

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

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

ENROLLED SENATE BILL No. 853

AN ACT to amend 2006 PA 384, entitled "An act to provide for the certification of driver education providers; to prescribe certain record-keeping and program requirements for driver education providers; to provide for the certification of driver education instructors; to prescribe the powers and duties of certain persons and departments; to prescribe certain fees; to establish a fund in the state treasury; to prescribe remedies, sanctions, and penalties; and to rescind administrative rules," by amending sections 29, 35, and 59 (MCL 256.649, 256.655, and 256.679).

The People of the State of Michigan enact:

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

(2) A person required to have a criminal history record information check shall submit his or her fingerprints and send a request for a criminal history record information check to the department of state police in a format and method determined by the department of state police. The person shall send the fees required by the department of state police and the federal bureau of investigation to conduct the criminal history check with his or her request for a criminal history record information check.

(3) The department of state police shall conduct a criminal history record information check within 45 days after receiving a proper request and the required fee for a criminal history record information check under this section. After conducting the criminal history record information check and within that same 45 days, the department of state police shall provide the secretary of state with a report of the criminal history record information check. The report shall contain any criminal history record information on the person maintained by the department of state police.

(4) Except as otherwise provided in this act, the secretary of state shall not approve an original or renewal driver education provider or driver education instructor certificate before receiving and reviewing the applicable criminal history record information checks from the department of state police and the federal bureau of investigation.

(5) The secretary of state shall use criminal history record information received under this act only for evaluating an applicant's qualifications to receive a driver education provider or driver education instructor certificate under this act. The secretary of state shall discuss the report or its contents only with staff of the department of state police or a person who was involved in the prosecution of a criminal matter noted in a report for purposes of clarifying whether an offense is a crime described in section 59. A person who uses criminal history record information in violation of this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

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

Sec. 35. (1) The secretary of state shall prescribe a model curriculum for teen driver training under this act. After September 1, 2007, a driver education provider classified for teen driver training shall use the secretary of state's prescribed model curriculum or may use an alternative curriculum only after it has been reviewed and approved by the

secretary of state. The secretary of state may approve an alternative curriculum if it substantially meets or exceeds the standards of the secretary of state's prescribed model curriculum.

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

Sec. 59. (1) Except as otherwise provided in this section, the secretary of state shall automatically deny an original or renewal application for a driver education provider or instructor certificate and shall automatically immediately revoke a certificate issued to a person as a driver education provider or driver education instructor without the necessity for notice and an opportunity for a hearing if a criminal history record information check indicates that the applicant, instructor, provider, or the designated representative or coordinator of the applicant or provider has been convicted of a violation or attempted violation, or the secretary of state receives reliable notice under this section or section 57 of a conviction for a violation or attempted violation, of any of the following:

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

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

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

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

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

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

(3) In collaboration with the department of state police, the department of technology, management, and budget shall establish an automated fingerprint identification system database that allows the department of state police to store and maintain all fingerprints submitted under this act and that provides for automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted in accordance with this act. Upon that notification, the department of state police shall immediately notify the department and the department shall review the information in accordance with the criminal history record information criteria for an instructor under this act. Information in the database established under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor