

CONCURRENCE IN SENATE AMENDMENTS

AB 1720 (Holden)

As Amended August 22, 2022

Majority vote

SUMMARY

Authorizes 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, as specified, and removes the requirement for those applicants to sign a declaration under penalty of perjury before the receipt of live scan results regarding prior criminal convictions.

Senate Amendments

- 1) Strike the requirement that CDSS grant a simplified criminal record exemption to an individual that meets specific criteria and add provisions clarifying that CDSS may grant an exemption if an individual meets all of the following criteria:
 - a) The individual has not been convicted of a violent crime;
 - b) The individual has not been convicted of a crime within the last five years;
 - c) The individual has not been convicted of a felony within the last 10 years;
 - d) The individual has five or fewer misdemeanor convictions;
 - e) The individual has no more than one felony conviction; and,
 - f) The individual has not been convicted of a crime for which the department is prohibited from granting an exemption, as specified.
- 2) Define "simplified exemption" as an exemption issued on the department's own motion, as specified.
- 3) Delete provisions allowing CDSS to issue a license if, the applicant meets all other conditions for licensure except receipt of the criminal history information and has submitted a signed copy of a statement attesting they have never been convicted of a crime other than an infraction.
- 4) Make technical and conforming changes.
- 5) Add provisions from SB 1093 (Hurtado) of the current legislative session to avoid chaptering out conflicts.

As passed by the Assembly, this bill:

- 1) Provided CDSS with the option to provide a criminal record exemption pursuant to existing processes or under the provisions established by this bill.
- 2) Prohibited 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.

- 3) Prohibited CDSS from requiring a home care aide applicant to self-disclose their criminal history information upon application.
- 4) Required CDSS to grant a simplified criminal record exemption if an individual meets specified criteria.
- 5) Required CDSS to consider granting simplified criminal record exemptions only to individuals who meet specified criteria.
- 6) Allowed CDSS, at its discretion, to require an individual who is otherwise eligible for a simplified exemption process to complete the standard exemption process if the department determines that completing the standard process will protect the health and safety of children and adults placed in community care facilities.
- 7) Clarified that a simplified criminal exemption granted by the department does not relieve an individual from compliance with other required screenings.
- 8) Made technical and conforming changes.

COMMENTS

Community Care Facilities: The CCFA, enacted in 1973, contains the provisions for various community-based housing options for the elderly and disabled. The CCFA seeks to provide a new system of community-based care for those who require additional supervision and services that are determined to be nonmedical. Facilities established under the act provide care to individuals with disabilities, seniors, children in foster care, families who need early child education, and those with severe behavioral, emotional, or mental disorders.

Community Care Licensing Division (CCLD): Facilities created under the CCFA are administered through CDSS. The CCLD, located within the department, is responsible for regulating various community care facilities. In addition to licensing, the division ensures regulatory compliance and enforcement when necessary. According to the state website, the mission of the CCLD is to "promote the health, safety, and quality of life of each person in community care through the administration of an effective collaborative regulatory enforcement system." A variety of facilities fall under the purview of this division, including adult day programs, transitional shelters, group homes, foster family homes, homeless youth shelters, child care centers, and others.

Criminal background checks: Across the state, before an individual can obtain a community care license or work and provide services in a community care facility, the applicant must undergo a uniform criminal background check process through CDSS. Administered by the Care Provider Management Bureau within CDSS, the process currently requires individuals to submit fingerprints and sign a declaration under penalty of perjury regarding any prior criminal convictions. DOJ processes the background check against their records and reports convictions to the Care Provider Management Bureau (CPMB).

If an applicant's background check shows criminal history other than minor traffic offenses, the Bureau sends an exemption notification letter to the individual containing options for an exemption, if applicable. CDSS is prohibited from granting exemptions to individuals who commit certain crimes (referred to as non-exemptible crimes), including convictions 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, the Bureau may currently use one of two methods:

Need for this bill: This bill prohibits CDSS from requiring an applicant for specific care facilities to self-disclose their criminal history, in addition to making changes to criteria required for CDSS to process simplified exemptions. The provisions seek to strike a balance between protecting the health and safety of residents while ensuring that potential caregivers and facility staff are not burdened with lengthy delays due to unrelated convictions. As the unmet need in our community care workforce continues to grow and California moves forward in advancing our criminal justice reform, it is crucial that we amend policies to reflect our understanding and commitment to rehabilitation while prioritizing the safety of the vulnerable.

According to the Author

"CDSS requires any applicant who has ever been convicted of any crime, other than a minor traffic violation, to obtain a criminal record "exemption" from CDSS before they can work in a facility (i.e., community care, residential, elderly, child care). CDSS can and does deny exemptions based on conviction, even if the conviction is very old or unrelated to caregivers' work, and even when applicants have shown success as caregivers. While ensuring the safety of the young and elderly should always be of utmost importance, the system CDSS uses is inefficient and has duplicative processes that can disadvantage good applicants, ultimately negatively affecting the caregiving system and those who depend on it. These overly burdensome criminal record screening rules, given the disproportionate rate of arrests and low-level criminal convictions in communities of color, cause people of color to have a difficult task in advancing in these caregiver roles without the proper licensing. The bill removes a duplicative process by prohibiting CDSS from requiring applicants to disclose any information regarding their criminal history as a condition of employment."

Arguments in Support

Sponsors of this bill, the East Bay Community Law Center (EBCLC) state that, " Low-income women of color are hit especially hard by CDSS's inefficient and unreasonable criminal record screening rules, given the disproportionate rate of arrests and low-level criminal convictions in communities of color. These women often seek caregiver-related work based on past experience and success in those roles, a desire to serve their communities, and opportunities for career advancement and entrepreneurship. [This bill] will streamline the licensure process for those that have been convicted of a minor and old crime to ensure that an unrelated prior conviction does not prohibit a qualified, rehabilitated person from securing employment.

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, this bill has negligible state cost.

VOTES:**ASM HUMAN SERVICES: 7-0-1****YES:** Calderon, Arambula, Mia Bonta, Bryan, Stone, Villapudua, Waldron**ABS, ABST OR NV:** Davies**ASM APPROPRIATIONS: 12-3-1****YES:** Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson**NO:** Bigelow, Megan Dahle, Fong**ABS, ABST OR NV:** Davies**ASSEMBLY FLOOR: 50-17-11****YES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon**NO:** Bigelow, Chen, Choi, Cooper, Cunningham, Megan Dahle, Flora, Fong, Gallagher, Irwin, Kiley, Mathis, Nguyen, Petrie-Norris, Seyarto, Smith, Valladares**ABS, ABST OR NV:** Berman, Boerner Horvath, Davies, Lackey, Maienschein, Muratsuchi, O'Donnell, Patterson, Rodriguez, Salas, Voepel**UPDATED**

VERSION: August 22, 2022

CONSULTANT: Emmalynn Mathis / HUM. S. / (916) 319-2089

FN: 0004045