
By: **Delegates Hammen and Gordon**
Introduced and read first time: February 12, 1998
Assigned to: Environmental Matters

Committee Report: Favorable
House action: Adopted
Read second time: March 10, 1998

CHAPTER _____

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 1997 Supplement)

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

1

Article - Health - General

2 19-1902.

3 (a) (1) Before an eligible employee may begin work for an adult dependent
4 care program, each adult dependent care program shall, for each eligible employee,
5 APPLY FOR:

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

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

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

10 (I) A NATIONAL CRIMINAL HISTORY RECORDS CHECK AT THE
11 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE
12 DEPARTMENT; AND

13 (II) A STATE CRIMINAL HISTORY RECORDS CHECK AT THE
14 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE
15 DEPARTMENT.

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

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

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

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

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

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

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

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

30 19-1904.

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

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

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

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

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

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

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

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

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

22 19-1907.

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

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

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

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

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

1 (I) RECORD ON A PRINTED STATEMENT THE EXISTENCE OF A
2 CONVICTION OR PENDING CHARGE REPORTED IN THE CRIMINAL HISTORY RECORD
3 INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION
4 IDENTIFICATION DIVISION; AND

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

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

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

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

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

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

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

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

32 (2) Be redisseminated.

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

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1998.

