

SENATE BILL 432

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4r1697
CF HB 532

By: **Senators Pugh, Benson, Conway, Feldman, Jones-Rodwell, Middleton, Montgomery, and Stone**

Introduced and read first time: January 24, 2014

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 2014

CHAPTER _____

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Plan for Creation and**
3 **Implementation of a Database of Direct Access Employees ~~– Establishment~~**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to
5 ~~establish a database of direct access employees; requiring the database to~~
6 ~~include certain information on all direct access employees in the State;~~
7 ~~establishing the purpose of the database; requiring each adult dependent care~~
8 ~~program to submit to the Department, for inclusion in the database, certain~~
9 ~~information on each newly hired direct access employee and periodically update~~
10 ~~the information; requiring the Department to establish, by regulation, the form,~~
11 ~~manner, and deadlines for the submissions and periodic updates; requiring each~~
12 ~~adult dependent care program to obtain employment history from the database~~
13 ~~before the adult dependent care program hires an individual for a certain~~
14 ~~position; authorizing an adult dependent care program to obtain employment~~
15 ~~history from the database for individuals who already hold a certain position;~~
16 ~~requiring the Department to establish, by regulation, procedures an adult~~
17 ~~dependent care program may use to obtain employment history from the~~
18 ~~database; defining certain terms~~ develop a plan, with the input of stakeholders,
19 for the creation and implementation of a database in the Department of certain
20 direct access employees for a certain purpose; requiring the Department to
21 examine certain matters in developing the plan; requiring the Department to
22 submit the plan to certain legislative committees on or before the date; defining
23 certain terms; and generally relating to a database of direct access employees in
24 the Department of Health and Mental Hygiene.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~BY repealing and reenacting, without amendments,~~
 2 ~~Article — Health — General~~
 3 ~~Section 19-1901(b)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2009 Replacement Volume and 2013 Supplement)~~

6 ~~BY adding to~~
 7 ~~Article — Health — General~~
 8 ~~Section 19-19A-01 through 19-19A-04 to be under the new subtitle “Subtitle~~
 9 ~~19A. Database of Direct Access Employees”~~
 10 ~~Annotated Code of Maryland~~
 11 ~~(2009 Replacement Volume and 2013 Supplement)~~

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

14 ~~Article — Health — General~~

15 ~~19-1901.~~

16 (b) ~~“Adult dependent care program” means:~~

17 (1) ~~An adult day care facility regulated under Title 14, Subtitle 2 of~~
 18 ~~this article;~~

19 (2) ~~An assisted living program facility regulated under Subtitle 18 of~~
 20 ~~this title;~~

21 (3) ~~A group home regulated under Title 10, Subtitle 5 or Title 7,~~
 22 ~~Subtitle 6 of this article;~~

23 (4) ~~A home health agency regulated under Subtitle 4 of this title;~~

24 (5) ~~A congregate housing services program regulated under Title 10,~~
 25 ~~Subtitle 2 of the Human Services Article;~~

26 (6) ~~A residential service agency as defined under § 19-4A-01 of this~~
 27 ~~title;~~

28 (7) ~~An alternative living unit as defined under § 7-101 of this article;~~

29 (8) ~~A hospice facility regulated under Subtitle 9 of this title; or~~

30 (9) ~~A related institution regulated under Subtitle 3 of this title.~~

31 ~~SUBTITLE 19A. DATABASE OF DIRECT ACCESS EMPLOYEES.~~

1 ~~19 19A 01.~~

2 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
3 ~~INDICATED.~~

4 ~~(B) "ADULT DEPENDENT CARE PROGRAM" HAS THE MEANING STATED~~
5 ~~IN § 19 1901 OF THIS TITLE.~~

6 ~~(C) "DATABASE" MEANS THE DATABASE OF DIRECT ACCESS~~
7 ~~EMPLOYEES ESTABLISHED UNDER § 19 19A 02 OF THIS SUBTITLE.~~

8 ~~(D) "DIRECT ACCESS EMPLOYEE" MEANS AN INDIVIDUAL WHO:~~

9 ~~(1) FOR COMPENSATION, WORKS FOR AN ADULT DEPENDENT~~
10 ~~CARE PROGRAM; AND~~

11 ~~(2) HAS ROUTINE DIRECT ACCESS TO DEPENDENT ADULTS IN THE~~
12 ~~ADULT DEPENDENT CARE PROGRAM.~~

13 ~~19 19A 02.~~

14 ~~(A) THE DEPARTMENT SHALL ESTABLISH A DATABASE OF DIRECT~~
15 ~~ACCESS EMPLOYEES IN THE DEPARTMENT.~~

16 ~~(B) THE DATABASE SHALL INCLUDE THE NAME, OTHER IDENTIFYING~~
17 ~~INFORMATION, AND EMPLOYMENT HISTORY OF ALL DIRECT ACCESS EMPLOYEES~~
18 ~~IN THE STATE.~~

19 ~~(C) THE PURPOSE OF THE DATABASE IS TO ENABLE ADULT DEPENDENT~~
20 ~~CARE PROGRAMS TO OBTAIN EMPLOYMENT HISTORY ON INDIVIDUALS SEEKING~~
21 ~~OR HOLDING A POSITION AS A DIRECT ACCESS EMPLOYEE.~~

22 ~~19 19A 03.~~

23 ~~(A) EACH ADULT DEPENDENT CARE PROGRAM SHALL:~~

24 ~~(1) SUBMIT TO THE DEPARTMENT FOR INCLUSION IN THE~~
25 ~~DATABASE THE NAME, OTHER IDENTIFYING INFORMATION, AND EMPLOYMENT~~
26 ~~HISTORY WITH THE ADULT DEPENDENT CARE PROGRAM OF EACH~~
27 ~~NEWLY HIRED DIRECT ACCESS EMPLOYEE; AND~~

28 ~~(2) PERIODICALLY UPDATE THE INFORMATION REQUIRED UNDER~~
29 ~~ITEM (1) OF THIS SUBSECTION.~~

~~(B) THE DEPARTMENT SHALL ESTABLISH, BY REGULATION, THE FORM, MANNER, AND DEADLINES FOR THE SUBMISSIONS AND PERIODIC UPDATES.~~

~~19-19A-04.~~

~~(A) EACH ADULT DEPENDENT CARE PROGRAM SHALL OBTAIN EMPLOYMENT HISTORY FROM THE DATABASE BEFORE THE ADULT DEPENDENT CARE PROGRAM HIRES AN INDIVIDUAL FOR A POSITION AS A DIRECT ACCESS EMPLOYEE.~~

~~(B) AN ADULT DEPENDENT CARE PROGRAM MAY OBTAIN EMPLOYMENT HISTORY FROM THE DATABASE FOR INDIVIDUALS WHO ALREADY HOLD A POSITION AS A DIRECT ACCESS EMPLOYEE WITH THE ADULT DEPENDENT CARE PROGRAM.~~

~~(C) THE DEPARTMENT SHALL ESTABLISH, BY REGULATION, PROCEDURES AN ADULT DEPENDENT CARE PROGRAM MAY USE TO OBTAIN EMPLOYMENT HISTORY FROM THE DATABASE.~~

(a) (1) In this section, the following words have the meanings indicated.

(2) “Adult dependent care program” has the meaning stated in § 19-1901 of the Health – General Article.

(3) “Direct access employee” means an individual who:

(i) for compensation, works for an adult dependent care program; and

(ii) has routine direct access to dependent adults in the adult dependent care program.

(b) (1) The Department of Health and Mental Hygiene shall develop a plan, with the input of stakeholders, for the creation and implementation of a database in the Department of direct access employees to enable adult dependent care programs to obtain the employment history of individuals seeking or holding a position as a direct access employee.

(2) In developing the plan under this subsection, the Department shall address:

(i) the technology needed to establish the database, including a cost estimate for the development of the technology;

(ii) the procedures for how employers would input information into the database and obtain employment history from the database for individuals

1 seeking employment, including procedures for maintaining the security of information
2 input into or obtained from the database;

3 (iii) the costs associated with creating and maintaining the
4 database, including the number of Department employees this will require;

5 (iv) which unit within the Department would be responsible for
6 the database;

7 (v) the type of employers that should be required to input
8 employee information into the database and access the database to obtain employment
9 history;

10 (vi) the type of identifying information that should be included
11 in the database;

12 (vii) the expectations for employers if a prospective employer
13 contacts the previous employer, including any potential liability for disclosure of
14 disciplinary actions or adverse employment decisions;

15 (viii) whether all employees with direct access to dependent
16 adults should be included in the database, or whether the database should include
17 only those employees who are not licensed or certified by a health occupations board;
18 and

19 (ix) options for implementing the database, including whether a
20 phase-in approach for implementation should be adopted, and when employers should
21 begin to input information into and access information from the database.

22 (c) On or before December 1, 2014, the Department, in accordance with §
23 2-1246 of the State Government Article, shall submit the plan required under
24 subsection (b) of this section to the Senate Finance Committee and the House Health
25 and Government Operations Committee.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 ~~October~~ July 1, 2014.