

**House File 633 - Introduced**

HOUSE FILE 633  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO HF 504)

**A BILL FOR**

1 An Act relating to prohibitions against a person acting as a  
2 provider or as an employee, contractor, or subcontractor  
3 of a provider of home and community-based services waiver  
4 services under the Medicaid program.

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

1 Section 1. Section 249A.29, Code 2023, is amended to read  
2 as follows:

3 **249A.29 Home and community-based services waiver providers,**  
4 **employees, and contractors — records checks.**

5 1. For purposes of this section and section 249A.30 unless  
6 the context otherwise requires:

7 a. "Consumer" means an individual approved by the department  
8 to receive services under a waiver.

9 b. "Contractor" means a person who contracts with a provider  
10 or subcontracts with a contractor to act in any capacity  
11 including but not limited to in a management or consulting  
12 position or as a person directly responsible for providing  
13 waiver services to a consumer or with direct access to a  
14 consumer when a consumer is alone.

15 c. "Employee" means a person who is employed in this state  
16 for wages by a provider in any capacity including but not  
17 limited to in a management or consulting position or as a  
18 person directly responsible for providing waiver services to a  
19 consumer or with direct access to a consumer when the consumer  
20 is alone.

21 ~~b.~~ d. "Provider" means an agency certified by the  
22 department to provide services under a waiver.

23 ~~e.~~ e. "Waiver" means a home and community-based services  
24 waiver approved by the federal government and implemented under  
25 the medical assistance program.

26 2. If a person is being considered to be a provider by the  
27 Medicaid program or by a provider for employment involving  
28 direct responsibility for a consumer or with access to a  
29 consumer when the consumer is alone as an employee or a  
30 contractor, and if the person has been convicted of a crime or  
31 has a record of founded child or dependent adult abuse, the  
32 department shall perform an evaluation to determine whether the  
33 crime or founded abuse warrants prohibition ~~of employment by~~  
34 of the person as a provider or as an employee or contractor  
35 of the provider. The department shall conduct criminal and

1 child and dependent adult abuse records checks of the person in  
 2 this state and may conduct these checks in other states. The  
 3 records checks and evaluations required by this section shall  
 4 be performed in accordance with procedures adopted for this  
 5 purpose by the department.

6 3. If the department determines that ~~a person employed~~  
 7 by a provider or an employee or a contractor of a provider  
 8 has committed a crime or has a record of founded abuse, the  
 9 department shall perform an evaluation to determine whether  
 10 prohibition of the ~~person's employment~~ person as a provider,  
 11 employee, or contractor is warranted.

12 4. In an evaluation, the department shall consider the  
 13 nature and seriousness of the crime or founded abuse in  
 14 relation to the position sought or held, the time elapsed since  
 15 the commission of the crime or founded abuse, the circumstances  
 16 under which the crime or founded abuse was committed, the  
 17 degree of rehabilitation, the likelihood that the person will  
 18 commit the crime or founded abuse again, and the number of  
 19 crimes or founded abuses committed by the person involved. The  
 20 department may permit a person who is evaluated to be ~~employed~~  
 21 a provider or an employee or contractor of a provider, or to  
 22 continue to be employed by a provider or to be an employee or  
 23 contractor of the provider if the person complies with the  
 24 department's conditions relating to ~~the employment~~ being a  
 25 provider or an employee or contractor of a provider, which may  
 26 include completion of additional training.

27 5. If the department determines that the person has  
 28 committed a crime or has a record of founded abuse which  
 29 warrants prohibition of ~~employment~~ as a provider or as an  
 30 employee or contractor of a provider, the person shall not  
 31 be ~~employed by a provider~~ or an employee or contractor of a  
 32 provider.

#### EXPLANATION

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

1 This bill relates to home and community-based services  
2 (HCBS) waiver providers, employees, and contractors relative  
3 to the results of criminal and child or dependent adult abuse  
4 (abuse) records checks.

5 Under current law, if a person who is being considered for  
6 employment by an HCBS provider, and the employment involves  
7 direct responsibility for a consumer of waiver services or with  
8 access to the consumer when the consumer is alone, and if the  
9 person has been convicted of a crime or has a record of founded  
10 abuse, the department of health and human services (HHS) shall  
11 perform an evaluation to determine whether the crime or founded  
12 abuse warrants prohibition of the employment of the person  
13 by the provider. In an evaluation, HHS considers a number  
14 of factors including the nature and seriousness of the crime  
15 or founded abuse in relation to the position sought or held,  
16 the time that has elapsed since the commission of the crime or  
17 founded abuse, the circumstances of the crime or founded abuse,  
18 the degree of rehabilitation, the likelihood that the person  
19 will commit the crime or founded abuse again, and the number  
20 of crimes or founded abuses committed by the person involved.  
21 The person may be employed or continue to be employed by the  
22 provider if the person complies with HHS conditions, or the  
23 person may be prohibited from being employed based upon the  
24 evaluation.

25 Under the bill, the record checks, evaluations, and HHS  
26 determinations apply to not only employees of providers  
27 with direct responsibility for or access to consumers, but  
28 also to the providers and the employees, contractors, and  
29 subcontractors of providers in any capacity including those  
30 in management or consulting positions. Under the bill, if a  
31 person is being considered as a provider, or as an employee,  
32 contractor, or subcontractor of a provider, and if the person  
33 has been convicted of a crime or has a record of founded abuse,  
34 HHS shall perform an evaluation to determine whether the  
35 crime or founded abuse warrants prohibition of the person as

1 a provider or as an employee, contractor, or subcontractor of  
2 the provider. As under current law, if HHS determines that  
3 a provider or an employee, contractor, or subcontractor of  
4 a provider has committed a crime or has a record of founded  
5 abuse, HHS shall perform an evaluation to determine whether  
6 prohibition of the person as a provider, employee, contractor,  
7 or subcontractor is warranted. After the evaluation, HHS may  
8 allow a provider or an employee, contractor, or subcontractor  
9 of a provider to be or to continue to be a provider or an  
10 employee, contractor, or subcontractor of the provider if  
11 the person complies with HHS's conditions. However, if  
12 HHS determines that the person has committed a crime or has  
13 a record of founded abuse which warrants prohibition as a  
14 provider or as an employee, contractor, or subcontractor of a  
15 provider, the person shall not be a provider or an employee,  
16 contractor, or subcontractor of a provider.

17 The bill defines "employee" and "contractor" including a  
18 subcontractor for purposes of the bill.