



General Assembly

January Session, 2011

Committee Bill No. 3

LCO No. 3862

03862SB00003AGE

Referred to Committee on Aging

Introduced by:
(AGE)

**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 Section 20-670 of the general statutes is repealed and the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, 2011*):

3 As used in sections 20-670 to 20-680, inclusive:

4 (1) "Certificate" means a certificate of registration issued under
5 section 20-672.

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

10 (3) "Companion services" means nonmedical, basic supervision
11 services to ensure the well-being and safety of a person in such
12 person's home.

13 (4) ["Employee" means any person employed by, or who enters into
14 a contract to perform services for, a homemaker-companion agency,
15 including, but not limited to, temporary employees, pool employees
16 and independent contractors.] "Comprehensive background check"
17 means a background investigation performed by a homemaker-
18 companion agency of an applicant for employment or a registrant, that
19 includes: (A) A review of the employment application or application
20 for registration with the agency prepared by the agency and completed
21 by the applicant or registrant; (B) an in-person interview of the
22 applicant or registrant; (C) verification of the applicant's or registrant's
23 Social Security number; (D) if the position applied for within the
24 agency requires licensure on the part of the applicant or registrant,
25 verification that the required license is in good standing; (E) a check of
26 the registry established and maintained pursuant to section 54-257; (F)
27 a review of criminal conviction information obtained through a search
28 of current criminal matters of public record in this state based on the
29 applicant's or registrant's name and date of birth; (G) if the applicant or
30 registrant has resided in this state less than three years prior to the date
31 of the application for employment or application for registration with
32 the agency, a review of criminal conviction information from the state
33 or states where such applicant or registrant resided during such three-
34 year period; and (H) a review of any other information that the agency
35 deems necessary in order to evaluate the suitability of the applicant or
36 registrant for the position.

37 (5) "Homemaker services" means nonmedical, supportive services
38 that ensure a safe and healthy environment for a person in such
39 person's home, such services to include assistance with personal
40 hygiene, cooking, household cleaning, laundry and other household
41 chores.

42 (6) "Homemaker-companion agency" means any public or private
43 organization [, employing] that employs one or more persons [that]
44 and is engaged in the business of providing companion services or
45 homemaker services. Homemaker-companion agency shall not include

46 a home health care agency, as defined in subsection (d) of section 19a-
47 490, or a homemaker-home health aide agency, as defined in
48 subsection (e) of section 19a-490.

49 (7) "Service plan" means a written document provided by a
50 homemaker-companion agency to a person utilizing services provided
51 by such agency, that specifies the anticipated scope, type, frequency
52 and duration of homemaker or companion services that are to be
53 provided by such agency for the benefit of the person.

54 (8) "Registrant" means any person, other than an employee, who
55 provides companion services or homemaker services for a
56 homemaker-companion agency.

57 Sec. 2. Subsection (a) of section 20-672 of the general statutes is
58 repealed and the following is substituted in lieu thereof (*Effective*
59 *October 1, 2011*):

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

78 Sec. 3. Subsection (a) of section 20-675 of the general statutes is
79 repealed and the following is substituted in lieu thereof (*Effective*
80 *October 1, 2011*):

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

91 Sec. 4. Section 20-678 of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective October 1, 2011*):

93 [Each homemaker-companion agency shall require that any
94 employee of such agency hired on or after October 1, 2006,] On or after
95 October 1, 2011, each homemaker-companion agency, prior to
96 (1) extending an offer of employment to an applicant for employment
97 with the agency, or (2) entering into a contract with a registrant, shall
98 require such applicant or registrant to submit to a comprehensive
99 background check. In addition, each homemaker-companion agency
100 shall require that [any employee of such agency hired on or after
101 October 1, 2006,] such applicant or registrant complete and sign a form
102 which contains questions as to whether the [current or prospective
103 employee] applicant or registrant was convicted of a crime involving
104 violence or dishonesty in a state court or federal court in any state; or
105 was subject to any decision imposing disciplinary action by a licensing
106 agency in any state, the District of Columbia, a United States
107 possession or territory or a foreign jurisdiction. Any [employee of a
108 homemaker-companion agency hired on or after October 1, 2006,]
109 applicant or registrant who makes a false written statement regarding

110 such prior criminal convictions or disciplinary action shall be guilty of
111 a class A misdemeanor.

112 Sec. 5. (NEW) (*Effective October 1, 2011*) (a) As used in this section,
113 "comprehensive background check" means a background investigation
114 performed by a home health agency, as defined in subsection (k) of
115 section 19a-490 of the general statutes, of an applicant for employment
116 that includes, but is not limited to: (1) A review of the employment
117 application prepared by the agency and completed by the applicant;
118 (2) an in-person interview of the applicant; (3) verification of the
119 applicant's Social Security number; (4) if the position applied for
120 within the agency requires licensure on the part of the applicant,
121 verification that the required license is in good standing; (5) a check of
122 the registry established and maintained pursuant to section 54-257 of
123 the general statutes; (6) a review of criminal conviction information
124 obtained through a search of current criminal matters of public record
125 in this state based on the applicant's name and date of birth; (7) if the
126 applicant has resided in this state less than three years prior to the date
127 of the application for employment, a review of criminal conviction
128 information from the state or states where such applicant resided
129 during such three-year period; and (8) a review of any other
130 information that the agency deems necessary in order to evaluate the
131 suitability of the applicant for the position.

132 (b) On or after October 1, 2011, each home health agency, prior to
133 extending an offer of employment to an applicant for employment
134 with the agency, shall require such applicant to submit to a
135 comprehensive background check. In addition, each home health
136 agency shall require that any such applicant complete and sign a form
137 disclosing whether the applicant was subject to any decision imposing
138 disciplinary action by a licensing agency in any state, the District of
139 Columbia, a United States possession or territory or a foreign
140 jurisdiction. Any applicant who makes a false statement regarding
141 such prior disciplinary action with intent to mislead the home health
142 agency shall be guilty of a class A misdemeanor.

143 (c) (1) No home health agency shall deny employment to any
 144 applicant for employment solely because of a prior conviction of a
 145 crime, unless the agency determines that such applicant is not suitable
 146 for the position of employment sought based on a review by the
 147 agency of (A) the nature of the crime and its relationship to the
 148 position for which the applicant has applied, (B) information
 149 pertaining to the degree of rehabilitation of the applicant, and (C) the
 150 time elapsed since the conviction or the applicant's release from prison.
 151 If an agency denies employment to an applicant because of a prior
 152 conviction of a crime, the agency shall provide the applicant with a
 153 written rejection letter, sent by registered mail, stating what evidence
 154 was reviewed and why the agency rejected the applicant.

155 (2) No home health agency shall use, distribute or disseminate any
 156 applicant's record of arrest that did not result in conviction or record of
 157 conviction that has been erased to determine the applicant's suitability
 158 for the position of employment sought.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	20-670
Sec. 2	<i>October 1, 2011</i>	20-672(a)
Sec. 3	<i>October 1, 2011</i>	20-675(a)
Sec. 4	<i>October 1, 2011</i>	20-678
Sec. 5	<i>October 1, 2011</i>	New section

Statement of Purpose:

To enhance the background check requirements for employees of homemaker-companion and home health agencies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. PRAGUE, 19th Dist.; REP. SERRA, 33rd Dist.
 REP. MILLER L., 122nd Dist.; REP. SCHOFIELD, 16th Dist.

S.B. 3