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Assembly Bill 1914: Caregiver Background Check: Non-Exemptible Crimes Update

IN BRIEF

AB 1914 addresses the hiring process for caregivers and volunteers in Community Care Facilities, expanding the list of crimes for which the Department of Social Services (DSS) cannot grant an exemption. Adding to the list of 60 prohibited crimes, AB 1914 would add crimes including certain instances of rape, pimping, pandering and identity theft.

THE ISSUE

DSS operates over 70,000 Community Care Facilities across California, including child care facilities, foster family homes, developmental disability facilities and elderly facilities.

To protect the clients at these facilities, state law requires applicants to obtain a background check through the Caregiver Background Check Bureau (CBCB). Current law prohibits anyone with a criminal conviction for any crime—other than a minor traffic violation—from caring for or living with clients in a licensed facility.

However, state law gives DSS the authority to grant an individual an exemption if it determines that the individual is of “good character.” While DSS has the ability to grant exemptions for most crimes, state law currently categorizes 60 crimes as non-exemptible crimes, including murder, kidnapping, torture, specific categories of rape, pimping a minor, pampering a minor and identity theft of the elderly.

The California State Auditor released a 2017 audit of DSS, specifically relating to background checks performed by the CBCB. The report identified eight crimes that were exempt despite substantial similarities to existing convictions on the list of prohibited crimes.

From the fiscal years 2013-2014 through 2015-2016, DSS received 600 background checks mentioning one of the eight identified crimes. During that same time frame, the CBCB allowed more than 40 of those 600 individuals with arrests or convictions to work or volunteer in licensed care facilities in California.

EXISTING LAW

Existing law outlines a clear process for DSS to process new applicants and approve exemptions for all applications with arrests and convictions not listed on the non-exemption list.

To protect clients at care facilities, DSS has created a list of crimes it deems not suitable for exemption. Any applicant who has been arrested or convicted of these crimes is prohibited from caring for or living with clients in a licensed facility.

THE SOLUTION

AB 1914 protects DSS clients by adding eight crimes to the department’s background check non-exemption list for caregivers.

AB 1914 creates a small distinction in the categorization of prohibited crimes, yet produces a drastic change in the safety and health of clients in licensed care facilities. Without this change in law, child care facilities, foster homes and elderly facilities will not be protected from potentially dangerous individuals passing through DSS background checks. The DSS must close this dangerous loophole to ensure the safety and health of the most vulnerable individuals in our society.