

2013 -- H 5539

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINAL PROCEDURE - NATIONAL CRIMINAL RECORDS CHECK
SYSTEM

Introduced By: Representatives Naughton, Kennedy, Diaz, Williams, and Slater

Date Introduced: February 14, 2013

Referred To: House Finance

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 1.6

4 NATIONAL CRIMINAL RECORDS CHECK SYSTEM

5 **12-1.6-1. Automated fingerprint identification system database.** -- The department of
6 attorney general may establish and maintain an automated fingerprint identification system
7 database that would allow the department to store and maintain all fingerprints submitted in
8 accordance with the national criminal records check system. The automated fingerprint
9 identification system database would provide for an automatic notification if, and when, a
10 subsequent criminal arrest fingerprint card is submitted to the system and matches a set of
11 fingerprints previously submitted in accordance with a national criminal records check. If the
12 aforementioned arrest results in a conviction, the department shall immediately notify those
13 individuals and entities with which that individual is associated and who are required to be
14 notified of disqualifying information concerning national criminal records checks as provided in
15 the general laws. The information in the database established under this section is confidential
16 and not subject to disclosure under the access to public records act, chapter 2 of title 38 of the
17 general laws.

18 **12-1.6-2. Long-term health care workers.** -- The department of the attorney general

1 shall maintain an electronic web-based system to assist facilities, licensed under chapters 23-17,
2 23-17.4, 23-17.7.1 or section 23-1-52, required to check relevant registries and conduct national
3 criminal records checks of routine contact patient employees. The department of the attorney
4 general shall provide for an automated notice, as authorized in section 12-1.6-1, to those facilities
5 if a routine contact patient employee is subsequently convicted of a disqualifying offense, as
6 described in the relevant licensing statute. The department of the attorney general may charge a
7 facility a one-time set up fee of up to one hundred dollars (\$100) for access to the electronic web-
8 based system under this section.

9 **12-1.6-3. Immunity from liability.** -- The department of attorney general, the
10 department of health, or an employer who disqualifies an applicant from employment or
11 continued employment on the basis of a disqualification notice as described in section 12-1.6-2 or
12 of a national criminal records check relating to disqualifying information shall not be liable for
13 civil damages or subject to any claim, demand, cause of action, or proceeding of any nature as a
14 result of the disqualification.

15 **12-1.6-4. Rules and regulations.** – The department of attorney general may promulgate
16 rules and regulations to carry out the intent of this chapter.

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

19 **23-1-52. Adult day care program licensure.** – (a) The director is authorized and
20 directed to establish a program for the licensure of adult day care programs. "Adult day care
21 program" shall mean a comprehensive, nonresidential program designed to address the biological,
22 psychological, and social needs of adults through individual plans of care that incorporate, as
23 needed, a variety of health, social and related support services in a protective setting. The director
24 is further authorized to promulgate regulations as he or she deems necessary to implement these
25 provisions.

26 (b) Any person seeking employment in any adult day care facility licensed herein and
27 having routine contact with an adult day care client or having access to such a client's belongings
28 or funds shall undergo a national criminal records check, which shall include fingerprints
29 submitted to the federal bureau of investigation (FBI) by the bureau of criminal identification of
30 the department of the attorney general or a designated vendor approved by the department of the
31 attorney general. The national criminal records check shall be processed prior to or within one
32 week of employment. All persons who, as of July 1, 2013, are already employed by an adult day
33 care facility and all persons who, as of such date, already provide services under this section shall
34 be exempted from the requirements of this section for purposes of their current employment only.

1 All persons required to undergo a national criminal records check under this section shall not be
2 required to comply with the provisions of this section if they provide their potential employer
3 with evidence that they have undergone a national criminal records check in the preceding three
4 (3) years, but not before July 1, 2013, and they may request from the bureau of criminal
5 identification a letter indicating if any disqualifying information was discovered.

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

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

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

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

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

30 (c) Information produced by a national criminal records check pertaining to conviction,
31 for the following crimes will result in a letter to the employee and employer disqualifying the
32 applicant from employment: murder, voluntary manslaughter, involuntary manslaughter, first
33 degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons
34 sixty (60) years of age or older, assault with intent to commit specified felonies (murder, robbery,

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

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

15 **23-17-34. Criminal records review -- Nursing facilities -- Home nursing care**
16 **providers and home care providers. --** (a) Any person seeking employment in a nursing facility,
17 a home nursing care provider, hospice provider or a home care provider which is or is required to
18 be licensed, registered or certified with the department of health if that employment involves
19 routine contact with a patient or resident without the presence of other employees, shall undergo a
20 national criminal ~~background~~ records check which shall include fingerprints submitted to the
21 federal bureau of investigation (FBI) by the bureau of criminal identification of the department of
22 the attorney general or a designated vendor approved by the department of the attorney general.
23 The national criminal records check shall ~~to~~ be initiated prior to or within one week of
24 employment. ~~All employees hired prior to the enactment of this section shall be exempted from~~
25 ~~the requirements of this section.~~ All persons who, as of July 1, 2013, are already employed by a
26 covered facility or provider and all persons who, as of such date, already provide services under
27 this chapter shall be exempted from the requirements of this section for purposes of their current
28 employment only. All persons required to undergo a national criminal records check under this
29 section shall not be required to comply with the provisions of this section if they provide their
30 potential employer with evidence that they have undergone a national criminal records check in
31 the preceding three (3) years, but not before July 1, 2013, and they may request from the bureau
32 of criminal identification a letter indicating if any disqualifying information was discovered.

33 (b) The director of the department of health may by rule identify those positions requiring
34 criminal background records checks. The identified employee, through the employer, shall apply

1 to the bureau of criminal identification of the ~~state police or local police~~ department of the
2 attorney general for a statewide national criminal records check. ~~Fingerprinting shall not be~~
3 ~~required.~~ Upon the discovery of any disqualifying information as defined in section 23-17-37 and
4 in accordance with the rule promulgated by the director of health, the bureau of criminal
5 identification of the ~~state police or the local police~~ department of the attorney general will inform
6 the applicant, in writing, of the nature of the disqualifying information; and, without disclosing
7 the nature of the disqualifying information, will notify the employer, in writing, that disqualifying
8 information has been discovered.

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

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

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

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

28 **23-17-37. Disqualifying information.** -- (a) Information produced by a criminal records
29 review pertaining to conviction, for the following crimes will result in a letter to the employee
30 and employer disqualifying the applicant from employment: murder, voluntary manslaughter,
31 involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree
32 sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit
33 specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime
34 against nature) felony assault, patient abuse, neglect or mistreatment of patients, burglary, first

1 degree arson, robbery, felony drug offenses, ~~larceny, or felony banking law violations~~ felony
2 obtaining money under false pretenses, felony embezzlement, abuse, neglect and/or exploitation
3 of adults with severe impairments, exploitation of elders, or a crime under section 1128(a) of the
4 social security act (42 U.S.C. section 1320a-7(a)). An employee against whom disqualifying
5 information has been found may ~~request that~~ a copy of the national criminal ~~background report be~~
6 ~~sent~~ records check to the employer who shall make a judgment regarding the continued
7 employment of the employee.

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

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

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

19 (b) Any person seeking employment in any long-term care hospital having routine
20 contact with a long-term care hospital patient or having access to such a patient’s belongings or
21 funds shall undergo a national criminal records check, which shall include fingerprints submitted
22 to the federal bureau of investigation (FBI) by the bureau of criminal identification of the
23 department of the attorney general or a designated vendor approved by the department of the
24 attorney general. The national criminal records check shall be processed prior to or within one
25 week of employment. All persons who, as of July 1, 2013, are already employed by a long-term
26 care hospital and all persons who, as of such date, already provide services under this section
27 shall be exempted from the requirements of this section for purposes of their current employment
28 only. All persons required to undergo a national criminal records check under this section shall
29 not be required to comply with the provisions of this section if they provide their potential
30 employer with evidence that they have undergone a national criminal records check in the
31 preceding three (3) years, but not before July 1, 2013, and they may request from the bureau of
32 criminal identification a letter indicating if any disqualifying information was discovered.

33 (1) The director may by rule identify those positions requiring national criminal records
34 checks. The employee, through the employer, shall apply to the bureau of criminal identification

1 of the department of the attorney general for a national criminal records check. Upon the
2 discovery of any disqualifying information as defined in subsection 23-17-60(c) and in
3 accordance with the rule promulgated by the director, the bureau of criminal identification of the
4 department of the attorney general shall inform the applicant in writing of the nature of the
5 disqualifying information; and, without disclosing the nature of the disqualifying information,
6 shall notify the employer in writing that disqualifying information has been discovered.

7 (2) An employee against whom disqualifying information has been found may provide a
8 copy of the national criminal records report to the employer. The employer shall make a judgment
9 regarding the continued employment of the employee.

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

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

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

23 (c) Information produced by a national criminal records check pertaining to conviction,
24 for the following crimes will result in a letter to the employee and employer disqualifying the
25 applicant from employment: murder, voluntary manslaughter, involuntary manslaughter, first
26 degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons
27 sixty (60) years of age or older, assault with intent to commit specified felonies (murder, robbery,
28 rape, burglary, or the abominable and detestable crimes against nature), felony assault, patient
29 abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug
30 offenses, felony obtaining money under false pretenses, felony embezzlement, abuse, neglect
31 and/or exploitation of adults with severe impairments, exploitation of elders, felony larceny, or
32 felony banking law violations, or a crime under section 1128(a) of the Social Security Act (42
33 U.S.C. section 1320a-7(a)). An employee against whom disqualifying information has been found
34 may provide a copy of the national criminal records check to the employer who shall make a

1 judgment regarding the continued employment of the employee. For purposes of this subsection,
2 “conviction” means, in addition to judgments of conviction entered by a court subsequent to a
3 finding of guilty or a plea of guilty, those instances where the defendant has entered a plea of
4 nolo contendere and has received a sentence of probation and those instances where a defendant
5 has entered into a deferred sentence agreement with the attorney general.

6 SECTION 5. Sections 23-17.4-27 and 23-17.4-30 of the General Laws in Chapter 23-
7 17.4 entitled "Assisted Living Residence Licensing Act" are hereby amended to read as follows:

8 **23-17.4-27. Criminal records review.** -- (a) Any person seeking employment in any
9 assisted living residence licensed under this act and having routine contact with a resident or
10 having access to a resident's belongings or funds shall undergo a national criminal ~~background~~
11 records check ~~to~~ which shall include fingerprints submitted to the federal bureau of investigation
12 (FBI) by the bureau of criminal identification of the department of the attorney general or a
13 designated vendor approved by the department of the attorney general. The national criminal
14 records check shall be processed prior to or within one week of employment. ~~All employees hired~~
15 ~~prior to the enactment of this section shall be exempted from the requirements of this section. All~~
16 persons who, as of July 1, 2013, are already employed by an assisted living residence and all
17 persons who, as of such date, already provide services under this chapter, shall be exempted from
18 the requirements of this section for purposes of their current employment only. All persons
19 required to undergo a national criminal records check under this section shall not be required to
20 comply with the provisions of this section if they provide their potential employer with evidence
21 that they have undergone a national criminal records check in the preceding three (3) years, but
22 not before July 1, 2013, and they may request from the bureau of criminal identification a letter
23 indicating if any disqualifying information was discovered.

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

34 (c) An employee against whom disqualifying information has been found may ~~request~~

1 ~~that provide~~ a copy of the national criminal ~~background report be sent~~ records check to the
2 employer. The administrator shall make a judgment regarding the continued employment of the
3 employee.

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

7 (e) The employer shall maintain on file, subject to inspection by the department of
8 health, evidence that statewide national criminal records checks have been initiated on all
9 employees seeking employment ~~between~~ after October 1, 1991 and June 30, 2013, and the results
10 of the checks. The employer shall maintain on file, subject to inspection by the department of
11 health, evidence that national criminal records checks have been initiated on all employees
12 seeking employment on or after July 1, 2013, and the results of those checks. Failure to maintain
13 that evidence would be grounds to revoke the license or registration of the employer. ~~(f) It shall~~
14 ~~be the responsibility of the bureau of criminal identification (BCI) of the state police or the local~~
15 ~~police department to conduct the criminal records check to the applicant for employment without~~
16 ~~charge to either the employee or employer.~~ The employee shall be responsible for the cost of
17 conducting the national criminal records check through the bureau of criminal identification of
18 the department of the attorney general or a vendor designated by the department of the attorney
19 general.

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

34 (b) For purposes of this section, "conviction" means, in addition to judgments of

1 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances
2 where the defendant has entered a plea of nolo contendere and has received a sentence of
3 probation and those instances where a defendant has entered into a deferred sentence agreement
4 with the attorney general.

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

7 **23-17.7.1-17. Criminal records review.** -- (a) Any person seeking employment in a
8 facility which is or is required to be licensed or registered with the department of health if that
9 employment involves routine contact with a patient or resident without the presence of other
10 employees, shall undergo a national criminal background records check, which shall include
11 fingerprints submitted to the federal bureau of investigation (FBI) by the bureau of criminal
12 identification of the department of the attorney general or a designated vendor approved by the
13 department of the attorney general. The national criminal records check shall be initiated prior to,
14 or within one week of, employment. ~~All employees hired prior to the enactment of this section~~
15 ~~shall be exempted from the requirements of this section.~~ All persons who, as of July 1, 2013, are
16 already employed by a covered facility and all persons who, as of such date, already provide
17 services under this chapter shall be exempt from the requirements of this section for purposes of
18 their current employment only. All persons required to undergo a national criminal records check
19 under this section shall not be required to comply with the provisions of this section if they
20 provide their potential employer with evidence that they have undergone a national criminal
21 records check in the preceding three (3) years, but not before July 1, 2013, and they may request
22 from the bureau of criminal identification a letter indicating if any disqualifying information was
23 discovered.

24 (b) The director of the department of health may, by rule, identify those positions
25 requiring national criminal background records checks. The employee, through the employer,
26 shall apply to the bureau of criminal identification of the ~~state police or local police~~ department of
27 the attorney general for a national statewide criminal records check. ~~Fingerprinting shall not be~~
28 ~~required.~~ Upon the discovery of any disqualifying information as defined in section 23-17.7.1-20
29 and in accordance with the rule promulgated by the director of the department of health, the
30 bureau of criminal identification of the ~~state police or the local police~~ department of the attorney
31 general will inform the applicant, in writing, of the nature of the disqualifying information; and,
32 without disclosing the nature of the disqualifying information, will notify the employer, in
33 writing, that disqualifying information has been discovered.

34 (c) An employee against whom disqualifying information under section 23-17.7.1-20(b)

1 has been found may ~~request that~~ provide a copy of the national criminal ~~background report be~~
2 ~~sent~~ records check to the employer who shall make a judgment regarding the continued
3 employment of the employee.

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

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

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

20 **23-17.7.1-20. Disqualifying information.** -- (a) Information produced by a criminal
21 records review pertaining to conviction, for the following crimes will result in a letter to the
22 employee and employer disqualifying the applicant from the employment: murder, voluntary
23 manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault,
24 third degree sexual assault, assault on persons sixty (60) years of age or older, assault with intent
25 to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable
26 crime against nature), felony assault, patient abuse, neglect or mistreatment of patients, first
27 degree arson, robbery, felony drug offenses, ~~larceny, or felony banking law violations~~ felony
28 obtaining money under false pretenses, felony embezzlement, abuse, neglect, and/or exploitation
29 of adults with severe impairments, exploitation of elders, felony larceny, or felony banking law
30 violations or a crime under section 1128(a) of the social security act (42 U.S.C. section 1320a-
31 7(a)).

32 (b) Information produced by a national criminal records ~~review~~ check pertaining to
33 convictions for crimes other than those listed in subsection (a) of this section shall entitle, but not
34 obligate the employer to decline to hire the applicant. An employee against whom conviction

1 information related to this subsection has been found may ~~request that~~ provide a copy of the
2 national criminal ~~background report be sent~~ records check to the employer who shall make a
3 determination regarding the continued employment of the employee.

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

9 SECTION 7. This 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

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

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