

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 712 (Delegate B. Robinson, *et al.*)
Health and Government Operations

**Health Occupations Boards - Criminal History Records Checks - General
Authority**

This bill authorizes each health occupations board to adopt regulations that require an applicant for an initial license or certificate to have a criminal history records check (CHRC) as a condition of licensure or certification. If a board adopts regulations to require a CHRC as a condition of licensure, it may also adopt regulations to require a CHRC as a condition of reinstatement of a lapsed license or certificate, removal from inactive status, or renewal of a license or certificate.

Fiscal Summary

State Effect: Adoption of regulations by Maryland health occupations boards can be handled with existing budgeted resources. To the extent that boards adopt regulations requiring CHRCs, board operations may be impacted by additional workload. The amount of such workload will depend on the number of individuals regulated by each board and the number of positive (a criminal history is identified) CHRC results received. Special fund revenues for the Department of Public Safety and Correctional Services (DPSCS) will increase to the extent additional CHRCs are required. Furthermore, for each additional 40,000 CHRC applications, the Criminal Justice Information System (CJIS) Central Repository in DPSCS may need to hire additional personnel.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An applicant, who is required to have a CHRC, must apply to CJIS for both a State and national CHRC. An applicant must submit two sets of fingerprints taken on the required forms, the State criminal history fee, and the processing fee required by the Federal Bureau of Investigation (FBI). CJIS must forward to the board and to the applicant the criminal history record information of the applicant. If an applicant has made two or more attempts at securing legible fingerprints, the board may accept an alternate method of a CHRC as permitted by the director of CJIS and the director of the FBI. Information obtained from CJIS must be confidential, may not be disseminated, and may be used only for licensing purposes. The subject of a CHRC may contest the contents of the statement issued by CJIS.

Current Law/Background: Generally, applications for licensure or certification from health occupations boards include questions regarding past disciplinary actions, such as whether the individual has ever been denied an application, had any disciplinary action taken against him or her by any state licensing or disciplinary board, or had any investigation or charge brought against him or her. Applications also typically ask if the individual has ever pled guilty, pled *nolo contendere*, been convicted, or received probation before judgment for any criminal act. Based on an applicant's responses, a board may investigate an applicant. If a board determines that an individual made incomplete or false statements about disciplinary or criminal actions, the board may pursue disciplinary action for fraudulently or deceptively obtaining or attempting to obtain a license or certificate.

As shown in **Exhibit 1**, five health occupations boards currently require CHRCs; all but one upon initial application only, while the State Board of Nursing also requires subsequent CHRCs at least once every 12 years upon renewal. With the exception of registered pharmacy technicians, both a State and federal check are required for all noted professions.

In addition to licensure and certification by health occupations boards, some other individuals are required to obtain a CHRC. Under § 19-1902 of the Health-General Article, before an eligible employee may begin work for an adult dependent care program, the program must apply for a State CHRC or request a private agency to conduct a background check and request a reference from the potential employee's most recent employer. An eligible employee is an individual who (1) for compensation, works for an adult dependent care program; (2) has routine, direct access to dependent adults in the program; and (3) is not licensed or certified under the Health Occupations Article. An "adult dependent care program" is defined as an adult day care facility, an assisted living program, a group home, a home health agency, a congregate housing services program, a residential service agency, an alternative living unit, a hospice facility, or a related institution.

Exhibit 1
Health Occupations Required to Obtain Criminal History Records Checks

<u>Board</u>	<u>Occupation(s)</u>
Morticians and Funeral Directors	Mortuary Transport Service Providers ¹
Nursing	Registered Nurses ² Licensed Practical Nurses ² Certified Nursing Assistants ² Electrologists ²
Pharmacy	Registered Pharmacy Technicians ³ Wholesale Pharmaceutical Distributors
Examiners of Psychologists	Licensed Psychologists
Residential Child Care Professionals	Program Administrators Residential Child and Youth Care Practitioners ⁴

¹ Certification began in 2013.

² Subsequent criminal history records checks are required upon renewal at least once every 12 years.

³ State-only check required.

⁴ Certification is not required until October 1, 2015.

Additional Comments: Each individual subject to a CHRC under the bill will be required to pay \$54.50 for a State and national CHRC including a \$20 fingerprinting fee, a \$16.50 FBI fee, an \$18 fee to CJIS. CJIS collects, manages, and disseminates Maryland Criminal History Record Information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

CJIS typically conducts more than 160,000 CHRCs for employment and licensing purposes, such as taxi driving, adoption, adult dependent care, and child care. To the extent that health occupations boards implement CHRC requirements, CJIS may incur additional personnel expenses. For every 40,000 additional applications annually, one fingerprinting specialist may need to be hired at a base salary of \$26,131.

Additional Information

Prior Introductions: None.

Cross File: None designated; however, SB 372 (Senator Robey – Education, Health, and Environmental Affairs) is essentially identical.

Information Source(s): Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

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mlm/ljm

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