
By: **Senators Collins and Middleton**
Introduced and read first time: February 5, 1999
Assigned to: Finance

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; repealing the option of an adult dependent care program to request
12 a private agency to conduct a background check; making conforming changes;
13 and generally relating to altering a certain provision of law to include an
14 additional requirement that certain persons apply for and obtain a national
15 criminal history records check of certain individuals under certain
16 circumstances.

17 BY repealing and reenacting, with amendments,
18 Article - Health - General
19 Section 19-1902, 19-1904, and 19-1907
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1998 Supplement)

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

24 **Article - Health - General**

25 19-1902.

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

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

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

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

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

18 (2)] A NATIONAL CRIMINAL HISTORY RECORDS CHECK; AND

19 (2) A STATE CRIMINAL HISTORY RECORDS CHECK. [A private agency
20 background check.]

21 19-1904.

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

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

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

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

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

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

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

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

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

10 19-1907.

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

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

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

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

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

25 (I) RECORD ON A PRINTED STATEMENT THE EXISTENCE OF A
26 CONVICTION OR PENDING CHARGE REPORTED IN THE CRIMINAL HISTORY RECORD
27 INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION
28 IDENTIFICATION DIVISION; AND

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

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

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

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

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

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

18 (d) Information obtained from the Department [or a private agency] under
19 this subtitle may not:

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

22 (2) Be redisseminated.

23 (e) Information obtained from the Department [or a private agency] under
24 this subtitle shall be maintained in a manner to insure the security of the
25 information.

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