

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 1720 (Holden) – As Amended March 7, 2022

Policy Committee: Human Services

Vote: 7 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill requires the California Department of Social Services (CDSS) to grant a simplified criminal record exemption to an applicant seeking a license or position within various community care facilities and deletes the requirement for such an applicant to sign a declaration under penalty of perjury regarding prior criminal convictions. Further, this bill prohibits CDSS from requiring an applicant for a license to disclose their criminal history information upon application. Specifically, this bill:

- 1) Prohibits CDSS from requiring an applicant seeking a license to operate or be employed in a care facility, including residential care facilities for persons with chronic, life-threatening illness, Residential Care Facilities for the Elderly (RCFEs), and child daycare centers, to self-disclose their criminal history information upon application.
- 2) Prohibits CDSS from requiring a home care aide applicant to self-disclose their criminal history information upon application.
- 3) Requires CDSS to grant a simplified criminal record exemption if an individual meets specified criteria, including having no convictions within the last five years, having no demonstrated pattern of criminal activity, having convictions arising from only a single incident and are nonviolent misdemeanor convictions that do not pose as risk of harm to a child or vulnerable adult.
- 4) Requires CDSS to consider granting a simplified criminal record exemption to individuals who meet specified criteria, including having not been convicted of a felony or a crime deemed ineligible under current law, having convictions arising from five or fewer incidents of criminal conduct resulting in nonviolent misdemeanor and having no convictions within the last five years.
- 5) Allows CDSS, at its discretion, to require an individual who is otherwise eligible for a simplified exemption process to complete the standard exemption process if CDSS determines that completing the standard process will protect the health and safety of children and adults placed in community care facilities.
- 6) Clarifies that a simplified criminal exemption granted by CDSS does not relieve an individual from compliance with other required screenings.

FISCAL EFFECT:

- 1) Estimated ongoing General Fund (GF) costs to CDSS in the range of \$3 million to \$4 million annually, to support additional workload to assess the risk of harm to a child or vulnerable individual, as required by the bill. CDSS indicates this requirement would slow down the simplified exemption process significantly, adding to the workload of ordering law enforcement records for every case with criminal history.
- 2) Unknown, one-time costs to CDSS for increased workload to update necessary forms and procedures and to disseminate information regarding the changes to counties.

COMMENTS:

- 1) **Purpose.** This bill seeks to strike a balance between providing for the health and safety of residents in community care facilities and reducing unnecessary barriers to employment for individuals with a criminal history.
- 2) **Background.** The Community Care Licensing Division (CCLD) within CDSS provides licenses and investigates complaints against facilities within its jurisdiction, which includes RCFEs and child care facilities, among others, in order to provide for the health and safety of the vulnerable populations in those facilities. These facilities typically provide non-medical care and supervision for children and adults in need, which includes families needing child care, children in foster care and at-risk youth needing shelter services, seniors needing residential care and individuals with disabilities.
- 3) **Criminal Background Checks.** Existing law requires CDSS to perform background checks on applicants, licensees, adult residents, employees and certain volunteers in community care facilities who come into contact with clients. Administered by the Care Provider Management Bureau (CPMB) within CDSS, the process requires an individual subject to a background check to submit fingerprints and sign a declaration under penalty of perjury regarding any prior criminal convictions. The Department of Justice (DOJ) processes the background check and reports convictions to the CPMB. If an individual's background check shows criminal history other than minor traffic offenses, the CPMB sends an exemption notification letter to the individual containing options for an exemption, if applicable.

Existing law prohibits CDSS from offering an exemption to an individual who has been convicted of certain serious crimes, including a conviction for murder, kidnapping, possession of child pornography, sexual exploitation of a child, elder or dependent abuse and arson, among others. Individuals awaiting approval may not be present in a facility until CPMB grants an exemption.

When considering whether to grant an exemption for qualifying crimes, CPMB may use either the simplified exemption process or the more robust standard exemption process. Standard exemptions are used to evaluate all felony convictions and misdemeanors that do not qualify for a simplified exemption. Existing law allows CDSS to require the standard exemption process even if an individual may qualify for a simplified exemption process if health and safety concerns exist.

CDSS indicates approximately 15% of its applicants request an exemption, and 68% of those are granted a simplified exemption under existing regulations.

This bill removes the requirement for an individual to sign a declaration under penalty of perjury regarding any prior criminal convictions and prohibits CDSS from requiring an applicant to disclose their criminal history upon application. This bill also codifies a simplified exemption process currently in regulations and requires CDSS to grant a simplified exemption for those who meet the criteria. This bill also requires CDSS to consider granting a simplified exemption to those who meet certain lesser standards than those required for a simplified exemption to be automatically granted.

4) Prior Legislation.

AB 1608 (Holden), of the 2019-20 Legislative Session, was substantially similar to this bill. AB 1608 was referred to the Senate Human Services Committee, but was not set for hearing.

AB 3039 (Holden), of the 2017-18 Legislative Session, would have made numerous changes to the criminal background check process for certain community care facilities, home care aide registry applicants and home care organizations. AB 3039 was held on this committee's Suspense File.

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