

MAR 14 1997

Place On Calendar

*Substituted by
SF 523
4/9/97
(P. 1106)*

HOUSE FILE 634
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 420)

WITHDRAWN
4-9-97 (P. 1108)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to child and dependent adult abuse records checks
2 by requiring checks for employment in health care facilities
3 and the department of inspections and appeals.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 634

H-1245

1 Amend House File 634 as follows:
2 1. Page 1, line 11, by striking the words "the
3 facility" and inserting the following: "unless the
4 facility administrator personally knows the background
5 of the person, the facility administrator".

By BRUNKHORST of Bremer
HAHN of Muscatine

H-1245 FILED MARCH 19, 1997

Withdrawn 4-9-97 (P. 1104)

HF 634

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WITHDRAWN

1 Section 1. Section 135C.33, Code 1997, is amended to read
2 as follows:

3 135C.33 CHILD OR DEPENDENT ADULT ABUSE INFORMATION AND
4 CRIMINAL RECORDS --EVALUATIONS.

5 1. On or after July 1, ~~1994~~ 1997, with regard to new
6 applicants for licensure-or employment, if a person is being
7 considered ~~for-licensure-under-this-chapter,~~-or for employment
8 ~~involving-direct-responsibility-for-a-resident-or-with-access~~
9 ~~to-a-resident-when-the-resident-is-alone,~~-or-if-the-person
10 ~~considered-for-licensure-or-employment-under-this-chapter-will~~
11 ~~reside-in~~ by a facility, the facility may shall request that
12 the department of ~~human-services~~ inspections and appeals
13 conduct criminal and child and dependent adult abuse record
14 checks in this state and. In addition, the department of
15 inspections and appeals may perform the records checks in
16 ~~other states,~~-on-a-random-basis. Beginning July 1, ~~1994~~ 1997,
17 a facility shall inform all new applicants for employment of
18 ~~the-possibility-of~~ regarding the performance of ~~a-record-check~~
19 the records checks and shall obtain, from the applicant, a
20 signed acknowledgment of the receipt of the information.
21 Additionally, on or after July 1, 1994, a facility shall
22 include the following inquiry in an application for
23 employment: "Do you have a record of founded child or
24 dependent adult abuse or have you ever been convicted of a
25 crime, in this state or any other state?" If the person has
26 been convicted of a crime under a law of any state or has a
27 record of founded child or dependent adult abuse, the
28 department of human services shall perform an evaluation to
29 determine whether the crime or founded child or dependent
30 adult abuse warrants prohibition of ~~licensure,~~ employment,-or
31 ~~residence-in~~ by the facility. The evaluation shall be
32 performed in accordance with procedures adopted for this
33 purpose by the department of human services.

34 2. If the department of ~~human-services~~ inspections and
35 appeals determines that a person has committed a crime or has

1 a record of founded child or dependent adult abuse and is
2 ~~licensed~~, employed by a facility licensed under this chapter,
3 ~~or-resides-in-a-licensed-facility~~, the department shall notify
4 the licensee that an evaluation will be conducted by the
5 department of human services to determine whether prohibition
6 of the person's ~~licensure~~, employment, ~~or-residence~~ is
7 warranted.

8 3. In an evaluation, the department of human services
9 shall consider the nature and seriousness of the crime or
10 founded child or dependent adult abuse in relation to the
11 position sought or held, the time elapsed since the commission
12 of the crime or founded child or dependent adult abuse, the
13 circumstances under which the crime or founded child or
14 dependent adult abuse was committed, the degree of
15 rehabilitation, the likelihood that the person will commit the
16 crime or founded child or dependent adult abuse again, and the
17 number of crimes or founded child or dependent adult abuses
18 committed by the person involved. The department of human
19 services has final authority in determining whether
20 prohibition of the person's ~~licensure~~, employment, ~~or~~
21 ~~residence~~ is warranted.

22 4. If the department of human services determines that the
23 person has committed a crime or has a record of founded child
24 or dependent adult abuse which warrants prohibition of
25 ~~licensure~~, employment, ~~or-residence~~, the person shall not be
26 ~~licensed-under-this-chapter-and-shall-not-be~~ employed by a
27 ~~facility or-reside-in-a-facility~~ licensed under this chapter.

28 Sec. 2. Section 235A.15, subsection 2, paragraph e, Code
29 1997, is amended by adding the following new subparagraph:

30 NEW SUBPARAGRAPH. (16) To the department of inspections
31 and appeals for purposes of performing records checks required
32 under section 135C.33 and for records checks of a person
33 employed by or being considered for employment by the
34 department.

35 Sec. 3. Section 235B.6, subsection 2, paragraph e, Code

1 1997, is amended by adding the following new subparagraph:

2 NEW SUBPARAGRAPH. (7) The department of inspections and
3 appeals for purposes of performing records checks required
4 under section 135C.33 and for records checks of a person
5 employed by or being considered for employment by the
6 department.

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EXPLANATION

8 This bill relates to child and dependent adult abuse
9 records checks of prospective health care facility employees
10 and prospective and current department of inspections and
11 appeals employees.

12 The bill amends Code section 135C.33 to require the
13 department of inspections and appeals to conduct criminal and
14 child and dependent adult abuse records checks of prospective
15 health care facility employees. Under current law, the checks
16 are done pursuant to a request by the health care facility to
17 the department of human services and are done only on a random
18 basis. In addition, the bill applies to all facility
19 employees by striking references to licensees and persons
20 residing in a health care facility.

21 The bill requires the records checks regarding employment
22 by residential care facilities, nursing facilities,
23 intermediate care facilities for persons with mental
24 retardation, and intermediate care facilities for persons with
25 mental illness licensed under chapter 135C.

26 The bill amends Code section 135C.33 to provide that if the
27 department of inspections and appeals determines there is a
28 record of a crime or founded abuse there will be an evaluation
29 to determine if prohibition of employment by a health care
30 facility is warranted.

31 Current law is unchanged which after a records check is
32 done, prohibits the employment by a health care facility of a
33 person who has committed a crime or has a record of founded
34 child or dependent adult abuse if the prohibition is found to
35 be warranted by a department of human services' evaluation.

1 The bill also amends sections 235A.15 and 235B.6 to provide
2 the department of inspections and appeals with access to the
3 child and dependent adult abuse registries for purposes of
4 performing the records checks of health care facility
5 employees and department employees.

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**HOUSE FILE 634
FISCAL NOTE**

A fiscal note for House File 634 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 634 requires the Department of Inspections and Appeals to conduct criminal and child and dependent adult abuse record checks of prospective health care facility employees. Under current law, the checks are done pursuant to a request by the health care facility to the Department of Human Services and are done only on a random basis.

ASSUMPTIONS

1. The number of employees in health care facilities and the turnover rates will remain constant.
2. The criminal record checks fees will be included in the average daily costs for Medicaid eligible residents of nursing facilities and intermediate care facilities for the mentally retarded.
3. The percentage of Medicaid costs paid by the State will remain constant.
4. The number of contacts to the registries to check criminal and abuse status of prospective health care facility employees will be 75,000 per year.
5. The cost of contacts to the registries will remain constant.

FISCAL IMPACT

House File 634 will have a significant impact on the State General Fund. The Bill will result in a cost of \$505,000 and 8.5 FTE positions for FY 1998 for the Department of Inspections and Appeals to conduct the required child and dependent adult abuse records checks of prospective health care employees. The Bill will also cost \$655,000 for FY 1998 for the Department of Human Services to pay for the costs of the criminal record checks which will be included in the average daily rates for Medicaid residents of care facilities. The Department will receive \$475,000 for FY 1998 in federal and county funds to pay a part of the increase in Medicaid costs. The following table shows the overall fiscal impact of the Bill for FY 1998 and FY 1999.

| | (dollars in thousands) | |
|----------------------------|-------------------------|-------------------------|
| | <u>Fiscal Year 1998</u> | <u>Fiscal Year 1999</u> |
| <u>REVENUE</u> | | |
| General Fund | \$ 0 | \$ 0 |
| Federal Funds | 416 | 416 |
| County | 59 | 59 |
| Total | \$ 475 | \$ 475 |
| <u>EXPENDITURES</u> | | |
| Salaries (FTE's) | \$ 319 (8.5) | \$ 319 (8.5) |

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| | | |
|-------------------|----------------|----------------|
| Support | 88 | 88 |
| Medicaid Cost | 655 | 655 |
| Other | 98 | 98 |
| Total | \$ -1,160 | \$ -1,160 |
| NET EFFECT | \$ -685 | \$ -685 |

SOURCES

Department of Inspections and Appeals
Department of Human Services

(LSB 2397hv, PQP)

FILED MARCH 26, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR