

**2012 -- S 2904 SUBSTITUTE A**

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LC02404/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2012**

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A N A C T

RELATING TO CRIMINAL PROCEDURE - NATIONAL CRIMINAL RECORDS CHECK  
SYSTEM

Introduced By: Senator Michael J. McCaffrey

Date Introduced: April 26, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 12-1-4 of the General Laws in Chapter 12-1 entitled "Identification  
2 and Apprehension of Criminals" is hereby amended to read as follows:

3           **12-1-4. Division of criminal identification -- Chief and assistants.** – (a) There shall be  
4 a division of criminal identification in the department of the attorney general to be in charge of a  
5 chief who shall be appointed by the attorney general to serve at the pleasure of the attorney  
6 general, and who shall devote all of his or her time to the duties of his or her office. The chief  
7 with the approval of the attorney general may appoint any assistants that he or she may deem  
8 necessary to carry out the work of the division, within the limits of any appropriation made for  
9 that purpose, and may with the approval of the attorney general discontinue the employment of  
10 any assistants at any time. The chief shall perform the functions required by the provisions of this  
11 chapter. In addition to availability of records to law enforcement agencies and officers, the  
12 records shall be made available to any attorney of record in any criminal action, and any officials  
13 of businesses which are required by federal or state law or regulation to effectuate a criminal  
14 background check of potential or prospective employees. The information shall be confidential  
15 and shall be used only by the employer for the employee's application of employment.

16           (b) The department of attorney general may establish and maintain an automated  
17 fingerprint identification system database that would allow the department to store and maintain  
18 all fingerprints submitted in accordance with a national criminal records check system. The

1 automated fingerprint identification system database would provide for an automatic notification  
2 if and when a subsequent criminal arrest fingerprint card submitted into the system matches a set  
3 of fingerprints previously submitted in accordance with a national criminal records check. If the  
4 mentioned arrest results in a conviction, the department shall immediately notify those  
5 individuals and entities with which that individual is associated, who are required to be notified of  
6 disqualifying information concerning national criminal records checks under these general laws.  
7 The information in the database established under this section is confidential and is not subject to  
8 disclosure under the access to public records act, chapter 2 of title 38 of the general laws.

9 (c) The department of the attorney general or the department of health shall maintain an  
10 electronic web-based system to assist facilities, licensed under chapters 23-17, 23-17.4, 23-17.7.1  
11 or section 23-1-52, required to check relevant registries and conduct criminal records checks of  
12 direct patient access applicants. The department of the attorney general or the department of  
13 health shall provide for an automated notice, as authorized in subsection 12-1-4(b), to those  
14 facilities if a direct patient access employee is subsequently convicted of a disqualifying offense,  
15 as described in the relevant licensing statute. The department of the attorney general or the  
16 department of health may charge a facility a one-time set up fee of up to one hundred dollars  
17 (\$100) for access to the electronic web-based system under this section.

18 (d) The department of attorney general, the department of health, or an employer who  
19 disqualifies an applicant from employment or continued employment on the basis of a  
20 disqualification notice as described in subsection 12-1-4(c) or of a criminal records check relating  
21 to disqualifying information shall not be liable for civil damages or subject to any claim, demand,  
22 cause of action, or proceeding of any nature as a result of the disqualification.

23 SECTION 2. Section 23-1-52 of the General Laws in Chapter 23-1 entitled "Department  
24 of Health" is hereby amended to read as follows:

25 **23-1-52. Adult day care program licensure.** – (a) The director is authorized and  
26 directed to establish a program for the licensure of adult day care programs. "Adult day care  
27 program" shall mean a comprehensive, nonresidential program designed to address the biological,  
28 psychological, and social needs of adults through individual plans of care that incorporate, as  
29 needed, a variety of health, social and related support services in a protective setting. The director  
30 is further authorized to promulgate regulations as he or she deems necessary to implement these  
31 provisions.

32 (b) Any person seeking employment in any adult day care facility licensed herein and  
33 having routine contact with an adult day care client or having access to such a client's belongings  
34 or funds shall undergo a national criminal records check, which shall include fingerprints

1 submitted to the federal bureau of investigation (FBI) by the bureau of criminal identification of  
2 the department of the attorney general or a designated vendor approved by the department of the  
3 attorney general. The national criminal records check shall be processed prior to or within one  
4 week of employment. All persons who, as of July 1, 2013, are already employed by an adult day  
5 care facility and all persons who, as of such date, already provide services under this section shall  
6 be exempted from the requirements of this section for purposes of their current employment only.

7 (1) The director may by rule, identify those positions requiring national criminal records  
8 checks. The employee, through the employer, shall apply to the bureau of criminal identification  
9 of the department of the attorney general for a national criminal records check. Upon the  
10 discovery of any disqualifying information as defined in sections 23-1-52(c) and in accordance  
11 with rules promulgated by the director, the bureau of criminal identification of the department of  
12 the attorney general shall inform the applicant in writing of the nature of the disqualifying  
13 information; and, without disclosing the nature of the disqualifying information, shall notify the  
14 employer in writing that disqualifying information has been discovered.

15 (2) An employee against whom disqualifying information has been found may provide a  
16 copy of the national criminal records check to the employer. The administrator shall make a  
17 judgment regarding the continued employment of the employee.

18 (3) In those situations in which no disqualifying information has been found, the bureau  
19 of criminal identification of the department of the attorney general shall inform the applicant and  
20 the employer in writing of this fact.

21 (4) The employer shall maintain on file, subject to inspection by the department of health,  
22 evidence that statewide criminal records checks have been initiated on all employees seeking  
23 employment between January 1, 2008 and June 30, 2013, and the results of the checks. The  
24 employer shall maintain on file, subject to inspection by the department, evidence that national  
25 criminal records checks have been initiated on all employees seeking employment on or after July  
26 1, 2013, and the results of those checks. Failure to maintain that evidence may be grounds to  
27 revoke the license or registration of the employer.

28 (5) The employee or employer shall be responsible for the cost of conducting the national  
29 criminal records check through the bureau of criminal identification of the department of the  
30 attorney general or a vendor designated by the department of the attorney general.

31 (c) Information produced by a national criminal records check pertaining to conviction,  
32 for the following crimes will result in a letter to the employee and employer disqualifying the  
33 applicant from employment: murder, voluntary manslaughter, involuntary manslaughter, first  
34 degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons

1 sixty (60) years of age or older, assault with intent to commit specified felonies (murder, robbery,  
2 rape, burglary, or the abominable and detestable crimes against nature), felony assault, patient  
3 abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug  
4 offenses, felony obtaining money under false pretenses, felony embezzlement, abuse, neglect  
5 and/or exploitation of adults with severe impairments, exploitation of elders, felony larceny, or  
6 felony banking law violations, or a crime under section 1128(a) of the Social Security Act (42  
7 U.S.C. section 1320a-7(a)). An employee against whom disqualifying information has been  
8 found may provide a copy of the national criminal records check to the employer who shall make  
9 a judgment regarding the continued employment of the employee. For purposes of this  
10 subsection, "conviction" means, in addition to judgments of conviction entered by a court  
11 subsequent to a finding of guilty or a plea of guilty, those instances where the defendant has  
12 entered a plea of nolo contendere and has received a sentence of probation and those instances  
13 where a defendant has entered into a deferred sentence agreement with the attorney general.

14 SECTION 3. Section 23-17-34 and 23-17-37 of the General Laws in Chapter 23-17  
15 entitled "Licensing of Health Care Facilities" is hereby amended to read as follows:

16 **23-17-34. Criminal records review -- Nursing facilities -- Home nursing care**  
17 **providers and home care providers. --** (a) Any person seeking employment in a nursing facility,  
18 a home nursing care provider, hospice provider or a home care provider which is or is required to  
19 be licensed, registered or certified with the department of health if that employment involves  
20 routine contact with a patient or resident without the presence of other employees, shall undergo a  
21 national criminal ~~background~~ records check which shall include fingerprints submitted to the  
22 federal bureau of investigation (FBI) by the bureau of criminal identification of the department of  
23 the attorney general or a designated vendor approved by the department of the attorney general.  
24 The national criminal records check shall ~~to~~ be initiated prior to or within one week of  
25 employment. ~~All employees hired prior to the enactment of this section shall be exempted from~~  
26 ~~the requirements of this section.~~ All persons who, as of July 1, 2013, are already employed by a  
27 covered facility or provider and all persons who, as of such date, already provide services under  
28 this chapter shall be exempted from the requirements of this section for purposes of their current  
29 employment only.

30 (b) The director of the department of health may by rule identify those positions  
31 requiring criminal ~~background~~ records checks. The identified employee, through the employer,  
32 shall apply to the bureau of criminal identification of the ~~state police or local police~~ department of  
33 the attorney general for a ~~statewide~~ national criminal records check. ~~Fingerprinting shall not be~~  
34 ~~required.~~ Upon the discovery of any disqualifying information as defined in section 23-17-37 and

1 in accordance with the rule promulgated by the director of health, ~~or~~ the bureau of criminal  
2 identification of the ~~state police or the local police~~ department of the attorney general will inform  
3 the applicant, in writing, of the nature of the disqualifying information; and, without disclosing  
4 the nature of the disqualifying information, will notify the employer, in writing, that disqualifying  
5 information has been discovered.

6 (c) An employee against whom disqualifying information has been found may ~~request~~  
7 ~~that a~~ provide a copy of the national criminal ~~background report be sent~~ records check to the  
8 employer who shall make a judgment regarding the continued employment of the employee.

9 (d) In those situations in which no disqualifying information has been found, the bureau  
10 of criminal identification of the ~~state police or the local police~~ department of the attorney general  
11 shall inform the applicant and the employer, in writing, of this fact.

12 (e) The employer shall maintain on file, subject to inspection by the department of  
13 health, evidence that statewide criminal records checks have been initiated on all employees  
14 seeking employment ~~after~~ between October 1, 1991, ~~and June 30, 2013~~ and the results of the  
15 checks. The employer shall maintain on file, subject to inspection by the department of health,  
16 evidence that national criminal records checks have been initiated on all employees seeking  
17 employment on or after July 1, 2013, and the results of those checks. Failure to maintain that  
18 evidence would be grounds to revoke the license or registration of the employer.

19 (f) ~~It shall be the responsibility of the bureau of criminal identification of the state police~~  
20 ~~or the local police department to conduct the criminal records check to the applicant for~~  
21 ~~employment without charge to either the~~ The employee or the employer: shall be responsible for  
22 the cost of conducting the national criminal records check through the bureau of criminal  
23 identification of the department of the attorney general or a vendor designated by the department  
24 of the attorney general.

25 **23-17-37. Disqualifying information.** -- (a) Information produced by a criminal records  
26 review pertaining to conviction, for the following crimes will result in a letter to the employee  
27 and employer disqualifying the applicant from employment: murder, voluntary manslaughter,  
28 involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree  
29 sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit  
30 specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime  
31 against nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary, first  
32 degree arson, robbery, felony drug offenses, felony obtaining money under false pretenses, felony  
33 embezzlement, abuse, neglect and/or exploitation of adults with severe impairments, exploitation  
34 of elders, felony larceny, or felony banking law violations or a crime under section 1128(a) of the

1 [social security act \(42 U.S.C. section 1320a-7\(a\)\)](#). An employee against whom disqualifying  
2 information has been found may ~~request that~~ [provide](#) a copy of the [national criminal background](#)  
3 ~~report be sent~~ [records check](#) to the employer who shall make a judgment regarding the continued  
4 employment of the employee.

5 (b) For purposes of this section, "conviction" means, in addition to judgments of  
6 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances  
7 where the defendant has entered a plea of nolo contendere and has received a sentence of  
8 probation and those instances where a defendant has entered into a deferred sentence agreement  
9 with the attorney general.

10 SECTION 4. Chapter 23-17 of the General Laws entitled "Licensing of Health Care  
11 Facilities" is hereby amended by adding thereto the following section:

12 **23-17-60. Criminal records review - long-term care hospital.** -- (a) [For the purposes of](#)  
13 [this section, a "long-term care hospital" shall mean a facility as described in 42 U.S.C. section](#)  
14 [1395ww\(d\)\(1\)\(iv\), which receives payment for inpatient services it provides to Medicare](#)  
15 [beneficiaries pursuant to 42 U.S.C. section 1395ww\(m\).](#)

16 [\(b\) Any person seeking employment in any long-term care hospital having routine](#)  
17 [contact with a long-term care hospital patient or having access to such a patient's belongings or](#)  
18 [funds shall undergo a national criminal records check, which shall include fingerprints submitted](#)  
19 [to the federal bureau of investigation \(FBI\) by the bureau of criminal identification of the](#)  
20 [department of the attorney general or a designated vendor approved by the department of the](#)  
21 [attorney general. The national criminal records check shall be processed prior to or within one](#)  
22 [week of employment. All persons who, as of July 1, 2013, are already employed by a long-term](#)  
23 [care hospital and all persons who, as of such date, already provide services under this section](#)  
24 [shall be exempted from the requirements of this section for purposes of their current employment](#)  
25 [only.](#)

26 [\(1\) The director may by rule identify those positions requiring national criminal records](#)  
27 [checks. The employee, through the employer, shall apply to the bureau of criminal identification](#)  
28 [of the department of the attorney general for a national criminal records check. Upon the](#)  
29 [discovery of any disqualifying information as defined in subsection 23-17-60\(c\) and in](#)  
30 [accordance with the rule promulgated by the director, the bureau of criminal identification of the](#)  
31 [department of the attorney general shall inform the applicant in writing of the nature of the](#)  
32 [disqualifying information; and, without disclosing the nature of the disqualifying information,](#)  
33 [shall notify the employer in writing that disqualifying information has been discovered.](#)

34 [\(2\) An employee against whom disqualifying information has been found may provide a](#)

1 copy of the national criminal records report to the employer. The administrator shall make a  
2 judgment regarding the continued employment of the employee.

3 (3) In those situations in which no disqualifying information has been found, the bureau  
4 of criminal identification of the department of the attorney general shall inform the applicant and  
5 the employer in writing of this fact.

6 (4) The employer shall maintain on file, subject to inspection by the department, evidence  
7 that statewide criminal records checks have been initiated on all employees seeking employment  
8 between October 1, 1991 and June 30, 2013, and the results of the checks. The employer shall  
9 maintain on file, subject to inspection by the department, evidence that national criminal records  
10 checks have been initiated on all employees seeking employment on or after July 1, 2013, and the  
11 results of those checks. Failure to maintain that evidence would be grounds to revoke the license  
12 or registration of the employer.

13 (5) The employee or employer shall be responsible for the cost of conducting the national  
14 criminal records check through the bureau of criminal identification of the department of the  
15 attorney general or a vendor designated by the department of the attorney general.

16 (c) Information produced by a national criminal records check pertaining to conviction,  
17 for the following crimes will result in a letter to the employee and employer disqualifying the  
18 applicant from employment: murder, voluntary manslaughter, involuntary manslaughter, first  
19 degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons  
20 sixty (60) years of age or older, assault with intent to commit specified felonies (murder, robbery,  
21 rape, burglary, or the abominable and detestable crimes against nature), felony assault, patient  
22 abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug  
23 offenses, felony obtaining money under false pretenses, felony embezzlement, abuse, neglect  
24 and/or exploitation of adults with severe impairments, exploitation of elders, felony larceny, or  
25 felony banking law violations, or a crime under section 1128(a) of the Social Security Act (42  
26 U.S.C. section 1320a-7(a)). An employee against whom disqualifying information has been  
27 found may provide a copy of the national criminal records check to the employer who shall make  
28 a judgment regarding the continued employment of the employee. For purposes of this  
29 subsection, "conviction" means, in addition to judgments of conviction entered by a court  
30 subsequent to a finding of guilty or a plea of guilty, those instances where the defendant has  
31 entered a plea of nolo contendere and has received a sentence of probation and those instances  
32 where a defendant has entered into a deferred sentence agreement with the attorney general.

33 SECTION 5. Section 23-17.4-27 and 23-17.4-30 of the General Laws in Chapter 23-17.4  
34 entitled "Assisted Living Residence Licensing Act" is hereby amended to read as follows:

1           **23-17.4-27. Criminal records review.** -- (a) Any person seeking employment in any  
2 assisted living residence licensed under this act and having routine contact with a resident or  
3 having access to a resident's belongings or funds shall undergo a national criminal ~~background~~  
4 records check, which shall include fingerprints submitted to the federal bureau of investigation  
5 (FBI) by the bureau of criminal identification of the department of the attorney general or a  
6 designated vendor approved by the department of the attorney general. The national criminal  
7 records check shall ~~to~~ be processed prior to or within one week of employment. ~~All employees~~  
8 ~~hired prior to the enactment of this section shall be exempted from the requirements of this~~  
9 ~~section.~~ All persons who, as of July 1, 2013, are already employed by an assisted living residence  
10 and all persons who, as of such date, already provide services under this chapter, shall be  
11 exempted from the requirements of this section for purposes of their current employment only.

12           (b) The director of the department of health may by rule identify those positions  
13 requiring national criminal ~~background~~ records checks. The employee, through the employer,  
14 shall apply to the bureau of criminal identification of the ~~state police or local police~~ department of  
15 the attorney general for a ~~statewide~~ national criminal records check. ~~Fingerprinting shall not be~~  
16 ~~required.~~ Upon the discovery of any disqualifying information as defined in section 23-17.4-30  
17 and in accordance with the rule promulgated by the director of health, the bureau of criminal  
18 identification of the ~~state police or the local police~~ department of the attorney general will inform  
19 the applicant in writing of the nature of the disqualifying information; and, without disclosing the  
20 nature of the disqualifying information, will notify the employer in writing that disqualifying  
21 information has been discovered.

22           (c) An employee against whom disqualifying information has been found may ~~request~~  
23 ~~that~~ provide a copy of the national criminal ~~background report be sent~~ records check to the  
24 employer. The administrator shall make a judgment regarding the continued employment of the  
25 employee.

26           (d) In those situations in which no disqualifying information has been found, the bureau  
27 of criminal identification (BCI) of the ~~state police or the local police~~ department of the attorney  
28 general shall inform the applicant and the employer in writing of this fact.

29           (e) The employer shall maintain on file, subject to inspection by the department of  
30 health, evidence that statewide criminal records checks have been initiated on all employees  
31 seeking employment ~~after~~ between October 1, 1991 and June 30, 2013, and the results of the  
32 checks. The employer shall maintain on file, subject to inspection by the department of health,  
33 evidence that national criminal records checks have been initiated on all employees seeking  
34 employment on or after July 1, 2013, and the results of those checks. Failure to maintain that



1 evidence would be grounds to revoke the license or registration of the employer.

2 (f) ~~It shall be the responsibility of the bureau of criminal identification (BCI) of the state~~  
3 ~~police or the local police department to conduct the criminal records check to the applicant for~~  
4 ~~employment without charge to either the employee or employer.~~ The employee or employer shall  
5 be responsible for the cost of conducting the national criminal records check through the bureau  
6 of criminal identification of the department of the attorney general or a vendor designated by the  
7 department of the attorney general.

8 **23-17.4-30. Disqualifying information.** -- (a) Information produced by a criminal  
9 records review pertaining to conviction, for the following crimes will result in a letter to the  
10 employee and employer disqualifying the applicant from employment: murder, voluntary  
11 manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault,  
12 third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent  
13 to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable  
14 crime against nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary,  
15 first degree arson, robbery, felony drug offenses, felony obtaining money under false pretenses,  
16 felony embezzlement, abuse, neglect and/or exploitation of adults with severe impairments,  
17 exploitation of elders, felony larceny or felony banking law violations or a crime under section  
18 1128(a) of the social security act (42 U.S.C. section 1320a-7(a)). An employee against whom  
19 disqualifying information has been found may ~~request that~~ provide a copy of the national criminal  
20 ~~background report be sent~~ records check to the employer who shall make a judgment regarding  
21 the continued employment of the employee.

22 (b) For purposes of this section, "conviction" means, in addition to judgments of  
23 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances  
24 where the defendant has entered a plea of nolo contendere and has received a sentence of  
25 probation and those instances where a defendant has entered into a deferred sentence agreement  
26 with the attorney general.

27 SECTION 6. Section 23-17.7.1-17 and 23-17.7.1-20 of the General Laws in Chapter 23-  
28 17.7.1 entitled "Licensing of Nursing Service Agencies" is hereby amended to read as follows:

29 **23-17.7.1-17. Criminal records review.** -- (a) Any person seeking employment in a  
30 facility which is or is required to be licensed or registered with the department of health if that  
31 employment involves routine contact with a patient or resident without the presence of other  
32 employees, shall undergo a national criminal ~~background~~ records check, which shall include  
33 fingerprints submitted to the federal bureau of investigation (FBI) by the bureau of criminal  
34 identification of the department of the attorney general or a designated vendor approved by the

1 department of the attorney general. The national criminal records check shall be initiated prior to,  
2 or within one week of, employment. ~~All employees hired prior to the enactment of this section~~  
3 ~~shall be exempted from the requirements of this section.~~ All persons who, as of July 1, 2013, are  
4 already employed by a covered facility and all persons who, as of such date, already provide  
5 services under this chapter shall be exempt from the requirements of this section for purposes of  
6 their current employment only.

7 (b) The director of the department of health may, by rule, identify those positions  
8 requiring national criminal ~~background~~ records checks. The employee, through the employer,  
9 shall apply to the bureau of criminal identification of the ~~state police or local police~~ department of  
10 the attorney general for a ~~statewide~~ national criminal records check. ~~Fingerprinting shall not be~~  
11 ~~required.~~ Upon the discovery of any disqualifying information as defined in section 23-17.7.1-20  
12 and in accordance with the rule promulgated by the director of the department of health, the  
13 bureau of criminal identification of the ~~state police or the local police~~ department of the attorney  
14 general will inform the applicant, in writing, of the nature of the disqualifying information; and,  
15 without disclosing the nature of the disqualifying information, will notify the employer, in  
16 writing, that disqualifying information has been discovered.

17 (c) An employee against whom disqualifying information under section 23-17.7.1-20(b)  
18 has been found may ~~request that~~ provide a copy of the national criminal ~~background report be~~  
19 ~~sent~~ records check to the employer who shall make a judgment regarding the continued  
20 employment of the employee.

21 (d) In those situations in which no disqualifying information has been found, the bureau  
22 of criminal identification of the ~~state police or the local police~~ department of the attorney general  
23 shall inform the applicant and the employer, in writing, of this fact.

24 (e) The employer shall maintain on file, subject to inspection by the department of  
25 health, evidence that criminal records checks have been initiated on all employees seeking  
26 employment between October 1, 1991 and June 30, 2013, and the results of the checks. The  
27 employer shall maintain on file, subject to inspection by the department of health, evidence that  
28 national criminal records checks have been initiated on all employees seeking employment on or  
29 after July 1, 2013, and the results of those checks. Failure to maintain that evidence would be  
30 grounds to revoke the license or registration of the employer.

31 (f) ~~It shall be the responsibility of the bureau of criminal identification of the state police~~  
32 ~~or the local police department to conduct the criminal records check to the applicant for~~  
33 ~~employment without charge to either the employee or the employer.~~ The employee or the  
34 employer shall be responsible for the cost of conducting the national criminal records check

1 [through the bureau of criminal identification of the department of the attorney general or a vendor](#)  
2 [designated by the department of the attorney general.](#)

3 **23-17.7.1-20. Disqualifying information.** -- (a) Information produced by a criminal  
4 records review pertaining to conviction, for the following crimes will result in a letter to the  
5 employee and employer disqualifying the applicant from the employment: murder, voluntary  
6 manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault,  
7 third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent  
8 to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable  
9 crime against nature), felony assault, patient abuse, neglect or mistreatment of patients, first  
10 degree arson, robbery, felony drug offenses, [felony obtaining money under false pretenses, felony](#)  
11 [embezzlement, abuse, neglect, and/or exploitation of adults with severe impairments, exploitation](#)  
12 [of elders, felony](#) larceny, or felony banking law violations [or a crime under section 1128\(a\) of the](#)  
13 [social security act \(42 U.S.C. section 1320a-7\(a\)\).](#)

14 (b) Information produced by a [national](#) criminal records ~~review~~ [check](#) pertaining to  
15 convictions for crimes other than those listed in subsection (a) of this section shall entitle, but not  
16 obligate the employer to decline to hire the applicant. An employee against whom conviction  
17 information related to this subsection has been found may ~~request that~~ [provide](#) a copy of the  
18 [national](#) criminal ~~background report be sent~~ [records check](#) to the employer who shall make a  
19 determination regarding the continued employment of the employee.

20 (c) For purposes of this section "conviction" means, in addition to judgments of  
21 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances  
22 where the defendant has entered a plea of nolo contendere and has received a sentence of  
23 probation and those instances where a defendant has entered into a deferred sentence agreement  
24 with the attorney general.

25 SECTION 7. The act shall take effect on July 1, 2013.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE - NATIONAL CRIMINAL RECORDS CHECK  
SYSTEM

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- 1           This act would expand the type of criminal records check required for persons applying
- 2           to be direct patient access employees in a long-term facility or provider.
- 3           This act would take effect on July 1, 2013.

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