

Chapter 98

(House Bill 164)

AN ACT concerning

State Personnel Management System – Background Investigation and Criminal History Records Check – Prospective and Current Employees

FOR the purpose of authorizing certain appointing authorities in the State Personnel Management System to require certain prospective or current employees to provide certain information for a certain background investigation; authorizing certain appointing authorities to request from the Criminal Justice Information System Central Repository a State and national criminal history records check for certain prospective and current employees; establishing certain procedures to apply for a criminal history records check; requiring the Central Repository to forward criminal history record information to certain prospective or current employees; providing that certain information is confidential and may be used only for certain purposes; requiring the Central Repository to provide a revised printed statement of a certain ~~State~~ criminal history record under certain circumstances; authorizing an individual who is the subject of a criminal history records check under this Act to contest certain information in the record; authorizing the Secretary of Budget and Management to adopt certain regulations, guidelines, and policies; defining a certain term; and generally relating to background investigations and criminal history records checks for employees in the State Personnel Management System.

BY adding to

Article – State Personnel and Pensions
 Section 7–104
 Annotated Code of Maryland
 (2015 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – State Personnel and Pensions**7–104.**

(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) IN CONNECTION WITH AN INITIAL APPLICATION FOR EMPLOYMENT OR AS A CONDITION OF CONTINUED EMPLOYMENT IN A POSITION IN THE STATE PERSONNEL MANAGEMENT SYSTEM FOR WHICH THE JOB DUTIES INCLUDE ACCESS

TO FEDERAL TAX INFORMATION THAT IS DEEMED CONFIDENTIAL OR SENSITIVE UNDER FEDERAL OR STATE LAW OR REGULATION, AN APPOINTING AUTHORITY MAY:

(1) REQUIRE A PROSPECTIVE OR CURRENT EMPLOYEE TO PROVIDE INFORMATION FOR A BACKGROUND INVESTIGATION, INCLUDING, FOR AT LEAST THE PREVIOUS ~~10-YEAR~~ 5-YEAR PERIOD, THE PROSPECTIVE OR CURRENT EMPLOYEE'S:

(I) ADDRESS HISTORY; AND

(II) EMPLOYMENT AND EDUCATION HISTORY, INCLUDING THE NAMES AND ADDRESSES OF ALL PREVIOUS EMPLOYERS AND SCHOOLS ATTENDED; AND

(2) REQUEST A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FROM THE CENTRAL REPOSITORY FOR THE PROSPECTIVE OR CURRENT EMPLOYEE.

(C) (1) THE APPOINTING AUTHORITY SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH PROSPECTIVE OR CURRENT EMPLOYEE FOR WHOM A RECORDS CHECK IS SOUGHT UNDER SUBSECTION (B)(2) OF THIS SECTION.

(2) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE APPOINTING AUTHORITY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF THE PROSPECTIVE OR CURRENT EMPLOYEE'S LEGIBLE FINGERPRINTS TAKEN IN A FORMAT APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(3) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE PROSPECTIVE OR CURRENT EMPLOYEE AND THE APPOINTING AUTHORITY THE

PROSPECTIVE OR CURRENT EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

(4) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION:

(I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

(II) MAY BE USED ONLY FOR EMPLOYMENT PURPOSES AUTHORIZED UNDER DIVISION I OF THIS ARTICLE.

(5) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE APPOINTING AUTHORITY A REVISED PRINTED STATEMENT OF THE PROSPECTIVE OR CURRENT EMPLOYEE'S ~~STATE~~ CRIMINAL HISTORY RECORD.

(6) A PROSPECTIVE OR CURRENT EMPLOYEE WHO IS THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

(D) A PROSPECTIVE OR CURRENT EMPLOYEE WHO REFUSES TO COMPLY WITH OR FAILS, AS DEFINED BY REGULATION, THE BACKGROUND INVESTIGATION OR CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION IS DEEMED TO BE UNQUALIFIED FOR EMPLOYMENT AND, IF A CURRENT EMPLOYEE, SUBJECT TO DISCIPLINARY ACTION UNDER THIS ARTICLE.

(E) THE SECRETARY MAY ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2016.

Approved by the Governor, April 12, 2016.