

Senate Bill Would Create Nationwide Background Checks for Long-Term Care Workers

PREDATORS SOMETIMES HIRED TO CARE FOR OUR MOST VULNERABLE CITIZENS, SAY SPONSORS

June 8, 2007 – A bill was introduced in the Senate today that would prevent those with criminal histories from working within long-term care settings by establishing a nationwide system of background checks. The sponsors say that “Under the disorganized, patchwork system of background checks that exists today, employers trying to hire caregivers cannot always determine which applicants have records of abuse or a history of committing violent crimes. As a result, predators are sometimes hired to take care of our most vulnerable citizens, working in situations where they can cause enormous harm.”

U.S. Sen. Herb Kohl (D-WI), Chairman of the Senate Special Committee on Aging, and Sen. Pete Domenici (R-NM) were joined by original cosponsors Senators Claire McCaskill (D-MO), Debbie Stabenow (D-MI), Blanche Lincoln (D-AR), Carl Levin (D-MI), and Hillary Clinton (D-NY) in introducing the Patient Safety and Abuse Prevention Act of 2007.

This new system would coordinate abuse and neglect registries with state law enforcement registries, and also add a federal component to the background check by cross-referencing potential employees with the FBI’s national database of criminal history records. “If enacted, this legislation could help to prevent many of the tragic tales of physical and financial elder abuse that we hear about from our constituents and read about in our local newspapers,” said Chairman Kohl. “This bill would close gaping loopholes in our current system of background checks by expanding nationwide a pilot program that has already proven successful in many states.” “We have a responsibility to protect the most vulnerable from abuse by those hired to care for them. Those who have a propensity to prey on the elderly, the chronically ill and the disabled must be restricted from working with these people,” Sen. Domenici said. “The pilot programs implemented in New Mexico and other states have shown that background checks can help ensure that those in long-term care are not exposed to people who would do them harm. I am pleased to co-sponsor this bill which will strengthen this program and help protect the most susceptible populations.”

Under the Medicare Modernization Act of 2003 (MMA), the Centers for Medicare and Medicaid Services has been conducting a pilot program in seven states to implement efficient, equitable systems that cost-effectively screen out certain applicants for employment in long-term care facilities. Applicants excluded are those whose backgrounds include findings of substantiated abuse and/or a serious criminal history.

Forty-one states already require a criminal background check of some variety, mostly at the state level. The pilot states have integrated their systems to coordinate these checks in a single streamlined process and have added a federal background check through the FBI’s Integrated Automated Fingerprint Identification System. The results from the pilot programs are thus far very impressive, the bill sponsors say. Among the seven states, Michigan boasts the only statewide system and also the most thorough data in terms of the system’s results. In the first year of operation, Michigan excluded more than 3,000 people with records of abuse or a disqualifying criminal history.

As of April 30, 2007, 625 of these were excluded through a fingerprint check. Twenty-five percent of these exclusions were identified through an FBI check only, a fact that state officials

believe indicates that these individuals committed crimes in other states, or have been avoiding prosecution within the state. This statistic reinforces the need for the Patient Safety and Abuse Prevention Act of 2007, which includes the compulsory FBI check.

In a letter, the AARP conveyed its support for the bill, stating, "Individuals with criminal convictions or histories of abuse can pose a significant risk to persons receiving long-term care... This bill would make significant strides in protecting individuals across the country receiving long-term care services."

The letter also touched on the importance of eliminating the loopholes present in today's haphazard system of background checks, which vary state to state: "A system of national criminal background checks is especially critical, given the mobility of today's workers, the turnover in the long-term care workforce, and the fact that it is not unusual for individuals to work in multiple states."

By expanding this model nationwide, the resulting system would greatly enhance the probability of identifying individuals with criminal backgrounds who can now easily escape detection. Currently, the MMA pilot program is scheduled to end this September.

This bill is supported by the Elder Justice Coalition, the National Citizen's Coalition for Nursing Home Reform, the American Association of Homes and Services for the Aging, AARP and many other senior citizen advocacy organizations, the sponsors say.