



Senate

General Assembly

File No. 59

January Session, 2019

Substitute Senate Bill No. 832

Senate, March 13, 2019

The Committee on Aging reported through SEN. MARONEY of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING REGISTRIES OF PERSONS FOUND RESPONSIBLE FOR ASSAULTS OR OTHER ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF ELDERLY PERSONS OR PERSONS WITH DISABILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) For purposes of this section,
2 sections 2 to 4, inclusive, of this act and sections 17a-247b, 17a-412, 17a-
3 488a, 17b-452 and 19a-491c of the general statutes, as amended by this
4 act, (1) "convicted" and "found not guilty by reason of mental disease
5 or defect" have the same meaning as provided in section 54-280 of the
6 general statutes, (2) "elderly person" means a person sixty years of age
7 or older, (3) "persons with disabilities" has the same meaning as
8 provided in section 17b-608 of the general statutes and includes
9 persons with an intellectual disability, as defined in section 1-1g of the
10 general statutes, (4) "certain crimes against elderly persons or persons
11 with disabilities" means crimes prosecuted under section 53a-59a, 53a-
12 60b, 53a-60c, 53a-61a, 53a-321, 53a-322 or 53a-323 of the general
13 statutes, and (5) "registrant" means a person required to register

14 pursuant to section 3 of this act.

15 Sec. 2. (NEW) (*Effective from passage*) (a) The Department of
16 Emergency Services and Public Protection shall, not later than January
17 1, 2020, establish and maintain a registry of all persons required to
18 register under section 3 of this act as offenders convicted of certain
19 crimes against elderly persons or persons with disabilities. The
20 department shall, in cooperation with the Office of the Chief Court
21 Administrator, the Department of Correction and the Psychiatric
22 Security Review Board, develop appropriate forms for use by agencies
23 and individuals to report registration information, including changes
24 of address. Upon receipt of registration information, the department
25 shall enter the information into the registry and notify the local police
26 department or state police troop having jurisdiction where the
27 registrant resides or plans to reside.

28 (b) Upon receiving notification pursuant to section 3 of this act that
29 a registrant has changed his or her address within the state, the
30 Department of Emergency Services and Public Protection shall enter
31 the information into the registry and notify the local police
32 departments or state police troops having jurisdiction where the
33 registrant previously resided and the jurisdiction where the registrant
34 has relocated. The Commissioner of Emergency Services and Public
35 Protection shall ensure that the name and residence address of each
36 registrant is available through the Connecticut online law enforcement
37 communication teleprocessing system maintained by the department.
38 If a registrant reports a residence in another state, the department may
39 notify the state police agency of that state or such other agency in that
40 state that maintains registry information, if known.

41 (c) The Department of Emergency Services and Public Protection
42 may suspend the registration of any person registered under section 3
43 of this act while such person is incarcerated, under civil commitment
44 or residing outside this state. During the period that such registration
45 is under suspension, the department may withdraw the registration
46 information from access to law enforcement agencies. Upon the release

47 of the registrant from incarceration or civil commitment or resumption
48 of residency in this state by the registrant, the department shall
49 reinstate the registration and redistribute the registration information
50 in accordance with subsection (b) of this section. Suspension of
51 registration shall not affect the date of expiration of the registration
52 obligation of the registrant under section 3 of this act.

53 (d) The Department of Emergency Services and Public Protection
54 shall include in the registry the most recent photographic image of
55 each registrant taken by the department, the Department of Correction,
56 a law enforcement agency or the Court Support Services Division of
57 the Judicial Department.

58 (e) Whenever the Commissioner of Emergency Services and Public
59 Protection receives notice from a Superior Court pursuant to section
60 52-11 of the general statutes or a Probate Court pursuant to section
61 45a-99 of the general statutes that such court has ordered the change of
62 name of a person, and the department determines that such person is
63 listed in the registry, the department shall revise such person's
64 registration information accordingly.

65 (f) The Commissioner of Emergency Services and Public Protection
66 shall develop a protocol for the notification of other state agencies, the
67 Judicial Department and local police departments whenever a person
68 listed in the registry changes such person's name and notifies the
69 commissioner of the new name pursuant to section 3 of this act or
70 whenever the commissioner determines pursuant to subsection (e) of
71 this section that a person listed in the registry has changed such
72 person's name.

73 (g) The information in the registry shall not be a public record or file
74 for the purposes of section 1-200 of the general statutes. Any
75 information recorded or disclosed pursuant to this section or section 3
76 or 4 of this act shall not be further disclosed unless such disclosure is
77 permitted under this section or section 17a-247b, 17a-412, 17a-488a,
78 17b-452 or 19a-491c of the general statutes, as amended by this act.

79 (h) Not later than two business days after entering the information
80 of a new offender in the registry, the Commissioner of Emergency
81 Services and Public Protection shall send the information to the
82 Commissioner of Public Health for inclusion in a searchable data base
83 established pursuant to section 19a-491c of the general statutes, as
84 amended by this act, for persons seeking to hire individuals for
85 positions assisting elderly persons and persons with disabilities.

86 Sec. 3. (NEW) (*Effective from passage*) (a) (1) Any person who has
87 been convicted or found not guilty by reason of mental disease or
88 defect of certain crimes against elderly persons or persons with
89 disabilities and is released into the community on or after January 1,
90 2020, shall, within fourteen calendar days following such release or, if
91 such person is in the custody of the Commissioner of Correction, at
92 such time prior to release as the Commissioner of Correction shall
93 direct, and whether or not such person's place of residence is in this
94 state, register such person's name, identifying factors, criminal history
95 record, residence address and electronic mail address with the
96 Commissioner of Emergency Services and Public Protection, on such
97 forms and in such locations as the Commissioner of Emergency
98 Services and Public Protection shall direct, and shall maintain such
99 registration for five years.

100 (2) Prior to accepting a plea of guilty or nolo contendere from a
101 person with respect to certain crimes against elderly persons or
102 persons with disabilities, the court shall (A) inform the person that the
103 entry of a finding of guilty after acceptance of the plea will subject the
104 person to the registration requirements of this section, and (B)
105 determine that the person fully understands the consequences of the
106 plea.

107 (3) If any person who is subject to registration under this section
108 changes such person's name, such person shall, without undue delay,
109 notify the Commissioner of Emergency Services and Public Protection
110 in writing of the new name. If any person who is subject to registration
111 under this section changes such person's address, such person shall,

112 without undue delay, notify the Commissioner of Emergency Services
113 and Public Protection in writing of the new address. During such
114 period of registration, each registrant shall complete and return any
115 forms mailed to such registrant to verify such registrant's residence
116 address and shall submit to the retaking of a photographic image upon
117 request of the Commissioner of Emergency Services and Public
118 Protection.

119 (b) Any person required to register under this section shall, not later
120 than twenty calendar days after each anniversary date of such initial
121 registration, until the date such registration requirement expires under
122 subdivision (1) of subsection (a) of this section, personally appear at
123 the local police department or state police troop having jurisdiction
124 where the registrant resides to verify and update, as appropriate, the
125 contents of his or her registration. The local police department or state
126 police troop, as the case may be, may defer such requirement to
127 personally appear to a later date for good cause shown. Not later than
128 thirty calendar days prior to such anniversary date, the Department of
129 Emergency Services and Public Protection shall mail written notice of
130 the personal appearance requirement of this subsection to the
131 registrant and the local police department or state police troop having
132 jurisdiction where the registrant resides. Not later than thirty calendar
133 days after the anniversary date of each registrant, the local police
134 department or state police troop having jurisdiction where the
135 registrant resides shall notify the Commissioner of Emergency Services
136 and Public Protection, on such form as the commissioner may
137 prescribe, (1) whether the registrant complied with the personal
138 appearance requirement of this subsection or whether such personal
139 appearance requirement was deferred to a later date for good cause
140 shown, and (2) if the personal appearance requirement was deferred to
141 a later date for good cause shown, the local police department or state
142 police troop shall indicate the later date established for such personal
143 appearance and describe the good cause shown.

144 (c) Any person who is subject to registration under this section who
145 violates any provisions of subsection (a) or (b) of this section, except a

146 violation consisting of failure to notify the Commissioner of
147 Emergency Services and Public Protection of a change of name or
148 address, shall be guilty of a class D felony. Any person who is subject
149 to registration under this section who fails to notify the Commissioner
150 of Emergency Services and Public Protection of a change of name or
151 address not later than five business days after such change of name or
152 address shall be guilty of a class D felony.

153 Sec. 4. (NEW) (*Effective from passage*) (a) The registration information
154 for each registrant required to register under section 3 of this act shall
155 include:

156 (1) The offender's name, including any other name by which the
157 offender has been legally known, and any aliases used by the offender;

158 (2) Identifying information, including a physical description of the
159 offender;

160 (3) The current residence address of the offender;

161 (4) The date of conviction of the offense;

162 (5) A description of the offense; and

163 (6) If the offender was sentenced to a term of incarceration for such
164 offense, a portion of which was not suspended, the date the offender
165 was released from such incarceration.

166 (b) The offender shall sign and date the registration.

167 (c) At the time that the offender appears for the purpose of
168 registering, the Department of Emergency Services and Public
169 Protection shall photograph the offender and arrange for the
170 fingerprinting of the offender and include such photograph and a
171 complete set of fingerprints in the registry.

172 (d) The Department of Emergency Services and Public Protection
173 may require the offender to provide documentation to verify the
174 contents of his or her registration.

175 Sec. 5. Section 19a-491c of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective from passage*):

177 (a) As used in this section:

178 (1) "Criminal history and patient abuse background search" or
179 "background search" means (A) a review of the registry of nurse's
180 aides maintained by the Department of Public Health pursuant to
181 section 20-102bb, (B) checks of state and national criminal history
182 records conducted in accordance with section 29-17a, [and] (C) a
183 review of the registry established in sections 2 to 4, inclusive, of this
184 act, and (D) a review of information obtained from registries
185 established pursuant to section 17a-247b, 17a-412, 17a-488a or 17b-452,
186 as amended by this act, and any other registry specified by the
187 Department of Public Health which the department deems necessary
188 for the administration of a background search program.

189 (2) "Direct access" means physical access to a patient or resident of a
190 long-term care facility that affords an individual with the opportunity
191 to commit abuse or neglect against or misappropriate the property of a
192 patient or resident.

193 (3) "Disqualifying offense" means a conviction of any crime
194 described in 42 USC 1320a-7(a)(1), (2), (3) or (4), a conviction of certain
195 crimes against elderly persons or persons with disabilities or a
196 substantiated finding by a state or federal agency of neglect, abuse or
197 misappropriation of property [by a state or federal agency] pursuant to
198 an investigation conducted in accordance with 42 USC 1395i-3(g)(1)(C)
199 or 42 USC 1396r(g)(1)(C).

200 (4) "Long-term care facility" means any facility, agency or provider
201 that is a nursing home, as defined in section 19a-521, a residential care
202 home, as defined in section 19a-521, a home health agency, as defined
203 in section 19a-490, an assisted living services agency, as defined in
204 section 19a-490, an intermediate care facility for individuals with
205 intellectual disabilities, as defined in 42 USC 1396d(d), except any such
206 facility operated by a Department of Developmental Services' program

207 subject to background checks pursuant to section 17a-227a, a chronic
208 disease hospital, as defined in section 19a-550, or an agency providing
209 hospice care which is licensed to provide such care by the Department
210 of Public Health or certified to provide such care pursuant to 42 USC
211 1395x.

212 (b) The Department of Public Health shall create and implement a
213 criminal history and patient abuse background search program, within
214 available appropriations, in order to facilitate the performance,
215 processing and analysis of the criminal history and patient abuse
216 background search of individuals who have direct access.

217 (c) (1) Except as provided in subdivision (2) of this subsection, each
218 long-term care facility, prior to extending an offer of employment to, or
219 entering into a contract for, the provision of long-term care services
220 with any individual who will have direct access, or prior to allowing
221 any individual to begin volunteering at such long-term care facility
222 when the long-term care facility reasonably expects such volunteer will
223 regularly perform duties that are substantially similar to those of an
224 employee with direct access, shall require that such individual submit
225 to a background search. The Department of Public Health shall
226 prescribe the manner by which (A) long-term care facilities perform
227 the review of (i) the registry of nurse's aides maintained by the
228 department pursuant to section 20-102bb, and (ii) any other registry
229 specified by the department, including requiring long-term care
230 facilities to report the results of such review to the department, and (B)
231 individuals submit to state and national criminal history records
232 checks, including requiring the Department of Emergency Services and
233 Public Protection to report the results of such checks to the Department
234 of Public Health.

235 (2) [No] Except for individuals registered pursuant to sections 2 to 4,
236 inclusive, of this act, no long-term care facility shall be required to
237 comply with the provisions of this subsection if the individual
238 provides evidence to the long-term care facility that such individual
239 submitted to a background search conducted pursuant to subdivision

240 (1) of this subsection not more than three years immediately preceding
241 the date such individual applies for employment, seeks to enter into a
242 contract or begins volunteering with the long-term care facility and
243 that the prior background search confirmed that the individual did not
244 have a disqualifying offense.

245 (d) (1) The Department of Public Health shall review all reports
246 provided to the department pursuant to [subsection (c)] subsections (c)
247 and (h) of this section. If any such report contains evidence indicating
248 that an individual has a disqualifying offense, the department shall
249 provide notice to the individual and the long-term care facility
250 indicating the disqualifying offense and providing the individual with
251 the opportunity to file a request for a waiver pursuant to subdivisions
252 (2) and (3) of this subsection.

253 (2) [An] Except for individuals registered pursuant to sections 2 to 4,
254 inclusive, of this act, an individual may file a written request for a
255 waiver with the department not later than thirty days after the date the
256 department mails notice to the individual pursuant to subdivision (1)
257 of this subsection. The department shall mail a written determination
258 indicating whether the department shall grant a waiver pursuant to
259 subdivision (3) of this subsection not later than fifteen business days
260 after the department receives the written request from the individual,
261 except that said time period shall not apply to any request for a waiver
262 in which an individual challenges the accuracy of the information
263 obtained from the background search.

264 (3) [The] Except for individuals registered pursuant to sections 2 to
265 4, inclusive, of this act, the department may grant a waiver from the
266 provisions of subsection (e) of this section to an individual who
267 identifies mitigating circumstances surrounding the disqualifying
268 offense, including (A) inaccuracy in the information obtained from the
269 background search, (B) lack of a relationship between the disqualifying
270 offense and the position for which the individual has applied, (C)
271 evidence that the individual has pursued or achieved rehabilitation
272 with regard to the disqualifying offense, or (D) that substantial time

273 has elapsed since committing the disqualifying offense. The
274 department and its employees shall be immune from liability, civil or
275 criminal, that might otherwise be incurred or imposed, for good faith
276 conduct in granting waivers pursuant to this subdivision.

277 (4) After completing a review pursuant to subdivision (1) of this
278 subsection, the department shall notify in writing the long-term care
279 facility to which the individual has applied for employment or with
280 which the individual seeks to enter into a contract or volunteer (A) of
281 any disqualifying offense and any information the individual provided
282 to the department regarding mitigating circumstances surrounding
283 such offense, or of the lack of a disqualifying offense, and (B) whether
284 the department granted a waiver pursuant to subdivision (3) of this
285 subsection.

286 (e) Notwithstanding the provisions of section 46a-80, no long-term
287 care facility shall employ an individual required to submit to a
288 background search, contract with any such individual to provide long-
289 term care services or allow such individual to volunteer if the long-
290 term care facility receives notice from the department that the
291 individual has a disqualifying offense in the individual's background
292 search and the department has not granted a waiver pursuant to
293 subdivision (3) of subsection (d) of this section. A long-term care
294 facility may, but is not obligated to, employ, enter into a contract with
295 or allow to volunteer an individual who was granted a waiver
296 pursuant to said subdivision (3).

297 (f) (1) Except as provided in subdivision (2) of this subsection, a
298 long-term care facility shall not employ, enter into a contract with or
299 allow to volunteer any individual required to submit to a background
300 search until the long-term care facility receives notice from the
301 Department of Public Health pursuant to subdivision (4) of subsection
302 (d) of this section.

303 (2) [A] Except for individuals registered pursuant to sections 2 to 4,
304 inclusive, of this act, a long-term care facility may employ, enter into a
305 contract with or allow to volunteer an individual required to submit to

306 a background search on a conditional basis before the long-term care
307 facility receives notice from the department that such individual does
308 not have a disqualifying offense, provided: (A) The employment or
309 contractual or volunteer period on a conditional basis shall last not
310 more than sixty days, except the sixty-day time period may be
311 extended by the department to allow for the filing and consideration of
312 a written request for a waiver of a disqualifying offense filed by an
313 individual pursuant to subsection (d) of this section, (B) the long-term
314 care facility has begun the review required under subsection (c) of this
315 section and the individual has submitted to checks pursuant to
316 subsection (c) of this section, (C) the individual is subject to direct, on-
317 site supervision during the course of such conditional employment or
318 contractual or volunteer period, and (D) the individual, in a signed
319 statement (i) affirms that the individual has not committed a
320 disqualifying offense, and (ii) acknowledges that a disqualifying
321 offense reported in the background search required by subsection (c)
322 of this section shall constitute good cause for termination and a long-
323 term care facility may terminate the individual if a disqualifying
324 offense is reported in said background search.

325 (g) [Records] Except as provided in subsection (i) of this section,
326 records and information with respect to any individual that are
327 obtained by the department pursuant to this section shall not be
328 disclosed or subject to disclosure under section 1-210.

329 (h) On and after January 1, 2020, the Department of Public Health
330 shall include in the background search program the names, ages, last-
331 known addresses and information on the offenses of persons who have
332 registered with the Commissioner of Emergency Services and Public
333 Protection pursuant to sections 2 to 4, inclusive, of this act, the names,
334 ages, last-known addresses and information on the offenses of any
335 nurse's aide with a finding of improper conduct listed on the nurse's
336 aide registry pursuant to section 20-102cc and information obtained
337 from registries established pursuant to sections 17a-247b, 17a-412, 17a-
338 488a and 17b-452, as amended by this act. Except for persons
339 registered pursuant to sections 2 to 4, inclusive, of this act, the

340 department may grant a waiver to any person pursuant to
341 subdivisions (2) and (3) of subsection (d) of this section.

342 (i) On and after February 1, 2020, the Department of Public Health
343 shall include on the department's Internet web site a link to the
344 background search program that allows the public to search the
345 program by name of an individual. The listing will show an
346 individual's age, last known address, convictions or other disciplinary
347 actions taken and a general description of a substantiated case of
348 abuse, neglect, exploitation or abandonment.

349 [(h)] (j) The department shall adopt regulations, in accordance with
350 the provisions of chapter 54, to implement the provisions of this
351 section, including, but not limited to, the amount of time per offense a
352 person's name shall remain on the publicly accessible background
353 search program on the department's Internet web site. The department
354 may implement policies and procedures consistent with the provisions
355 of this section while in the process of adopting such policies and
356 procedures as regulation, provided notice of intention to adopt
357 regulations is [printed in the Connecticut Law Journal] published on
358 the eRegulations System not later than twenty days after the date of
359 implementation. Such policies and procedures shall be valid until the
360 time final regulations are effective.

361 Sec. 6. Section 17a-247b of the general statutes is repealed and the
362 following is substituted in lieu thereof (*Effective from passage*):

363 (a) The Department of Developmental Services shall establish and
364 maintain a registry of former employees who have been terminated or
365 separated from employment as a result of substantiated abuse or
366 neglect. The department shall, for the purposes of maintaining the
367 registry, be capable of responding to inquiries in accordance with
368 subsection (c) of this section as to whether a former employee has been
369 terminated or separated from employment as a result of substantiated
370 abuse or neglect. Such capability may include response by telephone
371 voice mail or other automated response for initial inquiries.

372 (b) The registry shall include, but not be limited to, the following: (1)
373 The names, addresses and Social Security numbers of those former
374 employees terminated or separated from employment as a result of
375 substantiated abuse or neglect; (2) the date of termination or
376 separation; (3) the type of abuse or neglect; and (4) the name of any
377 employer or authorized agency requesting information from the
378 registry, the reason for the request and the date of the request.

379 (c) [The] Except as provided in subsection (h) of this section, the
380 department shall make information in the registry available only to: (1)
381 Authorized agencies, for the purpose of protective service
382 determinations; (2) employers who employ employees to provide
383 services to an individual who receives services or funding from the
384 department; (3) the Departments of Children and Families, Mental
385 Health and Addiction Services, and Social Services, for the purpose of
386 determining whether an applicant for employment appears on the
387 registry; or (4) charitable organizations that recruit volunteers to
388 support programs for persons with intellectual disability or autism
389 spectrum disorder, upon application to and approval by the
390 commissioner, for purposes of conducting background checks on such
391 volunteers.

392 (d) [The] Except as provided in subsection (h) of this section, the
393 department shall limit responses to requests for identifying
394 information from the registry established under this section to (1)
395 identification of the former employee terminated or separated from
396 employment for substantiated abuse or neglect, and (2) the type of
397 abuse or neglect so substantiated.

398 (e) Not later than five business days following receipt of written
399 notification by an authorized agency of the substantiation of abuse or
400 neglect by a former employee who has been terminated or separated
401 from employment for such abuse or neglect, an employer shall submit
402 to the department the name of such former employee and such other
403 information as the department may request. Upon receipt of
404 notification of such termination or separation, the department shall

405 conduct a hearing in accordance with sections 4-177 to 4-181a,
406 inclusive, governing contested cases. The department shall not place a
407 former employee's name on the registry until the department has
408 completed the hearing and the hearing has resulted in a decision to
409 place the former employee's name on the registry. The former
410 employee shall be informed before such hearing that his or her name
411 will be forwarded to the Department of Public Health pursuant to
412 subsection (h) of this section if the hearing results in a decision to place
413 his or her name on the registry established pursuant to this section.

414 (f) The department shall remove a former employee's name from the
415 registry if an arbitration or a legal proceeding results in a finding that
416 the former employee was unfairly terminated from employment. Upon
417 removal of such former employee's name from the registry, the
418 department shall inform the Department of Public Health that such
419 former employee's identifying information should be removed from
420 the background search program established pursuant to section 19a-
421 491c, as amended by this act.

422 (g) No employer shall be liable in any civil action for damages
423 brought by an employee, former employee or an applicant for
424 employment whose name appears on the registry established by this
425 section arising out of the conduct of the employer in (1) making any
426 report in good faith pursuant to subsection (e) of this section, (2)
427 testifying under oath in any administrative or judicial proceeding
428 arising from such report, (3) refusing to hire or to retain any person
429 whose name appears on the registry established under this section, or
430 (4) taking any other action to conform to the requirements of this
431 section. The immunity provided in this subsection shall not apply to
432 gross negligence or to wilful or wanton misconduct.

433 (h) Notwithstanding subsections (c) and (d) of this section, on and
434 after December 1, 2019, the department shall forward to the
435 Department of Public Health (1) the names, ages and last-known
436 addresses of the former employees on the registry who were
437 terminated or separated from employment for substantiated abuse or

438 neglect and a general description of the offense for inclusion in the
439 background search program established pursuant to section 19a-491c,
440 as amended by this act, and (2) if known, (A) whether such former
441 employees were convicted of certain crimes against elderly persons or
442 persons with disabilities or other crimes as a result of a substantiated
443 case of abuse or neglect, (B) the crimes such persons were convicted of,
444 and (C) a general description of the offense.

445 Sec. 7. Section 17a-412 of the general statutes is amended by adding
446 subsection (i) as follows (*Effective from passage*):

447 (NEW) (i) Notwithstanding subsections (d) and (g) of this section,
448 on and after December 1, 2019, the Department of Social Services shall
449 forward to the Department of Public Health the following information
450 for inclusion in the background search program established pursuant
451 to section 19a-491c, as amended by this act:

452 (1) (A) If known, the names, ages and last-known addresses of
453 persons convicted of certain crimes against elderly persons or persons
454 with disabilities, or any other crime, as a result of an investigation
455 pursuant to this section that substantiated allegations of abuse, neglect,
456 exploitation or abandonment, (B) the crimes such persons were
457 convicted of, and (C) a general description of the offense; and

458 (2) (A) The names, ages and last-known addresses of any caregiver
459 or other employee who has been terminated or separated from
460 employment as a result of an investigation pursuant to this section that
461 substantiated allegations of abuse, neglect, exploitation or
462 abandonment, and (B) a general description of the allegations,
463 provided such former caregiver or employee shall have the right to an
464 administrative hearing in accordance with chapter 54 to contest
465 inclusion in the background search system before the Department of
466 Social Services forwards such information to the Department of Public
467 Health.

468 Sec. 8. Section 17a-488a of the general statutes is amended by adding
469 subsection (f) as follows (*Effective from passage*):

470 (NEW) (f) Notwithstanding subsections (a) and (c) of this section, on
471 and after December 1, 2019, the Commissioner of Mental Health and
472 Addiction Services shall forward to the Department of Public Health
473 the following information for inclusion in the background search
474 program established pursuant to section 19a-491c, as amended by this
475 act:

476 (1) (A) If known, the names, ages and last-known addresses of
477 persons convicted of certain crimes against elderly persons or persons
478 with disabilities, or any other crime, as a result of an investigation that
479 substantiated allegations of abuse, (B) the crimes such persons were
480 convicted of, and (C) a general description of the offense; and

481 (2) (A) The names, ages and last-known addresses of any caregiver
482 or other employee who has been terminated or separated from
483 employment as a result of an investigation pursuant to this section that
484 substantiated allegations of abuse, and (B) a general description of the
485 allegations, provided such former caregiver or employee shall have the
486 right to an administrative hearing in accordance with chapter 54 to
487 contest inclusion in the background search system before the
488 commissioner forwards such information to the Department of Public
489 Health.

490 Sec. 9. Section 17b-452 of the general statutes is amended by adding
491 subsection (g) as follows (*Effective from passage*):

492 (NEW) (g) Notwithstanding the provisions of subsections (a), (c)
493 and (d) of this section, on and after December 1, 2019, the Department
494 of Social Services shall forward to the Department of Public Health the
495 following information for inclusion in the background search program
496 established pursuant to section 19a-491c, as amended by this act:

497 (1) (A) If known, the names, ages and last-known addresses of
498 persons convicted of certain crimes against elderly persons or persons
499 with disabilities, or any other crime, as a result of an investigation that
500 substantiated allegations of abuse, neglect, exploitation or
501 abandonment, (B) the crimes such persons were convicted of, and (C) a

502 general description of the offense; and

503 (2) (A) The names, ages and last-known addresses of any caregiver
 504 or other employee who has been terminated or separated from
 505 employment as a result of an investigation pursuant to this section that
 506 substantiated allegations of abuse, neglect, exploitation or
 507 abandonment, and (B) a general description of the allegations,
 508 provided such former caregiver or employee shall have the right to an
 509 administrative hearing in accordance with chapter 54 to contest
 510 inclusion in the background search program before the Department of
 511 Social Services forwards such information to the Department of Public
 512 Health.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	19a-491c
Sec. 6	<i>from passage</i>	17a-247b
Sec. 7	<i>from passage</i>	17a-412
Sec. 8	<i>from passage</i>	17a-488a
Sec. 9	<i>from passage</i>	17b-452

Statement of Legislative Commissioners:

In Section 1, "17a-488a and 17b-452" was changed to "17a-488a, 17b-452 and 19a-491c" for accuracy, "intellectual disabilities" was changed to "an intellectual disability" for consistency with other provisions of the general statutes, "and" was added before Subdiv. (5), the comma after "section 3 of this act" was changed to a period and Subdiv. (6) was deleted for accuracy; in Section 2(g), "sections 3 and 4 of this act" was deleted for accuracy and "17a-412, 17a-247b" was changed to "17a-247b, 17a-412" for consistency with other provisions of the section.

AGE Joint Favorable Subst. -LCO

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Department of Emergency Services and Public Protection	GF - Cost	Less than 150,000	Less than 150,000
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Public Health, Dept.	GF - Cost	less than 250,000	less than 150,000
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

There is a cost to the Department of Emergency Services and Public Protection (DESPP) resulting from the bill, which requires that DESPP create and maintain a registry for offenders of certain crimes against the elderly and disabled. The cost incurred would depend upon if the agency contracted with a third party vendor to create the registry or created the registry internally. For reference, DESPP spends approximately \$150,000 annually in licensing fees and maintenance to a third party vendor for the Connecticut sex offender registry. It is expected that less than 200 offenders will be required to register annually.

The bill also makes violations of the registry a class D felony and results in a potential cost to the Department of Correction and Judicial Department and a potential revenue gain from fines. On average, the marginal cost to the state for incarcerating an offender for the year is

\$1,800 while the average marginal cost for supervision in the community is less than \$700 each year.

Starting 1/1/20, the bill expands the Department of Public Health's (DPH's) long-term care Applicant Background Check Management System (ABCMS) to include information from the abuse registry established by DESPP per the bill, as well as abuse and neglect registries maintained by the Departments of Developmental Services (DDS), Mental Health and Addiction Services (DMHAS), and Social Services (DSS). These Departments must begin reporting their registry information to DPH beginning 12/1/19. On 2/1/20 and going forward, DPH must include a link on its website that allows the public to search these registries' data by an individual's name. The ABCMS, however, is not searchable by the public. It was designed as part of a federally-funded national initiative, through the Centers for Medicare and Medicaid Services, and it is restricted to registered users who can access certain personal data of long-term care employment applicants. Scrubbing the private information from existing ABCMS data, and using it as the foundation of a searchable public database that integrates registries from DESPP, DDS, DMHAS, and DSS will result in cost to DPH for a third party vendor to develop and run the database estimated at less than \$250,000 in the first year (FY 20), and a cost of less than \$150,000 annually in licensing fees and maintenance.

There is not expected to be a cost to DESPP for additional enforcement of registrants required in the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sSB 832*****AN ACT CONCERNING REGISTRIES OF PERSONS FOUND RESPONSIBLE FOR ASSAULTS OR OTHER ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF ELDERLY PERSONS OR PERSONS WITH DISABILITIES.*****SUMMARY**

This bill requires the Department of Emergency Services and Public Protection (DESPP), by January 1, 2020, to establish and maintain a registry that includes individuals convicted, or found not guilty by reason of mental disease or defect, of specified crimes of assault or abuse against seniors aged 60 years and older and individuals with disabilities.

Individuals convicted of these crimes must register with DESPP beginning January 1, 2020, if they are released into the community on or after that date, regardless of whether they reside within or outside of the state. Registrants must submit their name, identifying factors, criminal history record, residence address, and email address. The registration requirement applies for five years.

The bill establishes related registration, recordkeeping, and information sharing requirements.

Additionally, starting January 1, 2020, the bill expands the Department of Public Health's (DPH's) Long-Term Care Background Check Program to include information from the abuse registry established by the bill, as well as abuse and neglect registries maintained by the departments of developmental services (DDS), mental health and addiction services (DMHAS), and social services (DSS). The departments must begin reporting registry information to DPH for this purpose starting December 1, 2019.

Starting February 1, 2020, DPH must include a link on its website that allows the public to search the program by an individual's name. Under current law, DPH's program and the departments' registries are only available to specified parties for certain purposes, such as state agencies, employers, and law enforcement officials.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

§§ 1-4 — ABUSE REGISTRY

Individuals Required to Register

The bill requires individuals convicted, or found not guilty by reason of mental disease or defect, of the following crimes to register with DESPP:

1. 1st degree, 2nd degree, or 3rd degree assault of an elderly, blind, disabled, or pregnant person or a person with intellectual disability;
2. 2nd degree assault with a firearm of an elderly, blind, disabled, or pregnant person or a person with intellectual disability; or
3. 1st degree, 2nd degree, or 3rd degree abuse of an elderly, blind, or disabled person or a person with intellectual disability.

These individuals must register with DESPP beginning January 1, 2020, if they are released into the community on or after that date, regardless of whether they reside within or outside of the state. Registrants must do so within 14 calendar days of their release or, if in Department of Correction (DOC) custody, at such time before their release that the department directs.

Registration Forms

The bill requires DESPP, in cooperation with the Office of the Chief Court Administrator, DOC, and the Psychiatric Security Review Board, to develop appropriate forms for agencies and individuals to use to report registration information, including address changes.

DESPP must provide the forms to individuals who are required to register as well as specify the locations for them to do so. Individuals required to register must maintain their registration for five years.

Recordkeeping

Under the bill, DESPP must enter registration information it receives into the abuse registry and notify the local police department or state police troop having jurisdiction over the registrant's current or planned future residence. The department must also take such action when a registrant relocates within the state, notifying the appropriate department or troop for both the old and new address.

The bill requires the DESPP commissioner to ensure that each registrant's name and address is available through the department's online law enforcement communication teleprocessing system. If a registrant reports a residence in another state, the department may notify the state police or other agency in that state that maintains registry information, if known.

The bill also requires the DESPP commissioner, within two business days after entering a new offender into the registry, to send the information to the DPH commissioner to include in a searchable database as part of DPH's Long-Term Care Background Check Program (see §5 below).

Required Registration Information

Under the bill, the abuse registry must include the following information for each registrant:

1. the registrant's name, including any other legal names or aliases he or she has used;
2. identifying information, including the registrant's physical description;
3. the registrant's email address and current residence address;
4. a description of the offense and date of conviction; and

5. the date the registrant was released from incarceration, if the registrant was sentenced to a term of incarceration and a portion was not suspended.

The bill also requires DESPP to include in the registry the registrant's most recent photograph taken by the department, DOC, a law enforcement agency, or the Judicial Branch's Court Support Services Division. But it also requires DESPP, at the time an offender appears to register, to photograph the offender; arrange for his or her fingerprinting; and include the photograph and complete fingerprint set in the registry.

Additionally, the bill authorizes the DESPP commissioner to require a registrant to provide documentation to verify his or her information. The registrant must also sign and date the registration.

Registrant Name and Address Changes

The bill requires a registrant who changes his or her name or address to notify the DESPP commissioner in writing without undue delay of the new name or address. The registrant must complete and return any forms he or she receives to verify the address and must agree to the retaking of his or her photograph if the commissioner requests it.

Additionally, if a Superior Court or probate court notifies DESPP that the court ordered a registrant's name change, the department must revise the person's registration information.

The commissioner must also develop a protocol to notify other state agencies, the Judicial Department, and other local police departments whenever a registrant notifies DESPP of a name change or a court reports such a change.

Registration Suspension

The bill allows DESPP to suspend the registration of an offender who is incarcerated, under civil commitment, or residing outside of the state. But the department must reinstate the registration when any of

these conditions change. While a registration is suspended, the department may withdraw law enforcement's access to the registration information but must reinstate access if the registration is reinstated.

Under the bill, suspending a registration does not affect the expiration date the registrant is obligated to complete.

Pleading Guilty or Nolo Contendere

The bill requires the court to inform a person accused of committing the crimes listed above that accepting a plea of guilty or nolo contendere will subject the person to the bill's registry requirements. The court must (1) do this before the person accepts such a plea and (2) determine that the person fully understands the consequences of doing so.

Annual Personal Appearance Requirement

The bill requires registrants, within 20 calendar days after the anniversary date of their initial registration, to annually personally appear at the local police department or state police troop having jurisdiction where they live to verify their registration information or update it as appropriate. The law enforcement agency may defer the personal appearance requirement to a later date for good cause.

No later than 30 days before a registrant's anniversary date, DESPP must mail written notice of the personal appearance requirement to the registrant and the appropriate local police department or state police troop.

The law enforcement agency must then notify the DESPP commissioner, within 30 days after the registrant's anniversary date, about (1) whether the registrant complied with the personal appearance requirement or (2) the date the requirement was deferred to, and the reason for the deferment, if it was deferred.

Violations

Under the bill, anyone required to register who violates the abuse registry requirements is guilty of a Class D felony, punishable by up to

five years in prison, a fine of up to \$5,000, or both. Additionally, a registrant who fails to notify the DESPP commissioner within five business days of changing his or her name or address is guilty of a Class D felony.

Confidentiality

Under the bill, registry information is not a public record and is exempt from Freedom of Information Act disclosure requirements. Such information may only be disclosed if authorized under the bill or existing laws governing DDS, DMHAS, DPH, and DSS abuse and neglect registries.

§ 5 — DPH LONG-TERM CARE BACKGROUND CHECK PROGRAM

Program Expansion

By law, DPH administers a background check program for direct care employees and volunteers of long-term care facilities (i.e., Long-Term Care Background Check Program).

Under current law, the program includes (1) state and national criminal history record checks; (2) a review of DPH's nurse's aide registry; and (3) a review of any other registry DPH specifies. The bill also requires the program to include a review of information obtained from the:

1. abuse registry established by the bill;
2. DDS registry of former employees with substantiated cases of abuse or neglect of individuals with intellectual disability;
3. DSS registries on mandated reports of elder abuse and elderly protective services reports, investigations, and findings; and
4. DMHAS registry of reports, investigations, and findings regarding mandated reports of abuse and neglect of behavioral health facility patients.

Under the bill, starting January 1, 2020, DPH must include information obtained from the above review in its Long-Term Care

Background Check Program. It must also include the names, ages, last-known addresses, and information on the offense of (1) offenders included in DESPP's elder abuse registry and (2) nurse's aides with a finding of improper conduct who are listed on DPH's nurse's aide registry.

Public Accessibility

The bill requires DPH, starting February 1, 2020, to include a link on its website that allows the public to search the program by an individual's name. The listing must show the individual's age, last known address, convictions, or other disciplinary actions taken as well as a general description of any substantiated case of abuse, neglect, exploitation, or abandonment.

Under current law, DPH's program is available only to long-term care facility employers and specified state agencies.

Disqualifying Offense

The bill expands the list of disqualifying offenses that prohibit someone from being hired as a direct care employee or volunteer at a long-term care facility to include conviction of specified assault and abuse crimes against the elderly and individuals with disabilities (i.e., those crimes requiring registration as described above).

Current law also includes as a disqualifying offense (1) a state or federal agency's substantiated finding of neglect, abuse, or misappropriation of property under an investigation conducted in accordance with federal Medicare and Medicaid laws or (2) conviction for other specified state or federal crimes, such as felonies relating to health care fraud or controlled substances.

Exemptions

Current law provides exemptions to certain individuals who would otherwise be subject to a comprehensive background search under the DPH program. The bill, however, expressly prohibits DESPP abuse registry offenders from:

1. an exemption for providing evidence of completing a background search with no disqualifying offenses within three years immediately preceding the application date for the paid or volunteer position;
2. applying to DPH to receive a waiver from a disqualifying offense for mitigating circumstances; or
3. being offered a conditional paid or volunteer position by a long-term care facility while DPH's comprehensive background check is pending.

Regulations

Existing law requires DPH to adopt implementing regulations for the Long-Term Care Background Check Program. The bill requires the regulations to include the amount of time per offense that a person's name must remain on DPH's publicly accessible program website. Under current law, the department may implement policies and procedures while in the process of adopting regulations, but DPH must publish notice of its intent to adopt the regulations in the *Connecticut Law Journal*. The bill requires DPH to instead post the notice on the state's eRegulations System.

§§ 6-9 — SHARING DDS, DMHAS, AND DSS REGISTRY INFORMATION

Starting December 1, 2019, the bill requires DDS, DMHAS, and DSS to report to DPH information from their respective registries (see §5 above) for inclusion in the Long-Term Care Background Check Program. Specifically, the departments must report the names, ages, and last-known addresses of the following individuals:

1. for DMHAS and DSS: if known, individuals convicted of the crimes listed above against the elderly or individuals with disabilities or any other crimes resulting from an investigation that substantiated allegations of abuse or neglect;
2. for DDS: former employees included on the department's

registry; and

3. for DMHAS and DSS: caregivers or employees who have been terminated or separated from employment as a result of an investigation that substantiated abuse or neglect.

The departments must also report to DPH the crimes for which these individuals were convicted and a general description of the offenses. With the exception of DMHAS and DSS caregivers and employees, the departments must report this information only if it is known.

Under the bill, the departments cannot forward a caregiver's or former employee's information to DPH until the offender has exhausted his or her right to a hearing under the Uniform Administrative Procedure Act's contested case provisions.

Public Accessibility of Registry Information

By requiring the departments to report registry information to DPH, the bill makes the information publicly accessible through DPH's Long-Term Care Background Check Program. Under current law, the registries may only be accessed by the following entities:

1. for DDS: (a) authorized agencies for protective services determinations, (b) DDS-funded agencies, (c) DCF, DMHAS, and DSS for employment purposes, and (d) charitable organizations that recruit volunteers to support programs for individuals with disabilities or autism spectrum disorder and
2. for DMHAS and DSS: an individual or entity that an abuse or neglect victim or victim's legal representative authorizes in writing or under other limited circumstances, such as to law enforcement officials pursuant to a court order.

COMMITTEE ACTION

Aging Committee

Joint Favorable

Yea 11 Nay 0 (02/26/2019)