

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 709

(Delegate Boteler, *et al.*)

Health and Government Operations

Adult Dependent Care Programs - Criminal History Background Checks

This bill provides that before an eligible employee may begin working for an adult dependent care program, the program must apply to the central repository for a national criminal history records check and a State criminal history records check. The program must pay for each eligible employee: the mandatory processing fee required by the Federal Bureau of Investigation (FBI) for a national criminal history records check; the fee to conduct a State criminal history records check; and the cost for a private agency background check, if requested by the program. For a national criminal history records check, the Department of Public Safety and Correctional Services (DPSCS) must record on a printed statement the existence of a conviction or pending charge received from the FBI and distribute the statement according to the requirements set by federal law and regulations. In recording this information, the specific or attempted crime in the eligible employee's criminal history record may not be identified or disclosed to a private party. However, DPSCS must disclose to a private entity the existence of a conviction or pending charges for any of the crimes, attempted crimes, or a criminal offense that is equivalent to those enumerated in regulations adopted by the department.

Fiscal Summary

State Effect: Increase in equipment and programming expenditures of \$179,000 in FY 2004 only. Increase in criminal records check and fingerprinting expenditures, offset by cost recovery fees.

Local Effect: Potential increase in revenues and expenditures. **This bill places a mandate on a unit of local government.**

Small Business Effect: Minimal. This bill would increase expenditures for adult dependent care program providers who would have to pay for State and FBI criminal history records checks for each eligible employee.

Analysis

Current Law: An adult dependent care program means an adult day care facility, an assisted living program facility, a group home, a home health agency, a congregate housing services program, a residential service agency, an alternative living unit, a hospice facility, or a related institution. A related institution is an organized institution, environment, or home that maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for two or more unrelated individuals and admits the individuals for overnight care. A related institution does not include a nursing facility or visiting nurse service conducted only by or for adherents of a bona fide church or religious organization.

An adult dependent care program must apply for a State criminal history records check or a private agency background check for each eligible employee. The program is responsible for paying for any record or background checks. If a program requests a private agency background check, the agency must conduct a background check in each state in which the adult dependent care program knows or has reason to know the eligible employee worked or lived during the past seven years.

As part of the application for a State criminal history records check, an eligible employee must submit to the program a complete set of legible fingerprints taken on forms specified by the Director of the Criminal Justice Information System Central Repository and the required disclosure statement. The program must submit the fingerprints, disclosure statement, and payment for the criminal history records check. DPSCS may waive the requirement to submit fingerprints under certain conditions.

Information obtained by DPSCS or a private agency must be confidential and disseminated only to the eligible employee who is the subject of the check and to the program seeking to hire the employee. The information may not be used for any other purpose or be redisseminated. The information must be maintained to insure security.

Background: It costs \$52 to conduct a State and national criminal records check: a \$24 FBI fee, an \$18 Criminal Justice Information System fee, and \$10 for two fingerprint cards. The cost for a Maryland criminal history records check alone is \$23: an \$18 Criminal Justice Information System fee and \$5 for one fingerprint card. A private background check can cost between \$15 and \$29 per state.

State Fiscal Effect: In calendar 2002, DPSCS conducted 3,500 State criminal history records checks of adult dependent care programs' eligible employees. It is estimated that the number of records checks DPSCS will conduct under the bill will increase to 30,000 in fiscal 2004 and out-years.

DPSCS general fund expenditures would increase by \$179,000 in fiscal 2004 only due to the volume of records checks generated by adult dependent care employees. This estimate includes the 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 employees that would be required to have background checks under this bill, expenditures could increase by an indeterminate amount. Any increase would depend on the number of local employees and the amount of reimbursement from State or federal programs.

Additional Information

Prior Introductions: A similar bill, HB 18, was introduced in the 1999 session in the Environmental Matters Committee but a hearing was not held on the bill.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

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