

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Third Reprint]

ASSEMBLY, No. 995

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 27, 1997

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 995 (3R) with amendments.

Assembly Bill No. 995 (3R), as amended, bars persons who have been convicted of certain disorderly persons offenses or crimes from employment with certain facilities, home health care agencies, nurses' registries, employment agencies, or temporary help agencies. The bill defines facility to mean any facility or institution, whether public or private, offering health or health related services for the institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision by any government agency.

Under the provisions of this bill, a person could not: (1) be hired by a facility for a position which involves regular contact with patients or clients 60 years of age or older; or (2) provide any home health care services to such elderly individuals, until the Commissioner of Health (in the case of a facility) or the Director of the Division of Consumer Affairs in the Department of Law and Public Safety (in the case of home health care agencies, nurses' registries, employment agencies, or temporary help agencies) determines that the person has not been convicted of any of the crimes or offenses set forth in the bill.

These crimes or offenses include serious drug offenses as well as homicide, assault, kidnaping, robbery or theft. Criminal history record background checks would be initiated by the Department of Health or the Division of Consumer Affairs and completed by the State Police and the Federal Bureau of Investigation upon payment of the necessary fees by either the prospective employer or the prospective employee.

The applicant would have 30 days from the date of a disqualification notice to petition the Commissioner of Health or the Director of the Division of Consumer Affairs, as the case may be, for a hearing on the accuracy of the criminal records or to demonstrate rehabilitation. Conditional employment for up to 180 days would be allowed during an applicant's background check if the applicant attests that he or she has not been convicted of any of the disqualifying offenses or crimes. An employer who fails to comply with the

provisions of this bill, or a person who falsely attests that he or she has not been convicted of any disqualifying offense in order to obtain conditional employment, would be subject to a fine of \$1,000.

As amended and reported, this bill is identical to Senate Bill No. 206 (SCS) (Connors/Bubba) as amended by this committee on January 27, 1997.

COMMITTEE AMENDMENTS

The committee amended the bill to require the Commissioner of Health or the Director of the Division of Consumer Affairs to send notices to an applicant's employer concerning the results of the criminal history record background check on the applicant and the applicant's petition for a hearing. In addition, the committee amended the bill to require that a person would need to have only one criminal history record background check to obtain employment with a simultaneous or subsequent employer within one year following an initial qualification. The remainder of the amendments are technical in nature to correct citations in the bill and to clarify the sponsor's intent.

FISCAL IMPACT

In a fiscal estimate in this bill, the Office of Legislative Services (OLS) noted that, based on similar legislation in a previous legislative session, the Department of Health had estimated its costs at \$394,000, \$292,000 and \$306,000, respectively, over the three fiscal years following enactment, primarily for the cost of five employees to handle the department's activities related to the criminal history record background checks.

There would appear to be no additional direct cost to the State for criminal history record background checks since the State already conducts background checks for persons seeking employment at the State's psychiatric hospitals and developmental centers. The estimate states that the Department of Human Services has in the past absorbed any additional costs associated with conducting background checks for its various employees within its ongoing budget. The bill permits the cost of the criminal history background check to be borne by either the employer or employee. If an employer assumes the cost of a background check, the employer may seek to pass these costs on to the payers of health care costs, including Medicaid. The extent to which payers of health care, including Medicaid, would reimburse employers for such costs cannot be determined.