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HOUSE BILL 1120

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

PATSY G. TRUJILLO

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO CARE FACILITY EMPLOYMENT; PROVIDING FOR CRIMINAL RECORDS CHECKS FOR CARE FACILITY EMPLOYEES AND JOB APPLICANTS; PROVIDING FOR FEES; PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the "Care Facility Criminal Records Screening Act".

Section 2. PURPOSE. -- The purpose of the Care Facility Criminal Records Screening Act is to ensure to the highest degree possible the prevention of abuse and neglect of persons in care facilities.

Section 3. CARE FACILITY EMPLOYEES-- CRIMINAL RECORDS CHECK. --

A. It is illegal for any care facility to employ or continue in employment any person who refuses to agree to a

Underscored material = new
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1 criminal records check and to provide the results of that check
2 to the care facility. The care facility may employ a person,
3 for no more than sixty days, prior to receiving and reviewing
4 the results of the criminal records check. The care facility
5 may accept and use the results of a criminal records check from
6 a person's previous employer with the person's written
7 permission, provided that a records check is no more than one
8 year old.

9 B. The criminal records check shall include state
10 and national checks.

11 C. State and local law enforcement agencies may
12 charge and use fees to carry out required criminal records
13 checks.

14 D. For purposes of the Care Facility Criminal
15 Records Screening Act, "care facility" means:

- 16 (1) a skilled nursing facility;
- 17 (2) an intermediate care facility;
- 18 (3) an intermediate care facility for the
19 mentally retarded or mentally ill;
- 20 (4) a psychiatric facility;
- 21 (5) a rehabilitation facility;
- 22 (6) a home for the aged or disabled;
- 23 (7) a group home;
- 24 (8) an adult foster care home;
- 25 (9) a private residence that provides personal

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1 care, sheltered care or nursing care for one or more persons;

2 (10) an adult daycare center;

3 (11) a boarding home; or

4 (12) an adult residential shelter care home.

5 Section 4. RECORD AVAILABILITY--PENALTY.--With the
6 permission of the employee or prospective employee of a care
7 facility, state and local law enforcement agencies shall provide
8 the results of the criminal records check to the care facility
9 administration to be used solely in determining appropriate job
10 placement or suitability for employment. An administrator or
11 other employee of a care facility who uses the results of a
12 criminal records check for any reason other than determining
13 appropriate job placement or suitability for employment is
14 guilty of a fourth degree felony and upon conviction shall be
15 punished by imprisonment for a definite term not to exceed
16 eighteen months or by a fine of not more than five thousand
17 dollars (\$5,000) or both.

18 Section 5. PROHIBITIONS.--

19 A. A care facility shall not hire a person if the
20 criminal records check required by Section 3 of the Care
21 Facility Criminal Records Screening Act reveals a conviction for
22 a felony or misdemeanor involving abuse, neglect or
23 exploitation.

24 B. This section does not preclude a care facility or
25 administrator or supervisory personnel from using other

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1 convictions or information revealed by criminal records checks
2 as a basis for employment or personnel placement or other
3 personnel decisions or actions, including termination of
4 employment.

5 Section 6. IMMUNITY FROM LIABILITY.--A care facility or an
6 administrator or employee of a care facility acting in good
7 faith shall be immune from liability for implementing the
8 provisions of the Care Facility Criminal Records Screening Act
9 and for employment, placement or other personnel decisions or
10 actions that are taken as a result of reliance on criminal
11 records checks.

12 Section 7. REGULATIONS.--The department of health shall
13 establish regulations for the implementation of the Care
14 Facility Criminal Records Screening Act by January 1, 1998.

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 4, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred

HOUSE BILL 1120

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.

Respectfully submitted,

Fred Luna, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Gubbels, Hobbs, Rodella

Absent: Getty

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