

Aging Committee JOINT FAVORABLE REPORT

Bill No.: SB-832

AN ACT CONCERNING REGISTRIES OF PERSONS FOUND RESPONSIBLE FOR ASSAULTS OR OTHER ABUSE, NEGLECT, EXPLOITATION OR

Title: ABANDONMENT OF ELDERLY PERSONS OR PERSONS WITH DISABILITIES.

Vote Date: 2/26/2019

Vote Action: Joint Favorable

PH Date: 2/19/2019

File No.:

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SPONSORS OF BILL:

Aging Committee

REASONS FOR BILL:

The legislation directs the Department of Emergency Services and Public Protection to establish and maintain a registry, no later than January 1, 2020, that will provide the public with a searchable database of persons who commit crimes and other substantiated abuse, neglect, exploitation or abandonment of elderly persons or persons with disabilities.

RESPONSE FROM ADMINISTRATION/AGENCY:

Commissioner Raul Pino, MD., M.P.H., Dept. of Public Health: While the DPH is not opposed to inclusion of registration in an elder abuse registry as a “disqualifying offense” under the Applicant Background Check Management System (ABCMS) there are various provisions within the proposed bill, specifically found within Sections 5 and 6 , that misconstrue the functionality and public accessibility of the ABCMS data base. The ABCSM system is a background check processing system utilized by employers to review an applicant’s criminal history as part of the hiring process. Access to the ABCSM system data base is restricted solely to pre-registered administrators within licensed long-term care facilities and a limited number of DPH employees. Due to the secure nature of the ABCMS processing system it is not designed to be included in any publicly-accessible database. Because provisions in Sections 5 and 6 assumes publically available the DPH cannot support these Sections as currently drafted. They suggest that other web-based options for public access to any proposed elder abuse registry may be worthy of consideration.

Finally, lines 196-197 of the proposed bill amend the definition of a “disqualifying offense” under Section 19a-491c to include “a conviction of certain crimes against elderly person with disabilities”. While the Dept. assumes that such convictions would be identical to those resulting in inclusion on the proposed elder abuse registry, this is not clear. The Dept. requests that any intended, additional disqualifying offenses for consideration within Section 19a-491c be identified by specific statutory citation in the proposed bill.

Mr. Jordan Scheff, Commissioner, Dept of Developmental Services: The Dept. has an established record of protection of individuals with intellectual disabilities and individuals with autism spectrum disorders from persons, including employees and volunteers, who would abuse or neglect them. When the DDS registry of former employees who have been terminated from employment as a result of substantiated abuse or neglect was established in 1997 the Dept. was able to ensure that those employees, both in public and private settings, would not be able to find employment in another DDS-funded agency or with the Dept. of Children and Families, Mental Health and Addiction Services or Social Services. The DDS registry may be accessed by DDS providers, DCF, DMHAS and DSS and charitable volunteer organizations which serve persons with intellectual disabilities but the registry is not available to the public-at-large.

While DDS supports efforts to protect individuals with intellectual disabilities from abuse and neglect they have concerns with the registry being proposed in this bill and how it would use information from the DDS registry as a part of its database.

One area of concern would be that former employees who are placed of the DDS registry may not have been convicted of a crime under the law. This action could result in legal challenges that would stain the department’s financial and personnel resources.

Another area of concern is that the DDS Division of Investigation substantiates several types of abuse such as verbal abuse, psychological abuse, sexual abuse, physical abuse and financial exploitation as well as a range of issues that constitute neglect on the part of the employee. The DDS DOI make no determination as to whether the abuse or neglect that has been substantiated would lead the former employee to be charged or convicted of a crime.

Finally, a third concern, which is specific is the provisions of subsection (h) of section 6 of the bill which is the additional requirement that the DDS forward information on the former employees on the DDs registry to the DPH for their use in the data base. The DPH has never had access to the DDS registry and so forwarding this information would be an additional burden on both agencies. More importantly the criteria for what is considered a “disqualifying offense”, in section 19a-491c includes “a substantiated finding of neglect, abuse or misappropriation of property by a state or federal agency pursuant to an investigation conducted in accordance with 42 USC 1395i-(g)(1)© or 42 USC 139r(g)(1)(C). The investigation and the hearing process that take place prior to a former employee being placed on the DDS registry are not conducted in accordance with the with the USC mentioned previously. An inclusion on this DPH database might restrict the former employee’s ability to find other employment and this could mean further legal challenges for the Dept.

External Affairs Division, State of Connecticut Judicial Branch: They offered testimony in opposition to this bill. As with all bills that establish a registry, they have some concerns about the resources a registry would require. Numerous computer changes will be needed, they

would need changes to identify the applicable offenses to capture registration requirements, changes would be needed to pass the conviction information to the new registry and clerks would have to capture registration requirements noted by the court in the file and enter those into the computer system.

NATURE AND SOURCES OF SUPPORT:

Representative Brenda Kupchick, 132nd District: She submitted testimony in support of this proposal. She had proposed a similar bill to establish an elder abuse registry (HB5954). She believes it will help protect our parents, grandparents, relatives, friends and neighbors just as we strive to protect children from sexual predators. According to the National Adult Protective Services Association's March 2018 report 26 states are using abuse registries. The law requires providers, such as adult day health care program centers, adult day training facilities, assisted living communities, home health agencies, hospice programs, and long-term care facilities to query, by secure means, if a prospective employee, contractor, or volunteer had been the subject of a validated finding of adult abuse.

Ms. Peaches Quinn, President, Connecticut Coalition on Aging: She testified in support of this bill because it would provide a long needed statewide registry of persons convicted of abuse to older adults and persons with disabilities. Abuse of all kinds is a huge problem and a registry would provide a deterrent. Fraud and exploitation, aided by technology is increasing. Scams are more sophisticated and often invented and carried out by persons who count on no one finding out. Workforce shortages put greater burden on family caregivers to be self-reliant until exhaustion or crisis occurs. When help is brought in caregivers, for affordability reasons, look to hire non-agency workers in which case a specific, easily accessible, criminal background tool is not available.

Ms. Mag Morelli, President, LeadingAge Connecticut: She testified in support of this proposal and offers their assistance if this bill moves forward to ensure that the current background check system mandated for use by long term services and supports providers is appropriately modified.

Ms. Shelagh McClure, Vice Chair, Connecticut Council on Developmental Disabilities: She offered testimony in support of this proposal. The Council believes that the Dept. of Emergency Services and Public Protection has the responsibility of maintaining the list of persons who have been convicted of crimes that require registration on an abuse registry, and that registrants and those guilty of offenses against the elderly and people with disabilities be included on one list.

Currently, parents and individuals with disabilities are themselves employers under the Community First Choice Program so it is critical that they be given access to the registry database that the Dept. of Public Health will be creating and maintaining, to help ensure that they are hiring individuals that do not have a past history of abuse. This state resource should be available to all employers, not just the state and nonprofit providers.

Officer Maryhelen McCarthy, Police Officer, Newtown: Officer testified in favor of this legislation due to her personal experiences with cases within her jurisdiction. She spoke about a person in her town whose jewelry was stolen by her care giver who was caught and confessed to the crime. She returned the jewelry but couldn't remember what she had taken.

The victim got her jewelry back but there was more that they probably never be able to return. In addition the same thief had been arrested and was still on probation in New York for felony charges for stealing from an elderly couple while caring for them.

Ms. Melissa Marshall, J.D., Coordinator, CT Cross Disability Lifespan Alliance: She offered testimony in support of this legislation but did out line some concerns with the language before the Committee.

The bill states that “convicted’ and “found not guilty by reason of mental disease or defect” have the same meaning. Those not convicted and have been acquitted and should not be regarded as having been convicted.

People in self-directed programs of care should also have a mechanism by which people with disabilities and older adults have access to accurate information about potential staff that protects the privacy of people with convictions.

Former staffs who have been disciplined for abuse and /or neglect should not be included in the registry unless there was a conviction.

There should be a time limit for which a person is on the list.

The process of removing an individual from the registry and updating it should be very robust.

William Lenahan, Volunteer, Fairfield Senior Advocates: They offered testimony in support of this proposal. Elderly people and those with disabilities are vulnerable and require protection. A registry will provide for those seeking care of elderly or disabled persons the ability to secure protection from persons convicted of assaults, neglect, exploitation, abandonment or other kinds of abuse.

Establishing such a registry should not entail significant State Expenditures. While there may be some initial data capture and reporting process revisions, ongoing clerical data entry should constitute minimal expense.

The National Adult Protective Services Association’s March 2018 report on adult abuse registries identified 26 states meeting the Association’s definition of adult protective services abuse registries. Connecticut is not on their list.

Ms. Marie Allen, Executive Director, Connecticut Area Agencies on Aging (C4A): They submitted testimony in support of this bill but did not elaborate.

Ms. Anna Doroghazi, Advocacy Director, AARP Connecticut: They offered testimony in support of this bill. As more individuals need both formal and informal care giving support, it is important for the public to have access to information about persons who have assaulted, exploited, neglected, or otherwise abused older adults and people with disabilities. Registries are imperfect tools that have the potential to create a false sense of security, and they indefinitely prolong the punishments of criminals who have served their sentences. That said, the physical, emotional, and financial risks associated with caregiving relationships, the proposed registry would provide care recipients and their loved ones with information that could improve safety and avoid potential harm.

NATURE AND SOURCES OF OPPOSITION:

Mr. David McGuire, Executive Director, American Civil Liberties Union of Connecticut:

They offered testimony in opposition to this bill. They have learned from the sex offender registries that already exist is that they can constitute an additional form of punishment and that they can lead to retaliation against people who are trying to rehabilitate themselves. They point out that the casual ease of consulting a public registry can bring unnecessary public exposure and retribution against those who have already paid their debt to society and are trying to rebuild their lives. They also suggest a danger that a poorly maintained and inaccurate database could cause confusion, potentially implicating completely innocent people with similar to those of formerly incarcerated people.

**Reported by: Gaia McDermott, Clerk
Richard Ferrari, Assistant Clerk**

3/5/19