

SENATE BILL 2058

By Briggs

AN ACT to amend Tennessee Code Annotated, Title 33 and Title 68, relative to protecting residents and patients of certain healthcare facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-256, is amended by deleting the section and substituting the following:

(a) For the purposes of this section, unless the context requires otherwise, "organization" means a facility as that term is defined in § 68-11-201 or in § 33-2-402, a personal support services agency as defined in § 33-2-421, or an organization as defined in § 33-2-1202.

(b) All organizations shall have a criminal background check completed prior to employing any person who will be in a position that involves providing direct care to a resident or patient.

(c) Any person who applies for employment in a position that involves providing direct care to a resident or patient in such a facility shall consent to the following:

(1) Providing past work and personal references to be checked by the nursing home;

(2) Agreeing to the release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in this state, to either the organization or its agent, or to any agency that contracts with this

state, or to any law enforcement agency, or to any other legally authorized entity;

(3) Supplying a fingerprint sample and submitting to a state criminal history records check to be conducted by the Tennessee bureau of investigation (TBI), or a state and federal criminal history records check to be conducted by the TBI and the federal bureau of investigation (FBI); and

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

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

(e) Any costs incurred by the TBI, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting the investigations of applicants may be paid by the facility, or any agency that contracts with this state requesting the investigation and information, or the individual who seeks employment or is employed. Payments of the costs to the TBI are to be made in accordance with §§ 38-6-103 and 38-6-109. The costs of conducting criminal background checks shall be an allowable cost under the state medicaid program, if paid for by a nursing home.

(f) This section shall also apply to any company, organization, or agency that provides or arranges for the supply of direct care staff to any facility licensed in this state. 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 an organization and shall be required to report the results

of the criminal background check to any organization in which the company arranges for that individual to work, upon such a request by a facility.

(g) An organization that declines to employ or terminates a person based upon criminal background information provided to the facility 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.

SECTION 2. Tennessee Code Annotated, Section 68-11-271(a), is amended by deleting the language "any person providing direct care to a resident or patient, for whom a background check has not been completed, a healthcare facility licensed under this title" and substituting the language "any person for whom a criminal background check has not been completed, an organization, as defined in § 68-11-256(a),".

SECTION 3. Tennessee Code Annotated, Section 68-11-271(b), is amended by deleting the language "any person providing direct care to a resident or patient" and substituting "any person for whom a criminal background check has not been completed, an organization, as defined in § 68-11-256(a),".

SECTION 4. Tennessee Code Annotated, Section 68-11-271(c), is amended by deleting the subsection in its entirety.

SECTION 5. Tennessee Code Annotated, Section 68-11-1003(a)(1), is amended by designating the existing language as subdivision (a)(1)(A) and adding the following as a new subdivision (a)(1)(B):

(B) Any state agency that receives a referral of abuse, neglect, or misappropriation or exploitation of the property of a vulnerable person shall notify the department of health concerning such individual. The agency shall also notify the department of the final disposition of any reported referral. The department may maintain the referrals in a database as it deems to be appropriate.

SECTION 6. This act shall take effect July 1, 2016, the public welfare requiring it.