

# House Amendment 3814

## Amendment Text

PAG LIN

1 1 Amend [Senate File 436](#), as passed by the Senate, as  
1 2 follows:  
1 3 #1. Page 1, line 8, by striking the word  
1 4 "subparagraph" and inserting the following:  
1 5 "subparagraphs".  
1 6 #2. Page 1, by inserting after line 13 the  
1 7 following:  
1 8 "NEW SUBPARAGRAPH. (12) To an administrator of an  
1 9 agency certified by the department of human services  
1 10 to provide services under a medical assistance home  
1 11 and community-based services waiver, if the  
1 12 information concerns a person employed by or being  
1 13 considered by the agency for employment."  
1 14 #3. Page 1, by inserting after line 23 the  
1 15 following:  
1 16 "Sec. \_\_\_\_\_. Section [235B.6](#), subsection 2, paragraph  
1 17 c, Code 1995, is amended by adding the following new  
1 18 subparagraph:  
1 19 NEW SUBPARAGRAPH. (5) To an administrator of an  
1 20 agency certified by the department of human services  
1 21 to provide services under a medical assistance home  
1 22 and community-based services waiver, if the  
1 23 information concerns a person employed by or being  
1 24 considered by the agency for employment.  
1 25 Sec. \_\_\_\_\_. NEW SECTION. 249A.29 HOME AND  
1 26 COMMUNITY-BASED SERVICES WAIVER PROVIDERS &ndash; RECORDS  
1 27 CHECKS.  
1 28 1. For purposes of this section unless the context  
1 29 otherwise requires:  
1 30 a. "Consumer" means an individual approved by the  
1 31 department to receive services under a waiver.  
1 32 b. "Provider" means an agency certified by the  
1 33 department to provide services under a waiver.  
1 34 c. "Waiver" means a home and community-based  
1 35 services waiver approved by the federal government and  
1 36 implemented under the medical assistance program.  
1 37 2. If a person is being considered by a provider  
1 38 for employment involving direct responsibility for a  
1 39 consumer or with access to a consumer when the  
1 40 consumer is alone, and if the person has been  
1 41 convicted of a crime or has a record of founded child  
1 42 or dependent adult abuse, the department shall perform  
1 43 an evaluation to determine whether the crime or  
1 44 founded abuse warrants prohibition of employment by  
1 45 the provider. The department shall conduct criminal  
1 46 and child and dependent adult abuse record checks of  
1 47 the person in this state and may conduct these checks  
1 48 in other states. The record checks and evaluations  
1 49 required by this section shall be performed in  
1 50 accordance with procedures adopted for this purpose by  
2 1 the department.  
2 2 3. If the department determines that a person  
2 3 employed by a provider has committed a crime or has a  
2 4 record of founded abuse, the department shall perform  
2 5 an evaluation to determine whether prohibition of the  
2 6 person's employment is warranted.  
2 7 4. In an evaluation, the department shall consider

2 8 the nature and seriousness of the crime or founded  
2 9 abuse in relation to the position sought or held, the  
2 10 time elapsed since the commission of the crime or  
2 11 founded abuse, the circumstances under which the crime  
2 12 or founded abuse was committed, the degree of  
2 13 rehabilitation, the likelihood that the person will  
2 14 commit the crime or founded abuse again, and the  
2 15 number of crimes or founded abuses committed by the  
2 16 person involved. The department may permit a person  
2 17 who is evaluated to be employed or to continue to be  
2 18 employed by the provider if the person complies with  
2 19 the department's conditions relating to the  
2 20 employment, which may include completion of additional  
2 21 training.

2 22 5. If the department determines that the person  
2 23 has committed a crime or has a record of founded abuse  
2 24 which warrants prohibition of employment, the person  
2 25 shall not be employed by a provider."

2 26 #4. Title page, line 1, by striking the words "the  
2 27 child abuse registry" and inserting the following:  
2 28 "certification and employment provisions involving  
2 29 state abuse registries".

2 30 #5. Title page, line 3, by striking the word  
2 31 "and".

2 32 #6. Title page, line 4, by inserting after the  
2 33 word "employers" the following: ", and requiring  
2 34 records checks for purposes of employment by certain  
2 35 medical assistance program service providers".

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2 39 COMMITTEE ON [HUMAN RESOURCES](#)

2 40 DAGGETT of Union, Chairperson

2 41 [SF 436](#).201 76

2 42 jp/jj