



House of Representatives

General Assembly

File No. 141

February Session, 2010

Substitute House Bill No. 5110

House of Representatives, March 25, 2010

The Committee on Public Health reported through REP. RITTER of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES OF HOMEMAKER-COMPANION AGENCIES AND HOME HEALTH AGENCIES.

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

1 Section 1. Section 20-670 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 As used in sections 20-670 to 20-680, inclusive, as amended by this
4 act:

5 (1) "Certificate" means a certificate of registration issued under
6 section 20-672, as amended by this act.

7 (2) "Commissioner" means the Commissioner of Consumer
8 Protection or any person designated by the commissioner to
9 administer and enforce the provisions of sections 20-670 to 20-680,
10 inclusive, as amended by this act.

11 (3) "Companion services" means nonmedical, basic supervision

12 services to ensure the well-being and safety of a person in such
13 person's home.

14 (4) "Employee" means any person employed by, or who enters into a
15 contract to perform services for, a homemaker-companion agency,
16 including, but not limited to, temporary employees, pool employees
17 and independent contractors.

18 (5) "Homemaker services" means nonmedical, supportive services
19 that ensure a safe and healthy environment for a person in such
20 person's home, such services to include assistance with personal
21 hygiene, cooking, household cleaning, laundry and other household
22 chores.

23 (6) "Homemaker-companion agency" means any public or private
24 organization, employing one or more persons that is engaged in the
25 business of providing companion services or homemaker services.
26 Homemaker-companion agency shall not include a home health care
27 agency, as defined in subsection (d) of section 19a-490, or a
28 homemaker-home health aide agency, as defined in subsection (e) of
29 section 19a-490.

30 (7) "Service plan" means a written document provided by a
31 homemaker-companion agency to a person utilizing services provided
32 by such agency, that specifies the anticipated scope, type, frequency
33 and duration of homemaker or companion services that are to be
34 provided by such agency for the benefit of the person.

35 (8) "Comprehensive background check" means a background
36 investigation performed by the homemaker-companion agency, that
37 includes, but is not limited to: (A) A review of the employment
38 application prepared by the agency and completed by the applicant;
39 (B) an in-person interview of the applicant; (C) verification of the
40 applicant's Social Security number; (D) if the position applied for
41 within the agency requires licensure on the part of the applicant,
42 verification that the required license is in good standing; (E) a check of
43 the registry established and maintained pursuant to section 54-257; (F)

44 a review of criminal conviction information obtained through a search
45 of current criminal matters of public record in this state based on the
46 applicant's name and date of birth; (G) if the applicant has resided in
47 this state less than three years prior to the date of the application for
48 employment, a review of criminal conviction information from the
49 state or states where such applicant resided during such three-year
50 period; and (H) a review of any other information that the agency
51 deems necessary in order to evaluate the suitability of the applicant for
52 the position.

53 Sec. 2. Subsection (a) of section 20-672 of the 2010 supplement to the
54 general statutes is repealed and the following is substituted in lieu
55 thereof (*Effective October 1, 2010*):

56 (a) Any person seeking a certificate of registration as a homemaker-
57 companion agency shall apply to the Commissioner of Consumer
58 Protection, in writing, on a form provided by the commissioner. The
59 application shall include the applicant's name, residence address,
60 business address, business telephone number and such other
61 information as the commissioner may require. An applicant shall also
62 be required to submit to state and national criminal history records
63 checks in accordance with section 29-17a and to certify under oath to
64 the commissioner that: (1) Such agency complies with the
65 requirements of section 20-678 concerning employee comprehensive
66 background checks, (2) such agency provides all persons receiving
67 homemaker or companion services with a written individualized
68 contract or service plan that specifically identifies the anticipated
69 scope, type, frequency and duration of homemaker or companion
70 services provided by the agency to the person, (3) such agency
71 maintains a surety bond, and (4) all records maintained by such
72 agency shall be open, at all reasonable hours, for inspection, copying
73 or audit by the commissioner.

74 Sec. 3. Subsection (a) of section 20-675 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2010*):

77 (a) The Commissioner of Consumer Protection may revoke, suspend
78 or refuse to issue or renew any certificate of registration as a
79 homemaker-companion agency or place an agency on probation or
80 issue a letter of reprimand for: (1) Conduct by the agency, or by an
81 employee of the agency while in the course of employment, of a
82 character likely to mislead, deceive or defraud the public or the
83 commissioner; [or] (2) engaging in any untruthful or misleading
84 advertising; or (3) failing to perform a comprehensive background
85 check of an applicant for employment as required by section 20-678.

86 Sec. 4. (NEW) (*Effective October 1, 2010*) (a) As used in this section,
87 "comprehensive background check" means a background investigation
88 performed by a home health agency, as defined in subsection (k) of
89 section 19a-490 of the general statutes, that includes, but is not limited
90 to: (1) A review of the employment application prepared by the agency
91 and completed by the applicant; (2) an in-person interview of the
92 applicant; (3) verification of the applicant's Social Security number; (4)
93 if the position applied for within the agency requires licensure on the
94 part of the applicant, verification that the required license is in good
95 standing; (5) a check of the registry established and maintained
96 pursuant to section 54-257 of the general statutes; (6) a review of
97 criminal conviction information obtained through a search of current
98 criminal matters of public record in this state based on the applicant's
99 name and date of birth; (7) if the applicant has resided in this state less
100 than three years prior to the date of the application for employment, a
101 review of criminal conviction information from the state or states
102 where such applicant resided during such three-year period; and (8) a
103 review of any other information that the agency deems necessary in
104 order to evaluate the suitability of the applicant for the position.

105 (b) Each home health agency shall require that any employee of
106 such agency hired on or after October 1, 2010, submit to a
107 comprehensive background check. In addition, each home health
108 agency shall require that any employee of such agency hired on or
109 after October 1, 2010, complete and sign a form disclosing whether
110 such employee was subject to any decision imposing disciplinary

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Public Safety, Dept.	GF - Revenue Impact	Less than 1,000	Less than 1,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill is anticipated to generate relatively few additional records and background checks by the Department of Public Safety. As such, there is no cost to process the additional requests and any revenue gain from the \$50 application fee would be less than \$1,000 annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of applications.

OLR Bill Analysis**sHB 5110*****AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES OF HOMEMAKER-COMPANION AGENCIES AND HOME HEALTH AGENCIES.*****SUMMARY:**

This bill revises the laws concerning background checks for homemaker-companion and home health agencies. It:

1. requires a homemaker-companion agency applicant to submit to state and national criminal history record checks;
2. allows the Department of Consumer Protection (DCP) commissioner to revoke, suspend, or deny registration certificates if a homemaker-companion agency fails to perform a comprehensive background check of any applicant for employment;
3. requires home health agency employees hired on or after October 1, 2010 to submit to a comprehensive background check and sign a written form regarding prior disciplinary action; and
4. defines the term "comprehensive background check."

EFFECTIVE DATE: October 1, 2010

DEFINITIONS

Under the bill, "comprehensive background check" means a background investigation performed by a home health or homemaker-companion agency that includes:

1. a review of the applicant's employment application;

2. an in-person interview of the applicant;
3. verification of the applicant's Social Security number;
4. if the position requires the applicant's licensure, verification that the required license is in good standing;
5. a check of the Department of Public Safety's sex offender registry;
6. a review of criminal conviction information obtained through an in-state public records search based on the applicant's name and date of birth;
7. if the applicant has lived in the state less than three years before the employment application date, a review of criminal conviction information in any state where the applicant lived during those three years; and
8. a review of any additional information the agency deems necessary to evaluate the applicant's suitability for the position.

Current law does not define "comprehensive background check," specify particular procedures, or identify who must conduct one. (In practice, background checks vary in terms of their scope, complexity, and the years covered, among other things. They may include checks of any or all of the following: criminal history, credit, professional license, employment, and education records.)

HOMEMAKER-COMPANION AGENCIES

Applicant Criminal History Record Checks

The bill requires anyone applying to DCP for a homemaker-companion agency registration certificate to submit to state and national criminal history record checks. By law, these checks must be requested through the State Police Bureau of Identification.

Current law requires applicant agencies to certify under oath that all employees hired after October 1, 2006 have (1) submitted to a

comprehensive background check and (2) signed a written form regarding prior criminal convictions or disciplinary actions.

Registration Issuance and Denial Procedures

The bill adds an agency’s failure to perform a comprehensive background check of an employment applicant to the conditions under which the DCP commissioner may revoke, suspend, or deny registration certificates; place registrants on probation; or issue letters of reprimand. Current law allows the commissioner to take any of these actions for (1) agency conduct (or that of an employee in the course of employment) likely to mislead, deceive, or defraud the public or the commissioner or (2) untruthful or misleading advertising.

HOME HEALTH AGENCIES

Employee Background Checks

Under the bill, a home health agency must require all employees hired on or after October 1, 2010 to submit to a comprehensive background check. The bill also requires these employees to complete and sign a form disclosing whether they were subject to any disciplinary action by a licensing agency in another state, the District of Columbia, a U.S. possession or territory, or a foreign jurisdiction. An employee who makes a false written statement about his or her prior disciplinary action is, under the bill, guilty of a Class A misdemeanor, for which the penalty is up to one year in prison, a fine up to \$2,000, or both.

COMMITTEE ACTION

Select Committee on Aging

Joint Favorable Substitute Change of Reference
Yea 11 Nay 0 (02/18/2010)

Public Health Committee

Joint Favorable
Yea 29 Nay 0 (03/15/2010)