



**AN ACT REQUIRING CRIMINAL BACKGROUND CHECKS ON
CAREGIVERS TO THE ELDERLY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (a) As used in this section:
- 2 (1) "Applicant" means an individual who seeks and is offered
3 employment or contractual service as a caregiver or an administrator
4 with a care provider, including, but not limited to, an individual who
5 is employed with a care provider through a temporary employment
6 agency;
- 7 (2) "Caregiver" means an individual whose employment or
8 contractual service with a care provider includes physical access to any
9 care recipient served by the provider or access to the finances of such
10 care recipient;
- 11 (3) "Care provider" or "provider" means a nursing home or home
12 health care agency;
- 13 (4) "Care recipient" means an individual under the care of a
14 provider if the individual has a physical or mental illness, injury or
15 disability or suffers from any cognitive impairment that restricts or
16 limits the individual's activities;
- 17 (5) "Nation-wide criminal history screening" means a criminal

18 history background investigation of an applicant through the use of
19 fingerprints collected by the Department of Public Safety and
20 submitted to the Federal Bureau of Investigation, resulting in
21 generation of a nation-wide criminal history record for that applicant;

22 (6) "Nation-wide criminal history record" means information
23 concerning an individual's arrests, indictments or other formal
24 criminal charges, and any dispositions arising therefrom, including,
25 but not necessarily limited to, convictions, dismissals, acquittals,
26 sentencing and correctional supervision, collected by criminal justice
27 agencies and stored in the computerized databases of the Federal
28 Bureau of Investigation, the National Law Enforcement
29 Telecommunications System, the Department of Public Safety or the
30 repositories of criminal history information of other states; and

31 (7) "Department" means the Department of Public Health.

32 (b) The Department of Public Health may review an applicant's
33 nation-wide criminal history record obtained by the Department of
34 Public Safety as a result of a nation-wide criminal history screening
35 pursuant to an applicant's authorization for such criminal history
36 screening. Upon a provider's request, the Department of Public Safety,
37 or its designee, shall take a set of fingerprints for a nation-wide
38 criminal history screening. The Department of Public Safety shall
39 retain the fingerprints for the purpose of conducting a nation-wide
40 criminal history screening.

41 (c) On and after October 1, 2001, no care provider may hire an
42 applicant unless the applicant has submitted to a request for a nation-
43 wide criminal history screening prior to beginning employment in
44 accordance with this section, or unless the applicant has submitted to a
45 nation-wide criminal history screening pursuant to this section within
46 the previous twelve months and does not have a criminal record.

47 (d) Except as provided in subsection (f) of this section, the
48 Department of Public Health may disqualify an applicant from being
49 hired by a care provider who (1) the department finds is not fit for

50 employment as a caregiver or administrator or who presents a risk of
51 harm to a care recipient, and (2) within the three years prior to the date
52 the Department of Public Health receives the results of the nation-wide
53 criminal history record for the applicant pursuant to subsection (e) of
54 this section, has been convicted, incarcerated or on probation in this
55 state for any of the following offenses, or in any other state for an
56 offense substantially similar to any of the following offenses: (A)
57 Cruelty to persons under section 53-20 of the general statutes; (B)
58 assault of a victim sixty or older under section 53a-59a, 53a-60b or 53a-
59 60c of the general statutes; (C) sexual assault under any provision of
60 sections 53a-70 to 53a-73a, inclusive, of the general statutes; (D) larceny
61 under any provision of sections 53a-122 to 53a-125b, inclusive, of the
62 general statutes; (E) burglary under any provision of sections 53a-101
63 to 53a-103a, inclusive, of the general statutes; or (F) robbery under any
64 provision of sections 53a-134 to 53a-136a, inclusive, of the general
65 statutes.

66 (e) Upon receipt by the Department of Public Health of the results of
67 the applicant's nation-wide criminal history record, the Department of
68 Public Health shall give notice to such care provider of whether the
69 Department of Public Health has disqualified the applicant pursuant to
70 subsection (d) of this section. No other results of the applicant's
71 criminal history screening may be provided to the care provider.
72 Except as provided in subsection (f) of this section, a care provider
73 may not employ an applicant who has been disqualified by the
74 Department of Public Health. When the Department of Public Health
75 provides notice to the care provider of such disqualification, the
76 department shall also notify the applicant of the specific convictions on
77 which its decision is based.

78 (f) An applicant who is disqualified by the Department of Public
79 Health pursuant to subsection (d) of this section may request a hearing
80 by the Department of Public Health. The commissioner shall hold the
81 hearing not later than ten business days after the commissioner
82 receives such request unless the applicant requests an extension. The
83 commissioner shall grant an extension for the period of time requested

84 by the applicant. The commissioner shall issue a decision not later than
85 ten business days after the hearing. The care provider may hire the
86 applicant if the hearing or appeal therefrom results in a determination
87 that the applicant's nation-wide criminal history record inaccurately
88 reflects the disqualifying conviction of a crime specified in subsection
89 (d) of this section, or that the employment presents no risk of harm to a
90 care recipient, or that the conviction does not directly bear upon the
91 applicant's fitness for the employment.

92 (g) An applicant aggrieved by the action of the Commissioner of
93 Public Health in disqualifying the applicant pursuant to this section
94 may appeal therefrom in accordance with the provisions of section 4-
95 183 of the general statutes, except that venue for such appeal shall be
96 in the judicial district of Hartford. Appeals under this section shall be
97 privileged in respect to the order of trial assignment.

98 (h) A care provider shall maintain records evidencing compliance
99 with the provisions of this section with respect to all applicants and
100 caregivers hired on or after October 1, 2001.

101 (i) All criminal records obtained pursuant to this section by the
102 Department of Public Health and the Department of Public Safety shall
103 be confidential. No criminal history records obtained pursuant to this
104 section may be used for any purpose other than determining whether
105 an applicant has criminal records that disqualify the applicant from
106 employment as a caregiver or an administrator. Except upon the order
107 of the Superior Court or with the written consent of the applicant,
108 criminal records obtained pursuant to this section and the information
109 contained therein may not be released or otherwise disclosed to any
110 other person or agency. Criminal records obtained pursuant to this
111 section shall not be subject to disclosure under the Freedom of
112 Information Act, as defined in section 1-200 of the general statutes.
113 Any person who discloses confidential records or information in
114 violation of this section is guilty of a class D misdemeanor.

115 (j) A provider who fails to comply with the requirements of this

116 section shall be subject to a fine of not more than five hundred dollars
117 for each violation.

118 (k) The Commissioner of Public Health shall charge each provider a
119 fee for each national criminal history screening that shall be equal to
120 the fee charged by the Federal Bureau of Investigation for performing
121 such screening. The Department of Public Health shall reimburse the
122 Department of Public Safety for the actual cost for a national criminal
123 history screening.

124 (l) The Commissioner of Public Safety may adopt regulations, in
125 accordance with the provisions of chapter 54 of the general statutes, to
126 implement the provisions of this section relating to fingerprint
127 procedures, confidentiality of records within the Department of Public
128 Safety, timeframes for an applicant's nation-wide criminal history
129 screening and procedures for clarifying incomplete or confusing
130 criminal history information.

131 (m) The Commissioner of Public Health may adopt regulations, in
132 accordance with the provisions of chapter 54 of the general statutes, to
133 implement the provisions of this section, except for matters covered by
134 regulations pursuant to subsection (l) of this section. Such regulations
135 may include, but not be limited to, the establishment of a three-year
136 phased implementation based on type of provider, confidentiality of
137 records within the Department of Public Health, procedures for
138 appeals pursuant to subsection (f) of this section and employment
139 procedures pending the results of the nation-wide criminal history
140 screening relating to applicants and caregivers.

141 Sec. 2. Not later than October 1, 2001, the Commissioner of Public
142 Health shall notify each provider, as defined in section 1 of this act, of
143 the requirements of section 1 of this act.

144 Sec. 3. This act shall take effect from its passage, except that section
145 1 shall take effect October 1, 2001, and shall be applicable to applicants
146 hired on and after October 1, 2001.

AGE

JOINT FAVORABLE SUBST. C/R

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