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## **OLR Bill Analysis**

### **HB 5259**

#### ***AN ACT CONCERNING CRIMINAL OFFENSES THAT DISQUALIFY AN INDIVIDUAL FROM OBTAINING EMPLOYMENT OR VOLUNTEERING AT A LONG-TERM CARE FACILITY.***

#### **SUMMARY**

This bill expands the list of disqualifying offenses that generally prohibit a long-term care facility (see BACKGROUND) from (1) employing, or contracting with, anyone who will have direct access in providing long-term care services or (2) allowing anyone to begin volunteering if the facility reasonably expects the volunteer to regularly perform duties that are substantially similar to those of an employee with direct access. By law, long-term care facilities must require people who will have direct access to patients or residents to undergo a criminal history and patient abuse background search (see BACKGROUND).

The bill adds convictions for 17 specified crimes to the list of disqualifying offenses under current law (see below).

The bill also replaces an obsolete reference to the Connecticut Law Journal with the eRegulations System regarding the place where the Department of Public Health (DPH) commissioner must post notice of intention to adopt regulations.

EFFECTIVE DATE: October 1, 2018

#### **DISQUALIFYING OFFENSE**

Facilities are generally prohibited by law from hiring or contracting with an individual, unless DPH grants a waiver (see BACKGROUND), (1) before receiving notice of his or her background check results from DPH or (2) if a search reveals a disqualifying offense.

Under current law, a “disqualifying offense” is a (1) substantiated

finding of neglect, abuse, or misappropriation of property by a state or federal agency under an investigation conducted in accordance with federal Medicare and Medicaid laws or (2) conviction for:

1. state or federal crimes of patient neglect or abuse in connection with the delivery of a health care item or service,
2. a federal crime related to the delivery of an item or service pertaining to the Medicare program or any state health care program receiving certain federal funds (e. g. , Medicaid), or
3. any state or federal felony relating to health care fraud or controlled substances committed after August 21, 1996.

The bill expands this list to include convictions for the following crimes:

1. murder;
2. murder with special circumstances;
3. felony murder;
4. arson murder;
5. 1<sup>st</sup> degree manslaughter;
6. 1<sup>st</sup> degree manslaughter with a firearm;
7. 1<sup>st</sup> degree assault;
8. 1<sup>st</sup> degree assault of a person who is elderly, blind, disabled, pregnant, or has an intellectual disability;
9. 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree sexual assault;
10. 1<sup>st</sup> degree aggravated sexual assault;
11. aggravated sexual assault of a minor;
12. 3<sup>rd</sup> degree sexual assault with a firearm;

13. home invasion;
14. 1<sup>st</sup> and 2<sup>nd</sup> degree burglary;
15. 1<sup>st</sup> degree arson;
16. 1<sup>st</sup> and 2<sup>nd</sup> degree larceny; and
17. 1<sup>st</sup> degree robbery.

## **CONDITIONAL EMPLOYMENT**

The law, unchanged by the bill, allows a facility to offer conditional, supervised employment for up to 60 days while waiting for DPH's notification. The law also allows DPH to extend the 60-day period to give the department time to review an individual's written request to waive a disqualifying offense.

## **BACKGROUND**

### ***Long-Term Care Facility***

"Long-term care facility" means any facility, agency or provider that is a nursing home, a residential care home, a home health agency, an assisted living services agency, an intermediate care facility for individuals with intellectual disabilities, a chronic disease hospital, or a licensed or certified hospice care provider.

### ***Criminal History and Patient Abuse Background Search***

The law defines "criminal history and patient abuse background search" or "background search" as (1) state and national criminal history record checks conducted in accordance with state law, (2) a review of DPH's nurse's aide registry, and (3) a review of any other registry that DPH specifies and deems necessary for administering a background search program.

### ***Waiver***

Existing law, unchanged by the bill, allows an individual to submit a waiver request to DPH within 30 days after being notified that he or she has a disqualifying offense. DPH then has 15 days to mail a written determination unless the individual challenges the accuracy of the

background search information. In that case, the 15-day deadline does not apply.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 39 Nay 0 (03/28/2018)