

House File 2257 - Introduced

HOUSE FILE 2257

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A BILL FOR

1 An Act relating to the procedures governing boards and
2 commissions and the grounds for licensee discipline.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 9A.105, subsection 1, paragraph h, Code
2 2011, is amended to read as follows:

3 h. Whether the applicant or any person named pursuant to
4 paragraph "g" has been convicted of a ~~crime~~ felony that, if
5 committed in this state, would be a crime involving moral
6 turpitude ~~or which is a felony~~, and identify the ~~crime~~ felony.

7 Sec. 2. Section 9A.106, subsection 2, paragraph a, Code
8 2011, is amended to read as follows:

9 a. Been convicted of a ~~crime~~ felony that, if committed in
10 this state, would be a crime involving moral turpitude ~~or a~~
11 felony.

12 Sec. 3. Section 17A.3, subsection 1, paragraph a, Code 2011,
13 is amended to read as follows:

14 a. (1) Adopt as a rule a description of the organization of
15 the agency which states the general course and method of its
16 operations, the administrative subdivisions of the agency and
17 the programs implemented by each of them, a statement of the
18 mission of the agency, and the methods by which and location
19 where the public may obtain information or make submissions or
20 requests.

21 (2) Each board, commission, or other multimember agency
22 shall adopt rules of procedure governing the conduct of agency
23 meetings.

24 Sec. 4. NEW SECTION. 17A.18B Licensee discipline.

25 1. An agency may revoke, suspend, or deny issuance or
26 renewal of a license, based on grounds as established in
27 statute.

28 2. Except as otherwise provided in statute, when
29 considering the revocation, suspension, or denial of a license,
30 an agency may consider a conviction for a felony, related to
31 the profession or occupation of the licensee. A copy of the
32 record of conviction, or an adjudication of guilt, shall be
33 conclusive evidence of the conviction.

34 3. An agency shall not consider a deferred judgment or
35 the underlying facts in that case as a ground for revoking,

1 suspending, or denying issuance or renewal of a license.

2 4. For the purposes of licensee discipline, the term "*public*
3 *offense*" does not include chapter 321, traffic, or scheduled
4 violations.

5 Sec. 5. Section 80A.4, subsection 1, paragraph g, Code 2011,
6 is amended to read as follows:

7 *g.* Has not been convicted of a ~~crime described in section~~
8 ~~708.3, 708.4, 708.5, 708.6, 708.8, or 708.9~~ felony.

9 Sec. 6. Section 99G.24, subsection 7, paragraph a, Code
10 2011, is amended to read as follows:

11 *a.* Has been convicted of a ~~criminal offense~~ felony related
12 to the security or integrity of the lottery in this or any
13 other jurisdiction.

14 Sec. 7. Section 125.14A, Code 2011, is amended to read as
15 follows:

16 **125.14A Personnel of a licensed program admitting juveniles.**

17 1. If a person is being considered for licensure under this
18 chapter, or for employment involving direct responsibility for
19 a child or with access to a child when the child is alone, by
20 a program admitting juveniles subject to licensure under this
21 chapter, or if a person will reside in a facility utilized by
22 such a program, and if the person has been convicted of a ~~crime~~
23 public offense or has a record of founded child abuse, the
24 department of human services and the program, for an employee
25 of the program, shall perform an evaluation to determine
26 whether the ~~crime~~ public offense or founded child abuse
27 warrants prohibition of licensure, employment, or residence in
28 the facility. The department of human services shall conduct
29 criminal and child abuse record checks in this state and may
30 conduct these checks in other states. The evaluation shall
31 be performed in accordance with procedures adopted for this
32 purpose by the department of human services.

33 2. If the department of human services determines that a
34 person has committed a ~~crime~~ public offense or has a record
35 of founded child abuse and is licensed, employed by a program

1 licensed under this chapter, or resides in a licensed facility
2 the department shall notify the program that an evaluation will
3 be conducted to determine whether prohibition of the person's
4 licensure, employment, or residence is warranted.

5 3. In an evaluation, the department of human services and
6 the program for an employee of the program shall consider the
7 nature and seriousness of the crime public offense or founded
8 child abuse in relation to the position sought or held, the
9 time elapsed since the commission of the crime public offense
10 or founded child abuse, the circumstances under which the
11 crime public offense or founded child abuse was committed,
12 the degree of rehabilitation, the likelihood that the person
13 will commit the crime public offense or founded child abuse
14 again, and the number of crimes public offenses or founded
15 child abuses committed by the person involved. The department
16 of human services may permit a person who is evaluated to
17 be licensed, employed, or to reside, or to continue to be
18 licensed, employed, or to reside in a program, if the person
19 complies with the department's conditions relating to the
20 person's licensure, employment, or residence, which may include
21 completion of additional training. For an employee of a
22 licensee, these conditional requirements shall be developed
23 with the licensee. The department of human services has final
24 authority in determining whether prohibition of the person's
25 licensure, employment, or residence is warranted and in
26 developing any conditional requirements under this subsection.

27 4. If the department of human services determines that the
28 person has committed a crime public offense or has a record of
29 founded child abuse which warrants prohibition of licensure,
30 employment, or residence, the person shall not be licensed
31 under this chapter to operate a program admitting juveniles
32 and shall not be employed by a program or reside in a facility
33 admitting juveniles licensed under this chapter.

34 5. In addition to the record checks required under this
35 section, the department of human services may conduct dependent

1 adult abuse record checks in this state and may conduct these
2 checks in other states, on a random basis. The provisions
3 of this section, relative to an evaluation following a
4 determination that a person has been convicted of a ~~crime~~
5 public offense or has a record of founded child abuse, shall
6 also apply to a random check conducted under this subsection.

7 6. Beginning July 1, 1994, a program or facility shall
8 inform all new applicants for employment of the possibility
9 of the performance of a record check and shall obtain, from
10 the applicant, a signed acknowledgment of the receipt of the
11 information.

12 7. On or after July 1, 1994, a program or facility shall
13 include the following inquiry in an application for employment:
14 Do you have a record of founded child or dependent adult abuse
15 or have you ever been convicted of a ~~crime~~ public offense, in
16 this state or any other state?

17 Sec. 8. Section 135B.34, Code 2011, is amended to read as
18 follows:

19 **135B.34 Hospital employees — criminal history and abuse**
20 **record checks — penalty.**

21 1. Prior to employment of a person in a hospital, the
22 hospital shall request that the department of public safety
23 perform a criminal history check and the department of human
24 services perform child and dependent adult abuse record checks
25 of the person in this state. A hospital shall inform all
26 persons prior to employment regarding the performance of the
27 record checks and shall obtain, from the persons, a signed
28 acknowledgment of the receipt of the information. A hospital
29 shall include the following inquiry in an application for
30 employment:

31 Do you have a record of founded child or dependent adult abuse
32 or have you ever been convicted of a ~~crime~~ public offense, in
33 this state or any other state?

34 2. a. If it is determined that a person being considered
35 for employment in a hospital has committed a ~~crime~~ public

1 offense, the department of public safety shall notify the
2 hospital that upon the request of the hospital the department
3 of human services will perform an evaluation to determine
4 whether the ~~crime~~ public offense warrants prohibition of the
5 person's employment in the hospital.

6 *b.* If a department of human services child or dependent
7 adult abuse record check shows that the person has a record of
8 founded child or dependent adult abuse, the department of human
9 services shall notify the hospital that upon the request of
10 the hospital the department of human services will perform an
11 evaluation to determine whether the founded child or dependent
12 adult abuse warrants prohibition of the person's employment in
13 the hospital.

14 *c.* An evaluation performed under this subsection shall
15 be performed in accordance with procedures adopted for this
16 purpose by the department of human services.

17 *d.* (1) If a person owns or operates more than one hospital,
18 and an employee of one of such hospitals is transferred to
19 another such hospital without a lapse in employment, the
20 hospital is not required to request additional criminal and
21 child and dependent adult abuse record checks of that employee.

22 (2) If the ownership of a hospital is transferred, at the
23 time of transfer the record checks required by this section
24 shall be performed for each employee for whom there is no
25 documentation that such record checks have been performed.
26 The hospital may continue to employ such employee pending the
27 performance of the record checks and any related evaluation.

28 3. In an evaluation, the department of human services shall
29 consider the nature and seriousness of the ~~crime~~ public offense
30 or founded child or dependent adult abuse in relation to the
31 position sought or held, the time elapsed since the commission
32 of the ~~crime~~ public offense or founded child or dependent adult
33 abuse, the circumstances under which the ~~crime~~ public offense
34 or founded child or dependent adult abuse was committed, the
35 degree of rehabilitation, the likelihood that the person will

1 commit the ~~crime~~ public offense or founded child or dependent
2 adult abuse again, and the number of ~~crimes~~ public offenses
3 or founded child or dependent adult abuses committed by the
4 person involved. If the department of human services performs
5 an evaluation for the purposes of this section, the department
6 of human services has final authority in determining whether
7 prohibition of the person's employment is warranted.

8 4. a. Except as provided in paragraph "b" and subsection
9 2, a person who has committed a ~~crime~~ public offense or has
10 a record of founded child or dependent adult abuse shall not
11 be employed in a hospital licensed under this chapter unless
12 an evaluation has been performed by the department of human
13 services.

14 b. A person with a criminal or abuse record who is employed
15 by a hospital licensed under this chapter and is hired by
16 another licensee without a lapse in employment shall be subject
17 to the criminal history and abuse record checks required
18 pursuant to subsection 1. If an evaluation was previously
19 performed by the department of human services concerning
20 the person's criminal or abuse record and it was determined
21 that the record did not warrant prohibition of the person's
22 employment and the latest record checks do not indicate a
23 ~~crime~~ public offense was committed or founded abuse record was
24 entered subsequent to that evaluation, the person may commence
25 employment with the other licensee while the department of
26 human services' evaluation of the latest record checks is
27 pending. Otherwise, the requirements of paragraph "a" remain
28 applicable to the person's employment.

29 5. a. If a person employed by a hospital that is subject
30 to this section is convicted of a ~~crime~~ public offense or has
31 a record of founded child or dependent adult abuse entered in
32 the abuse registry after the person's employment application
33 date, the person shall inform the hospital of such information
34 within forty-eight hours of the criminal conviction or entry
35 of the record of founded child or dependent adult abuse. The

1 hospital shall act to verify the information within forty-eight
2 hours of notification. If the information is verified, the
3 requirements of subsections 2, 3, and 4 regarding employability
4 and evaluations shall be applied by the hospital to determine
5 whether or not the person's employment is continued. The
6 hospital may continue to employ the person pending the
7 performance of an evaluation by the department of human
8 services to determine whether prohibition of the person's
9 employment is warranted. A person who is required by this
10 subsection to inform the person's employer of a conviction or
11 entry of an abuse record and fails to do so within the required
12 period commits a serious misdemeanor.

13 *b.* If a hospital receives credible information, as
14 determined by the hospital, that a person employed by the
15 hospital has been convicted of a ~~crime~~ public offense or a
16 record of founded child or dependent adult abuse has been
17 entered in the abuse registry after employment from a person
18 other than the employee and the employee has not informed
19 the hospital of such information within the period required
20 under paragraph "a", the hospital shall act to verify the
21 credible information within forty-eight hours of receipt of
22 the credible information. If the information is verified, the
23 requirements of subsections 2, 3, and 4 regarding employability
24 and evaluations shall be applied by the hospital to determine
25 whether or not the person's employment is continued.

26 *c.* The hospital may notify the county attorney for the
27 county where the hospital is located of any violation or
28 failure by an employee to notify the hospital of a criminal
29 conviction or entry of an abuse record within the period
30 required under paragraph "a".

31 6. A hospital licensed in this state may access the single
32 contact repository established by the department pursuant to
33 section 135C.33 as necessary for the hospital to perform record
34 checks of persons employed or being considered for employment
35 by the hospital.

1 Sec. 9. Section 135C.33, Code 2011, is amended to read as
2 follows:

3 **135C.33 Employees and certified nurse aide trainees — child**
4 **or dependent adult abuse information and criminal record checks**
5 **— evaluations — application to other providers — penalty.**

6 1. *a.* For the purposes of this section, the term "~~crime~~"
7 "public offense" does not include ~~offenses under chapter 321~~
8 ~~classified as a simple misdemeanor~~ chapter 321, traffic, or
9 scheduled violations or equivalent simple misdemeanor offenses
10 from another jurisdiction.

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

21 Do you have a record of founded child or dependent adult
22 abuse or have you ever been convicted of a ~~crime~~ public offense
23 other than a simple misdemeanor offense relating to motor
24 vehicles and laws of the road under chapter 321 or equivalent
25 provisions, in this state or any other state?

26 2. *a.* If it is determined that a person being considered
27 for employment in a facility has been convicted of a ~~crime~~
28 public offense under a law of any state, the department
29 of public safety shall notify the licensee that upon the
30 request of the licensee the department of human services will
31 perform an evaluation to determine whether the ~~crime~~ public
32 offense warrants prohibition of the person's employment in the
33 facility.

34 *b.* If a department of human services child or dependent
35 adult abuse record check shows that such person has a record of

1 founded child or dependent adult abuse, the department of human
2 services shall notify the licensee that upon the request of
3 the licensee the department of human services will perform an
4 evaluation to determine whether the founded child or dependent
5 adult abuse warrants prohibition of employment in the facility.

6 c. An evaluation performed under this subsection shall
7 be performed in accordance with procedures adopted for this
8 purpose by the department of human services.

9 d. (1) If a person owns or operates more than one facility,
10 and an employee of one of such facilities is transferred to
11 another such facility without a lapse in employment, the
12 facility is not required to request additional criminal and
13 child and dependent adult abuse record checks of that employee.

14 (2) If the ownership of a facility is transferred, at the
15 time of transfer the record checks required by this section
16 shall be performed for each employee for whom there is no
17 documentation that such record checks have been performed.
18 The facility may continue to employ such employee pending the
19 performance of the record checks and any related evaluation.

20 3. In an evaluation, the department of human services shall
21 consider the nature and seriousness of the ~~crime~~ public offense
22 or founded child or dependent adult abuse in relation to the
23 position sought or held, the time elapsed since the commission
24 of the ~~crime~~ public offense or founded child or dependent adult
25 abuse, the circumstances under which the ~~crime~~ public offense
26 or founded child or dependent adult abuse was committed, the
27 degree of rehabilitation, the likelihood that the person will
28 commit the ~~crime~~ public offense or founded child or dependent
29 adult abuse again, and the number of ~~crimes~~ public offenses
30 or founded child or dependent adult abuses committed by the
31 person involved. If the department of human services performs
32 an evaluation for the purposes of this section, the department
33 of human services has final authority in determining whether
34 prohibition of the person's employment is warranted.

35 4. a. Except as provided in paragraph "b" and subsection

1 2, a person who has committed a ~~crime~~ public offense or has
2 a record of founded child or dependent adult abuse shall not
3 be employed in a facility licensed under this chapter unless
4 an evaluation has been performed by the department of human
5 services.

6 *b.* A person with a criminal or abuse record who is employed
7 by a facility licensed under this chapter and is hired by
8 another licensee without a lapse in employment shall be subject
9 to the criminal history and abuse record checks required
10 pursuant to subsection 1. If an evaluation was previously
11 performed by the department of human services concerning
12 the person's criminal or abuse record and it was determined
13 that the record did not warrant prohibition of the person's
14 employment and the latest record checks do not indicate a
15 crime public offense was committed or founded abuse record was
16 entered subsequent to that evaluation, the person may commence
17 employment with the other licensee while the department of
18 human services' evaluation of the latest record checks is
19 pending. Otherwise, the requirements of paragraph "a" remain
20 applicable to the person's employment.

21 5. *a.* This section shall also apply to prospective
22 employees of all of the following, if the provider is regulated
23 by the state or receives any state or federal funding:

24 (1) An employee of a homemaker-home health aide, home care
25 aide, adult day services, or other provider of in-home services
26 if the employee provides direct services to consumers.

27 (2) An employee of a hospice, if the employee provides
28 direct services to consumers.

29 (3) An employee who provides direct services to consumers
30 under a federal home and community-based services waiver.

31 (4) An employee of an elder group home certified under
32 chapter 231B, if the employee provides direct services to
33 consumers.

34 (5) An employee of an assisted living program certified
35 under chapter 231C, if the employee provides direct services

1 to consumers.

2 *b.* In substantial conformance with the provisions of
3 this section, prior to the employment of such an employee,
4 the provider shall request the performance of the criminal
5 and child and dependent adult abuse record checks. The
6 provider shall inform the prospective employee and obtain the
7 prospective employee's signed acknowledgment. The department
8 of human services shall perform the evaluation of any criminal
9 record or founded child or dependent adult abuse record and
10 shall make the determination of whether a prospective employee
11 of a provider shall not be employed by the provider.

12 6. *a.* The department of inspections and appeals, in
13 conjunction with other departments and agencies of state
14 government involved with criminal history and abuse registry
15 information, shall establish a single contact repository for
16 facilities and other providers to have electronic access to
17 data to perform background checks for purposes of employment,
18 as required of the facilities and other providers under this
19 section.

20 *b.* The department may access the single contact repository
21 for any of the following purposes:

22 (1) To verify data transferred from the department's nurse
23 aide registry to the repository.

24 (2) To conduct record checks of applicants for employment
25 with the department.

26 7. *a.* If a person employed by a facility, service, or
27 program employer that is subject to this section is convicted
28 of a ~~crime~~ public offense or has a record of founded child or
29 dependent adult abuse entered in the abuse registry after the
30 person's employment application date, the person shall inform
31 the employer of such information within forty-eight hours of
32 the criminal conviction or entry of the record of founded child
33 or dependent adult abuse. The employer shall act to verify the
34 information within forty-eight hours of notification. If the
35 information is verified, the requirements of subsections 2, 3,

1 and 4 regarding employability and evaluations shall be applied
2 by the employer to determine whether or not the person's
3 employment is continued. The employer may continue to employ
4 the person pending the performance of an evaluation by the
5 department of human services to determine whether prohibition
6 of the person's employment is warranted. A person who is
7 required by this subsection to inform the person's employer of
8 a conviction or entry of an abuse record and fails to do so
9 within the required period commits a serious misdemeanor.

10 **b.** If a facility, service, or program employer receives
11 credible information, as determined by the employer, that a
12 person employed by the employer has been convicted of a crime
13 public offense or a record of founded child or dependent adult
14 abuse has been entered in the abuse registry after employment
15 from a person other than the employee and the employee has not
16 informed the employer of such information within the period
17 required under paragraph "a", the employer shall act to verify
18 the credible information within forty-eight hours of receipt of
19 the credible information. If the information is verified, the
20 requirements of subsections 2, 3, and 4 regarding employability
21 and evaluations shall be applied to determine whether or not
22 the person's employment is continued.

23 **c.** The employer may notify the county attorney for the
24 county where the employer is located of any violation or
25 failure by an employee to notify the employer of a criminal
26 conviction or entry of an abuse record within the period
27 required under paragraph "a".

28 **8. a.** For the purposes of this subsection, unless the
29 context otherwise requires:

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

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

3 b. Prior to a student beginning or returning to a certified
4 nurse aide training program, the program shall request that
5 the department of public safety perform a criminal history
6 check and the department of human services perform child and
7 dependent adult abuse record checks, in this state, of the
8 student. The program may access the single contact repository
9 established pursuant to this section as necessary for the
10 program to initiate the record checks.

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

28 d. (1) If a student is convicted of a ~~crime~~ public offense
29 or has a record of founded child or dependent adult abuse
30 entered in the abuse registry after the record checks and any
31 evaluation have been performed, the student shall inform the
32 certified nurse aide training program of such information
33 within forty-eight hours of the criminal conviction or entry
34 of the record of founded child or dependent adult abuse. The
35 program shall act to verify the information within forty-eight

1 hours of notification. If the information is verified, the
2 requirements of paragraph "c" shall be applied by the program
3 to determine whether or not the student's involvement in
4 a clinical education component may continue. The program
5 may allow the student involvement to continue pending the
6 performance of an evaluation by the department of human
7 services. A student who is required by this subparagraph to
8 inform the program of a conviction or entry of an abuse record
9 and fails to do so within the required period commits a serious
10 misdemeanor.

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

24 (3) The program may notify the county attorney for the
25 county where the program is located of any violation or failure
26 by a student to notify the program of a criminal conviction
27 or entry of an abuse record within the period required under
28 subparagraph (1).

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

1 subsection 1.

2 Sec. 10. Section 135H.7, Code 2011, is amended to read as
3 follows:

4 **135H.7 Personnel.**

5 1. A person shall not be allowed to provide services in a
6 psychiatric institution if the person has a disease which is
7 transmissible to other persons through required contact in the
8 workplace, which presents a significant risk of infecting other
9 persons, which presents a substantial possibility of harming
10 other persons, or for which no reasonable accommodation can
11 eliminate the risk of infecting other persons.

12 2. *a.* If a person is being considered for licensure under
13 this chapter, or for employment involving direct responsibility
14 for a child or with access to a child when the child is alone,
15 by a licensed psychiatric institution, or if a person will
16 reside in a facility utilized by a licensee, and if the person
17 has been convicted of a ~~crime~~ public offense or has a record
18 of founded child abuse, the department of human services and
19 the licensee, for an employee of the licensee, shall perform
20 an evaluation to determine whether the ~~crime~~ public offense
21 or founded child abuse warrants prohibition of licensure,
22 employment, or residence in the facility. The department of
23 human services shall conduct criminal and child abuse record
24 checks in this state and may conduct these checks in other
25 states. The evaluation shall be performed in accordance with
26 procedures adopted for this purpose by the department of human
27 services.

28 *b.* If the department of human services determines that a
29 person has committed a ~~crime~~ public offense or has a record of
30 founded child abuse and is licensed, employed by a psychiatric
31 institution licensed under this chapter, or resides in a
32 licensed facility the department shall notify the program
33 that an evaluation will be conducted to determine whether
34 prohibition of the person's licensure, employment, or residence
35 is warranted.

1 c. In an evaluation, the department of human services and
2 the licensee for an employee of the licensee shall consider the
3 nature and seriousness of the ~~crime~~ public offense or founded
4 child abuse in relation to the position sought or held, the
5 time elapsed since the commission of the ~~crime~~ public offense
6 or founded child abuse, the circumstances under which the ~~crime~~
7 public offense or founded child abuse was committed, the degree
8 of rehabilitation, the likelihood that the person will commit
9 the ~~crime~~ public offense or founded child abuse again, and
10 the number of ~~crimes~~ public offenses or founded child abuses
11 committed by the person involved. The department may permit a
12 person who is evaluated to be licensed, employed, or to reside,
13 or to continue to be licensed, employed, or to reside in a
14 licensed facility, if the person complies with the department's
15 conditions relating to the person's licensure, employment, or
16 residence, which may include completion of additional training.
17 For an employee of a licensee, these conditional requirements
18 shall be developed with the licensee. The department of
19 human services has final authority in determining whether
20 prohibition of the person's licensure, employment, or residence
21 is warranted and in developing any conditional requirements
22 under this paragraph.

23 3. If the department of human services determines that the
24 person has committed a ~~crime~~ public offense or has a record of
25 founded child abuse which warrants prohibition of licensure,
26 employment, or residence, the person shall not be licensed
27 under this chapter to operate a psychiatric institution and
28 shall not be employed by a psychiatric institution or reside in
29 a facility licensed under this chapter.

30 4. In addition to the record checks required under
31 subsection 2, the department of human services may conduct
32 dependent adult abuse record checks in this state and may
33 conduct these checks in other states, on a random basis. The
34 provisions of subsections 2 and 3, relative to an evaluation
35 following a determination that a person has been convicted of a

1 ~~crime~~ public offense or has a record of founded child abuse,
2 shall also apply to a random dependent adult abuse record check
3 conducted under this subsection.

4 5. Beginning July 1, 1994, a licensee shall inform all new
5 applicants for employment of the possibility of the performance
6 of a record check and shall obtain, from the applicant, a
7 signed acknowledgment of the receipt of the information.

8 6. On or after July 1, 1994, a licensee shall include the
9 following inquiry in an application for employment:

10 Do you have a record of founded child or dependent adult abuse
11 or have you ever been convicted of a ~~crime~~ public offense, in
12 this state or any other state?

13 Sec. 11. Section 147.55, subsection 5, Code 2011, is amended
14 to read as follows:

15 5. Conviction of a ~~crime~~ felony related to the profession
16 or occupation of the licensee or the conviction of any ~~crime~~
17 felony that would affect the licensee's ability to practice
18 within a profession. A copy of the record of conviction or
19 plea of guilty shall be conclusive evidence.

20 Sec. 12. Section 148.6, subsection 2, paragraph b, Code
21 2011, is amended to read as follows:

22 *b.* Being convicted of a felony in the courts of this state
23 or another state, territory, or country. Conviction as used in
24 this paragraph shall include a conviction of an offense which
25 if committed in this state would be deemed a felony without
26 regard to its designation elsewhere, ~~or a criminal proceeding~~
27 ~~in which a finding or verdict of guilt is made or returned, but~~
28 ~~the adjudication of guilt is either withheld or not entered.~~
29 A certified copy of the final order or judgment of conviction
30 or plea of guilty in this state or in another state shall be
31 conclusive evidence.

32 Sec. 13. Section 153.34, subsection 9, Code 2011, is amended
33 to read as follows:

34 9. For the conviction of a felony in the courts of this
35 state or another state, territory, or country. Conviction as

1 used in this subsection includes a conviction of an offense
2 which if committed in this state would be a felony without
3 regard to its designation elsewhere, ~~and includes a finding or~~
4 ~~verdict of guilt made or returned in a criminal proceeding even~~
5 ~~if the adjudication of guilt is withheld or not entered.~~ A
6 certified copy of the final order or judgment of conviction or
7 plea of guilty in this state or in another state constitutes
8 conclusive evidence of the conviction.

9 Sec. 14. Section 156.9, subsection 2, paragraph e, Code
10 2011, is amended to read as follows:

11 e. Conviction of any ~~crime~~ felony related to the practice
12 of mortuary science or implicating the licensee's competence
13 to safely perform mortuary science services, including but
14 not limited to a ~~crime~~ felony involving moral character,
15 dishonesty, fraud, theft, embezzlement, extortion, or
16 controlled substances, in a court of competent jurisdiction in
17 this state, or in another state, territory, or district of the
18 United States, or in a foreign jurisdiction. ~~For purposes of~~
19 ~~this paragraph, "conviction" includes a guilty plea, deferred~~
20 ~~judgment, or other finding of guilt.~~ A certified copy of the
21 judgment is prima facie evidence of the conviction.

22 Sec. 15. Section 156.15, subsection 2, paragraph a, Code
23 2011, is amended to read as follows:

24 a. Been convicted of a felony ~~or any crime~~ related to the
25 practice of mortuary science or implicating the establishment's
26 ability to safely perform mortuary science services, or if the
27 applicant is an association, joint stock company, partnership,
28 or corporation, that a managing officer or owner has been
29 convicted of such a ~~crime~~ felony, under the laws of this state,
30 another state, or the United States.

31 Sec. 16. Section 169.13, subsection 1, paragraph b, Code
32 2011, is amended to read as follows:

33 b. Being convicted of a felony in the courts of this state
34 or another state, territory, or country. Conviction as used
35 in this paragraph includes a conviction of an offense which

1 if committed in this state would be deemed a felony without
2 regard to its designation elsewhere, ~~or a criminal proceeding~~
3 ~~in which a finding or verdict of guilt is made or returned, but~~
4 ~~the adjudication or guilt is either withheld or not entered. A~~
5 ~~certified copy of the final order or judgment of conviction or~~
6 ~~plea of guilty in this state or in another state is conclusive~~
7 ~~evidence.~~

8 Sec. 17. Section 237.8, Code 2011, is amended to read as
9 follows:

10 **237.8 Personnel.**

11 1. A person shall not be allowed to provide services in a
12 facility if the person has a disease which is transmissible to
13 other persons through required contact in the workplace, which
14 presents a significant risk of infecting other persons, which
15 presents a substantial possibility of harming other persons, or
16 for which no reasonable accommodation can eliminate the risk of
17 infecting other persons.

18 2. a. (1) If a person is being considered for licensure
19 under this chapter, or for employment involving direct
20 responsibility for a child or with access to a child when the
21 child is alone, by a licensee under this chapter, or if a
22 person will reside in a facility utilized by a licensee, and
23 if the person has been convicted of a ~~crime~~ public offense
24 or has a record of founded child abuse, the department and
25 the licensee for an employee of the licensee shall perform
26 an evaluation to determine whether the ~~crime~~ public offense
27 or founded child abuse warrants prohibition of licensure,
28 employment, or residence in the facility. The department shall
29 conduct criminal and child abuse record checks in this state
30 and may conduct these checks in other states. The evaluation
31 shall be performed in accordance with procedures adopted for
32 this purpose by the department.

33 (2) For an individual subject to licensure under this
34 chapter as a foster parent, in addition to the record checks
35 conducted under subparagraph (1), the individual's fingerprints

1 shall be provided to the department of public safety for
2 submission through the state criminal history repository to
3 the United States department of justice, federal bureau of
4 investigation for a national criminal history check. The cost
5 of the criminal history check conducted under this subparagraph
6 is the responsibility of the department of human services.

7 (3) If the criminal and child abuse record checks conducted
8 in this state under subparagraph (1) for an individual
9 being considered for licensure as a foster parent have been
10 completed and the individual either does not have a record of
11 ~~crime~~ a public offense or founded abuse or the department's
12 evaluation of the record has determined that prohibition of the
13 individual's licensure is not warranted, the individual may be
14 provisionally approved for licensure pending the outcome of the
15 fingerprint-based criminal history check conducted pursuant to
16 subparagraph (2).

17 (4) An individual applying to be a foster parent licensee
18 shall not be granted a license and an evaluation shall not be
19 performed under this subsection if the individual has been
20 convicted of any of the following felony offenses:

21 (a) Within the five-year period preceding the application
22 date, a drug-related offense.

23 (b) Child endangerment or neglect or abandonment of a
24 dependent person.

25 (c) Domestic abuse.

26 (d) A ~~crime~~ public offense against a child, including but
27 not limited to sexual exploitation of a minor.

28 (e) A forcible felony.

29 *b.* Except as otherwise provided in paragraph "a", if the
30 department determines that a person has committed a ~~crime~~
31 public offense or has a record of founded child abuse and is
32 licensed, employed by a licensee, or resides in a licensed
33 facility the department shall notify the licensee that an
34 evaluation will be conducted to determine whether prohibition
35 of the person's licensure, employment, or residence is

1 warranted.

2 *c.* In an evaluation, the department and the licensee for
3 an employee of the licensee shall consider the nature and
4 seriousness of the ~~crime~~ public offense or founded child abuse
5 in relation to the position sought or held, the time elapsed
6 since the commission of the ~~crime~~ public offense or founded
7 child abuse, the circumstances under which the ~~crime~~ public
8 offense or founded child abuse was committed, the degree of
9 rehabilitation, the likelihood that the person will commit
10 the ~~crime~~ public offense or founded child abuse again, and
11 the number of ~~crimes~~ public offenses or founded child abuses
12 committed by the person involved. The department may permit a
13 person who is evaluated to be licensed, employed, or to reside,
14 or to continue to be licensed, employed, or to reside in a
15 licensed facility, if the person complies with the department's
16 conditions relating to the person's licensure, employment, or
17 residence, which may include completion of additional training.
18 For an employee of a licensee, these conditional requirements
19 shall be developed with the licensee. The department has final
20 authority in determining whether prohibition of the person's
21 licensure, employment, or residence is warranted and in
22 developing any conditional requirements under this paragraph.

23 *d.* If the department determines that the person has
24 committed a ~~crime~~ public offense or has a record of founded
25 child abuse which warrants prohibition of licensure,
26 employment, or residence, the person shall not be licensed
27 under this chapter and shall not be employed by a licensee or
28 reside in a licensed facility.

29 3. In addition to the record checks required under
30 subsection 2, the department of human services may conduct
31 dependent adult abuse record checks in this state and may
32 conduct these checks in other states, on a random basis. The
33 provisions of subsection 2, relative to an evaluation following
34 a determination that a person has been convicted of a ~~crime~~
35 public offense or has a record of founded child abuse, shall

1 also apply to a random check conducted under this subsection.

2 4. On or after July 1, 1994, a licensee shall inform all new
3 applicants for employment of the possibility of the performance
4 of a record check and shall obtain, from the applicant, a
5 signed acknowledgment of the receipt of the information.

6 5. On or after July 1, 1994, a licensee shall include the
7 following inquiry in an application for employment:

8 Do you have a record of founded child or dependent adult abuse
9 or have you ever been convicted of a ~~crime~~ public offense, in
10 this state or any other state?

11 Sec. 18. Section 237A.5, subsection 2, paragraph a,
12 subparagraph (3), subparagraph division (a), Code 2011, is
13 amended to read as follows:

14 (a) Conviction of a ~~crime~~ public offense.

15 Sec. 19. Section 237A.20, Code 2011, is amended to read as
16 follows:

17 **237A.20 Injunction.**

18 A person who establishes, conducts, manages, or operates a
19 center without a license or a child development home without a
20 certificate of registration, if registration is required under
21 section 237A.3A, may be restrained by temporary or permanent
22 injunction. A person who has been convicted of a ~~crime~~ felony
23 against a person, a person with a record of founded child
24 abuse, or a person who has been prohibited by the department
25 from involvement with child care may be restrained by
26 temporary or permanent injunction from providing unregistered,
27 registered, or licensed child care or from other involvement
28 with child care. The action may be instituted by the state,
29 the county attorney, a political subdivision of the state, or
30 an interested person.

31 Sec. 20. Section 523A.503, subsection 1, paragraph f, Code
32 2011, is amended to read as follows:

33 f. Conviction of a ~~criminal~~ public offense involving
34 dishonesty or a false statement including but not limited
35 to fraud, theft, misappropriation of funds, falsification

1 of documents, deceptive acts or practices, or other related
2 offenses.

3 Sec. 21. Section 543B.15, subsection 3, paragraph c, Code
4 2011, is amended by striking the paragraph.

5 Sec. 22. Section 543B.29, subsection 1, paragraph f,
6 unnumbered paragraph 1, Code Supplement 2011, is amended to
7 read as follows:

8 Conviction of ~~an offense~~ a felony included in section
9 543B.15, subsection 3. ~~For purposes of this section,~~
10 ~~"conviction"~~ means a conviction for an indictable offense and
11 includes the court's acceptance of a guilty plea, a deferred
12 judgment from the time of entry of the deferred judgment until
13 the time the defendant is discharged by the court without entry
14 of judgment, or other finding of guilt by a court of competent
15 jurisdiction. A copy of the record of conviction, ~~guilty plea,~~
16 ~~deferred judgment,~~ or other finding of guilt is conclusive
17 evidence.

18 EXPLANATION

19 This bill relates to the grounds that an agency may use
20 to deny, revoke, or suspend a professional or occupational
21 license. Currently, many licensing statutes cite as
22 disciplinary grounds conviction of a "crime" related to the
23 profession or occupation. The bill substitutes "felony" for
24 "crime", except for those occupations relating to the care
25 of the ill, the elderly or infirm, or the care of children
26 in which case "public offense" is substituted. The term
27 "public offense" is defined in Code section 701.2 as "that
28 which is prohibited by statute and is punishable by fine or
29 imprisonment".

30 The bill requires that each board or commission adopt rules
31 of procedure for the conduct of agency meetings.