

# HOUSE BILL 1361

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By: **Delegates Robinson, Anderson, Benson, Carter, Glenn, Harrison, Haynes, Jones, McIntosh, Nathan-Pulliam, Oaks, Rosenberg, Stukes, and Tarrant**

Introduced and read first time: March 2, 2007

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Care and Personal Care Services – Abusive Employee Database**

3 FOR the purpose of establishing the Abusive Health Care Employee Database in the  
4 Department of Health and Mental Hygiene; authorizing the Secretary of Health  
5 and Mental Hygiene to adopt certain regulations; authorizing the Secretary to  
6 set certain fees by regulation; limiting the fees to a certain amount; authorizing  
7 the Department to obtain certain services by contract; requiring the  
8 Department to be responsible for the database; requiring the Department to  
9 carry out certain educational and outreach efforts; authorizing certain  
10 employers to submit certain names to the database; requiring a certain  
11 submission to include certain information; requiring the Department to review  
12 and verify certain submissions to the database; requiring the Department to  
13 send to certain individuals a certain written notice and a copy of a certain  
14 procedure; defining certain terms; and generally relating to the Abusive Health  
15 Care Employee Database.

16 BY adding to

17 Article – Health – General

18 Section 19–2401 through 19–2407 to be under the new subtitle “Subtitle 24.  
19 Abusive Health Care Employee Database”

20 Annotated Code of Maryland

21 (2005 Replacement Volume and 2006 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article - Health - General**

4 **SUBTITLE 24. ABUSIVE HEALTH CARE EMPLOYEE DATABASE.**

5 **19-2401.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

8 (B) "ABUSIVE EMPLOYEE" MEANS AN EMPLOYEE WHO HAS BEEN FOUND  
9 BY AN EMPLOYER TO BE ABUSIVE, NEGLECTFUL, OR HARMFUL TO AN  
10 INDIVIDUAL RECEIVING HEALTH CARE SERVICES OR PERSONAL CARE SERVICES  
11 FROM THE EMPLOYER.

12 (C) "DATABASE" MEANS THE ABUSIVE HEALTH CARE EMPLOYEE  
13 DATABASE.

14 (D) "EMPLOYER" MEANS A PERSON REGULATED UNDER THIS ARTICLE  
15 OR THE HEALTH OCCUPATIONS ARTICLE THAT EMPLOYS INDIVIDUALS TO  
16 PROVIDE HEALTH CARE SERVICES, PERSONAL CARE SERVICES, OR ASSIST IN  
17 PROVIDING HEALTH CARE OR PERSONAL CARE SERVICES TO INDIVIDUALS IN  
18 NEED OF SUCH SERVICES.

19 **19-2402.**

20 THERE IS AN ABUSIVE HEALTH CARE EMPLOYEE DATABASE IN THE  
21 DEPARTMENT.

22 **19-2403.**

23 THE SECRETARY MAY ADOPT REGULATIONS TO ENSURE THE EFFICIENT  
24 OPERATION OF THE DATABASE.

25 **19-2404.**

1           (A)   (1)   **THE SECRETARY MAY, BY REGULATION, SET A FEE FOR ANY**  
2 **SERVICE OF THE DATABASE, INCLUDING AN INITIAL FEE TO UTILIZE THE**  
3 **SERVICES OF THE DATABASE AND RENEWAL FEES.**

4           (2)   **THE FEES SET BY THE SECRETARY MAY NOT, IN THE**  
5 **AGGREGATE, EXCEED THE DEPARTMENT'S COSTS TO ESTABLISH AND OPERATE**  
6 **THE DATABASE.**

7           (B)   (1)   **THE DEPARTMENT MAY, BY CONTRACT, OBTAIN FROM ANY**  
8 **PERSON SERVICES RELATED TO THE ESTABLISHMENT AND OPERATION OF THE**  
9 **DATABASE.**

10           (2)   **NOTWITHSTANDING ANY CONTRACT IN ACCORDANCE WITH**  
11 **PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT IS RESPONSIBLE FOR**  
12 **THE DATABASE.**

13           (C)   **THE DEPARTMENT SHALL CARRY OUT THE APPROPRIATE**  
14 **EDUCATIONAL AND OUTREACH EFFORTS TO INCREASE EMPLOYER AWARENESS**  
15 **OF THE DATABASE AND ENCOURAGE ITS USE.**

16 **19-2405.**

17           (A)   **AN EMPLOYER MAY SUBMIT THE NAME OF AN ABUSIVE EMPLOYEE**  
18 **TO THE DEPARTMENT FOR ENTRY INTO THE DATABASE.**

19           (B)   **A SUBMISSION SHALL INCLUDE:**

20           (1)   **THE NAME AND IDENTIFYING INFORMATION OF THE ABUSIVE**  
21 **EMPLOYEE;**

22           (2)   **A DESCRIPTION OF THE ABUSIVE EMPLOYEE'S JOB;**

23           (3)   **THE CHARGES AGAINST THE ABUSIVE EMPLOYEE, INCLUDING**  
24 **A COMPLETE COPY OF THE INCIDENT REPORT AND ALL SUPPORTING**  
25 **DOCUMENTATION;**

26           (4)   **A NOTICE OF ANY FORMAL CRIMINAL CHARGES OR**  
27 **CONVICTIONS OR CIVIL COMPLAINTS CONCERNING THE ABUSE, NEGLECT, OR**

1 HARMING OF AN INDIVIDUAL WHILE EMPLOYED TO PROVIDE HEALTH CARE OR  
2 PERSONAL CARE SERVICES, IF ANY; AND

3 (5) THE LENGTH OF EMPLOYMENT.

4 (C) AN EMPLOYER IS NOT REQUIRED TO SUBMIT THE NAME OF AN  
5 ABUSIVE EMPLOYEE TO THE DEPARTMENT FOR ENTRY INTO THE DATABASE.

6 19-2406.

7 (A) THE DATABASE SHALL CONSIST OF A SECURE, ELECTRONIC  
8 DATABASE TO WHICH AUTHORIZED ACCESS IS AVAILABLE 24 HOURS A DAY, 7  
9 DAYS A WEEK.

10 (B) THE SECRETARY SHALL SPECIFY IN REGULATIONS THE PERSONS  
11 WHO ARE AUTHORIZED TO ACCESS THE DATABASE, INCLUDING:

12 (1) HEALTH CARE PROFESSIONALS THAT EMPLOY INDIVIDUALS  
13 TO PROVIDE HEALTH CARE SERVICES OR PERSONAL CARE SERVICES;

14 (2) REPRESENTATIVES OF A HEALTH CARE FACILITY IN WHICH  
15 AN INDIVIDUAL MAY BE EMPLOYED;

16 (3) REPRESENTATIVES OF HEALTH CARE AND PERSONAL CARE  
17 REFERRAL AGENCIES BY WHICH AN INDIVIDUAL MAY BE REFERRED FOR  
18 EMPLOYMENT; AND

19 (4) REPRESENTATIVES OF STATE AGENCIES THAT MAY EMPLOY  
20 AN INDIVIDUAL TO PROVIDE HEALTH CARE OR PERSONAL CARE SERVICES.

21 (C) THE SECRETARY SHALL ADOPT REGULATIONS REGARDING ACCESS  
22 TO THE DATABASE, INCLUDING PROCEDURES TO PROTECT CONFIDENTIAL  
23 INFORMATION.

24 (D) THE DEPARTMENT MAY PERFORM EVALUATIONS OF THE  
25 DATABASE.

26 19-2407.

1           **(A) (1) BEFORE ACCEPTING A SUBMISSION FOR ENTRY INTO THE**  
2 **DATABASE, THE DEPARTMENT SHALL REVIEW AND VERIFY THAT THE**  
3 **SUBMISSION CONTAINS CORRECT INFORMATION ABOUT THE ABUSIVE**  
4 **EMPLOYEE.**

5           **(2) THE DEPARTMENT SHALL REFUSE TO ACCEPT A SUBMISSION**  
6 **WITH INCORRECT OR UNVERIFIABLE INFORMATION ABOUT AN INDIVIDUAL.**

7           **(B) WITHIN 7 BUSINESS DAYS OF RECEIVING A SUBMISSION, THE**  
8 **DEPARTMENT SHALL SEND TO THE INDIVIDUAL THAT IS THE SUBJECT OF A**  
9 **SUBMISSION:**

10           **(1) A WRITTEN NOTICE THAT THE INDIVIDUAL'S NAME HAS BEEN**  
11 **SUBMITTED FOR ENTRY IN THE DATABASE; AND**

12           **(2) A COPY OF THE DEPARTMENT'S PROCEDURES FOR**  
13 **CONTESTING THEIR INCLUSION.**

14           **(C) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT ESTABLISH**  
15 **PROCEDURES:**

16           **(1) FOR AN INDIVIDUAL TO CONTEST THEIR INCLUSION IN THE**  
17 **DATABASE; AND**

18           **(2) TO EXPUNGE THE NAMES OF INDIVIDUALS WHO:**

19                   **(I) HAVE DIED;**

20                   **(II) HAVE BEEN FOUND NOT GUILTY OF ABUSE, NEGLIGENCE,**  
21 **OR HARMING AN INDIVIDUAL IN A CRIMINAL OR CIVIL PROCEEDING; OR**

22                   **(III) HAVE SUCCESSFULLY DISPUTED THE CHARGES MADE**  
23 **BY AN EMPLOYER.**

24           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2007.