

Department of Legislative Services  
Maryland General Assembly  
1999 Session

**FISCAL NOTE**  
**Revised**

Senate Bill 567 (Senators Collins and Middleton)

Finance

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**Adult Dependent Care Programs - State Criminal History Records Checks and  
Private Agency Background Checks**

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This bill requires a “private agency”, if requested by an adult dependent care program to conduct a background check for a prospective employee, to conduct the check in each state in which there is reason to believe that the prospective employee worked or resided during the past seven years. It imposes certain requirements on a private agency that conducts background checks on employees of adult dependent care programs, such as licensure and insurance coverage.

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**Fiscal Summary**

**State Effect:** Potential increase in general and federal fund expenditures for those adult dependent care programs reimbursed by Medicaid or State community service programs. Potential increase in State criminal record check and fingerprinting expenditures which would be offset by cost recovery fees, unless the volume of additional record checks reached 10,000.

**Local Effect:** Potential indeterminate increase in revenues and expenditures.

**Small Business Effect:** Minimal.

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**Fiscal Analysis**

**Background:** An “adult dependent care program” is defined in Health-General Article 19-901 as various facilities regulated by State law. These facilities include adult day care facilities, assisted living facilities, group homes, home health agencies, congregate housing services, residential service agencies, alternative living units, hospice facilities, and nursing homes.

**State Effect:** There are approximately 26,600 employee applications for adult dependent care programs on an annual basis. This estimate reflects the number of background checks currently done by private firms as well as State criminal history record checks conducted by the Criminal Justice Information System (CJIS) Central Repository.

Adult dependent care programs pay an average of \$14 for a Maryland private background check. Two provisions of the bill could result in increased costs for private agency background checks. First, the bill imposes requirements that a private agency must meet in order to be able to conduct background checks on employees of adult dependent care programs. Private agency background check costs could increase to the extent that a private agency does not currently meet these requirements. Second, the bill requires a background check in each state in which there is reason to believe that a prospective employee lived or worked during the past seven years. A multi-state check would entail additional costs of around \$10 to \$20 per state. Therefore, costs to adult dependent care programs that use a private agency for background checks could increase by a significant amount, depending on the number of applicants who have lived in other states and the number of other states. Any increased fiscal impact would be mitigated by the fact that some adult dependent care programs are already paying for multi-state background checks.

Accordingly, State costs could increase to the extent that some of the additional adult dependent care facility costs are passed on to the State. The Department of Health and Mental Hygiene (DHMH) estimates that 65% of nursing home costs are paid by Medicaid. In addition, DHMH provides funding for community services programs such as adult dependent care programs. Medicaid expenditures are 50% general funds and 50% federal funds. The Department of Aging provides funds to support virtually all the costs for senior care and approximately 56% of the costs for congregate housing.

Current law requires either a State criminal history records check or a private agency background check. CJIS provides criminal history records checks at a cost of \$18. In addition, fingerprinting costs \$10 per person if done by the Department of Public Safety and Correctional Services (DPSCS) or the Department of State Police. Local police departments charge varying fees for fingerprinting.

The number of adult dependent care programs that use a State criminal history record check as opposed to a private agency background check could increase to the extent that the cost for a private agency background check rises. State expenditures would not be affected if the bill results in fewer than 10,000 additional criminal history records checks because the cost is borne by the adult dependent care programs. However, more than 10,000 additional records checks would result in increased one-time expenditures of

\$179,000 for purchase of a new fingerprint matcher workstation (\$154,000) and additional

computer programming (\$25,000).

**Local Effect:** For jurisdictions that operate facilities or programs with adult dependent care program employees and use a private agency for background checks, expenditures could increase due to a higher amount per applicant for the cost of a private agency background check. The additional amount would depend on whether private agencies currently meet the bill's requirements, the number of applicants who have lived in other states, and the number of other states. This effect would be mitigated, however, to the extent that additional costs could be passed on to the State, which provides funding for community services programs, or that the local jurisdiction chooses to use a State criminal history records check.

**Small Business:** The bill could adversely affect small business adult dependent care program providers that use a private agency for background checks because they could be charged a higher amount per applicant for the cost of a background check. The additional amount would depend on whether private agencies currently meet the bill's requirements, the number of applicants who have lived in other states, and the number of other states. This effect would be mitigated, however, to the extent that additional costs could be passed on to the State, which provides funding for community services programs, or that the adult dependent care program chooses to use a State criminal history records check.

**Additional Comments:** Federal law (P.L. 105-277) enacted in 1998 authorizes a nursing home or home health care agency to submit a request to the U.S. Attorney General to conduct a criminal background check on applicants for employment who would have direct patient contact. The Attorney General is authorized to charge up to \$50 to search the FBI's records.

The Office of Inspector General (OIG) of the U.S. Department of Health and Human Services found in a September 1998 report that states use a patchwork of measure to identify individuals who pose a possible threat to residents of long-term care facilities. The Inspector General's report recommends that the Health Care Financing Administration (HCFA) consider establishing federal requirements and criteria for performing criminal background checks and assisting in the development of a national abuse registry. As part of the report, OIG conducted a random survey of 1,000 employees at eight Maryland nursing homes between 1996 and 1998. Approximately 5% of workers were found to have criminal records.

In addition, there could be an indeterminate effect on small business private agencies that conduct background checks for adult dependent care programs. They could be adversely affected to the extent that a private agency does not currently meet the bill's licensure or insurance requirements or that an adult dependent care program chooses to use a State criminal history records check. However, a private agency could be favorably affected by

the bill's requirements concerning multi-state background checks.

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**Information Source(s):** Department of Public Safety and Correctional Services (Information Technology and Communications Division); Department of Health and Mental Hygiene (Licensing and Certification Administration, Mental Hygiene Administration); Department of Human Resources; Department of Aging; Maryland State Police; Department of Legislative Services; U.S. Department of Health and Human Services, *Safeguarding Long-Term Care Residents*, September 1998; Federal Bureau of Investigation (Criminal Justice Information Services Division); National Conference of State Legislatures; Mid-Atlantic Non-Profit Health and Housing Association; Health Facilities Association of Maryland; Background America Inc.; Borg-Warner Security Corporation

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