

H.B. 64

CRIMINAL BACKGROUND CHECKS FOR PERSONAL CARE ATTENDANTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 1

FEBRUARY 3, 2005 8:10 AM

Representative **Fred R. Hunsaker** proposes the following amendments:

1. Page 1, Line 33: Bracket "None" and insert "This bill provides a coordination clause."

2. Page 16, Line 474: After line 474 insert:
Section 9. Coordinating H.B. 64 with H.B. 79.
If this H.B. 64 and H.B. 79, Provisions of Services for People with Disabilities, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:
(1) combine the amendments made by this bill and H.B. 79 to Section 62A-2-121 so that Section 62A-2-121 reads as follows:
"62A-2-121. Access to abuse and neglect information.
(1) For purposes of this section:
(a) "direct service worker" is as defined in Section 62A-5-101; and
(b) "personal care attendant" is as defined in Section 62A-3-101.
[(+)] (2) With respect to a human services [licensees] licensee, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-116.2 and juvenile court records under Subsection 78-3a-320[~~(4)~~](6), for the purpose of:
(a) (i) determining whether a person associated with a licensee, with direct access to children[;];
(A) is listed in the Licensing Information System; or
(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2); and
[~~(b)~~] (ii) informing a licensee that a person associated with the licensee;
(A) is listed in the Licensing Information System; or
(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and

(2)[-]:

(b) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2);

and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2);

or

(c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2);

and

(ii) informing a person described in Subsections

62A-3-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2).

[(-)] (3) Notwithstanding Subsection [(+)] (2), the department may access the Division of Child and Family Service's Management Information System under Section 62A-4a-116 for the purpose of licensing and monitoring foster parents.

[(3)] (4) After receiving identifying information for a person under Subsection 62A-2-120(1), the department shall process the information for the purposes described in Subsection [(+)] (2).

[(4)] (5) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person [who has] may have direct access or provide services to children [and who] when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-116.2; or [has]

(b) juvenile court records show that a court made a substantiated finding [by a court of] under Section 78-3a-320, that the person

committed a severe type of child abuse or neglect [under Subsections 78-3a-320(1) and (2) may provide services to children]." ; and

(2) combine the amendments made by this bill and H.B. 79 to Section 62A-2-122 so that Section 62A-2-122 reads as follows:

"62A-2-122. Access to vulnerable adult abuse and neglect information.

(1) For purposes of this section:

(a) "direct service worker" is as defined in Section 62A-5-101; and

(b) "personal care attendant" is as defined in Section 62A-3-101.

[~~(1)~~] (2) With respect to a human services [licensees] licensee, a direct service worker, or a personal care attendant, the department may access the data base created by Section 62A-3-311.1 for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a substantiated finding of:

(A) abuse[;];

(B) neglect[;]; or

(C) exploitation; and

[~~(b)~~] (ii) informing a licensee that a person associated with the licensee has a substantiated finding of:

(A) abuse[;];

(B) neglect[;]; or

(C) exploitation[;];

(b) (i) determining whether a direct service worker has a substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker has a substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; or

(c) (i) determining whether a personal care attendant has a substantiated finding of:

(A) abuse;

(B) neglect; or
(C) exploitation; and
(ii) informing a person described in Subsections
62A-3-101(9)(a)(i) through (iv) that a personal care attendant has a
substantiated finding of:

(A) abuse;
(B) neglect; or
(C) exploitation;

~~[(2)]~~ (3) After receiving identifying information for a person under Subsection 62A-2-120(1), the department shall process the information for the purposes described in Subsection (1).

~~[(3)]~~ (4) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, consistent with this chapter and consistent with Section 62A-3-311.1, defining the circumstances under which a person ~~[who has]~~ may have direct access or provide services to vulnerable adults ~~[and who has a substantiated finding of abuse, neglect, or exploitation may provide services to vulnerable adults]~~ when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1 as having a substantiated finding of abuse, neglect, or exploitation."

Section 10. Coordinating H.B. 64 with S.B. 107.

If this H.B. 64 and S.B. 107, Licensure and Regulation of Programs and Facilities, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) combine the amendments made by this bill and S.B. 107 to Section 62A-2-121 so that Section 62A-2-121 reads as follows:

"62A-2-121. Access to abuse and neglect information.

(1) For purposes of this section "personal care attendant" is as defined in Section 62A-5-101.

~~[(1)]~~ (2) With respect to ~~[human services licensees]~~ a licensee, a certified local inspector applicant, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-116.2 and juvenile court records under Subsection 78-3a-320~~[(4)]~~(6), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children~~[-];~~

(A) is listed in the Licensing Information System; or
(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2);
and

~~[(b)]~~ (ii) informing a licensee that a person associated with the licensee;

(A) is listed in the Licensing Information System; or
(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2);

(b) (i) determining whether a certified local inspector applicant:

(A) is listed in the Licensing Information System; or
(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2);
and

(ii) informing a local government that a certified local inspector applicant:

(A) is listed in the Licensing Information System; or
(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2);
or

(c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or
(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2);
and

(ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or
(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2).

~~[(2)]~~ (3) Notwithstanding Subsection ~~[(1)]~~ (2), the department may access the Division of Child and Family Service's Management Information System under Section 62A-4a-116 for the purpose of licensing and monitoring foster parents.

~~[(3)]~~ (4) After receiving identifying information for a person under Subsection 62A-2-120(1), the department shall process the information for the purposes described in Subsection ~~[(1)]~~ (2).

~~[(4)]~~ (5) The department shall adopt rules under Title 63, Chapter

46a, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person ~~[who has]~~ may have direct access or provide services to children ~~[and who]~~ when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-116.2; or [has]

(b) juvenile court records show that a court made a substantiated finding [by a court of] under Section 78-3a-320, that the person committed a severe type of child abuse or neglect [under Subsections 78-3a-320(1) and (2) may provide services to children]." ; and

(2) combine the amendments made by this bill and S.B. 107 to Section 62A-2-122 so that Section 62A-2-122 reads as follows:

"62A-2-122. Access to vulnerable adult abuse and neglect information.

(1) For purposes of this section "personal care attendant" is as defined in Section 62A-3-101.

~~[(+)]~~ (2) With respect to [human services licensees] a licensee, a certified local inspector applicant, or a personal care attendant, the department may access the data base created by Section 62A-3-311.1 for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a substantiated finding of:

(A) abuse[;];

(B) neglect[;]; or

(C) exploitation; and

~~[(b)]~~ (ii) informing a licensee that a person associated with the licensee has a substantiated finding of:

(A) abuse[;];

(B) neglect[;]; or

(C) exploitation[;];

(b) (i) determining whether a certified local inspector applicant has a substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a local government that a certified local inspector

applicant has a substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; or

(c) (i) determining whether a personal care attendant has a substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a person described in Subsections

62A-3-101(9)(a)(i) through (iv) that a personal care attendant has a substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation.

~~[(2)]~~ (3) After receiving identifying information for a person under Subsection 62A-2-120(1), the department shall process the information for the purposes described in Subsection (1).

~~[(3)]~~ (4) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, consistent with this chapter and consistent with Section 62A-3-311.1, defining the circumstances under which a person ~~[who has]~~ may have direct access or provide services to vulnerable adults ~~[and who has a substantiated finding of abuse, neglect, or exploitation may provide services to vulnerable adults]~~ when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1 as having a substantiated finding of abuse, neglect, or exploitation."