
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)