

Amendment No. 2 to SB1848

Overbey
Signature of Sponsor

AMEND Senate Bill No. 1848

House Bill No. 1824*

by deleting SECTION 4 and substituting instead the following:

SECTION 4. Tennessee Code Annotated, Section 68-11-233, is amended by deleting the section and substituting instead the following:

(a) A home care organization that provides home health services or hospice services shall require a criminal background check of persons who apply for employment with the organization as a paid employee and provider of direct care to a patient, prior to such persons being employed by the organization. The background check shall be conducted either by the Tennessee bureau of investigation and the federal bureau of investigation, or by a professional background screening organization or criminal background check service or registry.

(b) Any person who applies for employment with a home care organization as a paid employee and provider of direct care to a patient shall consent to the following:

(1) The release of all investigative records to such organization for examination for the purpose of verifying the accuracy of criminal violation information contained on an application to work for such organization;

(2) To supply fingerprint samples and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation and the federal bureau of investigation;

(3) To provide past work and personal references to be checked by such organization; and

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(4) The release of any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

(c) A home care organization shall not disclose criminal background check information obtained under subsection (a) to a person who is not involved in evaluating a person's employment, except as required or permitted by state or federal law.

(d) Any costs incurred by the Tennessee bureau of investigation and the federal bureau of investigation in conducting the investigation of applicants shall be paid by the home care organization requesting such investigation and information, in accordance with §§ 38-6-103 and 38-6-109.

(e) This section shall also apply to any company, organization, or agency that provides or arranges for the supply of direct care staff to an organization described in subsection (a). The company, organization, or agency shall be responsible for initiating a criminal background check on any person hired by that entity for the purposes of working in a home care organization that provides home health services or hospice services, and shall be required to report the results of the criminal background check to any home care organization in which the company, organization, or agency arranges for that individual to work, upon such a request by a company, organization, or agency.

(f) A home care organization that declines to employ or terminates a person based upon criminal background information provided to the organization under this

section shall be immune from suit by or on behalf of that person for the termination of or the refusal to employ that person.

AND FURTHER AMEND by adding the following new sections immediately preceding the effective date section and renumbering the effective date section accordingly:

SECTION __. Tennessee Code Annotated, Section 33-2-1202, is amended by deleting subsection (b) and substituting instead the following:

(b) Each organization shall have a criminal background check completed prior to employing any person who will be in a position that involves providing direct contact with or direct responsibility for service recipients. The persons applying for employment shall:

(1) Provide past work history containing a continuous description of activities over the past five (5) years;

(2) Identify at least three (3) individuals as personal references, one (1) of whom shall have known the applicant for at least five (5) years;

(3) Release all investigative records to the organization for examination for the purpose of verifying the accuracy of criminal violation information contained on an application to work for the organization; and

(4)

(A) Supply fingerprint samples to be submitted for a criminal history records check to be conducted by the Tennessee bureau of investigation or the federal bureau of investigation; or

(B) Release information for a criminal background investigation by a state licensed private investigation company.

SECTION __. Tennessee Code Annotated, Section 33-2-1202, is further amended by deleting the last sentence in subdivision (c)(1).