



HB 131:

STRENGTHENS BACKGROUND CHECKS FOR
CAREGIVERS TO HELP ENSURE THE SAFETY OF THOSE
RECEIVING CARE AND SERVICES

THE FOLLOWING FELONY CONVICTIONS DISQUALIFY AN APPLICANT, CAREGIVER OR HOSPITAL CAREGIVER FROM EMPLOYMENT AS A CAREGIVER:



Homicide



Trafficking controlled substances



Kidnapping, false imprisonment, aggravated assault or aggravated battery, including aggravated battery of a household member



Rape or criminal sexual penetration



Criminal sexual contact, incest, indecent exposure or other related sexual offenses



Crimes involving adult abuse, neglect or financial exploitation



Crimes involving child abuse or neglect



Robbery, larceny, burglary, fraud, extortion, forgery, embezzlement, credit card fraud or receiving stolen property



An attempt, solicitation or conspiracy involving any of the felonies in this subsection



Human trafficking



Assault of a peace officer



Identity theft



Cruelty to animals



The healthcare authority may disqualify an applicant, caregiver or hospital care giver from employment if they pose an *unreasonable risk* to care recipients.

unreasonable risk: A risk that is considered unacceptable due to its magnitude or potential harm. It occurs when an activity or exposure poses a danger that outweighs its utility or benefit. <https://dictionary.cambridge.org/us/dictionary/english/>

In determining whether a person poses an unreasonable risk as a caregiver, the health care authority will assess the totality of the circumstances using reasonable reliable information, such as court records.



The health care authority may only find that an applicant, caregiver or hospital caregiver poses an unreasonable risk if the preponderance of the evidence establishes an unreasonable risk due to the applicant, caregiver or hospital caregiver having:



Two or more convictions related to abuse, neglect or exploitation within the past ten years, regardless of the degree of the crime.

OR

A single conviction or pending charges, regardless of the degree of the crime, if the crime is related to:

- 1) abuse, neglect or exploitation of a care recipient
- 2) human trafficking
- 3) criminal sexual penetration or related sexual offenses
- 4) battery of a household member
- 5) child abuse



The burden of proof is on the health care authority to demonstrate unreasonable risk by a preponderance of the evidence.

An applicant, caregiver or hospital caregiver shall have the right to judicial review of any final decision made by the health care authority.

