



State of Tennessee

PUBLIC CHAPTER NO. 1044

SENATE BILL NO. 1848

By Gardenhire, Crowe, Niceley, Norris

Substituted for: House Bill No. 1824

By Carr, Hazlewood, Weaver, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 4; Title 33; Title 47; Title 68 and Title 71, relative to the abuse of certain vulnerable persons.

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

SECTION 1. The commissioner of human services shall establish within the department of human services an adult protective services working group. The working group shall examine and explore the procedures and resources used by other states to investigate all allegations of financial exploitation, including allegations involving nongovernmental funds. The commissioner shall report to the general assembly by January 15, 2017, with a plan to improve its efficiency and a report concerning the department's capacity to investigate financial exploitation involving nongovernmental funds.

SECTION 2. The district attorneys general conference shall review portions of Tennessee Code Annotated related to the prosecution of elder abuse, neglect, and exploitation. The conference shall report recommended changes to the law to the chairs of the health committee of the house of representatives and health and welfare committee of the senate by January 15, 2017.

SECTION 3. Tennessee Code Annotated, Title 47, Chapter 18, Part 50, is amended by adding the following as a new section to be appropriately designated:

(a) The division of consumer affairs shall develop and implement a plan to receive and disseminate on the division's web site reports of scams, schemes, swindles, and other frauds that target adults, as the term is defined in § 71-6-102.

(b) The division shall report on its progress to the chairs of the health committee of the house of representatives and health and welfare committee of the senate by October 15, 2016.

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

(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.

SECTION 5. Tennessee Code Annotated, Title 71, Chapter 2, Part 1, is amended by adding the following as a new section to be appropriately designated:

The executive director of the commission shall establish a working group that is led by the commission and includes the division of adult protective services of the department of human services, the department of health, the district attorneys general conference, members of local law enforcement, and other state departments and agencies as may be needed. The working group shall draft and develop a field guide to provide law enforcement in this state with the specific statutes and other resources related to assisting in the prevention, investigation, and prosecution of abuse under chapter 6, part 1 of this title.

SECTION 6. Tennessee Code Annotated, Title 71, Chapter 2, Part 1, is amended by adding the following as a new section to be appropriately designated:

The executive director of the commission shall establish and lead a multidisciplinary collaborative coalition of state agencies and departments involved in the prevention, investigation, and prosecution of elder and vulnerable adult abuse, neglect, and exploitation. In an effort to reduce this abuse, neglect, and exploitation, the coalition shall develop and undertake strategies to increase communication with the public and state agencies, propose educational outreach, and promote the sharing of existing resources and information.

SECTION 7. Tennessee Code Annotated, Title 71, Chapter 2, Part 1, is amended by adding the following as a new section to be appropriately designated:

There is established the Tennessee vulnerable adult coalition (TVAC) as an advisory entity. The coalition shall be administratively attached to the commission on aging and disability. This coalition shall be convened by the executive director of the commission. The executive director shall invite appropriate entities to participate on a volunteer basis. The coalition shall bring public and private entities in this state together to promote the collaboration necessary to prevent the abuse, neglect, and financial exploitation of elder and vulnerable adults.

SECTION 8. Tennessee Code Annotated, Section 71-6-102(9), is amended by deleting the following language:

. However, the department is not required to assume responsibility for a person in imminent danger pursuant to this chapter except when, in the department's determination, sufficient resources exist for the implementation of this part

SECTION 9. 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 10. Tennessee Code Annotated, Section 33-2-1202, is further amended by deleting the last sentence in subdivision (c)(1).

SECTION 11. Sections 4 and 8 shall take effect July 1, 2016, the public welfare requiring it. All remaining sections of this act shall take effect upon becoming a law, the public welfare requiring it.

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PASSED: April 20, 2016



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 20th day of April 2016



BILL HASLAM, GOVERNOR