

CHAPTER 1074

HEALTH OR CHILD CARE FACILITY EMPLOYMENT AND CRIMINAL OR ABUSE RECORDS

S.F. 2164

AN ACT relating to department of human services' evaluations of criminal or abuse records of employees of health care facilities and child care facilities and homes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135C.33, subsection 4, paragraph b, Code 2011, is amended to read as follows:

b. A person with a criminal or abuse record who is or was employed by a facility licensed under this chapter and is hired by another licensee ~~without a lapse in employment~~ shall be subject to the criminal history and abuse record checks required pursuant to subsection 1. ~~If~~ However, if an evaluation was previously performed by the department of human services concerning the person's criminal or abuse record and it was determined that the record did not warrant prohibition of the person's employment and the latest record checks do not indicate a crime was committed or founded abuse record was entered subsequent to that evaluation, the person may commence employment with the other licensee while in accordance with the department of human services' evaluation of the latest record checks is pending and an exemption from the requirements in paragraph "a" for reevaluation of the latest record checks is authorized. Otherwise, the requirements of paragraph "a" remain applicable to the person's employment. Authorization of an exemption under this paragraph "b" from requirements for reevaluation of the latest record checks by the department of human services is subject to all of the following provisions:

(1) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.

(2) Any restrictions placed on the person's employment in the previous evaluation by the department of human services shall remain applicable in the person's subsequent employment.

(3) The person subject to the record checks has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record checks shall be reevaluated.

(4) Although an exemption under this paragraph "b" may be authorized, the subsequent employer may instead request a reevaluation of the record checks and may employ the person while the reevaluation is being performed.

Sec. 2. Section 237A.5, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. 0g. A person subject to a record check who is or was employed by a child care facility or child care home provider and is hired by another child care facility or child care home provider, shall be subject to a record check in accordance with this subsection. However, if the person was subject to an evaluation because of a transgression in the person's record and the evaluation determined that the transgression did not warrant prohibition of the person's involvement with child care and the latest record checks do not indicate there is a transgression that was committed subsequent to that evaluation, the person may commence employment with the other child care facility or provider in accordance with the department's evaluation and an exemption from any requirements for reevaluation of the latest record checks is authorized. Authorization of an exemption under this paragraph "0g" from requirements for reevaluation of the latest record checks by the department is subject to all of the following provisions:

(1) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.

(2) Any restrictions placed on the person's employment in the previous evaluation by the department shall remain applicable in the person's subsequent employment.

(3) The person subject to the record checks has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record checks shall be reevaluated.

(4) Although an exemption under this paragraph "0g" may be authorized, the subsequent employer may instead request a reevaluation of the record checks and may employ the person while the reevaluation is being performed.

Approved April 12, 2012