



Senate Aging and Youth Committee

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Summary SB 651 PN 713

This legislation amends the Older Adult Protective Services Act by creating three classes of criminal convictions that would impact on an individual's ability to be employed in a facility where such individual would be providing care to a care dependent person. A facility is defined as a domiciliary care home, a home health care agency, a long-term nursing facility, a hospice, a home care agency, a home care registry, an older adult daily living center, a personal care home, an assisted living facility, or a continuing care provider.

The current section regarding the grounds for denying employment is deleted and replaced with a three tiered system of lifetime, ten year, and five year bans on employment for current and prospective employees. Individuals convicted of crimes involving serious physical harm or reckless disregard for the vulnerability of care dependent populations would be subject to a lifetime ban from employment in these facilities. The bill creates a certificate of employability so that after 10 years from the date of a conviction for specified offenses, an individual may apply to the Department of Aging for an exception from the lifetime ban. A provision is also included so that after 5 years from the date of a conviction for other specified offenses, an individual can apply for an exception to the 10 year ban on employment. Certain offenses remain a lifetime ban without exception. Time spent in incarceration is not counted toward the 5 or 10 year time period.

Hearings regarding the certificates of employability will be held before the Department of Aging and the determination of employability shall be based on factors including amount of time that has elapsed since conviction, employment history, circumstances of offense, evidence of drug treatment where relevant, and other evidence of post-conviction rehabilitation. The department may also consider oral or written testimony relevant to these factors from licensed professionals and other interested individuals including the victim of the petitioner and the victim's family. Certificates of employability shall state that the only purpose is to exempt successful petitioners from the criminal record hiring prohibitions and does not address any of the individual's other qualifications or obligate a facility to hire an individual.

Current employees who are disqualified from employment but permitted to apply for a certificate of employability shall either be suspended without pay or continue employment under supervision until such time as a certificate of employability is obtained or an appeal filed. Current employees must file the application for the certificate of employability within 30 days of being placed on suspension or supervision in order to continue employment. The employee must be immediately dismissed if the application is denied.

Facilities may use criminal history record information previously obtained if it is certified that the employee has been continuously employed by the facility and the facility has no knowledge of any criminal offenses. A facility that cannot certify both these conditions shall require the employee to obtain another criminal history record.

Applicants or employees have the right to appeal the accuracy of the Pennsylvania State Police criminal history record as well as the Federal criminal history record to the Department of Aging. Facilities may retain employees and provisionally hire applicants pending the resolution of this appeal and must comply with the background check provisions within 18 months of the effective date of the act. Background checks obtained prior to this act may be considered current.

In addition, the bill reduces the burden of proof required for an agency to petition a court of common pleas for an emergency court order to provide protective services from clear and convincing evidence to a preponderance of the evidence.

Lastly, it requires the Secretary of Aging to coordinate a comparison study on the impact of utilizing the Pennsylvania State Police criminal background check system and the Federal Bureau of Investigation background system. The purpose is to assess the feasibility of utilizing the Federal system exclusively or to continue to use both. The bill requires the Secretary to report the results of this study no later than one year from the effective date of the act to the Senate Aging and Youth Committee and the House Older Adult Services Committee.

Effective Date

This act shall take effect in 180 days.