

HEATH FLORA

MEMBER FOR THE 12TH ASSEMBLY DISTRICT



Assembly Bill 367: Strengthening Caregiver Background Checks

IN BRIEF

AB 367 addresses the hiring process for caregivers and volunteers in Community Care Facilities, expanding the California Department of Social Services (DSS) list for prohibited crimes. AB 367 would add crimes that include certain instances of rape, pimping and pandering and would also require DSS to consider the inclusion of identity theft on the list of prohibited crimes.

BACKGROUND

DSS operates thousands of community care facilities across California, including child care facilities, foster family homes, developmental disability facilities and elderly facilities.

To protect the patients 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 patients 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, pandering 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 six 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 six 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 California licensed care facilities – presenting potential risks for those seeking special care.

EXISTING LAW

To protect patients at community 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 patients in a licensed facility. Currently certain instances of rape, pimping, pandering, and identity theft are deemed “exemptible” crimes.

THE SOLUTION

AB 367 protects community care facility patients by adding six crimes to the department’s background check non-exemption list for caregivers.

While creating small distinctions in the categorization of prohibited crimes, AB 367 will produce a drastic change in the safety and health of patients seeking care in these facilities. DSS must close this dangerous loophole to ensure the safety and health of the most vulnerable individuals.