

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1015

(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 and the fee to conduct a State criminal history records check. 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: DPSCS general fund expenditures increase by \$82,500 for equipment and programming in FY 2005 only. The criminal history records check fee represents cost recovery for processing and administration and is revenue/cost neutral.

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

Small Business Effect: Minimal. The 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 is an adult day care facility, assisted living program facility, group home, home health agency, congregate housing services program, residential service agency, alternative living unit, hospice facility, or a related institution.

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.

An eligible employee may contest the finding of a criminal conviction or pending charge reported in a printed statement issued by DPSCS.

In Maryland, the total maximum cost of each criminal history records check is \$52, which includes State and national background checks plus fingerprinting. The Criminal Justice Information System (CJIS) Central Repository is authorized by law to collect an \$18 fee established for Maryland criminal history records checks. This fee represents cost recovery for processing and administration and is revenue/cost neutral. The FBI charges a fee of \$24 for a national criminal history records check. There is also normally a \$10 fee for two fingerprint cards (\$5 for the State card; \$5 for the separate FBI card). The CJIS Central Repository must collect the fees from the applicant, or other payer, and reimburse the FBI through the agency's monthly billing.

State Fiscal Effect: In calendar 2002, DPSCS conducted 3,500 State criminal history records checks of adult dependent care programs' eligible employees. Currently, a program may obtain a State records check or a background check conducted by a private agency. Since private background checks are generally cheaper, programs use these instead of State records checks. It is estimated that the number of records checks DPSCS would conduct under the bill would increase to 30,000 in fiscal 2005 and the out-years.

DPSCS general fund expenditures would increase by \$82,500 in fiscal 2005 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 (\$57,500) and additional computer programming (\$25,000).

Local Effect: For jurisdictions that operate facilities or programs with employees that would be required to have criminal records 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 709, was introduced in 2003. It was reported unfavorably by the Health and Government Operations Committee.

Cross File: None.

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

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