

Legislative Analysis



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CRIMINAL HISTORY CHECKS

House Bill 6203 (Substitute H-1)
Sponsor: Rep. Morris Hood III

House Bill 6204 (Substitute H-1)
Sponsor: Rep. Charles LaSata
Committee: Criminal Justice

First Analysis (12-1-04)

BRIEF SUMMARY: The bills would require federal criminal background checks to be conducted for applicants for licensure as a forensic polygraph examiner or to work in the horse racing industry.

FISCAL IMPACT: The bills would have an indeterminate fiscal impact on the Department of State Police depending on the number of criminal background investigations submitted to the department. Since House Bill 6204 requires the applicant to pay for the criminal background check, there is no fiscal impact on the state of Michigan or local units of government.

THE APPARENT PROBLEM:

Currently, the Michigan State Police conducts criminal background checks on persons seeking licensure as a forensic polygraph examiner or seeking employment in the horse racing industry. The only way to do a thorough criminal background check on a national level is to send a copy of the applicant's fingerprints to the Federal Bureau of Investigation. Though the FBI has provided background checks of the national databases for the department for years, the FBI has recently notified the department that it will cease to do so unless the statutes pertaining to these two groups has language added to specifically authorize the department to send the fingerprints to the FBI for the purposes of a criminal background check. Legislation has been offered to correct this oversight.

THE CONTENT OF THE BILLS:

House Bill 6203. Many of the people who work in the horse racing industry in Michigan must be licensed under provisions of the Horse Racing Law. The bill would amend the act (MCL 431.316) to require an applicant, when applying for an occupational license, to provide the racing commissioner with one or more sets of his or her fingerprints and as well as payment for the cost of the fingerprint check.

In order to determine if the applicant has been convicted of a crime in any state, the racing commissioner would have to submit the fingerprints and the appropriate state and federal fees to the Michigan Department of State Police for a criminal history check. The MSP could forward the fingerprints to the Federal Bureau of Investigation for a criminal

history check. Information obtained under the bill's provisions could only be used to determine the character and fitness of the applicant for licensing purposes.

House Bill 6204. The bill would amend the Forensic Polygraph Examiners Act (MCL 338.1710) to require an applicant for licensure as an examiner to undergo a criminal history check. The act lists the criteria that an applicant must meet in order to be licensed as a forensic polygraph examiner. Currently, an applicant must furnish the State Board of Forensic Polygraph Examiners with two sets of completed fingerprint cards. The bill would instead require just one set to be furnished. The bill would also require an applicant to arrange for the conduct of a criminal history check. The check would have to fail to demonstrate the applicant's ineligibility to be an examiner.

The bill would also require the board to submit the applicant's fingerprints, along with the appropriate state and federal fees (which would be paid by the applicant), to the Michigan Department of State Police for a criminal history check. The MSP could forward the fingerprints to the Federal Bureau of Investigation for a criminal history check. Information obtained as a result of the criminal history check of an applicant would be limited to officially determining the character and fitness of the applicant for licensing purpose.

ARGUMENTS:

For:

In order for the FBI to continue to conduct criminal background checks using the national fingerprint database for persons applying to work in the horse racing industry or applying to be licensed as a forensic polygraph examiner, it is necessary to amend the appropriate statutes to specifically authorize the Michigan State Police to send a copy of an applicant's fingerprints to the FBI for that purpose. The bills would rectify this oversight. Without passage of the bills, the FBI has threatened to no longer provide this service for these two groups of individuals.

POSITIONS:

A representative of the Michigan State Police testified in support of the bills. (12-1-04)

A representative of the Michigan Department of Agriculture indicated support for House Bill 6203. (12-1-04)

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