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SENATE FILE 328
BY TINSMAN

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

A BILL FOR

1 An Act relating to health care facilities by requiring employment
2 checks of health care facility employees and providing for a
3 registry of persons who are certified as a nurse aide or
4 medication aide.

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

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S.F. 328

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 5. a. The department of inspections and appeals shall
29 maintain a registry of those persons who have been certified
30 by the department as a nurse aide or medication aide and have
31 been subject to record checks under this section. If a person
32 who is certified as a nurse aide or medication aide is
33 prohibited under subsection 4 from employment under this
34 chapter, the registry shall indicate the prohibition.

35 b. The department of inspections and appeals shall consult

1 with the department of human services in developing protocols
2 to operate the registry in a manner which protects the public
3 and maintains the privacy of the persons included in the
4 registry. The circumstances addressed by the protocols shall
5 include but are not limited to all of the following:

6 (1) Exchange of information between the departments.

7 (2) Procedures to provide for employer access to registry
8 check information via telephone.

9 (3) Updating of the records checks required by this
10 section for nurse and medication aides upon change of
11 employment.

12 Sec. 3. Section 235A.15, subsection 2, paragraph e, Code
13 1997, is amended by adding the following new subparagraph:

14 NEW SUBPARAGRAPH. (16) To the department of inspections
15 and appeals for purposes of performing records checks required
16 under section 135C.33.

17 Sec. 4. Section 235B.6, subsection 2, paragraph e, Code
18 1997, is amended by adding the following new subparagraph:

19 NEW SUBPARAGRAPH. (7) The department of inspections and
20 appeals for purposes of performing records checks required
21 under section 135C.33.

22 EXPLANATION

23 This bill relates to health care facilities by requiring
24 employment checks of prospective health care facility
25 employees and providing for a registry of persons who are
26 certified as a nurse aide or medication aide.

27 The bill amends Code section 135C.33 to require the
28 department of inspections and appeals to conduct criminal and
29 child and dependent adult abuse records checks of prospective
30 health care facility employees. Under current law, the checks
31 are done pursuant to a request by the health care facility to
32 the department of human services and are done only on a random
33 basis. In addition, the bill applies to all facility
34 employees by striking references to licensees and persons
35 residing in a health care facility.

1 The bill requires the records checks regarding employment
2 by residential care facilities, nursing facilities,
3 intermediate care facilities for persons with mental
4 retardation, and intermediate care facilities for persons with
5 mental illness licensed under chapter 135C.

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

11 Current law is unchanged which, after a records check is
12 done, prohibits the employment by a health care facility of a
13 person who has committed a crime or has a record of founded
14 child or dependent adult abuse if the prohibition is found to
15 be warranted by a department of human services evaluation.

16 The bill further amends Code section 135C.33 to require the
17 department inspections and appeals to maintain a registry of
18 persons who are certified by the department of inspections and
19 appeals as a nurse or medication aide and for whom the records
20 checks have been performed. If a person is prohibited from
21 employment in a health care facility as a result of the
22 checks, the prohibition is to be indicated in the registry.

23 The bill requires the department of inspections and appeals
24 to consult with the department of human services in developing
25 protocols for operating the registry. The protocols are to
26 address information exchanges between the departments,
27 procedures for employers to check the registry, and procedures
28 for updating the records checks required for nurse and
29 medication aides.

30 The bill also amends Code sections 235A.15 and 235B.6 to
31 provide the department of inspections and appeals with access
32 to the child and dependent adult abuse registries for purposes
33 of performing the records checks.

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