

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 253 (Senator Collins)
Finance

Referred to Environmental Matters

Adult Dependent Care Programs -
Criminal History Records Checks and Background Checks

This enrolled bill requires adult dependent care programs to obtain specified information about the background of people they hire. In addition, it provides immunity from civil or criminal liability for programs that use the information or provide job references in good faith.

The bill requires relevant trade associations to report to the Senate Finance and House Environmental Matters Committees on implementation of this bill by February 1, 1997. The bill is effective July 1, 1996.

Fiscal Summary

State Effect: Increase in criminal record check and fingerprinting expenditures, offset by cost recovery fees. Potential increase in general fund expenditures and federal fund revenues for Medicaid.

Local Effect: Potential indeterminate increase in revenues and expenditures. **This bill places a mandate on a unit of local government.**

Fiscal Analysis

Bill Summary: The bill requires an employer to obtain a criminal history records check or a “background check” from a private agency. The bill also requires that adult dependent care programs obtain a job reference from a potential employee’s most recent employer. An employer providing a reference under this requirement may not be held liable for disclosing information unless the employer acts in bad faith.

Background: The Data Services Division (DSD) of the Department of Public Safety and Correctional Services provides criminal history records checks. A check of Maryland records costs \$18. There are 23,000 people on the geriatric care nursing assistant registry. In addition, there may be an additional 25,000 nursing assistants involved in geriatric care.

State Effect: It is assumed that most (90%) employers will obtain background information from the DSD as a fingerprint-supported record check through DSD is the only way of obtaining complete and accurate criminal history information in the State. In addition, only the DSD has a system in place to automatically notify employers if an employee is arrested for a relevant offense and to verify continuing employment. Further assuming 15% turnover in geriatric nursing assistants and other nursing assistants involved in geriatric care, the DSD would process 4,860 requests for Maryland criminal history record checks in fiscal 1997 and collect \$87,480 in revenues, accounting for the October 1 effective date. The DSD would collect \$116,640 in revenues for 6,480 background checks on an annual basis. As the fee for the records check is set to recover costs, general fund expenditures would increase by a similar amount.

The bill requires that employers pay for criminal record or background checks. The Department of Health and Mental Hygiene estimates that 65% of nursing home costs are paid by Medicaid, meaning expenditures could increase. Any such increase would depend on the ability of a facility to pass these costs on to the State. These Medicaid expenditures would be partially offset by federal fund revenues, as the federal government funds 50% of Medicaid. The federal government is considering a cap on Medicaid funding which could lead to a higher proportion of the cost coming from State general funds.

The Department of State Police charges a \$10 fee to offset the cost of taking fingerprints. Assuming 10% of potential employees have their fingerprints taken by the State Police, general fund revenues and expenditures could increase by \$4,860 in fiscal 1997 and \$6,480 annually.

General fund revenues and expenditures could increase under the bill's penalty provisions, depending upon the number of convictions and resulting fines and sentence imposed. Fines imposed by the District Court go to the general fund. Persons serving a sentence of one year or less are sentenced to local detention facilities. The State reimburses counties for part of the per diem rate after a person has served 90 days. Per diem reimbursement rates are expected to range from \$10 to \$48 in fiscal 1997.

Local Effect: For jurisdictions that operate facilities or programs with employees that would be required to have background checks under this bill, expenditures could increase. Any increase would depend on the number of local employees and the amount of reimbursement from State or federal programs such as Medicare or Medicaid.

Local police departments charge varying fees for fingerprinting. Revenue and expenditure

increases will vary, depending upon the fee charged and the number of employees who have fingerprints taken by each department.

Information Source(s): Department of Public Safety and Correctional Services (Data Services Division), Department of State Police, Somerset County, Judiciary (Administrative Office of the Courts), Department of Fiscal Services

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