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## HOUSE REPUBLICAN STAFF ANALYSIS

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Bill: House File 550 (formerly HSB 152)  
Committee: Human Resources  
Date: March 20, 2013  
Floor Manager: Rep. Heaton  
Staff: Carrie Kobrinetz (5-2063)

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### Record Checks of Prospective and Current Health Care Employees

- This bill applies to new and current health care employees.
  - Since the late 1990's, prospective employees at nursing homes had been required to undergo a criminal record and background check prior to employment. If the check of these records indicated the commission of a crime above a simple misdemeanor or an incidence of abuse, then the Department of Human Services must evaluate the person's record to determine if they are suitable for the position. This process has been required to be repeated when a person switches employers, prior to starting the new job and for people that are prospective employees.
  - House File 550 reduces the duplication of the current process when a person is switching employers. The bill adds language that would allow a person in these situations to begin working for the new facility before the completion of the background check, if certain criteria are met.
  - Under the bill, if a person with a criminal or abuse record is or was employed by a hospital and is hired by another hospital, the person remains subject to a second record check. However, if DHS previously evaluated the record and determined the record did not warrant prohibition of employment, a re-evaluation is not required if the following conditions are met:
    - The new position is the same as the old position
    - Any DHS restrictions from the previous position remain applicable
    - The employee either provides a physical copy of the evaluation or the previous hospital supplies it.
  - Even if the person meets the above criteria, the hospital can still request a re-evaluation.
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### Summary of Action

The House Human Resources Committee **PASSED** HF 550/HSB 152 on March 6, 2013 by a vote of 21-0.

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## Section by Section Analysis

### Section 1 – Hospital Employees – Criminal History and Abuse Record Checks

Section 135B.34, subsection 2 is amended. If a person is being considered for health care employment in a hospital and:

1. The employment does not involve operating a vehicle and
2. The person has been convicted of a simple misdemeanor or a first offense OWI and
3. The person does not have a record of founded child or dependent abuse and
4. The hospital has requested an evaluation to determine whether the crime warrants prohibition of the person's employment

If all of these criteria are met, the hospital may employ the person for not more than 60 days pending completion of the evaluation by DHS. If you have any kind of previous record of abuse, this exemption does not apply to you and you have to wait for the completion of the full evaluation before you begin employment. Therefore, this exemption applies to new employees that have a simple misdemeanor or OWI offense. They are able to be employed at the hospital for 60 days while their DHS evaluation is pending.

### Section 2

Amends section 135B.34, subsection 4. This section relates to people switching from employment at one facility to another. A person with a criminal or abuse record who is or was employed by a hospital and is hired by another hospital shall be subject to the current criminal history and abuse record checks. If there was an evaluation performed by DHS in the past and the evaluation resulted in a determination that the record did not warrant prohibition of the person's employment, the person can begin employment with the hospital.

A person does not have to be re-evaluated by DHS if all of the following are met:

1. The position with the subsequent employer is the same as their previous position
2. Restrictions placed on their employment in the previous evaluation by DHS are to remain the same in their new employment.
3. The person has maintained a copy of their previous DHS evaluation. If a copy of the previous evaluation is not provided to the subsequent employer, the record check will be re-evaluated.
4. The subsequent employer can request a re-evaluation of the record checks and can employ the person while the second evaluation is being performed.

### Section 3

This section applies to prospective employees of nursing facilities, residential care facilities, intermediate care facilities for persons with mental illness or a developmental disability, various in-home providers, hospice, Medicaid waiver service programs, elder group homes, and assisted living programs.

If a person is being considered for health care employment in one of these facilities and: the employment does not involve operating a vehicle, the person has been convicted of a simple misdemeanor or a first offense OWI, the person does not have a record of founded child or dependent abuse and the facility has requested an evaluation to determine whether the crime warrants prohibition of the person's employment, the facility can employ the person for 60 days pending completion of the evaluation.

### Section 4

Section 135C.33 is amended. The bill applies to students in clinical education setting which involves children or dependent adults.

### Section 5 – Study of Background Check Improvements and Requirements for Certain Providers of Home Health Services

DIA, IDPH and DHS shall study the potential for applying new technologies that may be implemented for the current process of performing and evaluating child and dependent adult abuse.

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## **Amendment Analysis**

### **H-1085 by Hunter**

1. The amendment removes the provisions in the bill that limits the time period for conditional employment to 60 days. This would mean that employees could be employed for as long as the hospital or nursing facility wanted.

### **H-1183 by Heaton – will be withdrawn**

### **H-1192 by Heaton**

1. Action 1 of the amendment is in section 5 of the bill. Currently in the bill, only DIA, DHS, and IDPH are allowed to study the potential for applying new technologies and other improvements. The amendment would change this to allow DHS, IDPH, DAS, and the Department of Public Safety to study the application of new technologies.
2. Action 2 of the amendment makes the bill effective upon enactment. The amendment also makes the bill apply retroactively to persons for whom a record check was requested not more than 60 calendar days prior to the effective date of this bill.
3. Action 3 of the amendment inserts “and including effective date and applicability provisions” to the title.
4. Action 4 is a technical change.