



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 427**

**SENATE BILL NO. 1287**

**By Crowe, Norris**

Substituted for: House Bill No. 415

By Carr, Hazlewood, Mark White, Hardaway, Staples, Crawford, Gilmore

AN ACT to amend Tennessee Code Annotated, Title 4; Title 33; Title 34; Title 38; Title 39; Title 45; Title 47; Title 68 and Title 71, relative to vulnerable persons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The executive director of the commission on aging and disability shall establish within the commission a public guardian working group that shall include representatives of the division of adult protective services of the department of human services, the council on developmental disabilities, the administrative office of the courts, the department of intellectual and developmental disabilities, the area agencies on aging and disabilities, and such other groups as the commission may deem necessary to complete its review. The working group shall examine and explore the current system of public guardians in Tennessee, as established pursuant to Tennessee Code Annotated, Title 34, Chapter 7, along with the system's existing procedures and resources. The working group shall also review the current and potential future caseloads of the program, who has access to the services of a public guardian and who does not, and what, if any, best practices are available from other states that have similar programs. The commission shall report to the general assembly by January 15, 2018, with a report that outlines the information requested to be reviewed by this working group along with recommendations, including statutory changes, designed to make the program more effective and more accessible.

SECTION 2. Tennessee Code Annotated, Section 33-2-1202(b), is amended by deleting the first sentence of the subsection and substituting instead the following:

Each organization shall have a criminal background check completed on any employee or volunteer who will be in a position that involves providing direct contact with or direct responsibility for service recipients. The background check shall be completed before allowing the person to have any direct contact with or direct responsibility for service recipients.

SECTION 3. Tennessee Code Annotated, Section 68-11-256, is amended by deleting the section and substituting instead the following:

(a) All nursing homes, as defined in § 68-11-201, and assisted-care living facilities, as defined in § 68-11-201, shall have a criminal background check completed prior to employing any person who will be in a position that involves providing direct care to a resident or patient.

(b) Any person who applies for employment in a position that involves providing direct care to a resident or patient in such a facility shall consent to any of the following:

(1) Provide past work and personal references to be checked by the nursing home or assisted-care living facility;

(2) Agree to the release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in this state, to either the assisted-care living facility or nursing home, or its agent, or to any agency that contracts with this state, or to any law enforcement agency, or to any other legally authorized entity;

(3) Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee bureau of investigation, or a state and federal criminal history records check to be conducted by the Tennessee bureau of investigation and the federal bureau of investigation; or

(4) Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

(c) A nursing home or an assisted-care living facility shall not disclose criminal background check information obtained under subsection (b) to a person who is not involved in evaluating a person's employment, except as required or permitted by state or federal law.

(d) Any costs incurred by the Tennessee bureau of investigation, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting the investigations of applicants may be paid by the nursing home, the assisted-care living facility, or any agency that contracts with this state requesting the investigation and information, or the individual who seeks employment or is employed. Payments of the costs to the Tennessee bureau of investigation are to be made in accordance with §§ 38-6-103 and 38-6-109. The costs of conducting criminal background checks shall be an allowable cost under the state medicaid program, if paid for by the nursing home.

(e) This section shall also apply to any company, organization, or agency that provides or arranges for the supply of direct care staff to any assisted-care living facility or nursing home licensed in this state. The company, organization, or agency shall be responsible for initiating a criminal background check on any person hired by that entity for the purposes of working in a nursing home or assisted-care living facility and shall be required to report the results of the criminal background check to any facility in which the organization arranges for that individual to work upon such a request by a facility.

(f) A nursing home or assisted-care living facility that declines to employ or terminates a person based upon criminal background information provided to the facility under this section shall be immune from suit by or on behalf of that person for the termination of or the refusal to employ that person.

SECTION 4. This act shall take effect July 1, 2017, the public welfare requiring it.


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PASSED: May 5, 2017

  
RANDY McNALLY  
SPEAKER OF THE SENATE

  
BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 18<sup>th</sup> day of May 2017

  
BILL HASLAM, GOVERNOR