
By: **Delegates Shank, Boteler, Donoghue, Kelly, McKee, Myers, and Weldon**
Introduced and read first time: February 12, 2004
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Adult Dependent Care Facilities and Homes - Owners - Criminal History**
3 **Records Checks**

4 FOR the purpose of requiring the Office of Health Care Quality to apply to the
5 Central Repository for State and national criminal history records checks for
6 each owner of a facility or home used for an adult dependent care program;
7 requiring the owner to pay certain fees; requiring the owner to provide a set of
8 fingerprints on certain forms, except under certain circumstances; requiring the
9 Department of Public Safety and Correctional Services to follow certain
10 procedures for a State and national criminal history records check; providing
11 that certain information is confidential and may only be disseminated to the
12 owner and the Office; providing that certain information may not be used for
13 purposes other than that for which it was disseminated and may not be
14 redisseminated; requiring certain information to be maintained in a manner
15 that ensures its security; establishing that an owner may contest certain
16 information in a certain manner; defining certain terms; and generally relating
17 to adult dependent care programs.

18 BY repealing and reenacting, without amendments,
19 Article - Health - General
20 Section 19-1901(a), (b), and (d)
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2003 Supplement)

23 BY adding to
24 Article - Health - General
25 Section 19-1913
26 Annotated Code of Maryland
27 (2000 Replacement Volume and 2003 Supplement)

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

1

Article - Health - General

2 19-1901.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) "Adult dependent care program" means:

5 (1) An adult day care facility regulated under Title 14, Subtitle 2 of this
6 article;7 (2) An assisted living program facility regulated under Subtitle 18 of this
8 title;9 (3) A group home regulated under Title 10, Subtitle 5 or Title 7, Subtitle
10 6 of this article;

11 (4) A home health agency regulated under Subtitle 4 of this title;

12 (5) A congregate housing services program regulated under Article 70B
13 of the Code;

14 (6) A residential service agency as defined under § 19-4A-01 of this title;

15 (7) An alternative living unit as defined under § 7-101 of this article;

16 (8) A hospice facility regulated under Subtitle 9 of this title; or

17 (9) A related institution regulated under Subtitle 3 of this title.

18 (d) "Department" means the Department of Public Safety and Correctional
19 Services.

20 19-1913.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "OFFICE" MEANS THE OFFICE OF HEALTH CARE QUALITY.

24 (3) "OWNER" MEANS THE OWNER OF A FACILITY OR HOME USED FOR AN
25 ADULT DEPENDENT CARE PROGRAM.26 (B) THE OFFICE SHALL, FOR EACH OWNER, APPLY TO THE CENTRAL
27 REPOSITORY FOR:

28 (1) A NATIONAL CRIMINAL HISTORY RECORDS CHECK; AND

29 (2) A STATE CRIMINAL HISTORY RECORDS CHECK.

30 (C) THE OWNER SHALL PAY:

1 (1) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL
2 BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK;
3 AND

4 (2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL
5 PROCEDURE ARTICLE FOR ACCESS TO CRIMINAL HISTORY RECORDS.

6 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
7 OWNER SHALL SUBMIT TO THE OFFICE A COMPLETE SET OF LEGIBLE FINGERPRINTS
8 TAKEN ON FORMS SPECIFIED BY THE DIRECTOR OF THE CRIMINAL JUSTICE
9 INFORMATION SYSTEM CENTRAL REPOSITORY OR THE DIRECTOR OF THE FEDERAL
10 BUREAU OF INVESTIGATION.

11 (2) THE REQUIREMENT THAT A COMPLETE SET OF LEGIBLE
12 FINGERPRINTS BE PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE
13 WAIVED IF:

14 (I) THE OWNER HAS ATTEMPTED TO HAVE A COMPLETE SET OF
15 FINGERPRINTS TAKEN ON AT LEAST TWO OCCASIONS;

16 (II) THE TAKING OF A COMPLETE SET OF LEGIBLE FINGERPRINTS
17 IS NOT POSSIBLE BECAUSE OF A PHYSICAL OR MEDICAL CONDITION OF THE
18 OWNER'S FINGERS OR HANDS;

19 (III) THE OWNER SUBMITS DOCUMENTATION SATISFACTORY TO
20 THE DEPARTMENT OF THE REQUIREMENTS OF THIS PARAGRAPH; AND

21 (IV) THE OWNER SUBMITS THE OTHER INFORMATION REQUIRED
22 FOR A CRIMINAL HISTORY RECORDS CHECK TO BE CONDUCTED BY THE
23 DEPARTMENT AND THE FEDERAL BUREAU OF INVESTIGATION.

24 (E) (1) (I) THE DEPARTMENT SHALL CONDUCT A CRIMINAL HISTORY
25 RECORDS CHECK AND ISSUE A PRINTED STATEMENT TO THE OFFICE AND THE
26 OWNER.

27 (II) THE DEPARTMENT SHALL UPDATE AN INITIAL CRIMINAL
28 HISTORY RECORDS CHECK AND ISSUE A REVISED PRINTED STATEMENT, LISTING
29 ANY OF THE CONVICTIONS OR PENDING CHARGES OCCURRING IN THE STATE AFTER
30 THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK.

31 (2) FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK, THE
32 DEPARTMENT SHALL:

33 (I) RECORD ON A PRINTED STATEMENT THE EXISTENCE OF A
34 CONVICTION OR PENDING CHARGE REPORTED IN THE CRIMINAL HISTORY RECORD
35 INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION
36 IDENTIFICATION DIVISION;

1 (II) DISTRIBUTE THE PRINTED STATEMENT IN ACCORDANCE WITH
2 FEDERAL LAW AND REGULATIONS ON DISSEMINATION OF FEDERAL BUREAU OF
3 INVESTIGATION IDENTIFICATION RECORDS; AND

4 (III) DISTRIBUTE THE PRINTED STATEMENT TO THE OFFICE AND
5 THE OWNER.

6 (F) (1) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS
7 SECTION IS CONFIDENTIAL AND MAY BE DISSEMINATED ONLY TO THE OWNER WHO
8 IS THE SUBJECT OF THE CRIMINAL HISTORY RECORDS CHECK AND THE OFFICE.

9 (2) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS
10 SECTION MAY NOT:

11 (I) BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT
12 WAS DISSEMINATED; OR

13 (II) BE REDISSEMINATED.

14 (3) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS
15 SECTION SHALL BE MAINTAINED IN A MANNER TO ENSURE THE SECURITY OF THE
16 INFORMATION.

17 (G) AN OWNER MAY CONTEST THE FINDING OF A CRIMINAL CONVICTION OR
18 PENDING CHARGE AS PROVIDED IN § 19-1908 OF THIS SUBTITLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2004.