

FILED MAR 18 1997

REPRINTED

*Substituted
for H.F. 634
4/9/97 (p.1106)*

SENATE FILE 523
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 328)

Passed Senate, Date 3-31-97 (P. 858) Passed House, Date 4/9/97 (p.1107)
Vote: Ayes 47 Nays 0 Vote: Ayes 96 Nays 0
Approved April 18, 1997

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. 523

RECEIVED

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,-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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**SENATE FILE 523
FISCAL NOTE**

REQ. BY SENATOR TINSMAN

A fiscal note for Senate File 523 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.

Senate File 523 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. The Bill also requires the Department of Inspections and Appeals to maintain a registry of those persons certified as a nurse aide or medication aide and subject to record checks.

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

Senate File 523 will cost an estimated \$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 and to maintain a nurse aide registry. The Bill will also cost an estimated \$655,000 for FY 1998 for the Department of Human Services to pay costs of 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.

-2-

	(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	\$ <u>475</u>	\$ <u>475</u>
<u>EXPENDITURES</u>		
Salaries	\$ 319	\$ 319
(FTE's)	(8.5)	(8.5)
Support	88	88
Medicaid Cost	655	655
Other	98	98
Total	\$ <u>-1,160</u>	\$ <u>-1,160</u>
<u>NET EFFECT</u>	\$ <u>-685</u>	\$ <u>-685</u>

SOURCES

Department of Inspections and Appeals
 Department of Human Services

(LSB 2043SV, PQP)

FILED MARCH 31, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

S-3276

1 Amend Senate File 523 as follows:

2 1. Page 1, by striking lines 5 through 16 and
3 inserting the following:

4 "1. ~~On or after Beginning July 1, 1994 1997, with~~
5 ~~regard to new applicants for licensure or employment,~~
6 ~~if a person is being considered for licensure under~~
7 ~~this chapter, or for employment involving direct~~
8 ~~responsibility for a resident or with access to a~~
9 ~~resident when the resident is alone, or if the person~~
10 ~~considered for licensure or employment under this~~
11 ~~chapter will reside prior to employment of a person in~~
12 ~~a facility, the facility may shall request that the~~
13 ~~department of human services conduct public safety~~
14 ~~perform criminal and child and dependent adult abuse~~
15 ~~record checks of the person in this state and in other~~
16 ~~states, on a random basis. In addition, the facility~~
17 ~~may request that the department of human services~~
18 ~~perform a child abuse record check in this state.~~
19 Beginning July 1, 1994 1997,"

20 2. Page 1, line 17, by striking the words "new
21 applicants for employment" and inserting the
22 following: "new applicants for employment persons
23 prior to employment".

24 3. Page 1, line 19, by striking the word
25 "applicant" and inserting the following: "applicant
26 persons".

27 4. Page 1, line 21, by striking the words "on or
28 after July 1, 1994," and inserting the following: "on
29 or after July 1, 1994".

30 5. Page 1, line 31, by striking the words "in by"
31 and inserting the following: "in".

32 6. Page 1, lines 34 and 35, by striking the words
33 "inspections and appeals" and inserting the following:
34 "public safety".

35 7. Page 2, line 1, by striking the words "child
36 or" and inserting the following: "child or".

37 8. Page 2, line 2, by striking the words
38 "employed by" and inserting the following: "to be
39 employed by in".

40 9. Page 2, line 3, by inserting after the word
41 "department" the following: "of public safety".

42 10. Page 2, line 7, by inserting after the word
43 "warranted." the following: "If a department of human
44 services child abuse record check determines the
45 person has a record of founded child abuse, the
46 department shall inform the licensee that an
47 evaluation will be conducted to determine whether
48 prohibition of the person's employment is warranted."

49 11. Page 2, line 26, by striking the word "by"
50 and inserting the following: "by in".

S-3276

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S-3276

Page 2

- 1 12. By striking page 2, line 28, through page 3,
2 line 16.
3 13. Page 3, lines 19 and 20, by striking the
4 words "inspections and appeals" and inserting the
5 following: "public safety".
6 14. Title page, line 2, by inserting before the
7 word "health" the following: "prospective".
8 15. Title page, line 2, by striking the words
9 "employees and providing for a" and inserting the
10 following: "employees."
11 16. Title page, by striking lines 3 and 4.

By MAGGIE TINSMAN

NANCY BOETTGER

adopted 3-31-97
(P. 848)

S-3276 FILED MARCH 27, 1997

SENATE FILE 523

S-3290

- 1 Amend Senate File 523 as follows:
2 1. Page 3, by inserting after line 21 the
3 following:
4 "Sec. ____ HOME HEALTH SERVICES -- REGULATORY
5 REQUIREMENTS. The departments of public health and
6 inspections and appeals shall review federal and state
7 requirements applicable to providers of homemaker,
8 home-health aide, home-care aide, hospice, and other
9 in-home services to persons with health problems. The
10 review shall include but is not limited to current and
11 proposed federal requirements for quality assurance,
12 fiscal information concerning the source of regulatory
13 funding, feasibility analysis of requiring criminal
14 and dependent adult abuse record checks of employees
15 of the providers, feasibility analysis of implementing
16 state regulation of the providers, and other
17 information deemed appropriate by the departments.
18 The departments shall submit a report of findings and
19 recommendations on or before December 15, 1997."
20 2. By renumbering as necessary.

By MATT MCCOY

S-3290 FILED MARCH 31, 1997

ADOPTED *3-31-97* (*P. 858*)

**SENATE FILE 523
FISCAL NOTE**

A fiscal note for Senate File 523, as amended and passed by the Senate, 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.

Senate File 523, as amended and passed by the Senate, requires the Department of Public Safety to conduct criminal 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 and abuse 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. There will be a lag time of six months after the Bill is enacted before a midyear adjustment in Medicaid costs is provided to nursing facilities, thereby incurring a cost for one half of FY 1998.
5. 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.
6. The cost of contacts to the registries will remain constant.

FISCAL IMPACT

Senate File 523 as amended will cost an estimated \$327,000 for FY 1998 for the Department of Human Services to pay the costs of criminal and dependent adult abuse record checks which will be included in the average daily rates for Medicaid eligible residents of care facilities. The Department will receive \$237,000 for FY 1998 in federal and county funds to pay 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	208	416
County	29	59
Total	\$ 237	\$ 475

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EXPENDITURES

Salaries	\$	0	0
(FTE's)		(0.0)	(0.0)
Support		0	0
Medicaid Cost		327	655
Other		0	0
Total	\$	<u>-327</u>	\$ <u>-655</u>
NET EFFECT	\$	<u>-90</u>	\$ <u>-180</u>

SOURCES

Department of Human Services
 Department of Public Safety

(LSB 2043sv.2, PQP)

FILED APRIL 7, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

*Substituted
for H.R. 634
4/9/97 (p. 1106)*

SENATE FILE S23
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 328)

(AS AMENDED AND PASSED BY THE SENATE MARCH 31, 1997)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, Date _____ Passed House, Date 4/9/97 (p. 1107)
 Vote: Ayes _____ Nays _____ Vote: Ayes 96 Nays 0
 Approved April 18, 1997

A BILL FOR

1 An Act relating to health care facilities by requiring employment
 2 checks of prospective health care facility employees.

* 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 523

H-1562

1 Amend Senate File 523, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 1, line 12, by striking the words "the
 4 facility" and inserting the following: "unless the
 5 facility administrator personally knows the background
 6 of the person, the facility administrator".

By BRUNKHORST of Bremer
 HAHN of Muscatine

H-1562 FILED APRIL 7, 1997
Last 4/9/97 (p. 1106)

S.F. 523

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

1 2. If the department of human-services public safety
2 determines that a person has committed a crime or has a record
3 of founded child-or dependent adult abuse and is licensed, to
4 be employed by in a facility licensed under this chapter, or
5 resides-in-a-licensed-facility, the department of public
6 safety shall notify the licensee that an evaluation will be
7 conducted by the department of human services to determine
8 whether prohibition of the person's license, employment, or
9 residence is warranted. If a department of human services
10 child abuse record check determines the person has a record of
11 founded child abuse, the department shall inform the licensee
12 that an evaluation will be conducted to determine whether
13 prohibition of the person's employment is warranted.

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

28 4. If the department of human services determines that the
29 person has committed a crime or has a record of founded child
30 or dependent adult abuse which warrants prohibition of
31 license, employment, or residence, the person shall not be
32 licensed-under-this-chapter-and-shall-not-be employed by in a
33 facility or-reside-in-a-facility licensed under this chapter.

* 34 Sec. 2. Section 235B.6, subsection 2, paragraph e, Code
35 1997, is amended by adding the following new subparagraph:

1 NEW SUBPARAGRAPH. (7) The department of public safety for
2 purposes of performing records checks required under section
3 135C.33.

4 Sec. 3. HOME HEALTH SERVICES -- REGULATORY REQUIREMENTS.

5 The departments of public health and inspections and appeals
6 shall review federal and state requirements applicable to
7 providers of homemaker, home-health aide, home-care aide,
8 hospice, and other in-home services to persons with health
9 problems. The review shall include but is not limited to
10 current and proposed federal requirements for quality
11 assurance, fiscal information concerning the source of
12 regulatory funding, feasibility analysis of requiring criminal
13 and dependent adult abuse record checks of employees of the
14 providers, feasibility analysis of implementing state
15 regulation of the providers, and other information deemed
16 appropriate by the departments. The departments shall submit
17 a report of findings and recommendations on or before December
18 15, 1997.

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SENATE FILE 523

H-1608

1 Amend Senate File 523, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, by inserting after line 33 the
4 following:
5 "5. If a facility or employer employs an
6 individual in good faith and with reasonable reliance
7 upon the report of the criminal and dependent adult
8 abuse record checks requested under this section, the
9 facility or employer shall not be liable in a tort or
10 other civil action for damages brought as the result
11 of injury, death, or loss to a person or property
12 caused by the individual while the individual is
13 employed in a facility solely because of the facility
14 or employer's reliance upon the record check report,
15 even if the information in the report is determined
16 later to be incomplete or inaccurate."

By MARTIN of Scott
MERTZ of Kossuth
WITT of Black Hawk

H-1608 FILED APRIL 8, 1997

w/d 4/9/97 (p. 1107)

SENATE FILE 523

AN ACT

RELATING TO HEALTH CARE FACILITIES BY REQUIRING EMPLOYMENT
CHECKS OF PROSPECTIVE HEALTH CARE FACILITY EMPLOYEES.

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

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

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

1. ~~On or after Beginning July 1, 1994 1997, with regard to
new applicants for licensure or employment, if a person is
being considered for licensure under this chapter, or for
employment involving direct responsibility for a resident or
with access to a resident when the resident is alone, or if
the person considered for licensure or employment under this
chapter will reside prior to employment of a person in a
facility, the facility may shall request that the department
of human services conduct public safety perform criminal and
child and dependent adult abuse record checks of the person in
this state and in other states, on a random basis. In~~

addition, the facility may request that the department of
human services perform a child abuse record check in this
state. Beginning July 1, 1994 1997, a facility shall inform
all new applicants for employment persons prior to employment
of the possibility of regarding the performance of a record
check the records checks and shall obtain, from the applicant
persons, a signed acknowledgment of the receipt of the
information. Additionally, on or after July 1, 1994, a
facility shall include the following inquiry in an application
for employment: "Do you have a record of founded child or
dependent adult abuse or have you ever been convicted of a
crime, in this state or any other state?" If the person has
been convicted of a crime under a law of any state or has a
record of founded child or dependent adult abuse, the
department of human services shall perform an evaluation to
determine whether the crime or founded child or dependent
adult abuse warrants prohibition of licensure, employment, or
residence in the facility. The evaluation shall be performed
in accordance with procedures adopted for this purpose by the
department of human services.

2. If the department of human services public safety
determines that a person has committed a crime or has a record
of founded child or dependent adult abuse and is licensed; to
be employed by in a facility licensed under this chapter, or
resides in a licensed facility; the department of public
safety shall notify the licensee that an evaluation will be
conducted by the department of human services to determine
whether prohibition of the person's licensure, employment, or
residence is warranted. If a department of human services
child abuse record check determines the person has a record of
founded child abuse, the department shall inform the licensee
that an evaluation will be conducted to determine whether
prohibition of the person's employment is warranted.

3. In an evaluation, the department of human services
shall consider the nature and seriousness of the crime or

founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's ~~license, employment, or residence~~ is warranted.

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

Sec. 2. Section 235B.6, subsection 2, paragraph e, Code 1997, is amended by adding the following new subparagraph:
NEW SUBPARAGRAPH. (7) The department of public safety for purposes of performing records checks required under section 135C.33.

Sec. 3. HOME HEALTH SERVICES -- REGULATORY REQUIREMENTS. The departments of public health and inspections and appeals shall review federal and state requirements applicable to providers of homemaker, home-health aide, home-care aide, hospice, and other in-home services to persons with health problems. The review shall include but is not limited to current and proposed federal requirements for quality assurance, fiscal information concerning the source of regulatory funding, feasibility analysis of requiring criminal and dependent adult abuse record checks of employees of the providers, feasibility analysis of implementing state regulation of the providers, and other information deemed

appropriate by the departments. The departments shall submit a report of findings and recommendations on or before December 15, 1997.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 523, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 18, 1997

TERRY E. BRANSTAD
Governor