

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1623

By: Lamb

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 2001, Section 1-701, which relates to hospitals; adding definitions; requiring certain employer to provide for a criminal arrest check in certain circumstance; authorizing certain employer to obtain specified criminal history background records; requiring certain employer to conduct criminal history background check in specified circumstance; authorizing certain employer to make certain request; requiring certain compliance; providing exception; prohibiting disclosure of certain records; specifying certain time limit; requiring certain disclosure; prohibiting certain employment; specifying confidentiality; authorizing the State Department of Health to review certain employment files; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-701, is amended to read as follows:

Section 1-701. For the purposes of this article:

1. "Hospital" means any institution, place, building or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. Except as otherwise provided by paragraph 5 of this subsection, places where pregnant females are admitted and receive care incident to pregnancy, abortion or delivery shall be considered to be a "hospital" within the meaning of this article, regardless of the number of patients received or the duration of their stay. The term "hospital" includes general medical surgical

hospitals, specialized hospitals, critical access and emergency hospitals, and birthing centers;

2. "General medical surgical hospital" means a hospital maintained for the purpose of providing hospital care in a broad category of illness and injury;

3. "Specialized hospital" means a hospital maintained for the purpose of providing hospital care in a certain category, or categories, of illness and injury;

4. "Critical access hospital" means a hospital determined by the State Department of Health to be a necessary provider of health care services to residents of a rural community;

5. "Emergency hospital" means a hospital that provides emergency treatment and stabilization services on a 24-hour basis that has the ability to admit and treat patients for short periods of time;

6. "Birthing center" means any facility, place or institution, which is maintained or established primarily for the purpose of providing services of a certified midwife or licensed medical doctor to assist or attend a woman in delivery and birth, and where a woman is scheduled in advance to give birth following a normal, uncomplicated, low-risk pregnancy. Provided, however, licensure for a birthing center shall not be compulsory; ~~and~~

7. "Day treatment program" means nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs as defined by subsection A of Section 175.20 of Title 10 of the Oklahoma Statutes;

8. "Employee" means any person employed by a hospital as defined in this section; and

9. "Employer" means any hospital as defined in this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-701.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as otherwise provided by subsection B of this section, before any employer makes an offer to employ or to contract with any potential employee, the employer shall provide for a criminal arrest check to be made on the potential employee pursuant to the provisions of this section. If the employer is a facility which is part of a larger complex of buildings, the requirement of a criminal history background check shall only apply to an offer of employment or contract made to a person who will work primarily in the immediate boundaries of the facility.

2. Except as otherwise specified by subsection C of this section, an employer is authorized to obtain any criminal history background records maintained by the Oklahoma State Bureau of Investigations which the employer is required or authorized to request by the provisions of this section.

3. The employer shall request the Bureau to conduct a criminal history background check on the person and shall provide to the Bureau any relevant information required by the Bureau to conduct the check. The employer shall pay a fee of Fifteen Dollars (\$15.00) to the Bureau for each criminal history background check that is conducted pursuant to such a request.

4. The employer is authorized to request a criminal history background check on any person employed by the employer at any time during the period of employment of such person. At the request of such employer, the Bureau shall conduct the criminal history background check

B. 1. An employer may make an offer of temporary employment to a person pending the results of the criminal history background check on the person. The employer in such instance shall provide to the Bureau the name and relevant information relating to the person within seventy-two (72) hours after the date the person accepts temporary employment. The employer shall not hire or contract with

a person on a permanent basis until the results of the criminal history background check are received.

2. An employer may accept a criminal history background report less than one (1) year old of a person to whom such employer makes an offer of employment or employment contract. The report shall be obtained from the previous employer or contractor of such person and shall only be obtained upon the written consent of such person.

C. 1. The Bureau shall not provide to the employer the criminal history background records of a person being investigated pursuant to this section unless the criminal records relate to:

- a. any felony or misdemeanor classified as a crime against the person,
- b. any felony or misdemeanor classified as a crime against public decency or morality,
- c. any felony or misdemeanor classified as domestic abuse pursuant to the provisions of the Protection from Domestic Abuse Act,
- d. a felony violation of any state statute intended to control the possession or distribution of a Schedule I through V drug pursuant to the Uniform Controlled Dangerous Substances Act, and
- e. any felony or misdemeanor classified as a crime against property.

2. Within five (5) days of receiving a request to conduct a criminal history background check, the Bureau shall complete the criminal history background check and report the results of the check to the requesting employer.

D. Every employer who is subject to the provisions of this section shall inform each applicant for employment, or each prospective contract provider, as applicable, that the employer is required to obtain a criminal history background record before making an offer of permanent employment or contract.

E. 1. If the results of a criminal history background check reveal that the subject person has been convicted of any of the following offenses, the employer shall not hire or contract with the person:

- a. assault, battery, or assault and battery with a dangerous weapon,
- b. aggravated assault and battery,
- c. murder or attempted murder,
- d. manslaughter, except involuntary manslaughter,
- e. rape, incest or sodomy,
- f. indecent exposure and indecent exhibition,
- g. pandering,
- h. child abuse,
- i. abuse, neglect or financial exploitation of any person entrusted to the care or possession of such person,
- j. burglary in the first or second degree,
- k. robbery in the first or second degree,
- l. robbery in the first or second degree,
- m. robbery or attempted robbery with a dangerous weapon, or imitation firearm,
- n. arson in the first or second degree,
- o. unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act,
- p. grand larceny, or
- q. petit larceny or shoplifting within the past seven (7) years.

2. If the results of a criminal history background check reveal that an employee or person hired on a temporary basis pursuant to subsection B of this section or any other person who is an employee or contract provider has been convicted of any of the offenses

listed in paragraph 1 of this subsection, the employer shall immediately terminate the person's employment or contract. The provisions of this paragraph shall not apply to an employee or contract provider of an employer who has been continuously employed by the employer prior to November 1, 2006.

F. An employer shall not employ or continue employing a person addicted to any Schedule I through V drug as specified by the Uniform Controlled Dangerous Substances Act unless the person produces evidence that the person has enrolled in or successfully completed a drug rehabilitation program.

G. All criminal records received by the employer are confidential and are for the exclusive use of the State Department of Health and the employer which requested the information. Except on court order or with the written consent of the person being investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.

H. Any person releasing or disclosing any information received pursuant to this section without the authorization prescribed by this section shall be guilty of a misdemeanor.

I. The State Department of Health may review the employment files of any hospital required to obtain criminal history background records to ensure such hospitals are in compliance with the provisions of this section.

SECTION 3. This act shall become effective November 1, 2006.

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