

HOUSE BILL 1015

Unofficial Copy
J3
HB 709/03 - HGO

2004 Regular Session
4lr0854

By: **Delegates Boteler, Cluster, Amedori, Aumann, Burns, DeBoy, Frank, Gilleland, Kach, McComas, McDonough, Miller, Shank, Smigiel, Trueschler, and Weir**

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 Programs - Criminal History Background Checks**

3 FOR the purpose of requiring adult dependent care programs to obtain national
4 criminal history background checks for certain potential employees; requiring
5 an adult dependent care program to pay for certain background checks;
6 specifying the information to be contained in certain reports and providing for
7 restrictions on certain disclosure of information in the reports and on
8 distribution of the reports; and generally relating to criminal history
9 background checks for employees of adult dependent care programs.

10 BY repealing and reenacting, with amendments,
11 Article - Health - General
12 Section 19-1902, 19-1904, and 19-1907
13 Annotated Code of Maryland
14 (2000 Replacement Volume and 2003 Supplement)

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

17 **Article - Health - General**

18 19-1902.

19 (a) (1) Before an eligible employee may begin work for an adult dependent
20 care program, each adult dependent care program shall, for each eligible employee,
21 APPLY TO THE CENTRAL REPOSITORY FOR:

22 [(1) (i) Apply for a State criminal history records check; or
23 (ii) Request a private agency to conduct a background check; and
24 (2) Request a reference from the potential employee's most recent
25 employer]

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

2 (II) A STATE CRIMINAL HISTORY RECORDS CHECK.

3 (2) AN ADULT DEPENDENT CARE PROGRAM MAY REQUEST A PRIVATE
4 AGENCY TO CONDUCT A BACKGROUND CHECK.

5 (3) IN ADDITION TO PARAGRAPH (1) OF THIS SUBSECTION, AN ADULT
6 DEPENDENT CARE PROGRAM SHALL REQUEST A REFERENCE FROM THE POTENTIAL
7 EMPLOYEE'S MOST RECENT EMPLOYER.

8 (b) The reference request required under subsection [(a)(2)] (A)(3) of this
9 section shall, at a minimum, seek information about any history of physical abuse on
10 the part of the potential employee.

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

12 (1) [A State criminal history records check] THE MANDATORY
13 PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A
14 NATIONAL CRIMINAL HISTORY RECORDS CHECK; [or]

15 (2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL
16 PROCEDURE ARTICLE FOR ACCESS TO CRIMINAL HISTORY RECORDS; AND

17 (3) [A] IF REQUESTED BY THE ADULT DEPENDENT CARE PROGRAM, A
18 private agency background check.

19 (d) If an adult dependent care program requests a private agency to conduct a
20 background check, the private agency shall conduct a background check in each state
21 in which the adult dependent care program knows or has reason to know the eligible
22 employee worked or resided during the past 7 years.

23 19-1904.

24 (a) As part of the application for [a State] THE criminal history records
25 [check] CHECKS to be conducted by the Department PURSUANT TO § 19-1902 OF THIS
26 SUBTITLE, an eligible employee shall submit to the adult dependent care program:

27 (1) Except as provided in subsection (c) of this section, a complete set of
28 legible fingerprints taken on forms specified by the Director of the Criminal Justice
29 Information System Central Repository OR THE DIRECTOR OF THE FEDERAL BUREAU
30 OF INVESTIGATION; and

31 (2) The disclosure statement required under § 19-1905 of this subtitle.

32 (b) The adult dependent care program shall submit the fingerprints,
33 disclosure statement, and payment for the costs of the criminal history records check.

34 (c) The requirement that a complete set of legible fingerprints taken on forms
35 specified by the Director of the Criminal Justice Information System Central
36 Repository OR THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION be

1 submitted as part of the application for a criminal history records check may be
2 waived by the Department if:

3 (1) The eligible employee has attempted to have a complete set of
4 fingerprints taken on at least two occasions;

5 (2) The taking of a complete set of legible fingerprints is not possible
6 because of a physical or medical condition of the eligible employee's fingers or hands;

7 (3) The eligible employee submits documentation satisfactory to the
8 Department of the requirements of this subsection; and

9 (4) The eligible employee submits the other information required for a
10 criminal history records check to be conducted by the Department as part of the
11 application process.

12 19-1907.

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

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

19 (3) The Department shall provide an initial and a revised statement of
20 an eligible employee's State criminal record to the recipients of the acknowledgments
21 specified in § 19-1905(b) of this subtitle.

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

24 (b) (1) FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK, THE
25 DEPARTMENT SHALL:

26 (I) RECORD ON A PRINTED STATEMENT THE EXISTENCE OF A
27 CONVICTION OR PENDING CHARGE REPORTED IN THE CRIMINAL HISTORY RECORD
28 INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION
29 IDENTIFICATION DIVISION; AND

30 (II) DISTRIBUTE THE PRINTED STATEMENT IN ACCORDANCE WITH
31 FEDERAL LAW AND REGULATIONS ON DISSEMINATION OF FEDERAL BUREAU OF
32 INVESTIGATION IDENTIFICATION RECORDS AND THIS SUBTITLE.

33 (2) THE RECORDING OF THE EXISTENCE OF A CONVICTION OR PENDING
34 CHARGE CONTAINED IN THE CRIMINAL HISTORY RECORD INFORMATION RECEIVED
35 FROM THE FEDERAL BUREAU OF INVESTIGATION IDENTIFICATION DIVISION UNDER
36 PARAGRAPH (1) OF THIS SUBSECTION:

1 (I) MAY NOT IDENTIFY OR DISCLOSE TO A PRIVATE PARTY THE
2 SPECIFIC CRIME OR ATTEMPTED CRIME IN THE ELIGIBLE EMPLOYEE'S CRIMINAL
3 HISTORY RECORD; AND

4 (II) SHALL DISCLOSE TO A PRIVATE ENTITY THE EXISTENCE OF A
5 CONVICTION OR PENDING CHARGES FOR ANY OF THE CRIMES, ATTEMPTED CRIMES,
6 OR A CRIMINAL OFFENSE THAT IS EQUIVALENT TO THOSE ENUMERATED IN
7 REGULATIONS ADOPTED BY THE DEPARTMENT.

8 (3) [The] ON COMPLETION OF A NATIONAL CRIMINAL HISTORY
9 RECORDS CHECK OF AN ELIGIBLE EMPLOYEE UNDER THIS SUBTITLE, THE
10 Department shall provide a printed statement [of the eligible employee's State
11 criminal record] to the recipients of the acknowledgments specified in § 19-1905(b) of
12 this subtitle.

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

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

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

21 (2) Be redisseminated.

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

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