

2011 -- H 5628

LC01677

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO HUMAN SERVICES

Introduced By: Representatives Naughton, McNamara, E Coderre, Slater, and Diaz

Date Introduced: March 03, 2011

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 40-8.1 of the General Laws entitled "Personal Care Attendant
2 Program" is hereby repealed in its entirety.

3 ~~CHAPTER 40-8.1~~

4 ~~Personal Care Attendant Program~~

5 ~~**40-8.1-1. Authority to establish program -- Administration.** -- The department of
6 human services is hereby authorized to establish a participant directed personal care attendant
7 program for those with severe physical disabilities, to provide personal attendant care to those
8 disabled individuals who meet certain eligibility criteria hereinafter stated. The department of
9 human services shall be responsible for the administration of the program but may contract with
10 other state agencies or nonprofit organizations in connection with the program.~~

11 ~~**40-8.1-2. Services provided.** -- Services that may be provided eligible persons if not
12 available from other sources include:~~

13 ~~-(1) Any appropriate vocational rehabilitation service, as well as other services that will
14 enhance the ability of individuals with disabilities to live independently and function within the
15 family and community;~~

16 ~~-(2) Personal care attendant services;~~

17 ~~-(3) Advocacy services;~~

18 ~~-(4) Peer counseling;~~

19 ~~-(5) Housing; and~~

1 ~~(6) Transportation.~~

2 ~~**40-8.1-3. Eligibility for services.** --- Services available under this chapter may be~~
3 ~~provided to any person who meets the following criteria:~~

4 ~~(1) Has made application therefor to the director of the department of human services in~~
5 ~~a manner prescribed by the director;~~

6 ~~(2) Has a severe physical disability that caused the person to be unduly dependent, the~~
7 ~~disability to be certified by the division of vocational rehabilitation; and~~

8 ~~(3) Has not sufficient income or resources to meet the cost of home care services, a~~
9 ~~determination of insufficiency to be made by the division of vocational rehabilitation.~~

10 ~~**40-8.1-4. When services may be provided.** --- Personal care attendant services may be~~
11 ~~provided when:~~

12 ~~(1) The requirements of section 40-8.1-3 are met; and~~

13 ~~(2) An attendant is available to provide the care needed.~~

14 ~~**40-8.1-5. Appropriations.** --- There is hereby appropriated to the department of human~~
15 ~~services funds adequate to implement an independent living program including a participant~~
16 ~~directed personal care attendant program in the amount of ninety five thousand dollars (\$95,000)~~
17 ~~for fiscal year ending June 30, 1980. Additional funds shall be made available on a yearly basis to~~
18 ~~maintain the program.~~

19 SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
20 amended by adding thereto the following chapter:

21 CHAPTER 17.26

22 PERSONAL CARE SERVICES

23 **23-17.26-1. Definitions.** - As used in this chapter:

24 (1) "Agency" means a personal care services agency.

25 (2) "Client" means an individual desiring personal care services who has been accepted to
26 receive personal care services from an agency.

27 (3) "Department" means the department of health.

28 (4) "Director" means the director of the department of health or his or her designee.

29 (5) "Personal care services agency" means a person or entity that provides or offers to
30 provide personal care services in a client's place of residence for compensation, whether through
31 the agency's own employees, contractual employees, a placement agency or by arrangement with
32 another person. Personal care services agency does not include an agency that limits its business
33 to exclusively providing house cleaning services; a state or local health department; or entities
34 required to be licensed under Rhode Island general laws, including, but not limited to, health care

1 facilities, chapter 23-17, assisted living residences, chapter 23-17.4, and nursing service agencies,
2 chapter 23-17.7.1.

3 (6) "Personal care services" means assistance with activities of daily living,
4 housekeeping, personal laundry and companionship provided to an individual in his or her
5 residence, which are intended to enable that individual to remain safely and comfortably in their
6 residence. Personal care services does not include incidental services provided by entities
7 required to be licensed under Rhode Island general laws, including, but not limited to, health care
8 facilities, chapter 23-17, assisted living residences, chapter 23-17.4, and nursing service agencies,
9 chapter 23-17.7.1. Levels of personal care services include:

10 (i) "Attendant care" means hands-on assistance with activities of daily living including,
11 but not limited to, ambulation, transfer, toileting, and grooming.

12 (ii) "Homemaker services" means and includes, but is not limited to, assistance with
13 household tasks, shopping, and meals.

14 (iii) "Companion care" means provisions of fellowship, care and protections for clients
15 including, but not limited to, transportation, letter writing, escort services, reading and medication
16 reminding.

17 (7) "Personal care attendant" means an individual with appropriate training who provides
18 personal care services to a client in the client's residence.

19 (8) "Personal representative" means a person who, under applicable state law, has the
20 authority to act on behalf of the client with regard to an action to be taken.

21 (9) "Placement agency" means any person or entity engaged for gain or profit, regardless
22 of federal tax status, in the business of securing or attempting to secure: (i) work for hire for
23 persons seeking work; or (ii) workers for employers. The term includes a private employment
24 agency and any other entity that places a worker for private hire by a client in that client's
25 residence for purposes of providing personal care services. The term does not include a person
26 that provides or procures temporary employment in entities required to be licensed under Rhode
27 Island general laws, including, but not limited to, health care facilities, chapter 23-17, assisted
28 living residences, chapter 23-17.4, and nursing service agencies, chapter 23-17.7.1.

29 (10) "Service plan" means a written list of the types and schedule of services prepared by
30 the personal care services agency manager, or his or her designee, updated to reflect changes in
31 needs or services as appropriate, but at least annually, that states the services to be provided to the
32 client subject to the client's right to temporarily suspend, permanently terminate, temporarily add,
33 or permanently add the provision of any such service.

34 **23-17.26-2 Licensure required.-** (a) On or after January 1, 2012, no person shall open,

1 manage, conduct, or maintain a personal care services agency, or advertise himself or herself as a
2 personal care services agency or as offering services that would be included in the definition of
3 personal care services without a license issued by the department. This licensure shall be in
4 accordance with the rules and regulations adopted by the department in order to protect the
5 health, safety, and well-being of clients through licensure of personal care services agencies and
6 personal care attendants which shall address, at a minimum, the following areas:

7 (1) Establishment of an application for a license for personal care services agencies and
8 personal care attendants;

9 (2) Establishment of a license renewal procedure for personal care services agencies and
10 personal care attendants;

11 (3) Establishment of fees for license application and license renewal;

12 (4) Establishment of training requirements for licensees;

13 (5) Compliance with requirements of section 23-17.26-10 related to criminal background
14 checks of persons to provide services to the client in his or her home;

15 (6) Compliance with the requirement for provision of list of client rights as provided in
16 section 23-17.26-7;

17 (7) Establishment of any fines or penalties levied as a result of a finding by the
18 department as to violation, including, but not limited to, correction plans;

19 (8) Establishment of license violations and basis for license denials, suspension or
20 revocations;

21 (9) Establishment of necessary financial or other resources to operate and conduct a
22 personal services agency, including, but not limited to, bonding and liability insurance; and

23 (10) Notification, in a form and manner established by the department in rule, to personal
24 care attendants and clients as to the party or parties responsible under state and federal laws for
25 payment of employment taxes, social security taxes, and workers' compensation, liability
26 insurance coverage, the day-to-day supervision of workers, and the hiring, firing and discipline of
27 workers with the placement arrangement for provision of in-home personal care services.

28 (b) A license is required for any personal care services agency or personal care attendant
29 providing services in this state where the parent agency is located in another state. The agency
30 must be authorized by the secretary of state to conduct business in the state and have a branch
31 office located in this state.

32 (c) By October 1, 2011, the department shall adopt standards for the licensure and
33 operation of personal care service agencies and personal care attendants in this state. The
34 structure of the standards shall be based on the concept of personal care services and its focus on

1 assistance with activities of daily living, housekeeping, personal laundry, and companionship
2 being provided to an individual intended to enable that individual to remain safely and
3 comfortably in his or her own personal residence. After consideration and recommendation by the
4 personal care services advisory counsel, the department shall adopt such rules and regulations as
5 are necessary for the proper regulation of personal care services agencies and personal care
6 attendants.

7 **23-17.26-3 Licenses.-** (a) An annual license shall be issued to any person conducting or
8 maintaining an agency or acting as a personal care attendant upon receipt of an application and
9 payment of the licensure fee, and when the other requirements of the chapter and the rules and
10 regulations promulgated hereunder, are met.

11 (b) Each license shall be issued only for the agency or personal care attendant named in
12 the application and shall not be transferred or assigned. Upon sale, assignment, lease or other
13 transfer, voluntary or involuntary, including those transfers that qualify as a change in ownership,
14 the new owner or person in interest shall obtain a license from the department prior to
15 maintaining, operating, or conducting the agency.

16 **23-17.26-4 Denial, suspension, or revocation of license.-** The department, after notice
17 and opportunity for a hearing to the applicant or licensee, is authorized to deny, suspend, or
18 revoke a license in any case in which it finds that there has been failure to comply with the
19 requirements established under and pursuant to this chapter. The notice shall be effected by
20 registered or certified mail or by personal service, setting forth the particular reasons for the
21 proposed action and fixing a date not less than thirty (30) days from the date of the mailing or
22 service, at which time the applicant or licensee shall be given an opportunity for a prompt and fair
23 hearing. On the basis of the hearing, or upon the failure of the applicant or licensee to appear, the
24 department shall make a determination specifying its findings of fact and conclusion of law. A
25 copy of the determination shall be sent by registered or certified mail or served personally upon
26 the applicant or licensee. The decision denying, suspending, or revoking the license or application
27 shall become final thirty (30) days after it is so mailed or served, unless the applicant or licensee,
28 within the thirty (30) day period, appeals the decision pursuant to section 42-35-15. The
29 procedure governing hearings authorized by this section shall be in accordance with sections 42-
30 35-9 and 42-35-13 as stipulated in subsection 42-34-14(a). A full and complete record shall be
31 kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the
32 decision is appealed pursuant to section 42-35-15. A copy or copies of the transcript may be
33 obtained by an interested party on payment of the cost of preparing the copy or copies. Witnesses
34 may be subpoenaed by either party.

1 **23-17.26-5 Judicial review of license action.-** Any person who has exhausted all
2 administrative remedies available to him or her within the department, and who is aggrieved by a
3 final decision of the licensing agency, is entitled to judicial review in accordance with the
4 provisions of section 42-35-15 and 42-35-16.

5 **23-17.26-6 Inspections and Investigations.-** The department may conduct any such
6 investigation and inspection as it deems necessary to assess compliance with this chapter and the
7 rules and regulations promulgated thereto. Wherever possible and practical, on-site reviews shall
8 be scheduled, in an effort so as to reduce the number of visits and the disruption to the agency or
9 attendant operation. Investigations and inspections may include the direct observation of the
10 provision of client care in the home, if the client gives consent. Agencies or attendants licensed
11 under the chapter shall make available to the department all books, records, policies and
12 procedures, or any other materials requested during the course of an investigation or inspection.
13 Refusal to make such materials available to the department shall be grounds for license
14 revocation, or the imposition of any other penalty provided in the chapter.

15 **23-17.26-7 Rights of Clients.-** The department shall develop rights to be distributed to
16 the client within the five (5) calendar days of the initiation of services to the client and thereafter,
17 on an annual basis. These rights include:

18 (1) Client's right to be free from verbal, physical and psychological abuse and to be
19 treated with dignity;

20 (2) Client's right to temporarily or permanently suspend, terminate, or add the provision
21 of any services stated in the service plan;

22 (3) Client's right to have property treated with respect;

23 (4) Client's right to voice grievances regarding services furnished or regarding the lack of
24 respect for property by anyone who is furnishing services on behalf of the personal services
25 agency and that the client must not be subject to discrimination or reprisal for doing so;

26 (5) A statement that it is not within the scope of the personal care services agency license
27 to manage the medical and health conditions of the clients;

28 (6) The charges for services provided by the personal care services agency;

29 (7) The hours of operation of the agency and the procedures for contacting the agency's
30 manager, or his/her designee, while the agency office is open for business and while it is closed;

31 (8) The procedure and contact information to call to file a complaint with the agency; and

32 (9) The procedure and contact information to call to file a complaint with the department.

33 **23-17.26-8 Complaint Process.-** An agency shall investigate complaints made by a
34 client or the client's family or personal representative regarding services that are or have failed to

1 be furnished, regarding lack of respect for the client's property by anyone furnishing services on
2 behalf of the agency, and shall document the existence of the complaint and the resolution of the
3 complaint in accordance with department requirements.

4 **23-17.26-9 Advisory Council.-** (a) The director shall appoint a personal care services
5 advisory council composed of eleven (11) persons to advise and consult the department in the
6 administration of this chapter. Five (5) of the appointed members shall represent the personal care
7 services profession. Two (2) of the appointed members shall represent consumers of personal care
8 services, either as a direct client or a personal representative of the client. Two (2) of the
9 appointed members shall be personal care attendants. One of the appointed members shall be a
10 representative of an organization that advocates for clients and one member shall represent the
11 general public.

12 (b) The council shall meet as frequently as the director deems necessary, but no less than
13 bi-annually.

14 (c) The council shall provide input and recommendations to the department on the
15 development of rules for the licensure of personal care services agencies and personal care
16 attendants.

17 **23-17.26-10 Criminal records review.-** (a) Any person seeking employment, whether
18 compensated or not, as a personal care attendant or in a personal care services agency which is
19 required to be licensed with the department if that employment involves direct contact with a
20 client shall undergo a criminal background check to be initiated prior to employment.

21 (b) The director of the department may by rule identify those positions requiring criminal
22 background checks. The identified employee, through the employer, shall apply to the bureau of
23 criminal identification of the department of attorney general, state police or local police
24 department for a national criminal records check that shall be supported by fingerprints run
25 through the National Crime Information Center ("NCIC") Interstate Identification Index ("III").
26 Upon the discover of any disqualifying information as defined in section 23-17-37 and in
27 accordance with the rule promulgated by the director of health, the bureau of criminal
28 identification of the department of attorney general, state police or the local police department
29 shall inform the applicant, in writing, of the nature of the disqualifying information; and, without
30 disclosing the nature of the disqualifying information, will notify the employer, in writing, that
31 disqualifying information has been discovered.

32 (c) An employee against whom disqualifying information has been found may request
33 that a copy of the criminal background report be sent to the employer who shall make a judgment
34 regarding the continued employment of the employee.

1 (d) In those situations in which no disqualifying information has been found, the bureau
2 of criminal identification of the department of attorney general, state police or the local police
3 shall inform the applicant and the employer, in writing, of this fact.

4 (e) The employer shall maintain on file, subject to inspection by the department, evidence
5 that criminal records checks have been initiated on all employees seeking employment and the
6 results of the checks. Failure to maintain that evidence shall be grounds to revoke the license or
7 registration of the employer.

8 **23-17.26-11 Prior criminal records checks.-** If an applicant for employment has
9 undergone a national criminal records check within eighteen (18) months of an application for
10 employment, then an employer may request from the bureau of criminal identification of the
11 department of attorney general, state police or the local police a letter indicating if any
12 disqualifying information was discovered. The bureau of criminal identification shall respond
13 without disclosing the nature of the disqualifying information. The letter may be maintained on
14 file to satisfy the requirements of this chapter.

15 **23-17.26-12 Disqualifying information.-** (a) Information produced by a criminal records
16 review pertaining to conviction, for the following crimes shall result in a letter to the employee
17 and employer disqualifying the applicant from the employment: murder, voluntary manslaughter,
18 involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree
19 sexual assault, assault on persons sixty (60) years of age or older, assault with intent to commit
20 specified felonies murder, robbery, rape, burglary, [or the abominable and detestable crime
21 against nature], felony assault, patient abuse, neglect or mistreatment of patients, first degree
22 arson, robbery, felony drug offenses, larceny, or felony banking law violations.

23 (b) Information produced by a criminal records review pertaining to convictions for
24 crimes other than those listed in subsection (a) of this section shall entitle, but not obligate the
25 employer to decline to hire the applicant. An employee against whom conviction information
26 related to this subsection has been found may request that a copy of the criminal background
27 report be sent to the employer who shall make a determination regarding the continued
28 employment of the employee.

29 (c) For purposes of this section "conviction" means, in addition to judgments of
30 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances
31 where the defendant has entered a plea of nolo contendere and has received a sentence of
32 probation and those instances where a defendant has entered into a deferred sentence agreement
33 with the attorney general.

34 **23-17.26-13 Immunity from liability.-** No employer who disqualifies an individual from

1 employment or continued employment within thirty (30) days of receipt of a letter containing
2 disqualifying information as defined in section 23-17.26-5 or of a criminal background report
3 relating to that information shall be liable for civil damages or subject to any claim, cause of
4 action, or proceeding of any nature as a result of the disqualification.

5 **23-17.26-14 Public Nuisance.-** The operation or maintenance of an agency in violation
6 of this chapter or of the rules and regulations promulgated by the department is declared a public
7 nuisance inimical to the public welfare. The director, through the attorney general, may in
8 addition to other remedies herein provided, bring action for an injunction to restrain such
9 violation or to enjoin the future operation or maintenance of any such agency.

10 **23-17.26-15 Rules and regulations.-** The director is authorized to promulgate rules and
11 regulations to carry out the intent of this chapter.

12 **23-17.26-16 Severability.-** If any provision of this chapter or the application of any
13 provision of this chapter to any person or circumstance shall be held invalid, the invalidity shall
14 not affect the provisions or application of this chapter which can be given effect without the
15 invalid provisions or application, and to this end the provisions of this chapter are declared
16 severable.

17 SECTION 3. Sections 23-17-34 and 23-17-35 of the General Laws in Chapter 23-17
18 entitled "Licensing of Health Care Facilities" are hereby amended to read as follows:

19 **23-17-34. Criminal records review -- Nursing facilities -- Home nursing care**
20 **providers and home care providers. --** (a) Any person seeking employment in a nursing facility,
21 a home nursing care provider, or a home care provider which is or is required to be licensed,
22 registered or certified with the department of health if that employment involves ~~routine~~ direct
23 contact with a patient or resident ~~without the presence of other employees~~, shall undergo a
24 criminal background check to be initiated prior to ~~or within one week of~~ employment. All
25 employees hired prior to the enactment of this section shall be exempted from the requirements of
26 this section.

27 (b) The director of the department of health may by rule identify those positions
28 requiring criminal background checks. The identified employee, through the employer, shall
29 apply to the bureau of criminal identification of the department of attorney general, state police or
30 local police department for a ~~statewide~~ national criminal records check that shall be supported by
31 fingerprints run through National Crime Information Center ("NCIC") Interstate Identification
32 Index ("III"). ~~Fingerprinting shall not be required.~~ Upon the discovery of any disqualifying
33 information as defined in section 23-17-37 and in accordance with the rule promulgated by the
34 director of health, the bureau of criminal identification of the department of attorney general, state

1 police or the local police department will inform the applicant, in writing, of the nature of the
2 disqualifying information; and, without disclosing the nature of the disqualifying information,
3 will notify the employer, in writing, that disqualifying information has been discovered.

4 (c) An employee against whom disqualifying information has been found may request
5 that a copy of the criminal background report be sent to the employer who shall make a judgment
6 regarding the continued employment of the employee.

7 (d) In those situations in which no disqualifying information has been found, the bureau
8 of criminal identification of the [department of attorney general](#), state police or the local police
9 shall inform the applicant and the employer, in writing, of this fact.

10 (e) The employer shall maintain on file, subject to inspection by the department of
11 health, evidence that criminal records checks have been initiated on all employees seeking
12 employment after October 1, 1991, and the results of the checks. Failure to maintain that evidence
13 would be grounds to revoke the license or registration of the employer.

14 ~~(f) It shall be the responsibility of the bureau of criminal identification of the state police~~
15 ~~or the local police department to conduct the criminal records check to the applicant for~~
16 ~~employment without charge to either the employee or the employer.~~

17 **23-17-35. Prior criminal records checks.** -- If an applicant for employment has
18 undergone a ~~statewide~~ [national](#) criminal records check within eighteen (18) months of an
19 application for employment, then an employer may request from the bureau of criminal
20 identification [of the department of attorney general, state police](#) or [the](#) local police a letter
21 indicating if any disqualifying information was discovered. The bureau of criminal identification
22 will respond without disclosing the nature of the disqualifying information. The letter may be
23 maintained on file to satisfy the requirements of this chapter.

24 SECTION 4. Sections 23-17.4-27 and 23-17.4-28 of the General Laws in Chapter 23-
25 17.4 entitled "Assisted Living Residence Licensing Act" are hereby amended to read as follows:

26 **23-17.4-27. Criminal records review.** -- (a) Any person seeking employment, [whether](#)
27 [compensated or not](#), in any assisted living residence licensed under this act and having ~~routine~~
28 [direct](#) contact with a resident or having access to a resident's belongings or funds shall undergo a
29 criminal background check to be ~~processed~~ [initiated](#) prior to ~~or within one week of~~ employment.
30 All employees hired prior to the enactment of this section shall be exempted from the
31 requirements of this section.

32 (b) The director of the department of health may by rule identify those positions
33 requiring criminal background checks. The employee, through the employer, shall apply to the
34 bureau of criminal identification of the [department of attorney general](#), state police or local police

1 department for a ~~statewide~~ national criminal records check that shall be supported by fingerprints
2 run through National Crime Information Center ("NCIC") Interstate Identification Index ("III").
3 ~~Fingerprinting shall not be required.~~ Upon the discovery of any disqualifying information as
4 defined in section 23-17.4-30 and in accordance with the rule promulgated by the director of
5 health, the bureau of criminal identification of the department of attorney general, state police or
6 the local police department will inform the applicant in writing of the nature of the disqualifying
7 information; and, without disclosing the nature of the disqualifying information, will notify the
8 employer in writing that disqualifying information has been discovered.

9 (c) An employee against whom disqualifying information has been found may request
10 that a copy of the criminal background report be sent to the employer. The administrator shall
11 make a judgment regarding the continued employment of the employee.

12 (d) In those situations in which no disqualifying information has been found, the bureau
13 of criminal identification (BCI) of the department of attorney general, state police or the local
14 police shall inform the applicant and the employer in writing of this fact.

15 (e) The employer shall maintain on file, subject to inspection by the department of
16 health, evidence that criminal records checks have been initiated on all employees seeking
17 employment after October 1, 1991, and the results of the checks. Failure to maintain that evidence
18 would be grounds to revoke the license or registration of the employer.

19 ~~(f) It shall be the responsibility of the bureau of criminal identification (BCI) of the state~~
20 ~~police or the local police department to conduct the criminal records check to the applicant for~~
21 ~~employment without charge to either the employee or employer.~~

22 **23-17.4-28. Prior criminal records checks.** -- If an applicant for employment has
23 undergone a ~~statewide~~ national criminal records check within eighteen (18) months of an
24 application for employment, then an employer may request from the bureau of criminal
25 identification of the department of attorney general, state police or the local police a letter
26 indicating if any disqualifying information was discovered. The bureau of criminal identification
27 will respond without disclosing the nature of the disqualifying information. The letter may be
28 maintained on file to satisfy the requirements of this chapter.

29 SECTION 5. Sections 23-17.7.1-17 and 23-17.7.1-18 of the General Laws in Chapter 23-
30 17.7.1 entitled "Licensing of Nursing Service Agencies" are hereby amended to read as follows:

31 **23-17.7.1-17. Criminal records review.** -- (a) Any person seeking employment, whether
32 compensated or not, in a facility which is or is required to be licensed or registered with the
33 department of health if that employment involves ~~routine~~ direct contact with a patient or resident
34 ~~without the presence of other employees~~, shall undergo a criminal background check, ~~which shall~~

1 to be initiated prior to, ~~or within one week of,~~ employment. All employees hired prior to the
2 enactment of this section shall be exempted from the requirements of this section.

3 (b) The director of the department of health may, by rule, identify those positions
4 requiring criminal background checks. The employee, through the employer, shall apply to the
5 bureau of criminal identification of the [department of attorney general](#), state police or local police
6 department for a ~~statewide~~ [national](#) criminal records check [that shall be supported by fingerprints](#)
7 [run through the National Crime Information Center \("NCIC"\) Interstate Identification Index](#)
8 [\("III"\)](#). ~~Fingerprinting shall not be required.~~ Upon the discovery of any disqualifying information
9 as defined in section 23-17.7.1-20 and in accordance with the rule promulgated by the director of
10 the department of health, the bureau of criminal identification of the [department of attorney](#)
11 [general](#), state police or the local police department will inform the applicant, in writing, of the
12 nature of the disqualifying information; and, without disclosing the nature of the disqualifying
13 information, will notify the employer, in writing, that disqualifying information has been
14 discovered.

15 (c) An employee against whom disqualifying information under section 23-17.7.1-20(b)
16 has been found may request that a copy of the criminal background report be sent to the employer
17 who shall make a judgment regarding the continued employment of the employee.

18 (d) In those situations in which no disqualifying information has been found, the bureau
19 of criminal identification of the [department of attorney general](#), state police or the local police
20 shall inform the applicant and the employer, in writing, of this fact.

21 (e) The employer shall maintain on file, subject to inspection by the department of
22 health, evidence that criminal records checks have been initiated on all employees. Failure to
23 maintain that evidence would be grounds to revoke the license or registration of the employer.

24 ~~(f) It shall be the responsibility of the bureau of criminal identification of the state police~~
25 ~~or the local police department to conduct the criminal records check to the applicant for~~
26 ~~employment without charge to either the employee or the employer.~~

27 **23-17.7.1-18. Prior criminal records checks.** -- If an applicant for employment has
28 undergone a ~~statewide~~ [national](#) criminal records check within eighteen (18) months of an
29 application for employment, then an employer may request from the bureau of criminal
30 identification [of the department of attorney general, state police](#) or [the](#) local police a letter
31 indicating if any disqualifying information was discovered. The bureau of criminal identification
32 will respond without disclosing the nature of the disqualifying information. The letter may be
33 maintained on file to satisfy the requirements of this chapter.

34 SECTION 6. Section 42-9-8.1 of the General Laws in Chapter 42-9 entitled "Department

1 of Attorney General" is hereby amended to read as follows:

2 **42-9-8.1. Office of investigation -- Powers and duties of investigators. --** (1)

3 Establishment. - There is hereby established within the department of attorney general an office
4 of investigation.

5 (2) Scope and purpose. - The scope and purpose of the office of investigation shall be:

6 (a) To assist special assistant and assistant attorneys general in carrying out
7 investigations relating to grand jury investigations, pre-trial preparation and other litigation
8 efforts;

9 (b) To coordinate their efforts in investigating criminal activity with existing federal,
10 state and local law enforcement resources; and

11 (c) To initiate criminal investigations for violations of the law at the direction of the
12 attorney general.

13 (3) Composition and powers. - The office of investigation shall consist of a chief, ~~and~~
14 ~~not more than five (5)~~ field investigators, to be designated by the attorney general, and support
15 personnel. The chief and the field investigators shall have the following powers:

16 (a) The power to arrest independently or in conjunction with local, state or federal law
17 enforcement agencies;

18 (b) The power to, with the written authorization by the attorney general or his or her
19 designated deputy, apply for and execute search warrants; and

20 (c) The power to serve civil and criminal process.

21 (4) Qualifications. - No person shall be appointed as chief of the office of investigation
22 or as a field investigator in the office unless he or she has successfully completed the basic course
23 of instruction for police officers at the Providence police training academy, the Rhode Island
24 municipal police training academy, or the Rhode Island state police training academy, and has at
25 least three (3) years of active law enforcement experience, or has served as a member of the
26 United States Marshal's Service or as a special agent of the Federal Bureau of Investigation, a
27 criminal law enforcement agency of the United States Department of Justice, the United States
28 Department of State, the United States Department of the Treasury or the United States Postal
29 Inspection Service and has at least three (3) years of active law enforcement experience, or has
30 been certified as a police officer by the duly-constituted state commission on police officer
31 standards and training of another state, and has at least three (3) years of active law enforcement
32 experience.

33 (5) Appointment background check. - The attorney general shall appoint the chief, field
34 investigators, and the support personnel of the office of investigation. Prior to the appointment of

1 any individuals, a background examination shall be conducted utilizing federal, state and local
2 law enforcement agencies, bureau of criminal identification, national crime information center,
3 and any and all relevant records existing within the federal and state court systems.

4 (6) Standards. - The office shall adopt and implement such standards as may be
5 applicable to its scope and purpose as promulgated by the commission for the accreditation of law
6 enforcement agencies.

7 SECTION 7. This act shall take effect upon passage.

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LC01677
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HUMAN SERVICES

1 This act provides for licensure of personal care service agencies and personal care
2 attendants. The act also provides for national background checks for all those seeking
3 employment in health care, assisted living and nursing service facilities.

4 This act would take effect upon passage.

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