



HOUSE BILL No. 5539

January 31, 1996, Introduced by Reps. Brewer, DeMars, LaForge, Perricone, Cherry and Olshove and referred to the Committee on Health Policy.

A bill to amend Act No. 258 of the Public Acts of 1974, entitled as amended "Mental health code," as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, by adding sections 137a and 137b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 258 of the Public Acts of 1974, as
2 amended, being sections 330.1001 to 330.2106 of the Michigan
3 Compiled Laws, is amended by adding sections 137a and 137b to
4 read as follows:

5 SEC. 137A. A FACILITY SHALL REPORT TO THE DEPARTMENT DISCI-
6 PLINARY ACTION TAKEN BY THE FACILITY AGAINST AN EMPLOYEE THAT
7 RESULTS IN A CHANGE IN THE EMPLOYEE'S EMPLOYMENT STATUS AND THAT
8 INVOLVES ABUSE, NEGLECT, PHYSICAL HARM, THEFT, OR FRADULENT
9 BEHAVIOR AGAINST A PATIENT OR RESIDENT OF THE FACILITY. A REPORT

1 RECEIVED BY THE DEPARTMENT UNDER THIS SECTION IS PUBLIC
2 INFORMATION.

3 SEC. 137B. (1) A FACILITY SHALL NOT EMPLOY AN INDIVIDUAL OR
4 UTILIZE AN INDIVIDUAL AS A VOLUNTEER IN THE FACILITY IF THE INDI-
5 VIDUAL HAS BEEN CONVICTED IN THIS STATE OR IN ANOTHER STATE OR IN
6 FEDERAL COURT OF EITHER OF THE FOLLOWING:

7 (A) A FELONY OR AN ATTEMPT OR CONSPIRACY TO COMMIT A
8 FELONY.

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

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

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

26 (4) THE DEPARTMENT OF STATE POLICE SHALL COMPARE THE
27 INDIVIDUAL'S FINGERPRINTS WITH STATE CRIMINAL HISTORY RECORDS AND

1 SHALL SUBMIT THE OTHER SET OF FINGERPRINTS TO THE FEDERAL BUREAU
2 OF INVESTIGATION FOR COMPARISON WITH FEDERAL CRIMINAL HISTORY
3 RECORDS. THE DEPARTMENT OF STATE POLICE SHALL SEND BOTH OF THE
4 FOLLOWING TO THE FACILITY:

5 (A) THE STATE CRIMINAL HISTORY RECORD.

6 (B) A STATEMENT STATING THAT, BASED UPON THE FEDERAL CRIMI-
7 NAL HISTORY RECORD COMPARISON UNDER THE CRITERIA DESCRIBED IN
8 SUBSECTION (1), THE INDIVIDUAL MAY OR MAY NOT MEET THE REQUIRE-
9 MENTS OF SUBSECTION (1).

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

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

19 Section 2. This amendatory act shall not take effect unless
20 all of the following bills of the 88th Legislature are enacted
21 into law:

22 (a) Senate Bill No. _____ or House Bill No. 5537
23 (request no. 05514'95).

24 (b) Senate Bill No. _____ or House Bill No. 5538
25 (request no. 05514'95 b).