

BUILDING ON SUCCESS:

Lessons Learned from the Federal Background Check Pilot Program for Long-Term Care Workers

Executive Summary and Selected Major Findings

Prepared by the Majority Staff of the Senate Special Committee on Aging

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Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee.

Preface

It is with pride and urgency that I release this Senate Special Committee on Aging print describing the success of a pilot program to conduct background checks on long-term care workers. Over three years and in seven states, this pilot program prevented more than 9,500 applicants with a history of substantiated abuse or a violent criminal record from working with and preying upon frail elders and individuals with disabilities.

The states who participated in the pilot are all planning to continue with the background check programs they have put in place, and build upon the success of the technological infrastructure they have created.

The federal government needs to do the same, as the current system of state-based background checks is haphazard, inconsistent, and full of gaping holes. We should not allow the safety of our loved ones to depend on the state in which they live. Just think about how many more vulnerable older Americans could be protected if we expanded these programs to create a nationwide system of background checks.

I call on my colleagues to pass S. 1577, the Patient Safety and Abuse Prevention Act. Eleven years ago today, the first version of this bill was introduced in the U.S. Senate. Since then, multiple versions have been introduced in both the Senate and the House. The policy has been improved and tested, and with this report, the results are undeniable. The time to pass this legislation is past due. Thank you, on behalf of aging Americans, for considering the material in this report.

Herb Kohl
Chairman, U.S. Senate Special Committee on Aging

Executive Summary

As our population ages, elder abuse¹ is becoming a growing priority for policymakers. Studies vary, but conservative estimates are that elder abuse currently affects hundreds of thousands of seniors each year.² And although national surveys often exclude institutional settings such as nursing homes and adult day care centers, criminologists believe ample evidence exists to suggest that abuse in institutions is “extensive and alarming.”³

Background checks⁴ for job applicants have long been used as an important tool to help reduce the rates of abuse among vulnerable populations. For example, the National Child Protection Act enacted during the 1990s allows states to conduct background checks and suitability reviews of employees or volunteers of entities providing services to children, the elderly and disabled persons. At the state level, many states routinely require individuals seeking to work with children to undergo background checks as part of the pre-employment process. In 2002, a Government Accountability Office (GAO) report requested by members of the Senate Special Committee on Aging (Committee) recommended that individuals applying to work in long-term care settings also undergo background checks because the elderly, like children, are a highly vulnerable population.⁵

Nevertheless, there is still no federal law that requires long-term care providers to perform systematic, comprehensive background checks on employees who have direct patient access to vulnerable seniors. According to a 2006 study prepared for the Department of Health and Human Services, only a handful of states now require an FBI criminal history check for long-term care employees.⁶

In 2003, Congress authorized a pilot program under the Medicare Prescription Drug, Improvement and Modernization Act (MMA) to conduct background checks on workers in long-term care settings.⁷ This pilot program afforded states an opportunity to expand their existing background check programs in order to screen a wide range of long-term care workers working in a variety of settings, including the home, and to incorporate FBI criminal history checks. In addition, pilot programs were charged with identifying “efficient, effective, and economical procedures” for conducting comprehensive background checks in long-term care settings. The Centers for Medicare and Medicaid Services (CMS) administered this pilot program between 2005 and 2007, allocating a total of \$16.4 million over three years to fund background check pilot programs in seven states: Alaska, Idaho, Illinois, Michigan, Nevada, New Mexico, and Wisconsin.⁸

This Committee print analyzes state assessment reports from each of the seven state pilot programs and describes the principal lessons learned by state policymakers interested in furthering the gains made to implement more effective, efficient, and economical background check programs. In particular, this paper assesses (1) the success of comprehensive background check programs in identifying and barring people with criminal records from working in long-term care settings, (2) the improved efficiency of

integrated background check programs, and (3) the cost-saving potential of investing in improved background check technology.

The analysis finds that the MMA pilot program was successful in achieving its objectives. First and foremost, older Americans receiving long-term care services in these states are at lower risk of abuse: more than 9,500 applicants with a history of substantiated abuse or a serious criminal background have been barred from working in positions involving direct patient access. Second, better-integrated databases and electronic fingerprinting procedures have helped reduce background check processing time from several months to a few days. Third, investments in information technology (IT), such as a “rap back”⁹ system, helped some states reduce ongoing costs associated with conducting criminal history checks. Finally, all of the pilot states chose to continue their background check programs for long-term care workers at the end of the pilot period in September 2007.

Overall, the Committee concludes that the pilot program has been a success and recommends that similar background check programs be replicated in other states to reduce the risk of elder abuse in long-term care settings.

¹ The term “elder abuse” includes any criminal, physical, or emotional harm or other unethical action that negatively affects the physical, financial, or general well-being of an elderly person

² Colello, Kirsten. “Background on Elder Abuse Legislation and Issues.” *Congressional Research Service*. 25 January 2007.

³ Payne, Brian and Gainey, Randy. “The Criminal Justice Response to Elder Abuse in Nursing Homes: A Routine Activities Perspective.” *Western Criminology Review*. 7(3). 67-81 (2006).

⁴ In this report, the term “background check” refers to comprehensive pre-employment screening of long-term care workers using a combination of state-based registries, state-based criminal history checks (name-based, fingerprint-based, or both), and FBI criminal history checks (fingerprint-based).

⁵ U.S. Government Accountability Office, “Nursing Homes: More Can Be Done to Protect Residents from Abuse.” GAO-02-312. March 2002.

⁶ The Lewin Group. “Ensuring a Qualified Long-Term Care Workforce” Prepared for the Office of Disability, Aging and Long-Term Care Policy, Contract #HHS-100-03-0027

⁷ P.L. 108-173, the Medicare Prescription Drug, Improvement and Modernization Act, Section 307.

⁸ The MMA also included money for three states – Alaska, Michigan and Wisconsin – to conduct pilot programs in abuse prevention training for frontline direct care workers.

⁹ A rap back system is one in which any new crimes that an individual commits after an initial background check are flagged in the state’s database and reported back to the employer. Rap back systems can therefore avoid the cost of having to re-fingerprint individuals each time they change jobs.

Figure 1: Selected Major Findings

State	Effectiveness			Efficiency				Sustainability
	Number of applications screened	Number of applicants disqualified	Percent of applicants disqualified	Number of databases used	Electronic fingerprint system	Online access system for providers	Rap back system	Continued background check program after pilot
Alaska	24,204	477	2.0%	8	X	X	X	X
Idaho	21,446	645	3.0%	7	X	X		X
Illinois	6,315	197	3.1%*	6	X	X	X	X
Michigan	115,651	6932	6.0%	7	X	X	X	X
Nevada	27,875	349	1.3%*	5	X			X
New Mexico	13,145	269	2.0%*	6		X		X
Wisconsin	14,748	640	4.3%	6	X	X		X
Total	223,384	9,509	4.3%	6 (mean)	Most	Most	Some	ALL

* Illinois, Nevada, and New Mexico did not report the number of applicants disqualified by registry background checks, so the true percent of applicants disqualified by all background checks is greater than the percent reported.

Source: Final state reports submitted to the Senate Special Committee on Aging