

CHAPTER 21

HEALTH CARE SERVICES PROVIDERS — BACKGROUND CHECKS

S.F. 347

AN ACT relating to record checks of prospective and current health care employees and certain students and including effective date and applicability provisions.

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

Section 1. Section 135B.34, subsection 2, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0b.* (1) If a person being considered for employment, other than employment involving the operation of a motor vehicle, has been convicted of a crime listed in subparagraph (2) but does not have a record of founded child or dependent abuse and the hospital has requested an evaluation in accordance with paragraph “a” to determine whether the crime warrants prohibition of the person’s employment, the hospital may employ the person for not more than sixty calendar days pending completion of the evaluation.

(2) Subparagraph (1) applies to a crime that is a simple misdemeanor offense under section 123.47 or chapter 321, and to a crime that is a first offense of operating a motor vehicle while intoxicated under section 321J.2, subsection 1.

Sec. 2. Section 135B.34, subsection 4, paragraph b, Code 2013, is amended to read as follows:

b. A person with a criminal or abuse record who is or was employed by a hospital licensed under this chapter and is hired by another licensee without a lapse in employment hospital 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 hospital 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 lettered 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. 3. Section 135C.33, subsection 2, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0b.* (1) If a person being considered for employment, other than employment involving the operation of a motor vehicle, has been convicted of a crime listed in subparagraph (2) but does not have a record of founded child or dependent abuse and the licensee has requested an evaluation in accordance with paragraph “a” to determine whether

the crime warrants prohibition of the person's employment, the licensee may employ the person for not more than sixty calendar days pending completion of the evaluation.

(2) Subparagraph (1) applies to a crime that is a simple misdemeanor offense under section 123.47 or chapter 321, and to a crime that is a first offense of operating a motor vehicle while intoxicated under section 321J.2, subsection 1.

Sec. 4. Section 135C.33, subsection 8, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0d.* (1) If a student's clinical education component of the training program involves children or dependent adults but does not involve operation of a motor vehicle, and the student has been convicted of a crime listed in subparagraph (2), but does not have a record of founded child or dependent adult abuse, and the training program has requested an evaluation in accordance with paragraph "c" to determine whether the crime warrants prohibition of the student's involvement in such clinical education component, the training program may allow the student's participation in the component for not more than sixty days pending completion of the evaluation.

(2) Subparagraph (1) applies to a crime that is a simple misdemeanor offense under section 123.47 or chapter 321, and to a crime that is a first offense of operating a motor vehicle while intoxicated under section 321J.2, subsection 1.

Sec. 5. **STUDY OF BACKGROUND CHECK IMPROVEMENTS AND REQUIREMENTS FOR CERTAIN PROVIDERS OF HOME HEALTH SERVICES.** The department of inspections and appeals, in conjunction with the departments of administrative services, human services, public health, and public safety, shall study the potential for applying new technologies and other improvements that may be implemented for the current processes of performing and evaluating child and dependent adult abuse and criminal record checks of persons providing health care services. In addition, the study shall consider applying record check requirements to individuals and agencies providing home health services that are not subject to certification, licensing, or other regulation by state government. The department shall submit a report with findings and recommendations to the governor and general assembly on or before December 15, 2013.

Sec. 6. **EFFECTIVE UPON ENACTMENT.** This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 7. **APPLICABILITY.** This Act applies retroactively to persons for whom a record check was requested not more than sixty calendar days prior to the effective date of this Act.

Approved April 5, 2013