

HOUSE BILL No. 4498

March 12, 1997, Introduced by Reps. Brewer, Frank, Hale, Goschka, Baird and Bogardus and referred to the Committee on Mental Health.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
(MCL 330.1001 to 330.2106) by adding sections 137a and 137b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 137A. A FACILITY SHALL REPORT TO THE DEPARTMENT DISCI-
2 PLINARY ACTION TAKEN BY THE FACILITY AGAINST AN EMPLOYEE THAT
3 RESULTS IN A CHANGE IN THE EMPLOYEE'S EMPLOYMENT STATUS AND THAT
4 INVOLVES ABUSE, NEGLECT, PHYSICAL HARM, THEFT, OR FRADULENT
5 BEHAVIOR AGAINST A PATIENT OR RESIDENT OF THE FACILITY. A REPORT
6 RECEIVED BY THE DEPARTMENT UNDER THIS SECTION IS PUBLIC
7 INFORMATION.

8 SEC. 137B. (1) A FACILITY SHALL NOT EMPLOY AN INDIVIDUAL OR
9 UTILIZE AN INDIVIDUAL AS A VOLUNTEER IN THE FACILITY IF THE
10 INDIVIDUAL HAS BEEN CONVICTED IN THIS STATE OR IN ANOTHER STATE
11 OR IN FEDERAL COURT OF EITHER OF THE FOLLOWING:

1 (A) A FELONY OR AN ATTEMPT OR CONSPIRACY TO COMMIT A
2 FELONY.

3 (B) A MISDEMEANOR INVOLVING ABUSE, NEGLECT, ASSAULT, BAT-
4 TERY, OR FRAUD.

5 (2) A FACILITY SHALL NOT EMPLOY AN INDIVIDUAL OR UTILIZE AN
6 INDIVIDUAL AS A VOLUNTEER UNLESS THE INDIVIDUAL PROVIDES THE
7 FACILITY AS PART OF THE APPLICATION PROCESS WITH INFORMATION FROM
8 THE STATE POLICE OBTAINED PURSUANT TO SUBSECTIONS (3) AND (4).

9 (3) AN INDIVIDUAL WHO APPLIES FOR EMPLOYMENT OR TO VOLUNTEER
10 WITH A FACILITY SHALL OBTAIN INFORMATION REGARDING A CRIMINAL
11 RECORD BY FOLLOWING THE PROCEDURE PROVIDED IN THIS SUBSECTION AND
12 SUBSECTION (4). UPON THE REQUEST OF THE INDIVIDUAL, A LAW
13 ENFORCEMENT AGENCY SHALL TAKE 2 SETS OF THE INDIVIDUAL'S FINGER-
14 PRINTS ON FORMS FURNISHED BY THE DEPARTMENT OF STATE POLICE AND
15 THE FEDERAL BUREAU OF INVESTIGATION. IF THE LAW ENFORCEMENT
16 AGENCY CHARGES A FEE FOR THIS SERVICE, THE INDIVIDUAL REQUESTING
17 THE SERVICE IS RESPONSIBLE FOR THE FEE. THE INDIVIDUAL SHALL
18 SUBMIT THE FINGERPRINT FORMS TO THE DEPARTMENT OF STATE POLICE
19 WITH THE APPROPRIATE STATE AND FEDERAL FEES.

20 (4) THE DEPARTMENT OF STATE POLICE SHALL COMPARE THE
21 INDIVIDUAL'S FINGERPRINTS ON THE FIRST SET OF FINGERPRINTS WITH
22 STATE CRIMINAL HISTORY RECORDS AND SHALL SUBMIT THE OTHER SET OF
23 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR COMPARI-
24 SON WITH FEDERAL CRIMINAL HISTORY RECORDS. THE DEPARTMENT OF
25 STATE POLICE SHALL SEND BOTH OF THE FOLLOWING TO THE FACILITY:

26 (A) THE STATE CRIMINAL HISTORY RECORD.

1 (B) A STATEMENT STATING THAT, BASED UPON THE FEDERAL
2 CRIMINAL HISTORY RECORD COMPARISON UNDER THE CRITERIA DESCRIBED
3 IN SUBSECTION (1), THE INDIVIDUAL MAY OR MAY NOT MEET THE
4 REQUIREMENTS OF SUBSECTION (1).

5 (5) IF THE STATEMENT SENT UNDER SUBSECTION (4)(B) STATES
6 THAT THE INDIVIDUAL MAY NOT MEET THE REQUIREMENTS OF SUBSECTION
7 (1), THE FACILITY SHALL NOTIFY THE INDIVIDUAL OF HIS OR HER RIGHT
8 TO OBTAIN FROM THE FEDERAL BUREAU OF INVESTIGATION A COPY OF HIS
9 OR HER FEDERAL CRIMINAL HISTORY RECORD AND TO CHALLENGE THE ACCU-
10 RACY OF THAT RECORD.

11 (6) A FACILITY SHALL PROVIDE AN APPLICANT WITH INFORMATION
12 ON HOW AND WHERE TO OBTAIN THE INFORMATION REQUIRED BY THIS SEC-
13 TION ON A FORM PROVIDED BY THE DEPARTMENT.

14 Enacting section 1. This amendatory act does not take
15 effect unless all of the following bills of the 89th Legislature
16 are enacted into law:

17 (a) Senate Bill No. _____ or House Bill No. _____
18 (request no. 00737'97).

19 (b) Senate Bill No. _____ or House Bill No. _____
20 (request no. 00737'97 a).

21 (c) Senate Bill No. _____ or House Bill No. _____
22 (request no. 00737'97 b).