



General Assembly

February Session, 2020

Raised Bill No. 409

LCO No. 2641



Referred to Committee on PUBLIC SAFETY AND SECURITY

Introduced by:
(PS)

AN ACT CONCERNING HOMEMAKER AND COMPANION SERVICES.

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

1 Section 1. Section 20-670 of the 2020 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2020*):

4 As used in sections 20-670 to [20-680] 20-681, inclusive:

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

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

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

13 (4) "Employee" means any person employed by, or who enters into a

14 contract to perform services for, a homemaker-companion agency,
15 including, but not limited to, temporary employees, pool employees
16 and persons treated by such agency as independent contractors.

17 (5) "Comprehensive background check" means a background
18 investigation of a prospective employee performed by a homemaker-
19 companion agency or a registry, that includes: (A) A review of any
20 application materials prepared or requested by the agency and
21 completed by the prospective employee; (B) an in-person interview of
22 the prospective employee; (C) verification of the prospective employee's
23 Social Security number; (D) if the position applied for within the agency
24 requires licensure on the part of the prospective employee, verification
25 that the required license is in good standing; (E) a check of the registry
26 established and maintained pursuant to section 54-257; (F) a review of
27 criminal conviction information obtained through a search of current
28 criminal matters of public record in this state based on the prospective
29 employee's name and date of birth; (G) if the prospective employee has
30 resided in this state less than three years prior to the date of the
31 application with the agency, a review of criminal conviction information
32 from the state or states where such prospective employee resided
33 during such three-year period; and (H) a review of any other
34 information that the agency deems necessary in order to evaluate the
35 suitability of the prospective employee for the position.

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

40 (7) "Homemaker-companion agency" means (A) any public or private
41 organization that employs one or more persons and is engaged in the
42 business of providing companion services or homemaker services, or (B)
43 any registry. "Homemaker-companion agency" shall not include a home
44 health care agency, as defined in subsection (d) of section 19a-490, or a
45 home health aide agency, as defined in subsection (e) of section 19a-490.

46 (8) "Registry" means any person or entity engaged in the business of
 47 supplying or referring an [individual] employee to or placing an
 48 [individual] employee with a consumer to provide homemaker or
 49 companion services provided by such [individual] employee, when the
 50 [individual] employee providing such services is either (A) directly
 51 compensated as an employee, in whole or in part, by the consumer, or
 52 (B) treated, referred to or considered by such person or entity as an
 53 independent contractor.

54 (9) "Service plan" means a written document provided by a
 55 homemaker-companion agency to a person utilizing services provided
 56 by such agency, that specifies the anticipated scope, type, frequency and
 57 duration of homemaker or companion services that are to be provided
 58 by such agency for the benefit of the person.

59 Sec. 2. Section 20-679a of the general statutes is repealed and the
 60 following is substituted in lieu thereof (*Effective October 1, 2020*):

61 (a) A registry that supplies, refers or places an [individual] employee
 62 with a consumer shall provide the consumer with a written notice, to be
 63 signed by the consumer, specifying the legal liabilities of such registry
 64 to the [individual] employee supplied or referred to or placed with the
 65 consumer. Such notice shall be given to the consumer before the
 66 commencement of services and such services shall not commence until
 67 the registry receives a signed copy of the notice from the consumer,
 68 unless a bona fide emergency exists and such registry details the specific
 69 nature of the emergency on a form approved by the department and
 70 signed by the consumer or an authorized representative of the
 71 consumer. If a bona fide emergency exists, the registry shall provide
 72 such notice not later than four calendar days after the date on which it
 73 supplies, refers or places an [individual] employee with a consumer. If
 74 the registry maintains an Internet web site, a sample of the notice shall
 75 be posted on such Internet web site.

76 (b) Each notice provided to a consumer pursuant to subsection (a) of
 77 this section shall be written in boldface type and plain language and

78 shall comply with the plain language standard detailed in section 42-
 79 152. Such notice shall include a statement identifying the registry as an
 80 employer, joint employer, leasing employer or nonemployer, as
 81 applicable, along with a statement advising the consumer he or she may
 82 be considered an employer under law and, if that is the case, the
 83 consumer may be [held] (1) responsible for the payment of federal and
 84 state taxes, Social Security, overtime and minimum wage,
 85 unemployment, workers' compensation insurance payments and any
 86 other applicable payment required under state or federal law; (2)
 87 responsible for reporting compensation paid to an employee to the
 88 Internal Revenue Service; (3) legally liable for work-related injuries; and
 89 (4) legally required to carry workers' compensation insurance or other
 90 forms of insurance for employees. The notice shall also include a
 91 statement that the consumer should consult a financial, legal,
 92 accounting or tax professional if [he or she is uncertain about his or her
 93 responsibility for the payment of such taxes or payments] the consumer
 94 is uncertain about the consumer's responsibilities to employees.

95 (c) For purposes of this section, a homemaker-companion agency that
 96 supplies, refers or places an independent contractor with a consumer for
 97 the provision of companion or homemaker services shall be considered
 98 a registry, as defined in section 20-670, as amended by this act, and shall
 99 be required to provide the consumer with a notice pursuant to
 100 subsection (a) of this section.

101 Sec. 3. Section 20-681 of the 2020 supplement to the general statutes
 102 is repealed and the following is substituted in lieu thereof (*Effective*
 103 *October 1, 2020*):

104 [For purposes of this section "covenant not to compete" means any
 105 contract or agreement that restricts the right of an individual to provide
 106 homemaker, companion or home health services (1) in any geographic
 107 area of the state for any period of time, or (2) to a specific individual.
 108 Any covenant not to compete is against public policy and shall be void
 109 and unenforceable.]

110 A contract or agreement between an individual and a homemaker-
 111 companion agency, registry or home health aide registry prohibiting
 112 such individual from providing homemaker, companion or home
 113 health services to a specific individual, or a competing homemaker-
 114 companion agency, registry or home health aide registry is a covenant
 115 not to compete that is against public policy and shall be void and
 116 unenforceable, unless it is a private contract or agreement (1) not to
 117 solicit or accept solicitation from any client, employee or vendor of such
 118 homemaker-companion agency, registry or home health aide registry,
 119 and (2) limited in duration to not more than one year. For purposes of
 120 this section "home health aide registry" has the same meaning as
 121 provided in section 19a-490.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2020</i>	20-670
Sec. 2	<i>October 1, 2020</i>	20-679a
Sec. 3	<i>October 1, 2020</i>	20-681

Statement of Purpose:

To (1) allow a registry, in addition to a homemaker-companion agency, to conduct background checks on prospective employees; (2) expand the contents of the required notice to a consumer regarding homemaker and companion services; and (3) modify provisions on covenants not to compete between an individual and a homemaker-companion agency, registry or home health aide agency.

[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.]