

2020 -- H 7813

=====  
LC005023  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

---

A N A C T

RELATING TO HEALTH AND SAFETY -- DEPARTMENT OF HEALTH

Introduced By: Representatives Johnston, and Messier

Date Introduced: February 26, 2020

Referred To: House Health, Education & Welfare

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-1-52 of the General Laws in Chapter 23-1 entitled "Department  
2 of Health" is hereby amended to read as follows:

3 **23-1-52. Adult day care program licensure.**

4 (a) The director is authorized and directed to establish a program for the licensure of adult  
5 day care programs. "Adult day care program" shall mean a comprehensive, nonresidential program  
6 designed to address the biological, psychological, and social needs of adults through individual  
7 plans of care that incorporate, as needed, a variety of health, social, and related support services in  
8 a protective setting. The director is further authorized to promulgate regulations as he or she deems  
9 necessary to implement these provisions; provided that, the director shall promulgate no regulation  
10 that discriminates against or gives preference to the number of and/or percentage of adult  
11 participants receiving adult day care services based upon their age or age group, or that is in  
12 violation of 42 U.S.C. Chapter 126 – Equal Opportunity for Individuals with Disabilities,  
13 SUBCHAPTER III – PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY  
14 PRIVATE ENTITIES.

15 (b) Any person seeking employment in any adult day care facility licensed herein and  
16 having routine contact with an adult day care client, or having access to such a client's belongings  
17 or funds, shall undergo a national criminal records check that shall include fingerprints submitted  
18 to the Federal Bureau of Investigation (FBI) by the bureau of criminal identification of the  
19 department of attorney general. The national criminal records check shall be processed prior to, or

1 within one week of, employment. All persons who, as of September 30, 2014, are already employed  
2 by an adult day care facility and all persons who, as of such date, already provide services under  
3 this section shall be exempted from the requirements of this section for purposes of their current  
4 employment only.

5 (1) The director may, by rule, identify those positions requiring national criminal records  
6 checks. The employee, through the employer, shall apply to the bureau of criminal identification  
7 of the department of attorney general for a national criminal records check. Upon the discovery of  
8 any disqualifying information as defined in § 23-1-52(c), and in accordance with rules promulgated  
9 by the director, the bureau of criminal identification of the department of attorney general shall  
10 inform the applicant, in writing, of the nature of the disqualifying information; and, without  
11 disclosing the nature of the disqualifying information, shall notify the employer, in writing, that  
12 disqualifying information has been discovered.

13 (2) An employee against whom disqualifying information has been found may provide a  
14 copy of the national criminal records check to the employer. The employer shall make a judgment  
15 regarding the continued employment of the employee.

16 (3) In those situations in which no disqualifying information has been found, the bureau of  
17 criminal identification of the department of attorney general shall inform the applicant and the  
18 employer, in writing, of this fact.

19 (4) The employer shall maintain on file, subject to inspection by the department of health,  
20 evidence that statewide criminal records checks have been initiated on all employees seeking  
21 employment between January 1, 2008, and September 30, 2014, and the results of the checks. The  
22 employer shall maintain on file, subject to inspection by the department, evidence that national  
23 criminal records checks have been initiated on all employees seeking employment on or after  
24 October 1, 2014, and the results of those checks. Failure to maintain that evidence may be grounds  
25 to revoke the license or registration of the employer.

26 (5) The employee shall be responsible for the cost of conducting the national criminal  
27 records check through the bureau of criminal identification of the department of attorney general.

28 (c) Information produced by a national criminal records check pertaining to conviction for  
29 the following crimes will result in a letter to the employee and employer disqualifying the applicant  
30 from employment: murder, voluntary manslaughter, involuntary manslaughter, first-degree sexual  
31 assault, second-degree sexual assault, third-degree sexual assault, assault on persons sixty (60)  
32 years of age or older, assault with intent to commit specified felonies (murder, robbery, rape,  
33 burglary, or the abominable and detestable crimes against nature), felony assault, patient abuse,  
34 neglect or mistreatment of patients, burglary, first-degree arson, robbery, felony drug offenses,

1 felony obtaining money under false pretenses, felony embezzlement, abuse, neglect and/or  
2 exploitation of adults with severe impairments, exploitation of elders, felony larceny, or felony  
3 banking law violations, or a crime under section 1128(a) of the Social Security Act (42 U.S.C. §  
4 1320a-7(a)). An employee against whom disqualifying information has been found may provide a  
5 copy of the national criminal records check to the employer who shall make a judgment regarding  
6 the continued employment of the employee. For purposes of this subsection, "conviction" means,  
7 in addition to judgments of conviction entered by a court subsequent to a finding of guilty or a plea  
8 of guilty, those instances where the defendant has entered a plea of nolo contendere and has  
9 received a sentence of probation and those instances where a defendant has entered into a deferred  
10 sentence agreement with the attorney general.

11 SECTION 2. This act shall take effect upon passage.

=====  
LC005023  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- DEPARTMENT OF HEALTH

\*\*\*

- 1           This act would prevent the director of health from promulgating any regulation in the adult
- 2 day care program licensure process discriminating against or giving preference to the number of
- 3 and/or percentage of adult participants receiving adult day care services based upon their age group.
- 4           This act would take effect upon passage.

=====  
LC005023  
=====