

SUBSTITUTE FOR
HOUSE BILL NO. 4325

A bill to amend 1981 PA 180, entitled
"Older Michigianians act,"
(MCL 400.581 to 400.594) by adding section 6l.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6l. (1) Beginning October 1, 2020, each area agency on
2 aging must conduct or cause to be conducted a criminal background
3 check that reveals information similar or substantially similar to
4 information found on an internet criminal history access tool
5 (ICHAT) check and a national and state sex offender registry check
6 for each new employee, employee, subcontractor, subcontractor
7 employee, or volunteer who has in-person client contact, in-home
8 client contact, access to a client's personal property, or access
9 to confidential client information.

1 (2) A criminal background check for a new hire or new
2 volunteer must be completed before the individual begins working
3 directly with a client or has access to a client's personal
4 property or confidential client information.

5 (3) Each area agency on aging must update criminal background
6 checks for all employees and volunteers every 3 years to identify a
7 conviction in the event a conviction occurs while an individual is
8 employed or providing volunteer service.

9 (4) An employee hired before or a volunteer who started
10 volunteering before October 1, 2020 must be screened within 90 days
11 after the effective date of the amendatory act that added this
12 section, unless the area agency on aging has conducted a criminal
13 background check on the employee or volunteer that meets the
14 requirements of a criminal background check described in this
15 section on or after October 1, 2020. After that, a criminal
16 background check for each employee and volunteer must be completed
17 no later than 30 days after every third anniversary from the date
18 of his or her last background check.

19 (5) An updated criminal background check for each employee
20 hired on or after or volunteer who started volunteering on or after
21 October 1, 2020 must be completed no later than 30 days after every
22 third anniversary of the employee's date of hire or volunteer's
23 start date.

24 (6) Information obtained from a criminal background check
25 shall only be used to determine suitability for employment or
26 volunteer opportunities. Each area agency on aging is required to
27 maintain a copy of the results of each criminal background check
28 for paid and volunteer staff in a confidential and controlled
29 access file. The information must not be used in violation of

1 applicable federal or state equal employment opportunity law or
2 regulation.

3 (7) An employee or volunteer must not be permitted to work
4 directly with a client or have access to a client's personal
5 property or confidential client information if 1 or more of the
6 following apply:

7 (a) The results of the criminal background check show that the
8 individual has a federal or state felony conviction related to 1 or
9 more of the following crimes:

10 (i) A crime against a vulnerable adult as set forth in chapter
11 XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to
12 750.145r.

13 (ii) A violent crime including, but not limited to, murder,
14 manslaughter, kidnapping, arson, assault, battery, or domestic
15 violence.

16 (iii) A financial crime including, but not limited to, fraud,
17 forgery, counterfeiting, embezzlement, or tax evasion.

18 (iv) A sex crime including, but not limited to, rape, sexual
19 abuse, criminal sexual conduct, or prostitution.

20 (v) Cruelty or torture.

21 (vi) Abuse or neglect.

22 (vii) Felony involving the use of a firearm or dangerous
23 weapon.

24 (b) The results of the criminal background check show that the
25 individual has a federal or state felony conviction within the
26 preceding 10 years from the date of the criminal background check,
27 including, but not limited to, 1 or more of the following:

28 (i) A crime involving a state, federal, or local government
29 assistance program.

1 (ii) A theft crime including, but not limited to, larceny,
2 burglary, robbery, extortion, false pretenses, false
3 representation, or conversion.

4 (iii) A drug crime including, but not limited to, possession,
5 delivery, or manufacturing.

6 (c) The results of the criminal background check show that the
7 individual has a federal or state misdemeanor conviction within the
8 preceding 5 years from the date of the criminal background check,
9 including, but not limited to, 1 or more of the following:

10 (i) A crime involving a state, federal, or local government
11 assistance program.

12 (ii) A crime against a vulnerable adult as set forth in chapter
13 XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to
14 750.145r.

15 (iii) A financial crime including, but not limited to, fraud,
16 forgery, counterfeiting, embezzlement, or tax evasion.

17 (iv) A theft crime including, but not limited to, larceny,
18 burglary, robbery, extortion, false pretenses, false
19 representation, or conversion.

20 (v) A sex crime including, but not limited to, rape, sexual
21 abuse, criminal sexual conduct, or prostitution.

22 (vi) A drug crime including, but not limited to, possession,
23 delivery, or manufacturing.

24 (vii) Cruelty or torture.

25 (viii) Abuse or neglect.

26 (ix) Home invasion.

27 (x) Assault or battery.

28 (xi) A misdemeanor involving using a firearm or dangerous

1 weapon with intent to injure, using a firearm or dangerous weapon
2 that results in a personal injury, or using force or violence or
3 the threat of using force or violence.

4 (8) For the purposes of the excluded offenses identified in
5 subsection (7), an individual is considered to have been convicted
6 of a criminal offense if 1 of the following occurs:

7 (a) A judgment of conviction has been entered against the
8 individual by a federal, state, tribal, or local court regardless
9 of whether there is an appeal pending.

10 (b) There has been a finding of guilt against the individual
11 by a federal, state, tribal, or local court.

12 (c) A plea of guilty or nolo contendere by the individual has
13 been accepted by a federal, state, tribal, or local court.

14 (9) An arrest record alone does not disqualify an individual
15 from employment with or volunteering at an area agency on aging.

16 (10) Each area agency on aging is required to maintain
17 documentation of all criminal background checks, including a list
18 of all paid and volunteer staff that are subject to this section,
19 the date of the most recently completed criminal background check,
20 and the source of the criminal background check. An employee hired
21 before October 1, 2020 is not exempt from the requirements of this
22 section.

23 Enacting section 1. This amendatory act is intended to be
24 retroactive and applies retroactively beginning October 1, 2020.