SENATE FILE 2164 BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 3111)

A BILL FOR

- 1 An Act relating to department of human services' evaluations
- 2 of criminal or abuse records of employees of health care
- 3 facilities.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135C.33, subsection 4, paragraph b, Code
2 2011, is amended to read as follows:

b. A person with a criminal or abuse record who is or 3 4 was employed by a facility licensed under this chapter and 5 is hired by another licensee without a lapse in employment 6 shall be subject to the criminal history and abuse record 7 checks required pursuant to subsection 1. If However, if an 8 evaluation was previously performed by the department of human 9 services concerning the person's criminal or abuse record and 10 it was determined that the record did not warrant prohibition 11 of the person's employment and the latest record checks do not 12 indicate a crime was committed or founded abuse record was 13 entered subsequent to that evaluation, the person may commence 14 employment with the other licensee while in accordance with the 15 department of human services' evaluation of the latest record 16 checks is pending and an exemption from the requirements in 17 paragraph "a'' for reevaluation of the latest record checks 18 is authorized. Otherwise, the requirements of paragraph a''19 remain applicable to the person's employment. Authorization 20 of an exemption under this paragraph "b'' from requirements for 21 reevaluation of the latest record checks by the department of 22 human services is subject to all of the following provisions: 23 The position with the subsequent employer is (1) 24 substantially the same or has the same job responsibilities as 25 the position for which the previous evaluation was performed. (2) Any restrictions placed on the person's employment in 26 27 the previous evaluation by the department of human services 28 shall remain applicable in the person's subsequent employment. 29 (3) The person subject to the record checks has maintained a 30 copy of the previous evaluation and provides the evaluation to 31 the subsequent employer or the previous employer provides the 32 previous evaluation from the person's personnel file pursuant 33 to the person's authorization. If a physical copy of the 34 previous evaluation is not provided to the subsequent employer, 35 the record checks shall be reevaluated.

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(4) Although an exemption under this paragraph "b" may
 be authorized, the subsequent employer may instead request a
 reevaluation of the record checks and may employ the person
 while the reevaluation is being performed.
 EXPLANATION
 This bill relates to department of human services'

7 evaluations of criminal or abuse records of employees of health 8 care facilities.

9 Code section 135C.33, relating to child or dependent adult 10 abuse information and criminal record checks of a health care 11 facility and other service provider employees, allows a person 12 with a criminal or abuse record employed by a licensed health 13 care facility to be hired by another licensee without a lapse 14 in employment under certain circumstances. The provision 15 applies to health care facilities (nursing facilities, 16 residential care facilities, and intermediate care facilities 17 for persons with mental illness or mental retardation), 18 various in-home service providers, hospices, Medicaid waiver 19 service providers, elder group homes, and assisted living 20 programs. New criminal history and child and dependent abuse 21 record checks of the person are required. If the person was 22 previously evaluated by the department and it was determined 23 that the record did not warrant prohibition of the person's 24 employment and the latest record checks do not indicate a 25 crime was committed or a founded abuse record was entered 26 subsequent to that evaluation, the statute authorizes the 27 person to commence employment with the other licensee while the 28 department's evaluation of the latest record check is pending. 29 The bill maintains the requirement for new record checks, 30 removes the restriction for hiring without a lapse in 31 employment, and authorizes an exemption from the requirement 32 for the department to repeat the evaluation if it was 33 previously determined that the record did not warrant 34 prohibition of the person's employment and the latest record 35 checks do not indicate a crime was committed or a founded abuse

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1 record was entered subsequent to that evaluation. In order 2 for the exemption to be authorized, the bill requires that 3 the position with the subsequent employer is substantially 4 the same or has the same job responsibilities as the position 5 for which the department's evaluation was performed. Also, 6 any restrictions placed on the person's employment in the 7 evaluation remain applicable in the subsequent employment. 8 The person subject to the record checks must either provide 9 the evaluation to the subsequent employer or authorize the 10 previous employer to provide it from the person's personnel 11 file. If a physical copy of the evaluation is not provided to 12 the subsequent employer, the department must reevaluate the 13 record checks. Finally, the subsequent employer may choose to 14 request a reevaluation even though an exemption is authorized 15 but the person may be employed while the reevaluation is being 16 performed.

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