

SENATE BILL 312

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SB 567/99 - FIN

2000 Regular Session  
0lr1695

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By: **Senator Middleton**

Introduced and read first time: February 1, 2000

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of requiring a private agency, if an adult dependent care program  
5 requests a background check, to conduct a check in certain states under certain  
6 circumstances; requiring a private agency and an adult dependent care program  
7 to issue a statement of findings in certain circumstances; requiring the  
8 Department of Public Safety and Correctional Services to provide a certain  
9 statement to certain persons; defining a certain term; and generally relating to  
10 State criminal history records checks and private agency background checks for  
11 individuals seeking employment with an adult dependent care program.

12 BY repealing and reenacting, with amendments,  
13 Article - Health - General  
14 Section 19-1901(h), 19-1902, 19-1904, 19-1906, and 19-1907  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 1999 Supplement)

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

19                                   **Article - Health - General**

20 19-1901.

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

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

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

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

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

4 19-1902.

5 (a) Before an eligible employee may begin work for an adult dependent care  
6 program, each adult dependent care program shall, for each eligible employee:

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

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

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

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

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

15 (1) A State criminal history records check; or

16 (2) A private agency background check.

17 (D) IF AN ADULT DEPENDENT CARE PROGRAM REQUESTS A PRIVATE AGENCY  
18 TO CONDUCT A BACKGROUND CHECK, THE PRIVATE AGENCY SHALL CONDUCT A  
19 BACKGROUND CHECK IN EACH STATE IN WHICH THE ADULT DEPENDENT CARE  
20 PROGRAM KNOWS OR HAS REASON TO KNOW THE ELIGIBLE EMPLOYEE WORKED OR  
21 RESIDED DURING THE PAST 7 YEARS.

22 19-1904.

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

26 (1) Except as provided in subsection (c) of this section, a complete set of  
27 legible fingerprints taken on forms specified by the Director of the Criminal Justice  
28 Information System Central Repository; 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 be submitted as part of the application for a criminal history records check  
35 may be 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 19-1906.

11 (a) If the Adult Dependent Care Program requests a private agency  
12 background check[,]:

13 (1) [the] THE private agency shall issue a statement of its findings to:

14 (I) [the] THE eligible employee; and

15 (II) [the] THE Adult Dependent Care Program; and

16 [(b)] (2) The eligible employee shall have an opportunity to contest the  
17 findings.

18 (B) THE ADULT DEPENDENT CARE PROGRAM SHALL COMPLY WITH THE  
19 FEDERAL FAIR CREDIT REPORTING ACT THAT INCLUDES THE ISSUANCE OF A  
20 STATEMENT BY THE PROGRAM OF ITS FINDINGS TO AN ELIGIBLE EMPLOYEE WHEN  
21 ADVERSE INFORMATION IS OBTAINED THAT PRECLUDES THE HIRING OF THAT  
22 EMPLOYEE.

23 19-1907.

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

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

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

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

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

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

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

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

12 (2) Be redisseminated.

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

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