

106TH CONGRESS
2D SESSION

H. R. 4293

To amend title 18, United States Code, with respect to the employment of persons with criminal backgrounds by nursing homes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2000

Mr. CANNON (for himself, Mr. TALENT, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, with respect to the employment of persons with criminal backgrounds by nursing homes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nursing Home Crimi-
5 nal Background Check Act of 2000”.

1 **SEC. 2. NURSING HOME CRIMINAL BACKGROUND CHECK.**

2 (a) IN GENERAL.—Part I of title 18, United States
3 Code, is amended by inserting after chapter 69 the fol-
4 lowing new chapter:

5 **“CHAPTER 70—NURSING HOME CRIMINAL**
6 **BACKGROUND CHECK**

“Sec.

“1441. Prohibition of employment of convicted felons in nursing homes.

“1442. Notification of background check requirement.

“1443. Criminal background check requirement.

“1444. Statement for criminal background check.

“1445. Criminal background check process.

“1446. Definitions.

7 **“§ 1441. Prohibition of employment of convicted fel-**
8 **ons in nursing homes**

9 “Whoever, being a nursing facility, knowingly em-
10 ploys a person who has not passed the criminal back-
11 ground check required by this chapter in connection with
12 that employment shall be fined not more than \$5,000.

13 **“§ 1442. Notification of background check require-**
14 **ment**

15 “Not later than 180 days after the date of enactment
16 of the Nursing Home Criminal Background Check Act of
17 2000, the Attorney General, in consultation with the Sec-
18 retary of Health and Human Services, shall notify nursing
19 facilities of the requirements of this chapter.

20 **“§ 1443. Criminal background check requirement**

21 “Not later than 180 days after receiving the notice
22 described in section 1442, each nursing facility shall adopt

1 and enforce a requirement that each applicant to that fa-
2 cility for employment, make a statement under section
3 1444.

4 **“§ 1444. Statement for criminal background check**

5 “The statement required under section 1443 shall be
6 in writing and contain—

7 “(1) the name, address, and date of birth ap-
8 pearing on a valid identification document (as de-
9 fined in section 1028(d)(2) of this title) of applicant,
10 a description of the identification document used,
11 and the applicant’s Social Security number;

12 “(2) a statement that such applicant has never
13 been convicted of a crime of violence or a crime in-
14 volving illegal activity relating to controlled sub-
15 stances (as that term is defined in the Controlled
16 Substances Act); and

17 “(3) the date the statement is made.

18 **“§ 1445. Criminal background check process**

19 “(a) The nursing facility shall transmit to the Attor-
20 ney General each statement from an applicant that the
21 facility receives under section 1444.

22 “(b)(1) The Attorney General, using information
23 available to the Department of Justice, shall promptly de-
24 termine whether the applicant has ever been convicted of
25 a crime of violence or a crime involving illegal activity re-

1 relating to controlled substances (as that term is defined in
 2 the Controlled Substances Act). If so, the Attorney Gen-
 3 eral shall, not later than 5 business days after the receipt
 4 of the statement, inform the nursing facility that the ap-
 5 plicant did not pass the background check. If after 5 busi-
 6 ness days the nursing facility has not been informed by
 7 the Attorney General that the applicant has been so con-
 8 victed, the applicant shall be deemed to have passed the
 9 background check.

10 “(2) In no case shall the nursing facility or the appli-
 11 cant be charged a fee in connection with the background
 12 check process.

13 “(3) It is a complete defense to any cause of action
 14 against a nursing facility or any of its agents based on
 15 a failure or refusal to hire the applicant that the applicant
 16 did not pass the check.

17 **“§ 1446. Definitions**

18 “In this chapter.—

19 “(1) the term ‘nursing facility’ means—

20 “(A) any ‘nursing facility’ as that term is
 21 defined under section 1919(a) of title XIX of
 22 the Social Security Act (42 U.S.C. 1396r(a));
 23 and

24 “(B) any ‘skilled nursing facility’ as that
 25 term is defined under section 1818(a) of title

1 XVIII of the Social Security Act (42 U.S.C.
2 1395i–3(a)); and

3 “(2) the term ‘applicant’ does not include a per-
4 son seeking to enter into contract employment or
5 employment as a licensed professional such as a doc-
6 tor or nurse.”.

7 (b) CLERICAL AMENDMENT.—The table of chapters
8 for part I of title 18, United States Code, is amended by
9 inserting after the item relating to chapter 69 the fol-
10 lowing new item:

“70. Nursing Home Criminal Background Check 1441”.

11 **SEC. 3. CONFORMING AMENDMENTS.**

12 (a) MEDICAID.—Section 1919 of title XIX of the So-
13 cial Security Act (42 U.S.C. 1396r) is amended by adding
14 at the end the following:

15 “(j) NURSING HOME CRIMINAL BACKGROUND
16 CHECK.—A nursing facility administrator shall meet the
17 nursing home background check requirements of chapter
18 70 of title 18, United States Code.”.

19 (b) MEDICARE.—Section 1819 of title XVIII of the
20 Social Security Act (42 U.S.C. 1395i–3) is amended by
21 adding at the end the following:

22 “(j) NURSING HOME CRIMINAL BACKGROUND
23 CHECK.—A skilled nursing facility administrator shall
24 meet the nursing home background check requirements of
25 chapter 70 of title 18, United States Code.”.

1 **SEC. 4. REPORT TO CONGRESS.**

2 Not later than 3 years after the date of the enact-
3 ment of this Act, the Attorney General shall conduct a
4 study of the effects of background checks in nursing home
5 settings, and report to Congress—

6 (1) the success of conducting background
7 checks on nursing home employees;

8 (2) the impact of background checks on patient
9 care;

10 (3) the need to conduct background checks in
11 other settings outside nursing facilities; and

12 (4) methods to further improve the background
13 check system and the costs of such improvements.

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