitable or labor organization not otherwise authorized to engage in activities or use a title regulated under this part.

(f) An individual whose duties may include some or all of the activities described in section 18501(1)(f) as long as he or she is trained and does not hold himself or herself out as an individual licensed or registered under this part or does not use a title regulated by this part, or both.

(2) This part does not prohibit an individual who holds a bachelor's, master's, or doctorate degree in social work from an accredited college or university from using a title including "social work" if the individual does not engage in the practice of social work at the bachelor's or master's level.

### **333.18507 Social service technician; registration requirements; limited registration.**

Sec. 18507. (1) The board may grant registration under this article as a social service technician to an individual who meets all of the following requirements:

(a) Has had 1 year of social work experience acceptable to the board or has successfully completed 2 years of college that included some coursework relevant to human services areas.

(b) Is employed in the practice of social work and applies social work values, ethics, principles, and skills. This subdivision is waived if the individual has the equivalent of 2,000 hours of service in social work with an agency recognized by the board or has received an associate degree in social work at a college approved by the board that includes supervised instructional field experience.

(2) The board may grant registration under this article as a limited social service technician to an individual who has successfully completed 2 years of college and is employed in the practice of social work, or has been made an offer of employment in the practice of social work, with an agency recognized by the board, applies social work

values, ethics, principles, and skills under the supervision of a licensee under this part, and is seeking to obtain the experience for registration as a social service technician. A limited registration under this subsection is renewable for not more than 1 year.

### **333.18509 License requirements; limited license.**

Sec. 18509. (1) Except as otherwise provided in section 18515, an individual granted a license under this part shall meet the following requirements:

(a) A licensed bachelor's social worker shall have been awarded a bachelor's degree in social work from a college or university social work program approved by the board and shall have completed at least 2 years of full-time postbachelor's degree experience, or the equivalent in part-time hours, in the practice of social work at the bachelor's level under the supervision of a licensed master's social worker. Until July 1, 2008, the required experience in the practice of social work at the bachelor's level shall be performed under the supervision of a person who has been awarded a master's or doctoral degree in social work from a college or university school of social work.

(b) A licensed master's social worker shall have been awarded a master's or doctoral degree in the field of social work from a college or university social work program approved by the board and shall have completed at least 2 years of full-time postmaster's or postdoctoral degree experience, or the equivalent in part-time hours, in the practice of social work at the master's level under the supervision of a licensed master's social worker. Until July 1, 2008, the required experience in the practice of social work at the master's level shall be performed under the supervision of a person who has been awarded a master's or doctoral degree in the field of social work from a college or university school of social work and has engaged in the practice of social work for not less than 2 years. In addition to the requirements set forth in this subdivision, a licensed master's social worker employed by a school district shall meet the requirements for employment as a school social worker contained in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the rules promulgated under that act.

(2) The board may grant a limited license to engage in the 2-year postdegree experience required under subsection (1) to an individual who has completed all the educational requirements for licensure as a bachelor's social worker or a master's social worker. A limited license granted under this subsection is renewable for not more than 6 years.

### **333.18511 Practice of social work; requirements.**

Sec. 18511. A licensee shall not perform an act, task, or function within the practice of social work unless he or she is trained to perform the act, task, or function and the performance of the act, task, or function is consistent with the code of ethics for social workers.

### **333.18513 Confidentiality of communication.**

Sec. 18513. (1) An individual registered or licensed under this part or an employee or officer of an organization that employs the registrant or licensee is not required to disclose a communication or a portion of a communication made by a client to the individual or advice given in the course of professional employment.

(2) Except as otherwise provided in this section, a communication between a registrant or licensee or an organization with which the registrant or licensee has an agency relationship and a client is a confidential communication. A confidential communication shall not be disclosed, except under either or both of the following circumstances:

(a) The disclosure is part of a required supervisory process within the organization that employs or otherwise has an agency relationship with the registrant or licensee.

(b) The privilege is waived by the client or a person authorized to act in the client's behalf.

(3) If requested by the court for a court action, a registrant or licensee shall submit to an appropriate court a written evaluation of the prospect or prognosis of a particular client without disclosing a privileged fact or a privileged communication. An attorney representing a client who is the subject of an evaluation described in this subsection has the right to receive a copy of the evaluation. If required for the exercise of a public purpose by a legislative committee, a registrant or licensee or agency representative may make available statistical and program information without violating the privilege established under subsection (2).

(4) A registrant or licensee may disclose a communication or a portion of a communication made by a client pursuant to section 946 of the mental health code, 1974 PA 258, MCL 330.1946, in order to comply with the duty set forth in that section.

### **333.18515 Registration issued under former act; term of member of board of examiners of social workers; continuation of rules; full licensure upon renewal application.**

Sec. 18515. (1) An individual who holds a registration issued under former article 16 of the occupational code, 1980 PA 299, on March 7, 2000 is registered under this part until that registration expires and may renew his or her registration pursuant to part 161.

(2) The members of the board of examiners of social workers created under former section 1602 of the occupational code, 1980 PA 299, shall serve as the initial members of the Michigan board of social work until their successors are appointed under this article or until the expiration of their respective terms, whichever occurs first. However, if the term of a member of the board of examiners of social workers has not expired on March 7, 2000, that term expires on June 30 of the year in which the term will expire.

(3) Rules promulgated by the board of examiners of social workers or the director under former article 16 of the occupational code, 1980 PA 299, and in effect on March 7, 2000 continue in effect to the extent that they do not conflict with this article and shall continue to be enforced. The rules may be amended or rescinded by the director.

(4) The board shall grant a full license as a licensed bachelor's social worker to an individual who holds a certificate of registration as a social worker issued before the effective date of this subsection upon the next renewal application for registration.

(5) The board shall grant a full license as a licensed master's social worker to an individual who holds a registration as a certified social worker issued before the effective date of this subsection upon the next renewal application for registration.

### **333.18516 Continuing education; rules.**

Sec. 18516. (1) Beginning the license renewal cycle after the effective date of the rules promulgated under this section, an individual licensed under this part shall meet the continuing education requirements of this section when renewing his or her license.

(2) The department, in consultation with the board, shall promulgate rules to require a licensee seeking renewal to furnish evidence that during the 3 years immediately preceding application for renewal, the licensee attended continuing education courses or programs related to the practice of social work and designed to further educate licensees.

(3) The department, in consultation with the board, shall establish by rule the total number of course or program clock hours at a minimum of 45 clock hours in any 3-year license renewal cycle. A portion of those clock hours must be in social work ethics.

(4) The department shall ensure that all approved continuing education courses include defined measurements of preknowledge and postknowledge or skill improvements, or both, as a result of the continuing education program.

**333.18517 Third party reimbursement or worker's compensation benefits.**

Sec. 18517. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services by an individual licensed as a social worker or registered as a social service technician under this article.

**333.18518 Training requirements; rules.**

Sec. 18518. (1) The department shall promulgate rules regarding the minimum training requirements for the practice of social work at the bachelor's level and for the practice of social work at the master's level.

(2) The rules regarding the practice of social work at the master's level shall distinguish between the training, education, and experience requirements relative to the social work applications described in section 18501(g)(ii) and (iii). The training, education, and experience requirements for the applications described in section 18501(g)(iii) shall include at least the following:

(a) Possession of a master's degree in social work.

(b) Completion of course work in normal human development and diagnosis, assessment, and treatment of individuals, couples, families, and groups, using a variety of psychotherapeutic methods or techniques.

(c) Completion of not less than 2 years of supervised post-master's degree clinical experience.

**Effective date.**

Enacting section 1. Sections 16348, 18501, 18503, 18507, 18509, 18511, 18513, and 18515 of the public health code, 1978 PA 368, MCL 333.16348, 333.18501, 333.18503, 333.18507, 333.18509, 333.18511, 333.18513, and 333.18515, as amended by this amendatory act, and sections 18504, 18506, 18506a, 18516, 18517, and 18518, as added by this amendatory act, take effect July 1, 2005.

This act is ordered to take immediate effect.

Approved April 12, 2004.

Filed with Secretary of State April 12, 2004.

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**[No. 62]**

**(HB 5120)**

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy



and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 1d, 65, 310d, 319b, 320a, 321a, 625, 625b, 627, 727, 732, 733, and 907 (MCL 257.1d, 257.65, 257.310d, 257.319b, 257.320a, 257.321a, 257.625, 257.625b, 257.627, 257.727, 257.732, 257.733, and 257.907), section 1d as added and sections 310d and 625 as amended by 2003 PA 61, section 65 as amended by 1994 PA 449, sections 319b and 732 as amended by 2002 PA 534, sections 320a and 627 as amended by 2003 PA 315, section 321a as amended by 2002 PA 741, section 625b as amended by 1998 PA 357, section 727 as amended by 1998 PA 348, section 733 as amended by 1994 PA 50, and section 907 as amended by 2003 PA 73, and by adding section 79e; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

#### **257.1d “Alcoholic liquor” defined.**

Sec. 1d. “Alcoholic liquor” means any liquid or compound, whether or not medicated, proprietary, patented, and by whatever name called, containing any amount of alcohol including any liquid or compound described in section 105(2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

#### **257.65 “State” defined.**

Sec. 65. “State” means any state, territory, or possession of the United States, Indian country as defined in 18 USC 1151, the District of Columbia, the Dominion of Canada, or any province of the Dominion of Canada.

#### **257.79e “Work zone” defined.**

Sec. 79e. “Work zone” means a portion of a street or highway that meets any of the following:

(a) Is between a “work zone begins” sign and an “end road work” sign.

(b) For construction, maintenance, or utility work activities conducted by a work crew and more than 1 moving vehicle, is between a “begin work convoy” sign and an “end work convoy” sign.

(c) For construction, maintenance, surveying, or utility work activities conducted by a work crew and 1 moving or stationary vehicle exhibiting a rotating beacon or strobe light, is between the following points:

(i) A point that is 150 feet behind the rear of the vehicle or that is the point from which the beacon or strobe light is first visible on the street or highway behind the vehicle, whichever is closer to the vehicle.

(ii) A point that is 150 feet in front of the front of the vehicle or that is the point from which the beacon or strobe light is first visible on the street or highway in front of the vehicle, whichever is closer to the vehicle.

**257.310d Designation of license as probationary for 3 years; suspension of license or imposition of probationary terms and conditions; duration; examination; reexamination; extension of probationary period; failure to appear for reexamination; notice of reexamination; additional provisions.**

Sec. 310d. (1) A license issued under this act to a person not previously licensed in this or in another state shall be designated as probationary for 3 years after the date of issuance. During the first 12 months of probation, the license may be suspended or probationary terms and conditions may be imposed upon failure of the licensee to appear before a magistrate, as provided in this chapter, or upon conviction of the licensee or determination of the licensee's responsibility for a moving violation in this state. The period of suspension or the probationary terms and conditions shall not be for more than 12 months and shall be determined by the secretary of state at an examination of the driver by the secretary of state.

(2) Upon completion of the first 12 months of probation, the secretary of state may require a licensee to be reexamined by the secretary of state if the licensee's driving record contains any of the following:

(a) A conviction or civil infraction determination for a moving violation that was assessed 4 or more points as provided in section 320a.

(b) Three convictions or 3 civil infraction determinations, or a combination of convictions and civil infraction determinations that equals 3, for moving violations.

(c) A total of 6 or more points as provided in section 320a.

(d) A conviction or civil infraction determination for a moving violation and an accident for which the official police report indicates the licensee had been drinking alcoholic liquor.

(e) A conviction or civil infraction determination for a moving violation and an accident for which the official police report indicates a moving violation on the part of the licensee.

(f) Three accidents for which the official police report indicates a moving violation on the part of the licensee.

(g) A suspension pursuant to section 625f.

(3) The probationary period shall be extended beyond 3 years and the secretary of state may reexamine a licensee as provided in subsection (2) if any of the following occur and are recorded on the licensee's driving record during the last 10 months of the probationary period:

(a) A moving violation resulting in a conviction or civil infraction determination.

(b) An accident for which the official police report indicates a moving violation on the part of the licensee.

(c) An accident for which the official police report indicates the licensee had been drinking alcoholic liquor.

(d) A license suspension for a reason other than a mental or physical disability.

(4) The probationary period shall be extended pursuant to subsection (3) until the licensee completes 10 consecutive months without a moving violation, accident, or suspension enumerated in subsection (3).

(5) Upon completion of a reexamination, the secretary of state may suspend or impose probationary terms and conditions on the license of a probationary licensee, except that a reexamination for subsection (2)(d), (e), or (f) shall not result in a license suspension or the imposition of probationary terms or conditions.

(6) For 24 months immediately after a licensee's probationary period, the secretary of state may require the licensee to be reexamined by the secretary of state if the licensee's driver record has a total of 9 or more points, as provided in section 320a, imposed in a period of 2 years and if the licensee's record contains 1 or more of the following:

(a) A conviction for a violation or attempted violation of any of the following:

(i) Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(ii) A violation or attempted violation of section 625m.

(iii) Former section 625b.

(iv) A local ordinance substantially corresponding to a conviction described in this subdivision.

(v) A law of another state substantially corresponding to a conviction described in this subdivision.

(b) A suspension of the licensee's license pursuant to section 625f.

(c) An accident for which the official police report indicates a moving violation on the part of the licensee.

(d) An accident for which the official police report indicates the licensee had been drinking alcoholic liquor.

(7) Upon completion of a reexamination under subsection (6), the secretary of state may suspend the license of the licensee, except that a reexamination for subsection (6)(c) or (d) shall not result in a license suspension or restriction.

(8) If a licensee fails to appear for a reexamination scheduled by the secretary of state pursuant to this section, the licensee's license may be suspended immediately and remain suspended until the licensee appears for a reexamination by the secretary of state.

(9) Notice of a reexamination required under this section shall be given by first-class mail to the last known address of the licensee.

(10) For purposes of this section:

(a) Upon conviction for a moving violation, the date of the violation shall be used in determining whether the conviction occurred within the probationary period.

(b) Upon entry of a civil infraction determination for a moving violation, the date of the violation shall be used in determining whether the civil infraction determination occurred within the probationary period.

(c) Information of a reexamination shall not be placed on a driver's record unless the secretary of state suspends a license or imposes probationary terms and conditions.

(d) A suspension shall be considered part of a driving record from the date the suspension is imposed until the suspension is terminated.

(e) The date of the official police report shall be used in determining whether a licensee was driving a motor vehicle involved in an accident for which the official police report indicates a moving violation on the part of the licensee or indicates the licensee had been drinking alcoholic liquor.

**257.319b Suspension or revocation of vehicle group designations on operator's or chauffeur's license; revocation for life of hazardous material indorsement; notice of conviction, bond forfeiture, civil infraction determination, violation of law, or refusal to submit to chemical test; period of suspension or revocation; definitions; applicability of conditions.**

Sec. 319b. (1) The secretary of state shall immediately suspend or revoke, as applicable, all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation described in this subsection of a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, or notice that the person has refused to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, breath, or urine while the person was operating a commercial motor vehicle as required by a law or local ordinance of this or another state. The period of suspension or revocation is as follows:

(a) Suspension for 60 days if the licensee is convicted of or found responsible for 1 of the following while operating a commercial motor vehicle:

(i) Two serious traffic violations arising from separate incidents within 36 months.

(ii) A violation of section 667, 668, 669, or 669a.

(iii) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(iv) A violation of section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(v) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11, as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(vi) A violation of motor carrier safety regulations 49 CFR 392.10 or 392.11 while operating a commercial motor vehicle other than a vehicle covered under subparagraph (iii), (iv), or (v).

(b) Suspension for 120 days if the licensee is convicted of or found responsible for 1 of the following arising from separate incidents within 36 months while operating a commercial motor vehicle:

(i) Three serious traffic violations.

(ii) Any combination of 2 violations described in subdivision (a)(ii).

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 1 of the following:

(i) A violation of section 625(1), (3), (4), (5), (6), (7), or (8), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial motor vehicle.

(ii) Leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(iii) A felony in which a commercial motor vehicle was used.

(iv) A refusal of a peace officer's request to submit to a chemical test of his or her blood, breath, or urine to determine the amount of alcohol or presence of a controlled substance or both in his or her blood, breath, or urine while he or she was operating a

commercial motor vehicle as required by a law or local ordinance of this state or another state.

(v) A 6-point violation as provided in section 320a while operating a commercial motor vehicle.

(vi) Any combination of 3 violations described in subdivision (a)(ii) arising from separate incidents within 36 months while operating a commercial motor vehicle.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for an offense enumerated in subdivision (c)(i) to (v) in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to have a placard pursuant to 49 CFR parts 100 to 199.

(e) Revocation for not less than 10 years and until the person is approved for the issuance of a vehicle group designation if a licensee is convicted of or found responsible for 1 of the following:

(i) Any combination of 2 violations arising from 2 or more separate incidents under section 625(1), (3), (4), (5), (6), (7), or (8), section 625m, or former section 625(1) or (2), or former section 625b, while driving a commercial motor vehicle.

(ii) Two violations of leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(iii) Two violations of a felony in which a commercial motor vehicle was used.

(iv) Two refusals of a request of a police officer to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood while he or she was operating a commercial motor vehicle in this state or another state, which refusals occurred in separate incidents.

(v) Two 6-point violations as provided in section 320a while operating a commercial motor vehicle.

(vi) Two violations, in any combination, of the offenses enumerated under subparagraph (i), (ii), (iii), (iv), or (v) arising from 2 or more separate incidents.

(f) Revocation for life if a licensee is convicted of or found responsible for any of the following:

(i) One violation of a felony in which a commercial motor vehicle was used and that involved the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(ii) A conviction of any offense described in subdivision (c) or (d) after having been approved for the issuance of a vehicle group designation under subdivision (e).

(iii) A conviction of a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(2) The secretary of state shall immediately revoke for life the hazardous material indorsement (H vehicle indorsement) on the operator's or chauffeur's license of a person with a vehicle group designation upon receiving notice from the U.S. department of transportation that the person poses a security risk warranting denial under the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) act of 2001, Public Law 107-56, 115 Stat. 272.

(3) The secretary of state shall immediately suspend all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation of section 319d(4)

or 319f, a local ordinance substantially corresponding to section 319d(4) or 319f, or a law or local ordinance of another state, the United States, Canada, Mexico, or a local jurisdiction of either of these countries substantially corresponding to section 319d(4) or 319f, while operating a commercial motor vehicle. The period of suspension or revocation is as follows:

(a) Suspension for 90 days if the licensee is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle.

(b) Suspension for 180 days if the licensee is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle that is either carrying hazardous material required to have a placard pursuant to 49 CFR parts 100 to 199 or designed to carry 16 or more passengers, including the driver.

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 2 violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 2 or more separate incidents during a 10-year period.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for 3 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 3 or more separate incidents during a 10-year period.

(e) Suspension for 3 years if the licensee is convicted of or found responsible for 2 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle carrying hazardous material required to have a placard pursuant to 49 CFR parts 100 to 199, or designed to carry 16 or more passengers, including the driver, arising from 2 or more separate incidents during a 10-year period.

(4) As used in this section:

(a) “Felony in which a commercial motor vehicle was used” means a felony during the commission of which the person convicted operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(i) The vehicle was used as an instrument of the felony.

(ii) The vehicle was used to transport a victim of the felony.

(iii) The vehicle was used to flee the scene of the felony.

(iv) The vehicle was necessary for the commission of the felony.

(b) “Serious traffic violation” means a traffic violation that occurs in connection with an accident in which a person died, careless driving, excessive speeding as defined in regulations promulgated under chapter 313 of title 49 of the United States Code, 49 USC 31301 to 31317, improper lane use, following too closely, or any other serious traffic violation as defined in 49 CFR 383.5 or as prescribed under this act.

(5) For the purpose of this section only, a bond forfeiture or a determination by a court of original jurisdiction or an authorized administrative tribunal that a person has violated the law is considered a conviction.

(6) The secretary of state shall suspend or revoke a vehicle group designation under subsection (1) notwithstanding a suspension, restriction, revocation, or denial of an operator’s or chauffeur’s license or vehicle group designation under another section of this act or a court order issued under another section of this act or a local ordinance substantially corresponding to another section of this act.

(7) When determining the applicability of conditions listed in this section, the secretary of state shall only consider violations that occurred after January 1, 1990.

**257.320a Recording date of conviction, civil infraction determination, or probate court disposition and number of points; formula; interview; violation committed in another state.**

Sec. 320a. (1) The secretary of state, within 10 days after the receipt of a properly prepared abstract from this state or another state, shall record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each, based on the following formula, except as otherwise provided in this section and section 629c:

- |   |          |
|---|----------|
| (a) Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile.....  | 6 points |
| (b) A violation of section 601b(2) or (3), 601c(1) or (2), or 653a(3) or (4) .....  | 6 points |
| (c) A violation of section 625(1), (4), (5), (7), or (8), section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127, or a law or ordinance substantially corresponding to section 625(1), (4), (5), (7), or (8), or section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127 ..... | 6 points |
| (d) Failing to stop and disclose identity at the scene of an accident when required by law.....   | 6 points |
| (e) Operating a motor vehicle in violation of section 626.....  | 6 points |
| (f) Fleeing or eluding an officer.....  | 6 points |
| (g) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by more than 15 miles per hour.....  | 5 points |
| (h) A violation of any law other than the law described in subdivision (g) or ordinance pertaining to speed by exceeding the lawful maximum by more than 15 miles per hour.....   | 4 points |
| (i) A violation of section 625(3) or (6), section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127, or a law or ordinance substantially corresponding to section 625(3) or (6) or section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127 .....                                  | 4 points |
| (j) A violation of section 626a or a law or ordinance substantially corresponding to section 626a .....   | 4 points |
| (k) A violation of section 653a(2).....   | 4 points |
| (l) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour.....   | 4 points |
| (m) A violation of any law other than the law described in subdivision (l) or ordinance pertaining to speed by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour or careless driving in violation of section 626b or a law or ordinance substantially corresponding to section 626b .....  | 3 points |
| (n) A violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by 10 miles per hour or less .....   | 3 points |
| (o) A violation of any law other than the law described in subdivision (n) or ordinance pertaining to speed by exceeding the lawful maximum by 10 miles per hour or less.....   | 2 points |
| (p) Disobeying a traffic signal or stop sign, or improper passing .....   | 3 points |

- (q) A violation of section 624a, 624b, or a law or ordinance substantially corresponding to section 624a or 624b..... 2 points
  - (r) A violation of section 310e(4) or (6) or a law or ordinance substantially corresponding to section 310e(4) or (6)..... 2 points
  - (s) All other moving violations pertaining to the operation of motor vehicles reported under this section..... 2 points
  - (t) A refusal by a person less than 21 years of age to submit to a preliminary breath test required by a peace officer under section 625a ..... 2 points
- (2) Points shall not be entered for a violation of section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

(3) Points shall not be entered for bond forfeitures.

(4) Points shall not be entered for overweight loads or for defective equipment.

(5) If more than 1 conviction, civil infraction determination, or probate court disposition results from the same incident, points shall be entered only for the violation that receives the highest number of points under this section.

(6) If a person has accumulated 9 points as provided in this section, the secretary of state may call the person in for an interview as to the person’s driving ability and record after due notice as to time and place of the interview. If the person fails to appear as provided in this subsection, the secretary of state shall add 3 points to the person’s record.

(7) If a person violates a speed restriction established by an executive order issued during a state of energy emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of state shall enter points for the violation pursuant to subsection (1).

(8) The secretary of state shall enter 6 points upon the record of a person whose license is suspended or denied pursuant to section 625f. However, if a conviction, civil infraction determination, or probate court disposition results from the same incident, additional points for that offense shall not be entered.

(9) If a Michigan driver commits a violation in another state that would be a civil infraction if committed in Michigan, and a conviction results solely because of the failure of the Michigan driver to appear in that state to contest the violation, upon receipt of the abstract of conviction by the secretary of state, the violation shall be noted on the driver’s record, but no points shall be assessed against his or her driver’s license.

**257.321a Failure to answer citation or notice to appear in court; failure to comply with order or judgment; misdemeanor; notice and duration of suspension; exceptions; effect of failure to appear; giving copy of information transmitted to secretary of state to person; driver license reinstatement fees.**

Sec. 321a. (1) A person who fails to answer a citation, or a notice to appear in court for a violation reportable to the secretary of state under section 732 or a local ordinance substantially corresponding to a violation of a law of this state reportable to the secretary of state under section 732, or for any matter pending, or who fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both. A violation of this subsection or failure to answer a citation or notice to appear for a violation of section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to either of those sections shall not be considered a violation for any purpose under section 320a.

(2) Except as provided in subsection (3), 28 days or more after a person fails to answer a citation, or a notice to appear in court for a violation reportable to the secretary of state under section 732 or a local ordinance substantially corresponding to a violation of a law



of this state reportable to the secretary of state under section 732, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, the court shall give notice by mail at the last known address of the person that if the person fails to appear or fails to comply with the order or judgment within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear or fails to comply with the order or judgment within the 14-day period, the court shall, within 14 days, inform the secretary of state, who shall immediately suspend the license of the person. The secretary of state shall immediately notify the person of the suspension by regular mail at the person's last known address.

(3) If the person is charged with, or convicted of, a violation of section 625 or a local ordinance substantially corresponding to section 625(1), (2), (3), (6), or (8) and the person fails to answer a citation or a notice to appear in court, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear within the 7-day period, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately suspend the person's operator's or chauffeur's license and notify the person of the suspension by first-class mail sent to the person's last known address.

(4) If the person is charged with, or convicted of, a violation of section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections and the person fails to answer a citation or a notice to appear in court issued pursuant to section 33b of former 1933 (Ex Sess) PA 8, section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections or fails to comply with an order or judgment of the court issued pursuant to section 33b of former 1933 (Ex Sess) PA 8, section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections including, but not limited to, paying all fines and costs, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines and costs, within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear within the 7-day period, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines and costs, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately suspend the person's operator's or chauffeur's license and notify the person of the suspension by first-class mail sent to the person's last known address.

(5) A suspension imposed under subsection (2) or (3) remains in effect until both of the following occur:

(a) The secretary of state is notified by each court in which the person failed to answer a citation or notice to appear or failed to pay a fine or cost that the person has answered that citation or notice to appear or paid that fine or cost.

(b) The person has paid to the court a \$45.00 driver license clearance fee for each failure to answer a citation or failure to pay a fine or cost.

(6) The court shall not notify the secretary of state, and the secretary of state shall not suspend the person's license, if the person fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving 1 or more of the following infractions:

(a) The parking or standing of a vehicle.

(b) A pedestrian, passenger, or bicycle violation, other than a violation of section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a or 624b, or a local ordinance substantially corresponding to section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b.

(7) The court may notify a person who has done either of the following, that if the person does not appear within 10 days after the notice is issued, the court will inform the secretary of state of the person's failure to appear:

(a) Failed to answer 2 or more parking violation notices or citations for violating a provision of this act or an ordinance substantially corresponding to a provision of this act pertaining to parking for persons with disabilities.

(b) Failed to answer 6 or more parking violation notices or citations regarding illegal parking.

(8) The secretary of state, upon being informed of the failure of a person to appear or comply as provided in subsection (7), shall not issue a license to the person or renew a license for the person until both of the following occur:

(a) The court informs the secretary of state that the person has resolved all outstanding matters regarding the notices or citations.

(b) The person has paid to the court a \$45.00 driver license clearance fee. If the court determines that the person is responsible for only 1 parking violation under subsection (7)(a) or less than 6 parking violations under subsection (7)(b) for which the person's license was not issued or renewed under this subsection, the court may waive payment of the fee.

(9) Not less than 28 days after a person fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving, a state civil infraction described in chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, the court shall give notice by ordinary mail, addressed to the person's last known address, that if the person fails to appear or fails to comply with the order or judgment described in this subsection within 14 days after the notice is issued, the court will give to the secretary of state notice of that failure. Upon receiving notice of that failure, the secretary of state shall not issue or renew an operator's or chauffeur's license for the person until both of the following occur:

(a) The court informs the secretary of state that the person has resolved all outstanding matters regarding each notice or citation.

(b) The person has paid to the court a \$45.00 driver license clearance fee. If the court determines that the person is not responsible for any violation for which the person's license was not issued or renewed under this subsection, the court shall waive the fee.

(10) For the purposes of subsections (5)(a), (8)(a), and (9)(a), the court shall give to the person a copy of the information being transmitted to the secretary of state. Upon showing that copy, the person shall not be arrested or issued a citation for driving on a suspended license, on an expired license, or without a license on the basis of any matter resolved under subsection (5)(a), (8)(a), or (9)(a), even if the information being sent to the secretary of state has not yet been received or recorded by the department.