

FILED FEB 27 '03

SENATE FILE 235
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1083)

Passed Senate, Date Passed 3/17/03 Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to professional licensing boards by providing for
2 the updating of continuing education and regulatory
3 requirements to include specified licensing boards,
4 authorizing specified licensing boards to obtain criminal
5 history data relating to applicants for licensure and
6 licensees, and authorizing the collection of fees for related
7 costs.

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22

SF 235

1 Section 1. Section 272C.1, subsection 6, Code 2003, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. ad. The board of behavioral science
4 examiners, created pursuant to chapter 147.

5 NEW PARAGRAPH. ae. The board of dietetic examiners,
6 created pursuant to chapter 147.

7 NEW PARAGRAPH. af. The board of social work examiners,
8 created pursuant to chapter 147.

9 Sec. 2. Section 272C.3, subsection 1, Code 2003, is
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. 1. Request and obtain, notwithstanding
12 section 692.2, subsection 5, a criminal history record check
13 on any applicant for an initial license, any applicant for
14 reinstatement of a license, or any licensee who is being
15 monitored as a result of a board order or agreement with a
16 board's licensee review committee established under paragraph
17 "k", for the purpose of evaluating the applicant's or
18 licensee's eligibility for licensure or suitability for
19 continued practice of the profession. The board shall inform
20 the applicant or licensee of the criminal history requirement
21 and obtain a signed waiver from the applicant or licensee
22 prior to submitting a criminal history request. Requests for
23 a criminal history shall be submitted to the department of
24 public safety, division of criminal investigation and bureau
25 of identification, pursuant to section 692.2, subsection 1.
26 The board may also require applicants and licensees to provide
27 a full set of fingerprints, in a form and manner prescribed by
28 the board. Such fingerprints may be submitted to the federal
29 bureau of investigation through the state central criminal
30 history repository for the purpose of obtaining national
31 criminal history record information. The board may, in
32 addition to any other fees, charge and collect such amounts as
33 may be incurred by the board, by the department of public
34 safety, or by the federal bureau of investigation in obtaining
35 criminal history information. Amounts collected shall be

1 considered repayment receipts as defined in section 8.2,
2 subsection 8. Criminal history information relating to an
3 applicant or licensee obtained by the board pursuant to this
4 paragraph is confidential. Such information may, however, be
5 used by the board in a license denial proceeding. In a
6 disciplinary proceeding, such information shall constitute
7 investigative information under section 272C.6, subsection 4,
8 and may be used for purposes consistent with that section.

9 EXPLANATION

10 This bill relates to continuing education requirements and
11 regulatory authority in connection with designated
12 professional licensing boards.

13 The bill provides for the addition of three licensing
14 boards to the list of boards specified in Code section 272C.1,
15 subsection 6, to which the continuing education and regulatory
16 requirements and provisions of Code chapter 272C shall apply.
17 The boards are the board of behavioral science examiners,
18 board of dietetic examiners, and board of social work
19 examiners.

20 The bill provides that licensing boards regulated pursuant
21 to Code chapter 272C may obtain criminal history information
22 relating to individuals applying for licensure and existing
23 licensees.

24 The bill authorizes a board to request and obtain a
25 criminal history record check on an applicant for an initial
26 license, an applicant for reinstatement of a license, or any
27 licensee who is being monitored as a result of a board order
28 or agreement with a board's licensee review committee, in the
29 process of evaluating the applicant's or licensee's
30 eligibility for licensure or suitability for continued
31 practice of the particular profession. The bill provides that
32 an applicant or licensee shall be informed of the criminal
33 history requirement and shall sign a waiver prior to
34 submission of a request for such data by the board. The bill
35 provides that requests for a criminal history shall be

1 submitted to the department of public safety, division of
2 criminal investigation and bureau of identification, pursuant
3 to the provisions of Code section 692.2, subsection 1. The
4 board may also require applicants and licensees to provide
5 fingerprints, which may be submitted to the federal bureau of
6 investigation through the state central criminal history
7 repository to obtain national criminal history record
8 information.

9 The bill additionally provides that the board may collect
10 amounts that are incurred in obtaining criminal history
11 information, with the amounts collected considered repayment
12 receipts as defined in Code section 8.2, subsection 8. The
13 bill further provides that such information is confidential,
14 and may be used in a license denial proceeding or as
15 investigative information in a disciplinary proceeding.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Description

Senate File 235 adds the boards of behavioral science examiners, dietetic examiners, and social work examiners to the list of boards regulated pursuant to Chapter 272C, Code of Iowa. In addition, Senate File 235 grants authority to each of the health and commerce licensing boards to conduct criminal history background checks on applicants for new licenses and on those licensees under board discipline.

Assumptions

1. The participating licensing boards will each establish a fee to be paid by licensees to cover the costs of conducting criminal background checks and will also establish a procedure for collection of these fees in administrative rules.
2. Background checks will be conducted for an estimated 8,500 licensees annually.
3. The estimated fee established by each board will be \$45, with \$36 used to cover the expenses of the Department of Public Safety, Division of Criminal Investigation (DCI), the Information Technology Department (ITD), and the Federal Bureau of Investigation (FBI), and \$9 will be used to cover board expenses.
4. The fees will be paid directly to the applicable board with the amounts collected considered as repayment receipts.
5. Boards will assume costs associated with disciplinary proceedings or challenges to license denial as the result of criminal history findings.

Fiscal Impact

Senate File 235 will not impact the State General Fund. The estimated cost of conducting approximately 8,500 criminal history background checks is \$383,000, which will be offset by the fees charged to licensees and collected by the boards as repayment receipts. The estimated number of background checks that will be conducted annually by each board is as follows:

<u>Board</u>	<u>Background Checks</u>	<u>Cost</u>
Medical	850	\$ 38,250
Nursing	2,500	112,500
Pharmacy	1,500	67,500
Dental	500	22,500
Prof. Licens.	1,650	74,250
Commerce	1,500	67,500
Total	8,500	\$ 382,500

Sources

Board of Medical Examiners
Board of Pharmacy Examiners
Board of Nursing Examiners
Board of Dental Examiners
Board of Professional Licensure
Commerce Licensing Boards

/s/ Dennis C Prouty

March 3, 2003

Tinsman
Johnson
Black

State Government

SSB 1083
Succeeded By
SF/HF 235

SENATE/HOUSE FILE

BY (PROPOSED DEPARTMENT
OF PUBLIC HEALTH/
BOARD OF MEDICAL
EXAMINERS BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to professional licensing boards by providing for
2 the updating of continuing education and regulatory
3 requirements to include specified licensing boards,
4 authorizing specified licensing boards to obtain criminal
5 history data relating to applicants for licensure and
6 licensees, and authorizing the collection of fees for related
7 costs.

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22

1 Section 1. Section 272C.3, subsection 1, Code 2003, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. 1. Request and obtain, notwithstanding
4 section 692.2, subsection 5, a criminal history record check
5 on any applicant for an initial license, any applicant for
6 reinstatement of a license, or any licensee who is being
7 monitored as a result of a board order or agreement with a
8 board's licensee review committee established under paragraph
9 "k", for the purpose of evaluating the applicant's or
10 licensee's eligibility for licensure or suitability for
11 continued practice of the profession. The board shall inform
12 the applicant or licensee of the criminal history requirement
13 and obtain a signed waiver from the applicant or licensee
14 prior to submitting a criminal history request. Requests for
15 a criminal history shall be submitted to the department of
16 public safety, division of criminal investigation and bureau
17 of identification, pursuant to section 692.2, subsection 1.
18 The board may also require applicants and licensees to provide
19 a full set of fingerprints, in a form and manner prescribed by
20 the board. Such fingerprints may be submitted to the federal
21 bureau of investigation through the state central criminal
22 history repository for the purpose of obtaining national
23 criminal history record information. The board may, in
24 addition to any other fees, charge and collect such amounts as
25 may be incurred by the board, by the department of public
26 safety, or by the federal bureau of investigation in obtaining
27 criminal history information. Amounts collected shall be
28 considered repayment receipts as defined in section 8.2,
29 subsection 8. Criminal history information relating to an
30 applicant or licensee obtained by the board pursuant to this
31 paragraph is confidential. Such information may, however, be
32 used by the board in a license denial proceeding. In a
33 disciplinary proceeding, such information shall constitute
34 investigative information under section 272C.6, subsection 4,
35 and may be used for purposes consistent with that section.

1 Sec. 2. Section 272C.1, subsection 6, Code 2003, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. ad. The board of behavioral science
4 examiners, created pursuant to chapter 147.

5 NEW PARAGRAPH. ae. The board of dietetic examiners,
6 created pursuant to chapter 147.

7 NEW PARAGRAPH. af. The board of social work examiners,
8 created pursuant to chapter 147.

9 EXPLANATION

10 This bill relates to continuing education requirements and
11 regulatory authority in connection with designated
12 professional licensing boards.

13 The bill provides for the addition of three licensing
14 boards to the list of boards specified in Code section 272C.1,
15 subsection 6, to which the continuing education and regulatory
16 requirements and provisions of Code chapter 272C shall apply.
17 The boards are the board of behavioral science examiners,
18 board of dietetic examiners, and board of social work
19 examiners.

20 The bill provides that licensing boards regulated pursuant
21 to Code chapter 272C may obtain criminal history information
22 relating to individuals applying for licensure and existing
23 licensees.

24 The bill authorizes a board to request and obtain a
25 criminal history record check on an applicant for an initial
26 license, an applicant for reinstatement of a license, or any
27 licensee who is being monitored as a result of a board order
28 or agreement with a board's licensee review committee, in the
29 process of evaluating the applicant's or licensee's
30 eligibility for licensure or suitability for continued
31 practice of the particular profession. The bill provides that
32 an applicant or licensee shall be informed of the criminal
33 history requirement and shall sign a waiver prior to
34 submission of a request for such data by the board. The bill
35 provides that requests for a criminal history shall be

1 submitted to the department of public safety, division of
2 criminal investigation and bureau of identification, pursuant
3 to the provisions of Code section 692.2, subsection 1. The
4 board may also require applicants and licensees to provide
5 fingerprints, which may be submitted to the federal bureau of
6 investigation through the state central criminal history
7 repository to obtain national criminal history record
8 information.

9 The bill additionally provides that the board may collect
10 amounts that are incurred in obtaining criminal history
11 information, with the amounts collected considered repayment
12 receipts as defined in Code section 8.2, subsection 8. The
13 bill further provides that such information is confidential,
14 and may be used in a license denial proceeding or as
15 investigative information in a disciplinary proceeding.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

December 2, 2002

To: Members of the General Assembly

From: Ann Mowery, Ph.D., Executive Director, Iowa Board of Medical Examiners

Re: **Criminal History Verifications**

The licensing Boards named in 272C.1(6) submit this proposal jointly to allow them to retrieve criminal histories from Iowa's Department of Criminal Investigation (DCI) and the Federal Bureau of Investigation (FBI) to verify criminal information requested of licensure applicants or licensees who are being monitored.

Purpose: Legislation will give the Boards the authority to require a criminal history on applicants for new licensure or reinstatement and on those who are being monitored by the Board as a result of a Board order or agreement with a Board's licensee review committee, as established in Iowa Code section 272C.3(1)"k."

Criminal histories will be used to verify information that applicants provide on applications and licensees provide in monitoring reports. A Board will examine each professional's criminal history on an individual basis keeping in mind the relevancy of the crime to the practice of the profession, the length of time since the crime was committed and whether rehabilitation has occurred. Boards will take action to deny licensure or to discipline a license where a criminal history may indicate the individual is a threat to the health, safety or welfare of the public.

Need: The Boards currently have no mechanism to identify criminals who apply for a license unless the applicant is forthcoming on an application. Likewise, licensees who are under Board monitoring, e.g., on probation, can engage in criminal activity that the Board may not find out about unless the licensee reveals the information. Boards have found that as the likelihood increases that a criminal history will affect an individual's licensure status, the less likely the individual is to report it to the Board. There is no complete source of criminal information available to the Boards without statutory authority to access DCI and FBI records.

As other states require criminal histories for licensure, applicants will search for states that do not have such a requirement. Those with criminal backgrounds will seek licensure in states without a criminal history requirement. The Board of Educational Examiners has found that a number of licensure applicants call to identify if Iowa requires criminal histories.

Intent: The Boards intend to encourage professionals to accurately report criminal histories and to stop the licensure of professionals whose criminal history shows the individual is a threat to the public health, safety or welfare.