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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 26, 1999

CHAPTER _____

1 AN ACT concerning

2 **Adult Dependent Care Programs - ~~National~~ State Criminal History Records**
3 **Checks and Private Agency Background 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~~ requiring a private agency, if an adult dependent care program
17 requests a background check, to conduct a check in certain states under certain
18 circumstances; requiring the Department of Public Safety and Correctional
19 Services to provide a certain statement to certain persons; defining a certain
20 term; and generally relating to State criminal history records checks and private
21 agency background checks for individuals seeking employment with an adult
22 dependent care program.

23 BY repealing and reenacting, with amendments,
24 Article - Health - General
25 Section 19-1901(h), 19-1902, 19-1904, and 19-1907
26 Annotated Code of Maryland

1 (1996 Replacement Volume and 1998 Supplement)

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

4 **Article - Health - General**

5 19-1901.

6 (h) "Private [entity" means any individual or business who is not an employer,
7 as defined in this section] AGENCY" MEANS A PERSON THAT:

8 (1) IS LICENSED AS A PRIVATE DETECTIVE AGENCY UNDER TITLE 13,
9 SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE;

10 (2) MAINTAINS AN ERRORS AND OMISSIONS INSURANCE POLICY IN AN
11 AMOUNT NOT LESS THAN \$1,000,000;

12 (3) OFFERS CUSTOMER ASSISTANCE IN THE USE OF BACKGROUND
13 CHECKS FOR EMPLOYMENT PURPOSES; AND

14 (4) IS CAPABLE OF CONDUCTING A BACKGROUND CHECK WITHIN THE
15 STATE WITHIN 2 WORKING DAYS OF A REQUEST AND OUTSIDE THE STATE WITHIN 5
16 WORKING DAYS OF A REQUEST.

17 19-1902.

18 (a) (4) Before an eligible employee may begin work for an adult dependent
19 care program, each adult dependent care program shall, for each eligible employee,
20 ~~APPLY FOR:~~

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

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

23 (2) Request a reference from the potential employee's most recent
24 employer.}

25 (I) ~~A NATIONAL CRIMINAL HISTORY RECORDS CHECK AT THE~~
26 ~~CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE~~
27 ~~DEPARTMENT; AND~~

28 (II) ~~A STATE CRIMINAL HISTORY RECORDS CHECK AT THE~~
29 ~~CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE~~
30 ~~DEPARTMENT.~~

31 (2) ~~IN ADDITION TO PARAGRAPH (1) OF THIS SUBSECTION, AN ADULT~~
32 ~~DEPENDENT CARE PROGRAM SHALL REQUEST A REFERENCE FROM THE POTENTIAL~~
33 ~~EMPLOYEE'S MOST RECENT EMPLOYER.~~

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

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

5 (1) ~~{A State criminal history records check; or~~

6 (2) ~~A NATIONAL CRIMINAL HISTORY RECORDS CHECK; AND~~

7 ~~(2) A STATE CRIMINAL HISTORY RECORDS CHECK. {A private agency~~
 8 ~~background check.}~~

9 (D) IF AN ADULT DEPENDENT CARE PROGRAM REQUESTS A PRIVATE AGENCY
 10 TO CONDUCT A BACKGROUND CHECK, THE PRIVATE AGENCY SHALL CONDUCT A
 11 BACKGROUND CHECK IN EACH STATE IN WHICH THE ADULT DEPENDENT CARE
 12 PROGRAM KNOWS OR HAS REASON TO KNOW THE ELIGIBLE EMPLOYEE WORKED OR
 13 RESIDED DURING THE PAST 7 YEARS.

14 19-1904.

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

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

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

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

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

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

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

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

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

4 19-1907.

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

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

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

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

17 ~~(B) (1) FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK, THE~~
18 ~~DEPARTMENT SHALL:~~

19 ~~(I) RECORD ON A PRINTED STATEMENT THE EXISTENCE OF A~~
20 ~~CONVICTION OR PENDING CHARGE REPORTED IN THE CRIMINAL HISTORY RECORD~~
21 ~~INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION~~
22 ~~IDENTIFICATION DIVISION; AND~~

23 ~~(II) DISTRIBUTE THE PRINTED STATEMENT IN ACCORDANCE WITH~~
24 ~~FEDERAL LAW AND REGULATIONS ON DISSEMINATION OF FEDERAL BUREAU OF~~
25 ~~INVESTIGATION IDENTIFICATION RECORDS AND THIS SUBTITLE.~~

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

30 ~~(I) MAY NOT IDENTIFY OR DISCLOSE TO A PRIVATE ENTITY THE~~
31 ~~SPECIFIC CRIME OR ATTEMPTED CRIME IN THE ELIGIBLE EMPLOYEE'S CRIMINAL~~
32 ~~HISTORY RECORD; AND~~

33 ~~(II) SHALL DISCLOSE TO A PRIVATE ENTITY THE EXISTENCE OF A~~
34 ~~CONVICTION OR PENDING CHARGES FOR ANY OF THE CRIMES, ATTEMPTED CRIMES,~~
35 ~~OR A CRIMINAL OFFENSE THAT IS EQUIVALENT TO THOSE ENUMERATED IN~~
36 ~~REGULATIONS ADOPTED BY THE DEPARTMENT.~~

37 ~~{(b)} (3) {The} ON COMPLETION OF A NATIONAL CRIMINAL HISTORY~~
38 ~~RECORDS CHECK OF AN ELIGIBLE EMPLOYEE UNDER THIS SUBTITLE, THE~~

1 Department shall provide a printed statement {of the eligible employee's state
2 criminal record} to the recipients of the acknowledgments specified in § 19-1905(b) of
3 this subtitle.

4 (c) Information obtained from the Department {for a private agency} under
5 this subtitle shall be confidential and may be disseminated only to the eligible
6 employee who is the subject of the criminal history records check {for private agency
7 background check} and to an adult dependent care program seeking to hire the
8 eligible employee.

9 (d) Information obtained from the Department {for a private agency} under
10 this subtitle may not:

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

13 (2) Be redisseminated.

14 (e) Information obtained from the Department {for a private agency} under
15 this subtitle shall be maintained in a manner to insure the security of the
16 information.

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