

SENATE BILL 1848

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 33; Title 47; Title 68 and Title 71, relative to
the abuse of certain vulnerable persons.

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

SECTION 1. The commissioner of human services shall establish within the department of human services an adult protective services working group. The working group shall examine and explore the procedures and resources used by other states to investigate all allegations of financial exploitation, including allegations involving nongovernmental funds. The commissioner shall report to the general assembly by January 15, 2017, with a plan to improve its efficiency and a report concerning the department's capacity to investigate financial exploitation involving nongovernmental funds.

SECTION 2. The district attorneys general conference shall review portions of Tennessee Code Annotated related to the prosecution of elder abuse, neglect, and exploitation. The conference shall report recommended changes to the law to the chairs of the health committee of the house of representatives and health and welfare committee of the senate by January 15, 2017.

SECTION 3. Tennessee Code Annotated, Title 47, Chapter 18, Part 50, is amended by adding the following as a new section to be appropriately designated:

(a) The division of consumer affairs shall develop and implement a plan to receive and disseminate on the division's web site reports of scams, schemes, swindles, and other frauds that target adults, as the term is defined in § 71-6-102.

(b) The division shall report on its progress to the chairs of the health committee of the house of representatives and health and welfare committee of the senate by October 15, 2016.

SECTION 4. Tennessee Code Annotated, Section 68-11-256, is amended by deleting the section and substituting the following:

(a) All nursing homes and home care organizations 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 or organization shall consent to the following:

(1) Provide past work and personal references to be checked by the nursing home;

(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 the state of Tennessee, to either the nursing home or its agent, or to any agency that contracts with the state of Tennessee, 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; and

(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 home care organization 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, home care organization, or any agency that contracts with the state of Tennessee 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 nursing home or home care organization licensed in the state of Tennessee. 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 home care organization, and shall be required to report the results of the criminal background check to any home care organization or facility in which the company or organization arranges for that individual to work, upon such a request by a facility.

(f) A nursing home or home care organization that declines to employ or terminates a person based upon criminal background information provided to the facility or organization 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 5. Tennessee Code Annotated, Title 71, Chapter 2, Part 1, is amended by adding the following as a new section to be appropriately designated:

The executive director of the commission shall establish a working group that is led by the commission and includes the division of adult protective services of the department of human services, the department of health, the district attorneys general conference, members of local law enforcement, and other state departments and agencies as may be needed. The working group shall draft and develop a field guide to provide law enforcement in this state with the specific statutes and other resources related to assisting in the prevention, investigation, and prosecution of abuse under chapter 6, part 1 of this title.

SECTION 6. Tennessee Code Annotated, Title 71, Chapter 2, Part 1, is amended by adding the following as a new section to be appropriately designated:

The executive director of the commission shall establish and lead a multidisciplinary collaborative coalition of state agencies and departments involved in the prevention, investigation, and prosecution of elder and vulnerable adult abuse, neglect, and exploitation. In an effort to reduce this abuse, neglect, and exploitation, the coalition shall develop and undertake strategies to increase communication with the public and state agencies, propose educational outreach, and promote the sharing of existing resources and information.

SECTION 7. Tennessee Code Annotated, Title 71, Chapter 2, Part 1, is amended by adding the following as a new section to be appropriately designated:

There is established the Tennessee vulnerable adult coalition (TVAC) as an advisory entity. The coalition shall be administratively attached to the commission on aging and disability. This coalition shall be convened by the executive director of the commission. The executive director shall invite appropriate entities to participate on a

volunteer basis. The coalition shall bring public and private entities in this state together to promote the collaboration necessary to prevent the abuse, neglect, and financial exploitation of elder and vulnerable adults.

SECTION 8. Tennessee Code Annotated, Section 71-6-102(9), is amended by deleting the following language:

. However, the department is not required to assume responsibility for a person in imminent danger pursuant to this chapter except when, in the department's determination, sufficient resources exist for the implementation of this part

SECTION 9. Sections 4 and 8 shall take effect July 1, 2016, the public welfare requiring it. All remaining sections of this act shall take effect upon becoming a law, the public welfare requiring it.