

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1532 (Chair, Health and Government Operations Committee)
(By Request – Departmental – Health and Mental Hygiene)
Health and Government Operations

**Health - Direct Access of State Agencies to Criminal Background Checks
Conducted by Department of Public Safety and Correctional Services**

This departmental bill • allows specified agencies to receive criminal history background check information for prospective employees of adult dependent care programs; • expands the background check requirement for prospective employees of nonwaiver adult dependent care programs to include a national check; • codifies criminal background check requirements for prospective employees of home- and community-based waiver services operated by the Department of Health and Mental Hygiene; and • requires a reference from the potential employee's most recent employer for all prospective employees of any adult dependent care program.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: The bill's changes could be handled with existing budgeted resources. The bill would bring statutory language into technical compliance with FBI standards for completing national criminal history records check requests for prospective employees of adult dependent care programs.

Local Effect: Minimal to none.

Small Business Effect: The Department of Health and Mental Hygiene has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill expands the definition of “adult dependent care program” to include providers of services to Medicaid home- and community-based waiver programs.

The criminal background check requirements for nonwaiver providers are expanded to include both State and national criminal history records checks through the Criminal Justice Information System Central Repository.

Eligible employees of nonwaiver adult dependent care programs must apply to CJIS for a State and national criminal history records check or request a private agency to conduct a background check. Eligible employees must submit to CJIS • two specified sets of fingerprints; • the fee for access to Maryland criminal history records; and • the mandatory processing fee required by the FBI for a national criminal history records check. These changes bring statute into technical compliance with FBI standards for completing national criminal history records check requests for prospective employees of adult dependent care programs.

CJIS must forward the eligible employee’s criminal history record information to the eligible employee, DHMH, the Maryland Department of Aging, the Department of Human Resources, and any other State or local agency authorized to administer an adult dependent care program. Information obtained from CJIS is confidential, may not be disseminated, and may be used only for employment purposes. The subject of the criminal history records check may contest the contents of the printed CJIS statement as provided under current law.

Criminal background check requirements are codified for prospective employees of home- and community-based waiver services operated by DHMH. Waiver providers must, for each eligible employee, apply for a State criminal history records check and request a reference from the potential employee’s most recent employer. Individuals directly employed by a waiver participant must apply to CJIS for a State and national criminal history records check or request a private agency background check.

Current Law: Home- and community-based waiver providers are not included in the definition of adult dependent care program. Before an eligible employee can work for an adult dependent care program, each program must, for each eligible employee, either • apply for a State criminal history records check; or • request a private agency to conduct a background check and request a reference from the potential employee’s most recent employer. The reference request must, at a minimum, seek information about any history of physical abuse on the part of the potential employee. An adult dependent care program must pay for each eligible employee’s State criminal history records check or private agency background check.

Background: DHMH requires all direct care providers to obtain a criminal background investigation through CJIS; however, DHMH is not allowed to access the information from direct care provider agencies because the information in the report may not be disseminated. When auditing providers or investigating complaints, DHMH cannot view the report to verify that the providers do not have a criminal background that prevents their participation in Medicaid.

CJIS, located within the Department of Public Safety and Correctional Services, collects, manages, and disseminates Maryland Criminal History Record Information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

CJIS is a fingerprint-supported system for positive identification. Fingerprints can be taken at many police departments, private organizations that have been certified by CJIS-CR, and the CJIS Customer Service Center at Reisterstown Road Plaza in Baltimore. Fingerprints may also be taken at the Motor Vehicle Administration “Hazmat” sites. The CJIS Customer Service Center charges a \$20 flat fingerprinting fee and the Maryland State Police charges \$5.00 per fingerprint card to offset the cost of taking the fingerprints. Local police departments and private organizations charge varying fees for fingerprinting. One fingerprint card is required for a Maryland-only CHRI check; two fingerprint cards (Maryland/FBI) are needed for a State and national CHRI check.

Representative costs to an applicant:

<u>State and National CHRI Check</u>	<u>Maryland CHRI Check</u>
\$19.25 FBI Fee	
18.00 CJIS Fee	\$18.00 CJIS Fee
<u>20.00</u> Fingerprint Fee	<u>20.00</u> Fingerprinting Fee
\$57.25 Total	\$38.00 Total

Each applicant would have to pay \$19.25 for the national portion of the CHRI check since the bill retains the requirement that the adult dependent care program has to pay for the State CHRI check or a private background check.

Additional Information

Prior Introductions: None.

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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mll/ljm

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