

HOUSE No. 5136

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 18, 1997.

The committee on the Judiciary, to whom were recommitted the petition (accompanied by bill, House, No. 2714) of Kay Kahn that nursing facilities be required to access criminal record offender information on certain employees, and the petition (accompanied by bill, House, No. 4219) of James H. Fagan for legislation to authorize nursing homes to obtain criminal records of present and prospective employees, reports recommending that the accompanying bill (House, No. 5136) ought to pass.

For the committee,

JOHN H. ROGERS.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS ON CERTAIN EMPLOYEES OF LONG TERM CARE FACILITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws is hereby amended
2 by inserting after section 172C the following section:—

3 Section 172D. Notwithstanding the provisions of section one
4 hundred and seventy-two, criminal offender record information
5 shall be available to any long term care facility, as defined in
6 section seventy-two W of chapter one hundred eleven, for the pur-
7 pose of obtaining criminal offender record information on any
8 applicant under final consideration for or any individual currently
9 employed in a position that involves the provision of direct per-
10 sonal care or treatment to residents of said facility. Said long term
11 care facilities shall obtain all available criminal offender record
12 information from the criminal history systems board on any appli-
13 cant under final consideration for a position that involves the pro-
14 vision of direct personal care or treatment to residents. Any long
15 term care facility obtaining information under this section shall
16 prohibit any dissemination of such information for any purpose
17 other than to further the protection of the elderly or the disabled,
18 including, but not limited to, dissemination among and between
19 any long term care facilities, or other entities.

1 SECTION 2. A long term care facility may employ an indi-
2 vidual for a position that involves the provision of direct personal
3 care or treatment to residents on a conditional basis prior to
4 receiving the results of said individual's criminal offender records
5 check from the criminal history systems board. No long term care
6 facility shall be liable for civil damages to any individual so con-
7 ditionally employed and subsequently discharged by reason of

8 information received as a result of a criminal offender record
9 information check completed pursuant to section one.

1 SECTION 3. The criminal history systems board may waive or
2 reduce the fee assessable pursuant to section one hundred and
3 seventy-two A of chapter six of the General Laws for criminal
4 offender record information made available pursuant to section
5 one of this act.

1 SECTION 4. No long term care facility, as described in section
2 one of this act, shall be required to obtain criminal offender record
3 information as a condition of continued employment of any
4 person who is employed or serving as a volunteer in a position or
5 capacity set forth in said section one as of the effective date of
6 this act.

1 SECTION 5. Notwithstanding any general or special law to the
2 contrary, the division of medical assistance shall reimburse long
3 term care facilities for its portion of the costs associated with
4 obtaining criminal offender record information on employees pur-
5 suant to section one of this act.

