



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: May 28, 2010

TO: All Members of the Delaware House of Representatives

FROM: Ms. Daniese McMullin-Powell *Dmcp/llc*
Chairperson
State Council for Persons with Disabilities

RE: S.B. 122 [DPC Employee Criminal Background Checks & Mandatory Drug Testing]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 122 regarding criminal background checks for employees at the Delaware Psychiatric Center (DPC). First, it would require an applicant for employment at DPC to undergo a criminal background check (lines 19-22 and 48-57). DHSS would establish, by regulation, the types of criminal convictions resulting in automatic disqualification from employment and, for other criminal convictions, the criteria for determining whether an applicant is unsuitable for employment at DPC (lines 25-28). Conditional hiring is authorized whenever exigent circumstances exist (lines 29-39). If DHSS believes an existing employee has been convicted of a disqualifying crime, a criminal background check would also be implemented (lines 64-66). Second, the bill would require an applicant for employment at DPC to undergo drug screening.(lines 68-69). Existing employees would also be subject to drug testing if DHSS has reasonable suspicion that an employee is impaired by an illegal drug (lines 70-71). An existing employee who fails a drug test could be suspended or terminated (lines 94-98).

SCPD endorses the proposed legislation which should result in an improved workforce at DPC. However, a few amendments should be considered.

First, although the synopsis suggests that the bill would only apply to persons “providing direct care to patients”, the text of the bill would apply to all DPC employees, even those not involved in direct care to patients (e.g. groundskeepers, maintenance staff, accountants). This discrepancy should be reconciled.

Second, in line 40, the word “of” is missing between the words “employment” and “any”.

Third, the reference to “disqualifying crime” on line 65 may be narrower than intended. Only some crimes are defined as “automatically disqualifying” in line 26. Convictions of other crimes may or may not be grounds for termination (lines 27-28). The sponsors may wish to amend line 65 by deleting “disqualifying crime” and substituting “crime within the scope of subsection (c) of this section.”

Thank you for your consideration and please contact SCPD if you have any questions regarding our position on the proposed legislation.

cc: The Honorable Jack A. Markell
Delaware State Senate
Ms. Debbie Gottschalk
Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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