

# SENATE BILL No. 853

November 29, 2011, Introduced by Senators EMMONS, HILDENBRAND, HUNE, KOWALL, MOOLENAAR, PROOS, ROBERTSON, ROCCA, JONES, COLBECK, CASPERSON, WALKER, NOFS, PAPPAGEORGE, RICHARDVILLE, KAHN, JANSEN, HANSEN, BRANDENBURG, GREEN, MARLEAU and SCHUITMAKER and referred to the Committee on Transportation.

A bill to amend 2006 PA 384, entitled "Driver education provider and instructor act," by amending sections 29, 35, and 59 (MCL 256.649, 256.655, and 256.679) .

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 29. (1) A **FINGERPRINT-BASED** criminal history check  
2 required under this act shall be performed by the department of  
3 state police and the federal bureau of investigation.

4           (2) A person required to have a criminal history **RECORD**  
5 **INFORMATION** check shall **SUBMIT HIS OR HER FINGERPRINTS AND** send a  
6 request for a criminal history **RECORD INFORMATION** check to the  
7 department of state police in a format and ~~as prescribed~~ **METHOD**  
8 **DETERMINED** by the department of state police. The **PERSON SHALL SEND**

1 **THE** fees required by the department of state police and the federal  
2 bureau of investigation to conduct the criminal history check ~~shall~~  
3 ~~accompany a~~ **WITH HIS OR HER** request for a criminal history **RECORD**  
4 **INFORMATION** check.

5 (3) The department of state police shall conduct a criminal  
6 history **RECORD INFORMATION** check within 45 days after receiving a  
7 proper request and the required fee for a criminal history **RECORD**  
8 **INFORMATION** check under this section. After conducting the criminal  
9 history **RECORD INFORMATION** check and within that same 45 days, the  
10 department of state police shall provide the secretary of state  
11 with a report of the criminal history **RECORD INFORMATION** check. The  
12 report shall contain any criminal history record information on the  
13 person maintained by the department of state police.

14 (4) Except as otherwise provided in this act, the secretary of  
15 state shall not approve an original or renewal driver education  
16 provider or driver education instructor certificate before  
17 receiving and reviewing the applicable criminal history **RECORD**  
18 **INFORMATION** checks from the department of state police and the  
19 federal bureau of investigation.

20 (5) The secretary of state shall use criminal history record  
21 information received under this ~~section~~ **ACT** only for evaluating an  
22 applicant's qualifications to receive a driver education provider  
23 or driver education instructor certificate under this act. The  
24 secretary of state shall discuss the report or its contents only  
25 with staff of the department of state police or a person who was  
26 involved in the prosecution of a criminal matter noted in a report  
27 for purposes of clarifying whether an offense ~~meets 1 of the crimes~~

1 **IS A CRIME** described in section 59. A person who uses criminal  
2 history record information in violation of this subsection is  
3 guilty of a misdemeanor punishable by a fine of not more than  
4 \$10,000.00.

5 (6) As used in this section, "criminal history record  
6 information" means that term as defined in section 1a of 1925 PA  
7 289, MCL 28.241a.

8 Sec. 35. (1) The secretary of state shall prescribe a model  
9 curriculum for teen driver training under this act. After September  
10 1, 2007, a driver education provider classified for teen driver  
11 training shall use the secretary of state's prescribed model  
12 curriculum or may use an alternative curriculum only after it has  
13 been reviewed and approved by the secretary of state. The secretary  
14 of state may approve an alternative curriculum if it substantially  
15 meets or exceeds the standards of the secretary of state's  
16 prescribed model curriculum.

17 (2) Under a segment 1 curriculum and segment 2 curriculum  
18 combined, each student shall receive no less than 30 hours of  
19 classroom instruction and 7-6 hours of behind-the-wheel driver  
20 education course experience.

21 Sec. 59. (1) Except as otherwise provided in this section, the  
22 secretary of state shall automatically deny an original or renewal  
23 application for a driver education provider or instructor  
24 certificate and shall automatically immediately revoke a  
25 certificate issued to a person as a driver education provider or  
26 driver education instructor without the necessity for notice and an  
27 opportunity for a hearing if a criminal history **RECORD INFORMATION**

1 check indicates that the applicant, instructor, provider, or the  
2 designated representative or coordinator of the applicant or  
3 provider has been convicted of a violation or attempted violation,  
4 or the secretary of state receives reliable notice under this  
5 section or section 57 of a conviction for a violation or attempted  
6 violation, of any of the following:

7 (a) Criminal sexual conduct, assault with intent to commit  
8 criminal sexual conduct, or an attempt to commit criminal sexual  
9 conduct, in any degree under sections 520b to 520g of the Michigan  
10 penal code, 1931 PA 328, MCL 750.520b to 750.520g.

11 (b) A felony involving a criminal assault or battery on an  
12 individual.

13 (c) A crime involving felonious assault on a child, child  
14 abuse in the first degree, cruelty, torture, or indecent exposure  
15 involving a child.

16 (d) A felony involving the manufacture, distribution, or  
17 dispensing of a controlled substance or possession with intent to  
18 manufacture, distribute, or dispense a controlled substance.

19 (e) A felony conviction involving fraud as an element of the  
20 crime.

21 (2) A denial or revocation imposed under this section shall  
22 continue for not less than 10 years from the date of the  
23 conviction.

24 ~~(3) The department of information technology shall work with~~  
25 ~~the secretary of state and the department of state police to~~  
26 ~~develop and implement an automated program that does an annual~~  
27 ~~comparison of the conviction information received by the department~~

~~1 of state police with a secretary of state list of persons holding a~~  
~~2 driver education provider or instructor certificate and the persons~~  
~~3 designated as a representative or coordinator of a provider. This~~  
~~4 comparison shall only include persons who are actually certified as~~  
~~5 a driver education provider or instructor or who are the designated~~  
~~6 representative or coordinator of an actually certified provider at~~  
~~7 the time of the comparison. Unless otherwise prohibited by law,~~  
~~8 this comparison shall include convictions contained in a nonpublic~~  
~~9 record. The department of state police shall take all reasonable~~  
~~10 and necessary measures using the available technology to ensure the~~  
~~11 accuracy of this comparison before transmitting the information~~  
~~12 under this subsection to the secretary of state. The secretary of~~  
~~13 state shall take all reasonable and necessary measures using the~~  
~~14 available technology to ensure the accuracy of this comparison~~  
~~15 before notifying a provider, a provider's designated representative~~  
~~16 or coordinator, or an instructor of a conviction that results in an~~  
~~17 automatic and immediate revocation of a provider or instructor~~  
~~18 certificate under this section.~~**IN COLLABORATION WITH THE DEPARTMENT**  
**19 OF STATE POLICE, THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND**  
**20 BUDGET SHALL ESTABLISH AN AUTOMATED FINGERPRINT IDENTIFICATION**  
**21 SYSTEM DATABASE THAT ALLOWS THE DEPARTMENT OF STATE POLICE TO STORE**  
**22 AND MAINTAIN ALL FINGERPRINTS SUBMITTED UNDER THIS ACT AND THAT**  
**23 PROVIDES FOR AUTOMATIC NOTIFICATION AT THE TIME A SUBSEQUENT**  
**24 CRIMINAL ARREST FINGERPRINT CARD SUBMITTED INTO THE SYSTEM MATCHES**  
**25 A SET OF FINGERPRINTS PREVIOUSLY SUBMITTED IN ACCORDANCE WITH THIS**  
**26 ACT. UPON THAT NOTIFICATION, THE DEPARTMENT OF STATE POLICE SHALL**  
**27 IMMEDIATELY NOTIFY THE DEPARTMENT AND THE DEPARTMENT SHALL REVIEW**

1 THE INFORMATION IN ACCORDANCE WITH THE CRIMINAL HISTORY RECORD  
2 INFORMATION CRITERIA FOR AN INSTRUCTOR UNDER THIS ACT. INFORMATION  
3 IN THE DATABASE ESTABLISHED UNDER THIS SUBSECTION IS CONFIDENTIAL,  
4 IS NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT,  
5 1976 PA 442, MCL 15.231 TO 15.246, AND SHALL NOT BE DISCLOSED TO  
6 ANY PERSON EXCEPT FOR PURPOSES OF THIS ACT OR FOR LAW ENFORCEMENT  
7 PURPOSES.

8 (4) When the secretary of state receives reliable notice of a  
9 conviction for a violation or attempted violation under this  
10 section or section 57 by an applicant's or provider's designated  
11 representative or coordinator, the secretary of state shall  
12 automatically deny an original or renewal application for a driver  
13 education provider certificate or automatically immediately revoke  
14 a provider's certificate under this section if the applicant or  
15 provider fails to immediately terminate the designated  
16 representative's or coordinator's designation or employment as the  
17 provider's designated representative or coordinator.