~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 10, 2010

**S. 1078**

Introduced by Senators Jackson, Knotts, Courson, Ryberg, Nicholson, Sheheen, Thomas, Rose, Campbell, Malloy, Ford, L. Martin, Hayes, Verdin, Davis, Leventis and Cromer

S. Printed 3/10/10--S.

Read the first time January 21, 2010.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 1078) to amend the Code of Laws of South Carolina, 1976, by adding Section 44‑7‑264 so as to require the owner of a community residential care facility, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

“Section 44‑7‑264. (A) To obtain a license to operate a nursing home or a community residential care facility the person, or persons, required to sign the application for licensure pursuant to Section 44‑7‑270 shall undergo a state and national fingerprint‑based criminal records check.

(B)(1) A nursing home license or community residential care facility license must not be issued to the applicant, and if issued may be revoked, if the person or any one of the persons required to undergo a criminal records check is required to register under the sex offender registry pursuant to Section 23‑3‑430 or has been convicted of:

(a) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;

(b) a felony listed in Chapter 13 of Title 16, Forgery, Larceny, Embezzlement, False Pretense and Cheats;

(c) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;

(d) the offenses enumerated in Section 16‑1‑10(D);

(e) a felony classified in Section 16‑1‑10(A), except that this prohibition does not apply to Section 56‑5‑2930, the Class F felony of driving under the influence pursuant to Section 56‑5‑2930(A)(4), or Section 56‑5‑2933(A)(4) if the conviction occurred at least ten years prior to the application for licensure; or

(f) a criminal offense similar in nature to the crimes listed in this subsection committed in another jurisdiction or under federal law.

(2) This section does not prohibit obtaining licensure when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this section has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for licensure for a community residential care facility.

(C) Criminal records checks required pursuant to this section must consist of a fingerprint‑based records check conducted by the South Carolina Law Enforcement Division (SLED) for the state check and a fingerprint‑based records check conducted by the Federal Bureau of Investigation (FBI) for the national check. An applicant shall submit with the criminal records check application one complete set of the applicant’s fingerprints in a manner specified by SLED. Fingerprints submitted to SLED pursuant to this section must be collected in a manner specified by SLED and must be used to conduct a state criminal records check by SLED and to facilitate a national criminal records check by the FBI. SLED is authorized to retain the fingerprints for licensing purposes and for notification of the department regarding criminal charges. The actual cost of obtaining state and national criminal records checks by SLED and the FBI must be paid by the licensure applicant directly to the required entity as specified by SLED.”

SECTION 2. Section 44‑7‑2910(B)(1) of the 1976 Code, as last amended by Act 301 of 2006, is further amended to read:

“(1) ‘Direct care entity’ means:

(a) a nursing home, as defined in Section 44‑7‑130;

(b) a daycare facility for adults, as defined in Section 44‑7‑130;

(c) a home health agency, as defined in Section 44‑69‑20;

(d) a community residential care facility, as defined in Section 44‑7‑130;

(e) a residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs;

(f) residential treatment facilities for children and adolescents;

(g) hospice programs.

SECTION 3. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

HARVEY S. PEELER, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑7‑264 SO AS TO REQUIRE THE OWNER OF A COMMUNITY RESIDENTIAL CARE FACILITY TO UNDERGO A CRIMINAL RECORD CHECK AS A REQUIREMENT OF LICENSURE AND TO ENUMERATE THOSE CRIMES THAT PRECLUDE LICENSURE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

“Section 44‑7‑264. (A) To obtain a license to operate a community residential care facility the person, or persons, required to sign the application for licensure pursuant to Section 44‑7‑270 shall undergo a criminal record check.

(B)(1) A community residential care facility license must not be issued to the applicant if the person or any one of the persons required to undergo a criminal record check is required to register under the sex offender registry pursuant to Section 23‑3‑430 or has been convicted of:

(a) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;

(b) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;

(c) the offenses enumerated in Section 16‑1‑10(D);

(d) a felony classified in Section 16‑1‑10(A), except that this prohibition does not apply to Section 56‑5‑2930, the Class F felony of driving under the influence pursuant to Section 56‑5‑2930(A)(4) or Section 56‑5‑2933(A)(4) if the conviction occurred at least ten years prior to the application for licensure. The license must be revoked if the person subsequently is convicted of, receives a sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for a violation of Section 56‑5‑2930(A)(4), 56‑5‑2933(A)(4), or for a violation of another law or ordinance of this State, or any other state or of a municipality of this State or any other state, that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics; or

(e) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

(2) This section does not prohibit obtaining licensure when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this section has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for licensure for a community residential care facility.

(C) Criminal record checks required pursuant to this section must be conducted by the State Law Enforcement Division or by a private business, organization, or association which conducts background checks if that entity utilizes current criminal records obtained from the State Law Enforcement Division or the Federal Bureau of Investigation to determine any criminal record. An applicant shall submit with the criminal record check application one complete set of the applicant’s fingerprints on forms specified or furnished by the State Law Enforcement Division. Fingerprint cards submitted to the State Law Enforcement Division pursuant to this section must be used to conduct a state criminal record check and to facilitate a national criminal record check. The criminal record check must be repeated upon licensure renewal. The fee charged by the State Law Enforcement Division or Federal Bureau of Investigation, if any, for the fingerprint review must be paid by the licensure applicant.”

SECTION 2. This act takes effect upon approval by the Governor.

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