

House File 2338 - Introduced

HOUSE FILE 2338
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 514)

(COMPANION TO SF 2149)

A BILL FOR

1 An Act relating to criminal history and abuse registry
2 checks for employees of health care facilities and other
3 health-related providers and requiring such checks for
4 certified nurse aide training program students and providing
5 a penalty.

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

1 Section 1. Section 135C.33, subsection 1, Code Supplement
2 2009, is amended to read as follows:

3 1. a. For the purposes of this section, the term
4 "crime" does not include offenses under chapter 321 classified
5 as a simple misdemeanor or equivalent simple misdemeanor
6 offenses from another jurisdiction.

7 b. Prior to employment of a person in a facility, the
8 facility shall request that the department of public safety
9 perform a criminal history check and the department of human
10 services perform child and dependent adult abuse record checks
11 of the person in this state. A facility shall inform all
12 persons prior to employment regarding the performance of the
13 record checks and shall obtain, from the persons, a signed
14 acknowledgment of the receipt of the information. A facility
15 shall include the following inquiry in an application for
16 employment:

17 "Do you have a record of founded child or dependent adult
18 abuse or have you ever been convicted of a crime other than a
19 simple misdemeanor offense relating to motor vehicles and laws
20 of the road under chapter 321 or equivalent provisions, in this
21 state or any other state?"

22 Sec. 2. Section 135C.33, Code Supplement 2009, is amended by
23 adding the following new subsection:

24 NEW SUBSECTION. 8. a. For the purposes of this subsection,
25 unless the context otherwise requires:

26 (1) "*Certified nurse aide training program*" means a program
27 approved in accordance with the rules for such programs adopted
28 by the department of human services for the training of persons
29 seeking to be a certified nurse aide for employment in any of
30 the facilities or programs this section applies to or in a
31 hospital, as defined in Code section 135B.1.

32 (2) "*Student*" means a person applying for, enrolled in, or
33 returning to a certified nurse aide training program.

34 b. Prior to a student beginning or returning to a certified
35 nurse aide training program, the program shall request that

1 the department of public safety perform a criminal history
2 check and the department of human services perform child and
3 dependent adult abuse record checks, in this state, of the
4 student. The program may access the single contact repository
5 established pursuant to this section as necessary for the
6 program to initiate the record checks.

7 *c.* If a student has a criminal record or a record of
8 founded child or dependent adult abuse, the student shall
9 not be involved in a clinical education component of the
10 certified nurse aide training program involving children or
11 dependent adults unless an evaluation has been performed by the
12 department of human services. Upon request of the certified
13 nurse aide training program, the department of human services
14 shall perform an evaluation to determine whether the record
15 warrants prohibition of the student's involvement in a clinical
16 education component of the certified nurse aide training
17 program involving children or dependent adults. The evaluation
18 shall be performed in accordance with the criteria specified in
19 subsection 3 and the department of human services shall report
20 the results of the evaluation to the certified nurse aide
21 training program. The department of human services has final
22 authority in determining whether prohibition of the student's
23 involvement in the clinical education component is warranted.

24 *d.* (1) If a student is convicted of a crime or has a
25 record of founded child or dependent adult abuse entered in the
26 abuse registry after the record checks and any evaluation have
27 been performed, the student shall inform the certified nurse
28 aide training program of such information within forty-eight
29 hours of the criminal conviction or entry of the record of
30 founded child or dependent adult abuse. The program shall
31 act to verify the information within forty-eight hours of
32 notification. If the information is verified, the requirements
33 of paragraph "*c*" shall be applied by the program to determine
34 whether or not the student's involvement in a clinical
35 education component may continue. The program may allow the

1 student involvement to continue pending the performance of an
2 evaluation by the department of human services. A student
3 who is required by this subparagraph to inform the program of
4 a conviction or entry of an abuse record and fails to do so
5 within the required period commits a serious misdemeanor.

6 (2) If a program receives credible information, as
7 determined by the program, that a student has been convicted
8 of a crime or a record of founded child or dependent adult
9 abuse has been entered in the abuse registry after the record
10 checks and any evaluation have been performed, from a person
11 other than the student and the student has not informed the
12 program of such information within the period required under
13 subparagraph (1), the program shall act to verify the credible
14 information within forty-eight hours of receipt of the credible
15 information. If the information is verified, the requirements
16 of paragraph "c" shall be applied to determine whether or not
17 the student's involvement in a clinical education component may
18 continue.

19 (3) The program may notify the county attorney for the
20 county where the program is located of any violation or failure
21 by a student to notify the program of a criminal conviction
22 or entry of an abuse record within the period required under
23 subparagraph (1).

24 e. If a certified nurse aide training program is conducted
25 by a health care facility and a student of that program
26 subsequently accepts and begins employment with the facility
27 within thirty days of completing the program, the criminal
28 history and abuse registry checks of the student performed
29 pursuant to this subsection shall be deemed to fulfill the
30 requirements for such checks prior to employment pursuant to
31 subsection 1.

32 EXPLANATION

33 This bill relates to criminal history and abuse registry
34 checks for employees of health care facilities and other
35 health-related providers and requires criminal history and

1 abuse registry checks for certified nurse aide training program
2 students.

3 The bill amends Code section 135C.33, relating to such
4 record checks for prospective employees of nursing facilities,
5 various types of in-home services, hospices, elder group
6 homes, and assisted living programs. Under current law, the
7 prospective employees are required to have criminal history and
8 child and dependent abuse registry checks prior to employment.
9 If there is an abuse record or a conviction of any crime, a
10 prospective employee cannot be employed without an evaluation
11 performed by the department of human services to determine
12 whether the crime or abuse record warrants prohibition of
13 the person's employment. The law requires the employment
14 application to include a specific question regarding abuse
15 record and criminal convictions. The bill provides that for
16 the criminal record check and employment application question,
17 a simple misdemeanor offense under Code chapter 321, relating
18 to motor vehicles and laws of the road, is not considered to be
19 a crime.

20 A new subsection in Code section 135C.33 provides the
21 training program student requirement. The terms "certified
22 nurse aide training program" and "student" are defined.
23 Certified nurse aide training programs are authorized to access
24 the single contact repository established by the department of
25 inspections and appeals for performing the criminal history and
26 abuse registry checks.

27 If a nurse aide student has a criminal record or a record of
28 founded child or dependent adult abuse, the student cannot be
29 involved in a clinical education component of a certified nurse
30 aide training program involving children or dependent adults
31 unless an evaluation has been performed by the department
32 of human services to determine whether the record warrants
33 prohibition of the student's involvement in the component.
34 The department of human services is required to perform the
35 evaluation if requested to do so by the training program. The

1 evaluation is to be performed in accordance with the existing
2 criteria for employment-related evaluations. The department of
3 human services has final authority to make the determination.

4 The bill includes an ongoing notification requirement
5 that is similar to the employment-related requirement in
6 Code section 135C.33. If, after the record checks and any
7 evaluation have been performed, a student is convicted of a
8 crime or has a record of founded abuse entered, the student is
9 required to notify the program of that information within 48
10 hours. Failure to comply is a criminal offense punishable as a
11 serious misdemeanor. A serious misdemeanor is punishable by
12 confinement for no more than one year and a fine of at least
13 \$315 but not more than \$1,875.

14 If the program receives credible information that such
15 conviction or record has been entered and the student had not
16 provided the required notification, the program is required to
17 act to verify the information within 48 hours of receiving it.
18 The evaluation provisions apply if the offense was committed
19 or record entered. A program may notify the county attorney
20 regarding a student's failure to comply with the notification
21 requirement.

22 Finally, the bill provides that if a health care facility
23 conducts the training program and a student commences
24 employment with the facility within 30 days of completing the
25 program, the record checks of the student performed for the
26 program are deemed to fulfill the requirement for such checks
27 prior to employment.