

**House Study Bill 570 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
PUBLIC SAFETY BILL BY  
CHAIRPERSON KLEIN)

**A BILL FOR**

1 An Act relating to background checks for employees of certain  
2 facilities, providers, programs, and agencies.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135B.34, subsection 1, Code 2020, is  
2 amended to read as follows:

3 1. a. Prior to employment of a person in a hospital, the  
4 hospital shall ~~request~~ do one of the following:

5 (1) Request that the department of public safety perform  
6 a criminal history check and the department of human services  
7 perform child and dependent adult abuse record checks of the  
8 person in this state.

9 (2) Access the single contact repository to perform the  
10 required record checks.

11 (3) Utilize a third-party vendor to perform comprehensive  
12 record checks.

13 b. A hospital shall inform all persons prior to employment  
14 regarding the performance of the record checks and shall  
15 obtain, from the persons, a signed acknowledgment of the  
16 receipt of the information. A hospital shall include the  
17 following inquiry in an application for employment:

18 Do you have a record of founded child or dependent adult abuse  
19 or have you ever been convicted of a crime, in this state or any  
20 other state?

21 Sec. 2. Section 135B.34, Code 2020, is amended by adding the  
22 following new subsection:

23 NEW SUBSECTION. 7. For the purposes of this subsection,  
24 "*comprehensive record check*" means the same as defined in  
25 section 135C.1.

26 Sec. 3. Section 135C.1, Code 2020, is amended by adding the  
27 following new subsection:

28 NEW SUBSECTION. 2A. "*Comprehensive record check*" includes a  
29 national criminal history check that contains a state of Iowa  
30 criminal history check from the department of public safety's  
31 data repository and a child and dependent abuse record check  
32 obtained from the department of human services data repository  
33 which is conducted by a third-party vendor.

34 Sec. 4. Section 135C.33, Code 2020, is amended to read as  
35 follows:

1 135C.33 Employees and certified nurse aide trainees — child  
2 or dependent adult abuse information and criminal record checks  
3 check options — evaluations — application to other providers  
4 — penalty.

5 1. a. For the purposes of this section, the term “*crime*”  
6 does not include offenses under chapter 321 classified as a  
7 simple misdemeanor or equivalent simple misdemeanor offenses  
8 from another jurisdiction.

9 b. Prior to employment of a person in a facility or with a  
10 provider as specified in subsection 5, the facility or provider  
11 shall ~~request~~ do one of the following:

12 (1) Request that the department of public safety perform  
13 a criminal history check and the department of human services  
14 perform child and dependent adult abuse record checks of the  
15 person in this state.

16 (2) Access the single contact repository to perform the  
17 required record checks.

18 (3) Utilize a third-party vendor to perform comprehensive  
19 record checks.

20 c. A facility or provider shall inform all persons prior  
21 to employment regarding the performance of the record checks  
22 and shall obtain, from the persons, a signed acknowledgment of  
23 the receipt of the information. A facility or provider shall  
24 include the following inquiry in an application for employment:  
25 Do you have a record of founded child or dependent adult abuse  
26 or have you ever been convicted of a crime other than a simple  
27 misdemeanor offense relating to motor vehicles and laws of the  
28 road under chapter 321 or equivalent provisions, in this state  
29 or any other state?

30 2. a. If it is determined that a person being considered  
31 for employment in a facility or with a provider has been  
32 convicted of a crime under a law of any state, the department  
33 of public safety shall notify the ~~licensee~~ facility or provider  
34 that upon the request of the ~~licensee~~ facility or provider  
35 the department of human services will perform an evaluation

1 to determine whether the crime warrants prohibition of the  
2 person's employment in the facility or with the provider.

3     *b.* (1) If a person being considered for employment, other  
4 than employment involving the operation of a motor vehicle, has  
5 been convicted of a crime listed in subparagraph (2) but does  
6 not have a record of founded child or dependent adult abuse and  
7 the licensee facility or provider has requested an evaluation  
8 in accordance with paragraph "a" to determine whether the crime  
9 warrants prohibition of the person's employment, the licensee  
10 facility or provider may employ the person for not more than  
11 sixty calendar days pending completion of the evaluation.

12     (2) Subparagraph (1) applies to a crime that is a simple  
13 misdemeanor offense under [section 123.47](#), and to a crime  
14 that is a first offense of operating a motor vehicle while  
15 intoxicated under [section 321J.2, subsection 1](#).

16     *c.* If a department of human services child or dependent  
17 adult abuse record check shows that such person has a record  
18 of founded child or dependent adult abuse, the department of  
19 human services shall notify the licensee facility or provider  
20 that upon the request of the licensee facility or provider the  
21 department of human services will perform an evaluation to  
22 determine whether the founded child or dependent adult abuse  
23 warrants prohibition of employment in the facility or with the  
24 provider.

25     *d.* An evaluation performed under [this subsection](#) shall  
26 be performed in accordance with procedures adopted for this  
27 purpose by the department of human services.

28     *e.* (1) If a person owns or operates more than one facility  
29 or a provider owns or operates more than one location, and  
30 an employee of one of such facilities or provider locations  
31 is transferred to another such facility or provider location  
32 without a lapse in employment, the facility or provider is not  
33 required to request additional criminal and child and dependent  
34 adult abuse record checks of that employee.

35     (2) If the ownership of a facility or provider is

1 transferred, at the time of transfer the record checks required  
2 by [this section](#) shall be performed for each employee for whom  
3 there is no documentation that such record checks have been  
4 performed. The facility or provider may continue to employ  
5 such employee pending the performance of the record checks and  
6 any related evaluation.

7 3. In an evaluation, the department of human services  
8 shall consider the nature and seriousness of the crime  
9 or founded child or dependent adult abuse in relation to  
10 the position sought or held, the time elapsed since the  
11 commission of the crime or founded child or dependent adult  
12 abuse, the circumstances under which the crime or founded  
13 child or dependent adult abuse was committed, the degree of  
14 rehabilitation, the likelihood that the person will commit  
15 the crime or founded child or dependent adult abuse again,  
16 and the number of crimes or founded child or dependent adult  
17 abuses committed by the person involved. If the department of  
18 human services performs an evaluation for the purposes of this  
19 section, the department of human services has final authority  
20 in determining whether prohibition of the person's employment  
21 is warranted.

22 4. a. Except as provided in paragraph "b" and [subsection 2](#),  
23 a person who has committed a crime or has a record of founded  
24 child or dependent adult abuse shall not be employed in a  
25 facility ~~licensed under [this chapter](#)~~ or with a provider unless  
26 an evaluation has been performed by the department of human  
27 services.

28 b. A person with a criminal or abuse record who is or was  
29 employed by a facility ~~licensed under [this chapter](#)~~ or provider  
30 and is hired by another ~~licensee~~ facility or provider shall  
31 be subject to the criminal history and abuse record checks  
32 required pursuant to [subsection 1](#). However, if an evaluation  
33 was previously performed by the department of human services  
34 concerning the person's criminal or abuse record and it was  
35 determined that the record did not warrant prohibition of

1 the person's employment and the latest record checks do not  
2 indicate a crime was committed or founded abuse record was  
3 entered subsequent to that evaluation, the person may commence  
4 employment with the other licensee facility or provider in  
5 accordance with the department of human services' evaluation  
6 and an exemption from the requirements in paragraph "a" for  
7 reevaluation of the latest record checks is authorized.  
8 Otherwise, the requirements of paragraph "a" remain applicable  
9 to the person's employment. Authorization of an exemption  
10 under this paragraph "b" from requirements for reevaluation of  
11 the latest record checks by the department of human services is  
12 subject to all of the following provisions:

13 (1) The position with the subsequent employer is  
14 substantially the same or has the same job responsibilities as  
15 the position for which the previous evaluation was performed.

16 (2) Any restrictions placed on the person's employment in  
17 the previous evaluation by the department of human services  
18 shall remain applicable in the person's subsequent employment.

19 (3) The person subject to the record checks has maintained a  
20 copy of the previous evaluation and provides the evaluation to  
21 the subsequent employer or the previous employer provides the  
22 previous evaluation from the person's personnel file pursuant  
23 to the person's authorization. If a physical copy of the  
24 previous evaluation is not provided to the subsequent employer,  
25 the record checks shall be reevaluated.

26 (4) Although an exemption under this paragraph "b" may  
27 be authorized, the subsequent employer may instead request a  
28 reevaluation of the record checks and may employ the person  
29 while the reevaluation is being performed.

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

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

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

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

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

8 (5) An employee of an assisted living program certified  
9 under [chapter 231C](#), if the employee provides direct services  
10 to consumers.

11 *b.* In substantial conformance with the provisions of  
12 this section, prior to the employment of such an employee,  
13 the provider shall request the performance of the criminal  
14 and child and dependent adult abuse record checks. The  
15 provider shall inform the prospective employee and obtain the  
16 prospective employee's signed acknowledgment. The department  
17 of human services shall perform the evaluation of any criminal  
18 record or founded child or dependent adult abuse record and  
19 shall make the determination of whether a prospective employee  
20 of a provider shall not be employed by the provider.

21 6. *a.* [This section](#) shall also apply to an employee of  
22 a temporary staffing agency that provides staffing for a  
23 facility, service, program, or other provider regulated by this  
24 section if the employee provides direct services to consumers.

25 *b.* In substantial conformance with the provisions of this  
26 section, prior to the employment of such an employee, the  
27 temporary staffing agency shall request the performance of the  
28 criminal and child and dependent adult abuse record checks.  
29 The temporary staffing agency shall inform the prospective  
30 employee and obtain the prospective employee's signed  
31 acknowledgment. The department of human services shall perform  
32 the evaluation of any criminal record or founded child or  
33 dependent adult abuse record and shall make the determination  
34 of whether a prospective employee of a temporary staffing  
35 agency shall not be employed by the assisted living program as

1 defined in [section 231C.2](#), the Medicare certified home health  
2 agency, or the facility, service, program, or other provider  
3 regulated by [this section](#).

4 *c.* If a person employed by a temporary staffing agency that  
5 is subject to [this section](#) is convicted of a crime or has a  
6 record of founded child or dependent adult abuse entered in the  
7 abuse registry after the person's employment application date,  
8 the person shall inform the temporary staffing agency within  
9 forty-eight hours and the temporary staffing agency shall  
10 inform the facility, service, program, or other provider within  
11 two hours.

12 *d.* If a temporary staffing agency fails to comply with the  
13 requirements of [this section](#), the temporary staffing agency  
14 shall be liable to the facility, service, program, or other  
15 provider for any actual damages, including civil penalties, and  
16 reasonable attorney fees.

17 *e.* [This section](#) shall not apply to employees employed by a  
18 temporary staffing agency for a position that does not provide  
19 direct services to consumers.

20 7. *a.* The department of inspections and appeals, in  
21 conjunction with other departments and agencies of state  
22 government involved with criminal history and abuse registry  
23 information, shall establish a single contact repository for  
24 facilities and other providers to have electronic access to  
25 data to perform background checks for purposes of employment,  
26 as required of the facilities and other providers under this  
27 section.

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

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

32 (2) To conduct record checks of applicants for employment  
33 with the department.

34 8. *a.* If a person employed by a facility, service, or  
35 program employer that is subject to [this section](#) is convicted



1 of a crime or has a record of founded child or dependent  
2 adult abuse entered in the abuse registry after the person's  
3 employment application date, the person shall inform the  
4 employer of such information within forty-eight hours of the  
5 criminal conviction or entry of the record of founded child or  
6 dependent adult abuse. The employer shall act to verify the  
7 information within seven calendar days of notification. If the  
8 information is verified, the requirements of subsections 2, 3,  
9 and 4 regarding employability and evaluations shall be applied  
10 by the employer to determine whether or not the person's  
11 employment is continued. The employer may continue to employ  
12 the person pending the performance of an evaluation by the  
13 department of human services to determine whether prohibition  
14 of the person's employment is warranted. A person who is  
15 required by [this subsection](#) to inform the person's employer of  
16 a conviction or entry of an abuse record and fails to do so  
17 within the required period commits a serious misdemeanor.

18 *b.* If a facility, service, or program employer receives  
19 credible information, as determined by the employer, that a  
20 person employed by the employer has been convicted of a crime  
21 or a record of founded child or dependent adult abuse has been  
22 entered in the abuse registry after employment from a person  
23 other than the employee and the employee has not informed  
24 the employer of such information within the period required  
25 under paragraph "a", the employer shall act to verify the  
26 credible information within seven calendar days of receipt of  
27 the credible information. If the information is verified, the  
28 requirements of [subsections 2, 3, and 4](#) regarding employability  
29 and evaluations shall be applied to determine whether or not  
30 the person's employment is continued.

31 *c.* The employer may notify the county attorney for the  
32 county where the employer is located of any violation or  
33 failure by an employee to notify the employer of a criminal  
34 conviction or entry of an abuse record within the period  
35 required under paragraph "a".

1 9. a. For the purposes of [this subsection](#), unless the  
2 context otherwise requires:

3 (1) "*Certified nurse aide training program*" means a program  
4 approved in accordance with the rules for such programs adopted  
5 by the department of human services for the training of persons  
6 seeking to be a certified nurse aide for employment in any of  
7 the facilities or programs [this section](#) applies to or in a  
8 hospital, as defined in [section 135B.1](#).

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

11 b. Prior to a student beginning or returning to a certified  
12 nurse aide training program, the program shall ~~request~~ do one  
13 of the following:

14 (1) Request that the department of public safety perform  
15 a criminal history check and the department of human services  
16 perform child and dependent adult abuse record checks, in this  
17 state, of the student. ~~The program may access~~

18 (2) Access the single contact repository ~~established~~  
19 ~~pursuant to [this section](#) as necessary for the program to~~  
20 initiate perform the required record checks.

21 (3) Utilize a third-party vendor to perform a comprehensive  
22 record check.

23 c. If a student has a criminal record or a record of  
24 founded child or dependent adult abuse, the student shall  
25 not be involved in a clinical education component of the  
26 certified nurse aide training program involving children or  
27 dependent adults unless an evaluation has been performed by the  
28 department of human services. Upon request of the certified  
29 nurse aide training program, the department of human services  
30 shall perform an evaluation to determine whether the record  
31 warrants prohibition of the student's involvement in a clinical  
32 education component of the certified nurse aide training  
33 program involving children or dependent adults. The evaluation  
34 shall be performed in accordance with the criteria specified in  
35 subsection 3, and the department of human services shall report

1 the results of the evaluation to the certified nurse aide  
2 training program. The department of human services has final  
3 authority in determining whether prohibition of the student's  
4 involvement in the clinical education component is warranted.

5 *d.* (1) If a student's clinical education component of the  
6 training program involves children or dependent adults but  
7 does not involve operation of a motor vehicle, and the student  
8 has been convicted of a crime listed in subparagraph (2), but  
9 does not have a record of founded child or dependent adult  
10 abuse, and the training program has requested an evaluation in  
11 accordance with paragraph "c" to determine whether the crime  
12 warrants prohibition of the student's involvement in such  
13 clinical education component, the training program may allow  
14 the student's participation in the component for not more than  
15 sixty days pending completion of the evaluation.

16 (2) Subparagraph (1) applies to a crime that is a simple  
17 misdemeanor offense under [section 123.47](#), and to a crime  
18 that is a first offense of operating a motor vehicle while  
19 intoxicated under [section 321J.2, subsection 1](#).

20 *e.* (1) If a student is convicted of a crime or has a  
21 record of founded child or dependent adult abuse entered in the  
22 abuse registry after the record checks and any evaluation have  
23 been performed, the student shall inform the certified nurse  
24 aide training program of such information within forty-eight  
25 hours of the criminal conviction or entry of the record of  
26 founded child or dependent adult abuse. The program shall  
27 act to verify the information within seven calendar days of  
28 notification. If the information is verified, the requirements  
29 of paragraph "c" shall be applied by the program to determine  
30 whether or not the student's involvement in a clinical  
31 education component may continue. The program may allow the  
32 student involvement to continue pending the performance of an  
33 evaluation by the department of human services. A student  
34 who is required by this subparagraph to inform the program of  
35 a conviction or entry of an abuse record and fails to do so

1 within the required period commits a serious misdemeanor.

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

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

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

28 Sec. 5. Section 152.5A, Code 2020, is amended to read as  
29 follows:

30 **152.5A Student record checks.**

31 1. For the purposes of [this section](#):

32 a. "Nursing program" means a nursing program that is  
33 approved by the board pursuant to [section 152.5](#).

34 b. "Student" means a person applying for, enrolled in, or  
35 returning to the clinical education component of a nursing

1 program.

2 c. "Comprehensive record check" means the same as defined  
3 in section 135C.1.

4 2. Prior to a student beginning or returning to a nursing  
5 program, the program shall do one of the following:

6 a. Request that the department of public safety perform a  
7 criminal history check and the department of human services  
8 perform child and dependent adult abuse record checks of the  
9 student in this state.

10 b. Access the single contact repository to perform the  
11 required record checks.

12 c. Utilize a third-party vendor to perform comprehensive  
13 record checks.

14 ~~2.~~ 3. A nursing program may access the single contact  
15 repository established pursuant to [section 135C.33](#) as necessary  
16 for the nursing program to initiate record checks of students.

17 ~~3.~~ ~~A nursing program shall request that the department~~  
18 ~~of public safety perform a criminal history check and the~~  
19 ~~department of human services perform child and dependent adult~~  
20 ~~abuse record checks in this state on the nursing program's~~  
21 ~~students.~~

22 4. If a student has a criminal record or a record of founded  
23 child or dependent adult abuse, upon request of the nursing  
24 program, the department of human services shall perform an  
25 evaluation to determine whether the record warrants prohibition  
26 of the person's involvement in a clinical education component  
27 of a nursing program involving children or dependent adults.  
28 The department of human services shall utilize the criteria  
29 provided in [section 135C.33](#) in performing the evaluation and  
30 shall report the results of the evaluation to the nursing  
31 program. The department of human services has final authority  
32 in determining whether prohibition of the person's involvement  
33 in a clinical education component is warranted.

34 Sec. 6. Section 692.2, subsection 5, Code 2020, is amended  
35 to read as follows:

1 5. A person other than the department of public safety or a  
2 contracted third-party vendor shall not disseminate criminal  
3 history data maintained by the department to persons who are  
4 not criminal or juvenile justice agencies.

5 Sec. 7. COMPREHENSIVE RECORD CHECK SERVICES — THIRD-PARTY  
6 VENDOR. The department of public safety shall publish a  
7 request for proposals through a competitive bidding process  
8 to identify at least two third-party vendors that offer  
9 comprehensive record check services. The department of public  
10 safety shall contract with a third-party vendor selected  
11 through the competitive bidding process to ensure secure and  
12 direct access to the department's single contact repository to  
13 fulfill the comprehensive record check requirements of sections  
14 135B.34 and 135C.33 and other applicable laws as specified in  
15 this Act.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with  
18 the explanation's substance by the members of the general assembly.

19 This bill relates to background record checks for employees  
20 and other individuals of certain facilities, providers,  
21 programs, and agencies.

22 The bill provides that in addition to background record  
23 checks being performed by the department of public safety  
24 and the department of human services, an entity may meet the  
25 record check requirements by accessing the single contact  
26 repository or by utilizing a third-party vendor to perform the  
27 record checks. The bill makes conforming changes throughout  
28 the Code to allow for the optional means of meeting the record  
29 check requirements for entities including hospitals and health  
30 care facilities, providers of in-home services including  
31 homemaker-home health aides and home care aides, and other  
32 providers of in-home services, adult day services, hospices,  
33 home and community-based services waiver providers, elder group  
34 homes, assisted living programs, certified nurse aide training  
35 programs, and nursing programs.

1 The bill requires the department of public safety to  
2 publish a request for proposals through a competitive bidding  
3 process to identify at least two third-party vendors that  
4 offer comprehensive record check services. The department of  
5 public safety shall contract with a third-party vendor selected  
6 through the competitive bidding process to ensure secure and  
7 direct access to the department's single contact repository to  
8 fulfill the comprehensive record check requirements specified  
9 in the bill.