

HOUSE BILL 18

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HB 801/98 - ENV

1999 Regular Session
9lr0388

(PRE-FILED)

By: **Delegate Hammen**
Requested: October 14, 1998
Introduced and read first time: January 13, 1999
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Adult Dependent Care Programs - National Criminal History Records**
3 **Checks**

4 FOR the purpose of altering a certain provision of law to include an additional
5 requirement that certain persons apply for and obtain a national criminal
6 history records check of certain individuals who work or have direct access to
7 certain other individuals in an Adult Dependent Care Program; requiring an
8 Adult Dependent Care Program to pay for the national criminal history records
9 check; specifying the manner in which and the type of information that may be
10 recorded on a certain statement and the manner in which the statement may be
11 distributed; and generally relating to altering a certain provision of law to
12 include an additional requirement that certain persons apply for and obtain a
13 national criminal history records check of certain individuals under certain
14 circumstances.

15 BY repealing and reenacting, with amendments,
16 Article - Health - General
17 Section 19-1902, 19-1904, and 19-1907
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1998 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Health - General**

23 19-1902.

24 (a) (1) Before an eligible employee may begin work for an adult dependent
25 care program, each adult dependent care program shall, for each eligible employee,
26 APPLY FOR:

27 [(1) (i) Apply for a State criminal history records check; or

1 (ii) Request a private agency to conduct a background check; and

2 (2) Request a reference from the potential employee's most recent
3 employer.]

4 (I) A NATIONAL CRIMINAL HISTORY RECORDS CHECK AT THE
5 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE
6 DEPARTMENT; AND

7 (II) A STATE CRIMINAL HISTORY RECORDS CHECK AT THE
8 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE
9 DEPARTMENT.

10 (2) AN ADULT DEPENDENT CARE PROGRAM MAY REQUEST A PRIVATE
11 AGENCY TO CONDUCT A BACKGROUND CHECK.

12 (3) IN ADDITION TO PARAGRAPH (1) OF THIS SUBSECTION, AN ADULT
13 DEPENDENT CARE PROGRAM SHALL REQUEST A REFERENCE FROM THE POTENTIAL
14 EMPLOYEE'S MOST RECENT EMPLOYER.

15 (b) The reference request required under subsection [(a)(2)] (A)(3) of this
16 section shall, at a minimum, seek information about any history of physical abuse on
17 the part of the potential employee.

18 (c) An adult dependent care program shall pay for each eligible employee:

19 (1) [A State criminal history records check; or

20 (2)] A NATIONAL CRIMINAL HISTORY RECORDS CHECK;

21 (2) A STATE CRIMINAL HISTORY RECORDS CHECK; AND

22 (3) [A] IF REQUESTED BY THE ADULT DEPENDENT CARE PROGRAM, A
23 private agency background check.

24 19-1904.

25 (a) As part of the application for BOTH a NATIONAL AND A STATE criminal
26 history records check TO BE CONDUCTED BY THE DEPARTMENT, an eligible employee
27 shall submit to the Adult Dependent Care Program:

28 (1) Except as provided in subsection (c) of this section, a complete set of
29 legible fingerprints taken on forms specified by the Director of the Criminal Justice
30 Information System Central Repository OR THE DIRECTOR OF THE FEDERAL BUREAU
31 OF INVESTIGATION; and

32 (2) The disclosure statement required under § 19-1905 of this subtitle.

33 (b) The Adult Dependent Care Program shall submit the fingerprints,
34 disclosure statement, and payment for the costs of the criminal history records check.

1 (c) The requirement that a complete set of legible fingerprints taken on forms
2 specified by the Director of the Criminal Justice Information System Central
3 Repository OR THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION be
4 submitted as part of the application for a criminal history records check may be
5 waived by the Department if:

6 (1) The eligible employee has attempted to have a complete set of
7 fingerprints taken on at least [three] TWO occasions;

8 (2) The taking of a complete set of legible fingerprints is not possible
9 because of a physical or medical condition of the eligible employee's fingers or hands;

10 (3) The eligible employee submits documentation satisfactory to the
11 Department of the requirements of this subsection; and

12 (4) The eligible employee submits the other information required for a
13 criminal history records check TO BE CONDUCTED BY THE DEPARTMENT AS PART OF
14 THE APPLICATION PROCESS.

15 19-1907.

16 (a) (1) The Department shall conduct the criminal history records check and
17 issue the printed statement provided for under this subtitle.

18 (2) The Department shall update an initial criminal history records
19 check and issue a revised printed statement, listing any of the convictions or pending
20 charges occurring in the State after the date of the initial criminal history records
21 check.

22 (3) THE DEPARTMENT SHALL PROVIDE AN INITIAL AND A REVISED
23 STATEMENT OF AN ELIGIBLE EMPLOYEE'S STATE CRIMINAL RECORD TO THE
24 RECIPIENTS OF THE ACKNOWLEDGMENTS SPECIFIED IN § 19-1905(B) OF THIS
25 SUBTITLE.

26 (4) The Department shall adopt regulations requiring employers to
27 verify periodically the continuing employment of an employee.

28 (B) (1) FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK, THE
29 DEPARTMENT SHALL:

30 (I) RECORD ON A PRINTED STATEMENT THE EXISTENCE OF A
31 CONVICTION OR PENDING CHARGE REPORTED IN THE CRIMINAL HISTORY RECORD
32 INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION
33 IDENTIFICATION DIVISION; AND

34 (II) DISTRIBUTE THE PRINTED STATEMENT IN ACCORDANCE WITH
35 FEDERAL LAW AND REGULATIONS ON DISSEMINATION OF FEDERAL BUREAU OF
36 INVESTIGATION IDENTIFICATION RECORDS AND THIS SUBTITLE.

1 (2) THE RECORDING OF THE EXISTENCE OF A CONVICTION OR PENDING
2 CHARGE CONTAINED IN THE CRIMINAL HISTORY RECORD INFORMATION RECEIVED
3 FROM THE FEDERAL BUREAU OF INVESTIGATION IDENTIFICATION DIVISION UNDER
4 PARAGRAPH (1) OF THIS SUBSECTION:

5 (I) MAY NOT IDENTIFY OR DISCLOSE TO A PRIVATE ENTITY THE
6 SPECIFIC CRIME OR ATTEMPTED CRIME IN THE ELIGIBLE EMPLOYEE'S CRIMINAL
7 HISTORY RECORD; AND

8 (II) SHALL DISCLOSE TO A PRIVATE ENTITY THE EXISTENCE OF A
9 CONVICTION OR PENDING CHARGES FOR ANY OF THE CRIMES, ATTEMPTED CRIMES,
10 OR A CRIMINAL OFFENSE THAT IS EQUIVALENT TO THOSE ENUMERATED IN
11 REGULATIONS ADOPTED BY THE DEPARTMENT.

12 [(b)] (3) [The] ON COMPLETION OF A NATIONAL CRIMINAL HISTORY
13 RECORDS CHECK OF AN ELIGIBLE EMPLOYEE UNDER THIS SUBTITLE, THE
14 Department shall provide a printed statement [of the eligible employee's state
15 criminal record] to the recipients of the acknowledgments specified in § 19-1905(b) of
16 this subtitle.

17 (c) Information obtained from the Department or a private agency under this
18 subtitle shall be confidential and may be disseminated only to the eligible employee
19 who is the subject of the criminal history records check or private agency background
20 check and to an adult dependent care program seeking to hire the eligible employee.

21 (d) Information obtained from the Department or a private agency under this
22 subtitle may not:

23 (1) Be used for any purpose other than that for which it was
24 disseminated; or

25 (2) Be redisseminated.

26 (e) Information obtained from the Department or a private agency under this
27 subtitle shall be maintained in a manner to insure the security of the information.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 1999.