

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE

House Bill 325 (Chair, Judiciary Committee)(By Request - Departmental
 - Human Resources)

Judiciary

Family Law - Child Abuse and Neglect Central Registry - Background Check Fee

This departmental bill authorizes the Department of Human Resources (DHR) or a local department of social services to charge a reasonable fee of up to \$25 per request for the processing of background information from the child abuse and neglect central registry for employment or voluntary services. The fee is payable at the time of the request.

Fiscal Summary

State Effect: Special fund revenues increase by \$187,500 in FY 2012 from the fee to be assessed for child protective services background checks requested by private organizations and individuals. Out-years assume a stable caseload, no increase in the fee, and include annualization. Special fund expenditures increase by \$162,600 in FY 2012 due to additional personnel and related expenses to conduct child protective services background checks. Out-years include annualization and inflation.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
SF Revenue	\$187,500	\$250,000	\$250,000	\$250,000	\$250,000
SF Expenditure	\$162,600	\$182,200	\$190,100	\$198,400	\$207,100
Net Effect	\$24,900	\$67,800	\$59,900	\$51,600	\$42,900

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: DHR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment as discussed below.

Analysis

Current Law: Except as otherwise provided, a person may not disclose a report or record concerning child abuse or neglect. However, the law requires disclosure of such reports under specified circumstances (for example under a court order) and authorizes disclosure to specified individuals. A person may disclose a report or record of child abuse or neglect to other government officials, as specified in statute, and under the appropriate circumstances. DHR is also authorized to disclose such a report to the operator of a licensed child care center, a child care center that holds a letter of compliance, or a registered family day care provider to determine the suitability of an individual for employment in the center or home. DHR provides such reports without charge, as there is no statutory authority to assess a fee for providing this information.

Regulations governing DHR specify that a local department of social services may disclose information, records, or reports concerning an investigation of child abuse or neglect if all parties affected by the disclosure waive their confidentiality interest in writing. In addition, in response to a notarized request from an individual working or volunteering with children or applying for such work, a local department may notify a designated party as to whether a local department has identified that individual as responsible for indicated child abuse or neglect. Upon such notification, the individual who is the subject of the report may submit a second notarized request which authorizes the local department to release to the designated party a written summary of the facts that resulted in the finding of indicated abuse or neglect. DHR is required to protect and may not disclose the identity of the person who reported the abuse or neglect and any individuals other than the applicant named in the record or report. (*See* COMAR 07.02.07.19) A person who discloses a report of child abuse or neglect in violation of confidentiality provisions is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for 90 days and/or a fine of \$500. (*See* HR § 1-202)

The Social Services Administration in DHR and each local department of social services are authorized to maintain a “central registry” of reported child abuse and neglect cases. Accordingly, DHR maintains a central registry that contains information regarding child abuse and neglect investigations. Local departments provide information for the registry. Registry information is available to the protective staff of DHR, local departments, and law enforcement personnel who are investigating a report of suspected abuse or neglect.

A central registry may contain identifying information relating to an investigation of abuse and neglect. However, it may not contain identifying information if abuse or neglect has been ruled out or the finding has been expunged in accordance with statutory procedures.

DHR or a local department of social services may only identify an individual as responsible for abuse or neglect in a central registry if the individual has been found guilty of any criminal charge arising out of the alleged abuse or neglect or has been found responsible for the indicated abuse or neglect and has unsuccessfully appealed the finding or failed to exercise the appeal rights within specified timeframes. DHR must remove an individual's identification as responsible for abuse or neglect in the central registry if no entry has been made for that individual for seven years.

Except for information entered in accordance with the requirements concerning the identification of an individual as responsible for abuse or neglect, the information in a central registry may not be used as a sole basis for responding to any request for background information for employment or for voluntary service.

Background: DHR advises that the requests for child protective services background checks have increased substantially over the years, in part due to federal requirements established by the federal Adam Walsh Act, requirements of The Hague Convention for international adoptions, and the liability concerns of employers. The requests are outstripping the ability of DHR to perform these checks in a timely manner. With the authority to charge a fee to perform the checks, DHR plans to allocate additional staff resources to complete more background checks. DHR advises that background clearance requests would continue to be free of charge to public foster care agencies and kinship care providers who are caring for children in the State's foster care system. A \$10 fee would be charged, however, for background checks related to employment, private adoptions, and volunteer positions.

DHR advises that in Virginia, applicants for protective services background checks are charged \$7 per clearance request. The fee is paid to the Virginia Department of Social Services.

State Revenues: Special fund revenues increase by \$187,500 in fiscal 2012, accounting for the bill's October 1, 2011 effective date. Annualized revenues would be \$250,000. DHR advises that based on a recent data sampling, it is anticipated that annual demand for protective services background checks would be about 50,000 annually statewide. It is anticipated that 50% of these requested checks would come from personnel in public foster care agencies and kinship care providers who would not be assessed the \$10 fee. The other 50% of requests would come from employers and staff in agencies, youth camp organizations, protective services agencies from other states, volunteer organizations, and private individuals. DHR proposes to charge these requesters a fee of \$10 for each protective services background check. DHR advises that it plans to use the generated revenues to defray the cost of the additional contractual employees that would conduct the projected number of background checks.

State Expenditures: Special fund expenditures increase by \$162,646 in fiscal 2012, accounting for the bill's October 1, 2011 effective date. The estimate reflects the cost of hiring five contractual social workers to process and complete protective services background checks. It includes salaries and fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Positions	5
Salaries and Fringe Benefits	\$139,846
Operating Expenses	<u>22,800</u>
Total FY 2012 State Expenditures	\$162,646

Future year expenditures reflect full salaries with 4.4% annual increases and 7.2% employee turnover, as well as 1% annual increases in ongoing operating expenses.

Small Business Effect: Legislative Services advises that small businesses will incur additional expenditures for protective services background checks under this bill. The overall impact is expected to be minimal. Also faster processing of background check requests could help small businesses take on additional employees or volunteers as they are needed.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Charles, Frederick, and Montgomery counties; Department of Human Resources; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2011
ncs/hlb

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Child Abuse and Neglect – Fees – Child Protective Services Background Checks

BILL NUMBER: HB 325

PREPARED BY: Department of Human Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.