

HOUSE BILL 829

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2000 Regular Session
0lr0757

By: **Delegate Billings**

Introduced and read first time: February 11, 2000

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Apartment Houses - Criminal History Records Checks on**
3 **Employees**

4 FOR the purpose of requiring certain employees of an apartment house to undergo a
5 State criminal history records check; requiring certain employees of an
6 apartment house to submit a disclosure form; requiring the Department of
7 Public Safety and Correctional Services to notify certain persons upon receipt of
8 an application for State and national criminal history records checks; requiring
9 the Department to provide a printed statement of an employee's State and
10 national criminal record to the employee and the employer; providing for the
11 confidentiality of information contained in an employee's State and national
12 criminal history records check; providing a means for an employee to contest the
13 finding of a criminal conviction by the Department; establishing certain
14 penalties; providing certain employers and State agencies with immunity from
15 certain civil or criminal liability; defining a certain term; and generally relating
16 to requiring employees of apartment houses who have access to some or all of
17 the dwelling units of the tenants of the apartment house to undergo State and
18 national criminal history records checks.

19 BY repealing and reenacting, with amendments,
20 Article - Courts and Judicial Proceedings
21 Section 5-619
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1999 Supplement)

24 BY adding to
25 Article - Real Property
26 Section 8-701 through 8-708, inclusive, to be under the new subtitle "Subtitle 7.
27 Apartment Houses - Criminal Background Investigations for Employees"
28 Annotated Code of Maryland
29 (1996 Replacement Volume and 1999 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 5-619.

3 (a) The following persons or agencies shall be immune from civil or criminal
4 liability in connection with the conducting of a criminal background investigation
5 under Title 5, Subtitle 5, Part VI of the Family Law Article or a criminal history
6 records check under Title 19, Subtitle 18, of the Health - General Article OR TITLE 8,
7 SUBTITLE 7 OF THE REAL PROPERTY ARTICLE:

8 (1) An employer that in good faith relies on a criminal background
9 investigation or criminal history records check to deny or terminate an individual's
10 employment or participation in a facility;

11 (2) A State or local agency that in good faith relies on a criminal
12 background investigation or criminal history records check of an employer to grant,
13 deny, suspend, or revoke licensure, registration, approval, or certification of a facility;

14 (3) A local department of social services that in good faith relies on a
15 criminal background investigation to make a decision concerning the placement of a
16 child committed to it, including a decision to remove a child from a particular facility
17 or home; and

18 (4) A State or local agency that in good faith participates in the making
19 of a criminal background investigation or criminal history records check of an
20 employee or employer.

21 (b) The failure of an employer to require a criminal background investigation
22 of an individual when not required under Title 5, Subtitle 5, Part VI of the Family
23 Law Article or a criminal history records check when not required under Title 19,
24 Subtitle 18, of the Health - General Article OR TITLE 8, SUBTITLE 7 OF THE REAL
25 PROPERTY ARTICLE may not give rise to civil or criminal liability on the part of the
26 employer for failure to conduct a criminal background investigation.

27 **Article - Real Property**

28 SUBTITLE 7. APARTMENT HOUSES - CRIMINAL BACKGROUND INVESTIGATIONS FOR
29 EMPLOYEES.

30 8-701.

31 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

33 (B) "APARTMENT HOUSE" MEANS ONE OR MORE BUILDINGS THAT EACH
34 CONTAIN MORE THAN TWO DWELLING UNITS THAT ARE OCCUPIED BY TENANTS
35 PRIMARILY FOR RESIDENTIAL NONTRANSIENT USE WITH RENT PAID AT INTERVALS
36 OF 1 WEEK OR LONGER.

37 (C) "CONVICTION" MEANS:

- 1 (1) A PLEA OR VERDICT OF GUILTY;
- 2 (2) A PLEA OF NOLO CONTENDRE; OR
- 3 (3) A DISPOSITION OF NOT CRIMINALLY RESPONSIBLE.

4 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND
5 CORRECTIONAL SERVICES.

6 (E) "DISCLOSURE STATEMENT" MEANS A SWORN STATEMENT OR
7 AFFIRMATION OF THE EXISTENCE OF A CRIMINAL CONVICTION.

8 (F) (1) "EMPLOYEE" MEANS A PERSON THAT:

9 (I) WORKS FOR COMPENSATION AT AN APARTMENT HOUSE; AND

10 (II) HAS ACCESS TO SOME OR ALL OF THE DWELLING UNITS
11 OCCUPIED BY THE TENANTS OF THE APARTMENT HOUSE.

12 (2) "EMPLOYEE" DOES NOT INCLUDE A PERSON HIRED BY AN EMPLOYER
13 TO PERFORM A ONE-TIME JOB OR SERVICE.

14 (G) "EMPLOYER" MEANS AN OWNER, OPERATOR, PROPRIETOR, OR MANAGER
15 OF AN APARTMENT HOUSE.

16 (H) "PRINTED STATEMENT" MEANS A DOCUMENT ISSUED BY THE
17 DEPARTMENT IN RESPONSE TO AN APPLICATION FOR A CRIMINAL HISTORY
18 RECORDS CHECK.

19 (I) "SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND
20 CORRECTIONAL SERVICES.

21 8-702.

22 THIS SUBTITLE APPLIES TO:

23 (1) A NEW EMPLOYEE; AND

24 (2) AN EMPLOYEE WHO DID NOT HAVE ACCESS TO SOME OR ALL OF THE
25 DWELLING UNITS OCCUPIED BY THE TENANTS OF THE EMPLOYER'S APARTMENT
26 HOUSE AND TO WHOM THE EMPLOYER HAS GIVEN NEW OR ADDITIONAL
27 RESPONSIBILITIES THAT INCLUDE HAVING ACCESS TO ADDITIONAL DWELLING
28 UNITS OF THE TENANTS OF THE APARTMENT HOUSE.

29 8-703.

30 (A) BEFORE AN EMPLOYEE MAY BEGIN WORK AT AN APARTMENT HOUSE OR
31 ASSUME NEW OR ADDITIONAL RESPONSIBILITIES THAT INCLUDE ACCESS TO
32 ADDITIONAL DWELLING UNITS OF THE TENANTS OF THE APARTMENT HOUSE:

1 (1) THE EMPLOYEE SHALL PROVIDE A SIGNED STATEMENT THAT
2 DISCLOSES WHETHER THE EMPLOYEE HAS BEEN CONVICTED OF A CRIMINAL
3 OFFENSE; AND

4 (2) THE EMPLOYER SHALL, ON THE EMPLOYEE'S BEHALF, APPLY TO THE
5 DEPARTMENT FOR STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS ON
6 A FORM APPROVED BY THE DEPARTMENT.

7 (B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AN
8 EMPLOYER SHALL INCLUDE AS PART OF THE APPLICATION TO THE DEPARTMENT:

9 (1) TWO COMPLETE SETS OF THE EMPLOYEE'S LEGIBLE FINGERPRINTS
10 TAKEN ON STANDARD FINGERPRINT CARDS; AND

11 (2) THE DISCLOSURE STATEMENT PROVIDED BY THE EMPLOYEE UNDER
12 SUBSECTION (A) OF THIS SECTION.

13 (C) THE REQUIREMENT THAT A COMPLETE SET OF THE EMPLOYEE'S LEGIBLE
14 FINGERPRINTS TAKEN ON STANDARD FINGERPRINT CARDS BE SUBMITTED AS PART
15 OF THE APPLICATION FOR A STATE CRIMINAL HISTORY RECORDS CHECK MAY BE
16 WAIVED BY THE DEPARTMENT IF:

17 (1) THE EMPLOYEE HAS ATTEMPTED TO HAVE A COMPLETE SET OF
18 FINGERPRINTS TAKEN ON AT LEAST THREE OCCASIONS;

19 (2) THE TAKING OF A COMPLETE SET OF LEGIBLE FINGERPRINTS IS NOT
20 POSSIBLE BECAUSE OF A PHYSICAL OR MEDICAL CONDITION OF THE EMPLOYEE'S
21 FINGERS OR HANDS;

22 (3) THE EMPLOYEE SUBMITS DOCUMENTATION SATISFACTORY TO THE
23 DEPARTMENT OF THE REQUIREMENTS OF THIS SUBSECTION; AND

24 (4) THE EMPLOYEE SUBMITS THE OTHER INFORMATION REQUIRED FOR
25 A CRIMINAL HISTORY RECORDS CHECK.

26 (D) THE EMPLOYER SHALL PAY FOR THE COST OF THE CRIMINAL HISTORY
27 RECORDS CHECK.

28 8-704.

29 THE DEPARTMENT OR ITS DESIGNEE SHALL MAIL AN ACKNOWLEDGED
30 RECEIPT OF THE APPLICATION WITHIN 3 DAYS AFTER RECEIPT OF THE APPLICATION
31 TO THE EMPLOYER AND THE EMPLOYEE.

32 8-705.

33 (A) (1) THE DEPARTMENT SHALL CONDUCT THE STATE AND NATIONAL
34 CRIMINAL HISTORY RECORDS CHECKS AND ISSUE A PRINTED STATEMENT PROVIDED
35 FOR UNDER THIS SUBTITLE.

1 (2) THE DEPARTMENT SHALL UPDATE AN INITIAL CRIMINAL HISTORY
2 RECORDS CHECK AND ISSUE A REVISED PRINTED STATEMENT, LISTING ANY OF THE
3 CONVICTIONS IN THE STATE AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY
4 RECORDS CHECK.

5 (3) THE DEPARTMENT SHALL ADOPT REGULATIONS REQUIRING
6 EMPLOYERS TO VERIFY PERIODICALLY THE CONTINUING EMPLOYMENT OF AN
7 EMPLOYEE.

8 (B) THE DEPARTMENT SHALL PROVIDE A PRINTED STATEMENT OF THE
9 EMPLOYEE'S STATE CRIMINAL RECORD TO THE RECIPIENTS OF THE
10 ACKNOWLEDGMENTS SPECIFIED IN § 8-704 OF THIS SUBTITLE.

11 (C) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS
12 SUBTITLE SHALL BE CONFIDENTIAL AND MAY BE DISSEMINATED ONLY TO THE
13 EMPLOYER AND THE EMPLOYEE.

14 (D) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS
15 SUBTITLE MAY NOT:

16 (1) BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS
17 DISSEMINATED; OR

18 (2) BE REDISSEMINATED.

19 (E) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS
20 SUBTITLE SHALL BE MAINTAINED IN A MANNER TO INSURE THE SECURITY OF THE
21 INFORMATION.

22 8-706.

23 (A) AN EMPLOYEE MAY CONTEST THE FINDING OF A CRIMINAL CONVICTION
24 REPORTED IN A PRINTED STATEMENT ISSUED BY THE DEPARTMENT AS PROVIDED IN
25 THIS SECTION.

26 (B) (1) IN CONTESTING THE FINDING OF A CONVICTION, THE EMPLOYEE
27 SHALL CONTACT THE OFFICE OF THE SECRETARY, OR A DESIGNEE OF THE
28 SECRETARY, AND A HEARING SHALL BE CONVENED WITHIN 20 WORKDAYS, UNLESS
29 SUBSEQUENTLY WAIVED BY THE EMPLOYEE.

30 (2) THE SECRETARY, OR A DESIGNEE OF THE SECRETARY, SHALL
31 RENDER A DECISION REGARDING THE APPEAL WITHIN 5 WORKDAYS AFTER THE
32 HEARING.

33 (C) FOR PURPOSES OF THIS SUBTITLE, THE RECORD OF A CONVICTION FOR A
34 CRIME, OR A COPY OF THE RECORD CERTIFIED BY THE CLERK OF THE COURT OR BY
35 A JUDGE OF THE COURT IN WHICH THE CONVICTION OCCURRED, SHALL BE
36 CONCLUSIVE EVIDENCE OF THE CONVICTION.

1 (D) FAILURE OF THE EMPLOYEE TO APPEAR AT THE SCHEDULED HEARING
2 SHALL BE CONSIDERED GROUNDS FOR DISMISSAL OF THE APPEAL.

3 8-707.

4 (A) AN EMPLOYEE WHO FAILS TO DISCLOSE A CONVICTION FOR A CRIMINAL
5 OFFENSE AS REQUIRED UNDER § 8-703 OF THIS SUBTITLE SHALL BE GUILTY OF
6 PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTY PROVIDED BY LAW.

7 (B) AN EMPLOYER OR EMPLOYEE WHO VIOLATES ANY PROVISION OF THIS
8 SUBTITLE IS SUBJECT TO A FINE NOT EXCEEDING \$500.

9 8-708.

10 THE FOLLOWING PERSONS AND AGENCIES SHALL HAVE THE IMMUNITY FROM
11 CIVIL OR CRIMINAL LIABILITY DESCRIBED UNDER § 5-619 OF THE COURTS ARTICLE
12 IN CONNECTION WITH A CRIMINAL HISTORY RECORDS CHECK UNDER THIS
13 SUBTITLE:

14 (1) AN EMPLOYER; AND

15 (2) A STATE AGENCY.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2000.