

Chapter 185

(Senate Bill 282)

AN ACT concerning

Early Childhood Development – Transfer of Provisions

FOR the purpose of transferring certain provisions of law relating to early childhood development from the Family Law Article to the Education Article; establishing the Division of Early Childhood Development within the State Department of Education; requiring the State Board of Education to adopt certain regulations regarding certain family child care homes; renaming the Early Childhood Development Advisory Council to be the Office of Child Care Advisory Council; altering the membership of a certain council; making technical corrections; repealing certain unnecessary definitions; requiring the publisher of the Annotated Code of Maryland, in consultation with the Department of Legislative Services, to correct cross-references and terminology in the Code that are rendered incorrect by this Act; defining certain terms; and generally relating to the transfer of provisions of law regarding early childhood development.

BY renumbering

Article – Education

Section 7–1601 through 7–1608, respectively, and the subtitle “Subtitle 16. State Early Childhood Advisory Council”

to be Section 9.5–201 through 9.5–208, respectively, and the subtitle “Subtitle 2. State Early Childhood Advisory Council”

Annotated Code of Maryland

(2014 Replacement Volume and 2015 Supplement)

BY transferring

Article – Family Law

Section 5–550, 5–550.1, 5–551 through 5–554.1, 5–555, 5–556, 5–556.1, 5–557, 5–557.1, 5–558, and 5–559.1 through 5–559.8, respectively, and the part “Part V. Family Child Care Homes and Large Family Child Care Homes”; 5–570 through 5–580.3, 5–581 through 5–583.1, 5–584, and 5–585, respectively, and the part “Part VII. Child Care Centers”; 5–586 through 5–589.1, respectively, and the part “Part VIII. Child Care Centers in State–Occupied Buildings”; 5–594 and 5–594.1 through 5–594.8, respectively, and the part “Part X. Child Care Quality Incentive Grant Program”; 5–595 and 5–595.1 through 5–595.6, respectively, and the part “Part XI. Collective Negotiations by Family Child Care Providers”; and 5–590 through 5–593, respectively, and the part “Part IX. Early Childhood Development Advisory Council”

Annotated Code of Maryland

(2012 Replacement Volume and 2015 Supplement)

to be

Article – Education

Section 9.5–301 through 9.5–321, respectively, and the subtitle “Subtitle 3. Family Child Care Homes and Large Family Child Care Homes”; 9.5–401 through 9.5–420, respectively, and the subtitle “Subtitle 4. Child Care Centers”; 9.5–501 through 9.5–505, respectively, and the subtitle “Subtitle 5. Child Care Centers in State–Occupied Buildings”; 9.5–601 through 9.5–609, respectively, and the subtitle “Subtitle 6. Child Care Quality Incentive Grant Program”; 9.5–701 through 9.5–707, respectively, and the subtitle “Subtitle 7. Collective Negotiations by Family Child Care Providers”; and 9.5–801 through 9.5–804, respectively, and the subtitle “Subtitle 8. Early Childhood Development Advisory Council”

Annotated Code of Maryland

(2014 Replacement Volume and 2015 Supplement)

BY renumbering

Article – Family Law

Section 5–560 through 5–569, respectively, and the part “Part VI. Criminal Background Investigations for Employees of Facilities and Other Individuals That Care for or Supervise Children”

to be Section 5–550 through 5–559, respectively, and the part “Part V. Criminal Background Investigations for Employees of Facilities and Other Individuals That Care for or Supervise Children”

Annotated Code of Maryland

(2012 Replacement Volume and 2015 Supplement)

BY adding to

Article – Education

Section 9.5–101 through 9.5–110 to be under the new title “Title 9.5. Division of Early Childhood Development”; and 9.5–801

Annotated Code of Maryland

(2014 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 9.5–301, 9.5–303(a), (c), and (d), 9.5–304(c), 9.5–305(a) and (b), 9.5–306, 9.5–307(c)(4), 9.5–309, 9.5–311, 9.5–312(a) and (b)(1), 9.5–313, 9.5–321, 9.5–401, 9.5–403(a), 9.5–404(a) and (b)(6) and (11), 9.5–405(a), 9.5–407, 9.5–410, 9.5–411(a), (b), and (e), 9.5–412(c)(4), 9.5–414, 9.5–417, 9.5–418(a), 9.5–419, 9.5–501, 9.5–502(b), 9.5–503, 9.5–504(e), 9.5–505, 9.5–601, 9.5–602, 9.5–603, 9.5–604(b) and (d), 9.5–605, 9.5–606, 9.5–607, 9.5–608, 9.5–609, 9.5–701(a) and (b), 9.5–702, 9.5–703(b), 9.5–704(a) through (c) and (e)(2), 9.5–705, 9.5–706(b), and 9.5–707; and 9.5–802 and 9.5–803(b)(3) to be under the amended subtitle “Subtitle 8. Office of Child Care Advisory Council”

Annotated Code of Maryland

(2014 Replacement Volume and 2015 Supplement)

(As enacted by Section 2 of this Act)

BY repealing

Article – Education

Section 9.5–801

Annotated Code of Maryland

(2014 Replacement Volume and 2015 Supplement)

(As enacted by Section 2 of this Act)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–501

Annotated Code of Maryland

(2012 Replacement Volume and 2015 Supplement)

BY repealing

Article – Family Law

Section 5–508

Annotated Code of Maryland

(2012 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–550(a), (d), and (e), 5–551(b), (c) through (g), and (h)(1), 5–552(a)(2) and (4) and (b), 5–553, 5–554(a), (b)(1)(ii), (c)(1)(iii) and (4), and (d) through (f), 5–554.1, 5–556, 5–557, 5–558(3), and 5–559(b)(1) and (4) and (e)

Annotated Code of Maryland

(2012 Replacement Volume and 2015 Supplement)

(As enacted by Section 3 of this Act)

BY adding to

Article – Family Law

Section 5–705.3

Annotated Code of Maryland

(2012 Replacement Volume and 2015 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7–1601 through 7–1608, respectively, and the subtitle “Subtitle 16. State Early Childhood Advisory Council” of Article – Education of the Annotated Code of Maryland be renumbered to be Section(s) 9.5–201 through 9.5–208, respectively, and the subtitle “Subtitle 2. State Early Childhood Advisory Council”.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–550, 5–550.1, 5–551 through 5–554.1, 5–555, 5–556, 5–556.1, 5–557, 5–557.1, 5–558, and 5–559.1 through 5–559.8, respectively, and the part “Part V. Family Child Care Homes and Large Family Child Care Homes”; 5–570 through 5–580.3, 5–581 through 5–583.1, 5–584, and 5–585, respectively, and the part “Part VII. Child Care Centers”; 5–586 through 5–589.1,

respectively, and the part “Part VIII. Child Care Centers in State–Occupied Buildings”; 5–594 and 5–594.1 through 5–594.8, respectively, and the part “Part X. Child Care Quality Incentive Grant Program”; 5–595 and 5–595.1 through 5–595.6, respectively, and the part “Part XI. Collective Negotiations by Family Child Care Providers”; and 5–590 through 5–593, respectively, and the part “Part IX. Early Childhood Development Advisory Council” of Article – Family Law of the Annotated Code of Maryland be transferred to be Section(s) 9.5–301 through 9.5–321, respectively, and the subtitle “Subtitle 3. Family Child Care Homes and Large Family Child Care Homes”; 9.5–401 through 9.5–420, respectively, and the subtitle “Subtitle 4. Child Care Centers”; 9.5–501 through 9.5–505, respectively, and the subtitle “Subtitle 5. Child Care Centers in State–Occupied Buildings”; 9.5–601 through 9.5–609, respectively, and the subtitle “Subtitle 6. Child Care Quality Incentive Grant Program”; 9.5–701 through 9.5–707, respectively, and the subtitle “Subtitle 7. Collective Negotiations by Family Child Care Providers”; and 9.5–801 through 9.5–804, respectively, and the subtitle “Subtitle 8. Early Childhood Development Advisory Council” of Article – Education of the Annotated Code of Maryland.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5–560 through 5–569, respectively, and the part “Part VI. Criminal Background Investigations for Employees of Facilities and Other Individuals That Care for or Supervise Children” of Article – Family Law of the Annotated Code of Maryland be renumbered to be Section(s) 5–550 through 5–559, respectively, and the part “Part V. Criminal Background Investigations for Employees of Facilities and Other Individuals That Care for or Supervise Children”.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

TITLE 9.5. DIVISION OF EARLY CHILDHOOD DEVELOPMENT.

SUBTITLE 1. ESTABLISHED.

9.5–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CHILD CARE CENTER” HAS THE MEANING STATED IN § 9.5–401 OF THIS TITLE.

(C) “FAMILY CHILD CARE HOME” HAS THE MEANING STATED IN § 9.5–301 OF THIS TITLE.

(D) “LARGE FAMILY CHILD CARE HOME” HAS THE MEANING STATED IN § 9.5–301 OF THIS TITLE.

(E) “LICENSE” MEANS A LICENSE ISSUED BY THE DEPARTMENT TO OPERATE A CHILD CARE CENTER.

(F) “REGISTRATION” MEANS A REGISTRATION ISSUED BY THE DEPARTMENT TO A FAMILY CHILD CARE HOME OR A LARGE FAMILY CHILD CARE HOME.

9.5–102.

(A) THE GENERAL ASSEMBLY DECLARES THAT:

(1) MINOR CHILDREN ARE NOT CAPABLE OF PROTECTING THEMSELVES; AND

(2) WHEN A PARENT HAS RELINQUISHED THE CARE OF THE PARENT’S MINOR CHILD TO OTHERS, THERE IS A POSSIBILITY OF CERTAIN RISKS TO THE CHILD THAT REQUIRE COMPENSATING MEASURES.

(B) IT IS THE POLICY OF THE STATE:

(1) TO PROTECT MINOR CHILDREN WHOSE CARE HAS BEEN RELINQUISHED TO OTHERS BY THE CHILD’S PARENT;

(2) TO RESOLVE DOUBTS IN FAVOR OF THE CHILD WHEN THERE IS A CONFLICT BETWEEN THE INTERESTS OF A MINOR CHILD AND THE INTERESTS OF AN ADULT; AND

(3) TO ENCOURAGE THE DEVELOPMENT OF CHILD CARE SERVICES FOR MINOR CHILDREN IN A SAFE, HEALTHY, AND HOME–LIKE ENVIRONMENT.

9.5–103.

THERE IS A DIVISION OF EARLY CHILDHOOD DEVELOPMENT IN THE DEPARTMENT.

9.5–104.

A LICENSE OR REGISTRATION IS EFFECTIVE UNTIL THE LICENSE OR REGISTRATION IS SUSPENDED OR REVOKED UNDER § 9.5–106 OF THIS SUBTITLE.

9.5–105.

WITHIN 60 DAYS AFTER RECEIVING THE LICENSE OR REGISTRATION APPLICATION, THE DEPARTMENT SHALL ISSUE OR DENY A LICENSE OR REGISTRATION AND GIVE NOTICE OF THE ACTION TO THE APPLICANT.

9.5-106.

SUBJECT TO THE HEARING PROVISIONS OF § 9.5-107 OF THIS SUBTITLE:

(1) IF A LICENSEE VIOLATES ANY PROVISION OF THIS TITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS TITLE, THE DEPARTMENT MAY SUSPEND THE LICENSE FOR A PERIOD NOT EXCEEDING 1 YEAR; AND

(2) IF A LICENSEE OR REGISTRANT VIOLATES ANY PROVISION OF THIS TITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS TITLE, THE DEPARTMENT MAY REVOKE THE LICENSE OR REGISTRATION.

9.5-107.

THE DEPARTMENT MAY NOT SUSPEND OR REVOKE A LICENSE OR REGISTRATION UNLESS THE DEPARTMENT GIVES TO THE LICENSEE OR REGISTRANT:

(1) NOTICE OF THE SUSPENSION OR REVOCATION AT LEAST 20 DAYS BEFORE THE SUSPENSION OR REVOCATION;

(2) A STATEMENT OF THE GROUNDS FOR THE SUSPENSION OR REVOCATION; AND

(3) AN OPPORTUNITY TO BE HEARD.

9.5-108.

A PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT CONCERNING A LICENSE OR REGISTRATION MAY APPEAL THE DECISION TO THE ADMINISTRATIVE APPELLATE AUTHORITY DESIGNATED BY REGULATION.

9.5-109.

(A) A PERSON AGGRIEVED BY A FINAL DECISION OF THE HIGHEST ADMINISTRATIVE APPELLATE AUTHORITY IN A CONTESTED CASE MAY TAKE ANY FURTHER APPEAL AS ALLOWED BY THE ADMINISTRATIVE PROCEDURE ACT.

(B) IF A FURTHER APPEAL IS TAKEN UNDER THIS SECTION:

(1) ANY CRIMINAL PROSECUTION OF THE PERSON FOR CARRYING ON WITHOUT A LICENSE OR REGISTRATION AN ACTIVITY FOR WHICH THE PERSON MUST BE LICENSED OR REGISTERED SHALL BE STAYED PENDING THE APPEAL;

(2) ANY INJUNCTION AGAINST THE PERSON FOR CARRYING ON WITHOUT A LICENSE OR REGISTRATION AN ACTIVITY FOR WHICH THE PERSON MUST BE LICENSED OR REGISTERED SHALL BE STAYED PENDING THE APPEAL; AND

(3) THE COURT HAS DISCRETION AS TO THE CARE, CUSTODY, OR CONTROL OF ANY CHILD WHOSE CARE, CUSTODY, OR CONTROL IS THE RESPONSIBILITY OF THE PERSON.

9.5-110.

(A) IN CONNECTION WITH THE ISSUANCE, SUSPENSION, OR REVOCATION OF A LICENSE OR REGISTRATION, THE DEPARTMENT MAY INVESTIGATE THE POLICIES, PURPOSES, PREMISES, AND FACILITIES OF A LICENSEE OR REGISTRANT OR AN APPLICANT FOR A LICENSE OR REGISTRATION.

(B) (1) THE DEPARTMENT MAY PETITION AN EQUITY COURT TO ENJOIN THE ACTIVITIES AND OPERATION OF A PERSON WHO SEEKS TO CARRY ON, WITHOUT A LICENSE OR REGISTRATION, THE ACTIVITIES FOR WHICH THE PERSON MUST BE LICENSED OR REGISTERED.

(2) THE PETITION SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PERSON IS LOCATED OR HAS A PLACE OF BUSINESS.

~~**(3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR.**~~

Subtitle 3. Family Child Care Homes and Large Family Child Care Homes.

9.5-301.

(a) In [Part V of] this subtitle the following words have the meanings indicated.

(b) [“Department” means the State Department of Education] **“CHILD CARE PROVIDER” MEANS THE ADULT WHO HAS PRIMARY RESPONSIBILITY FOR THE OPERATION OF A FAMILY CHILD CARE HOME OR A LARGE FAMILY CHILD CARE HOME.**

(c) “Direct Grant Fund” means the Family Child Care Provider Direct Grant Fund.

(D) “FAMILY CHILD CARE” MEANS THE CARE GIVEN TO A CHILD UNDER THE AGE OF 13 YEARS OR TO ANY DEVELOPMENTALLY DISABLED PERSON UNDER THE AGE OF 21 YEARS, IN PLACE OF PARENTAL CARE FOR LESS THAN 24 HOURS A DAY, IN A RESIDENCE OTHER THAN THE CHILD’S RESIDENCE, FOR WHICH THE CHILD CARE PROVIDER IS PAID.

(E) “FAMILY CHILD CARE HOME” MEANS A RESIDENCE IN WHICH FAMILY CHILD CARE IS PROVIDED FOR UP TO EIGHT CHILDREN.

[(d)] (F) “Family child care provider” means an individual who cares for children in a registered family child care home or a registered large family child care home.

[(e) “State Superintendent” means the State Superintendent of Schools.]

(G) “LARGE FAMILY CHILD CARE HOME” MEANS A RESIDENCE IN WHICH FAMILY CHILD CARE IS PROVIDED FOR AT LEAST NINE CHILDREN, BUT NOT MORE THAN 12 CHILDREN.

(H) “UNREGISTERED FAMILY CHILD CARE HOME” MEANS A RESIDENCE IN WHICH FAMILY CHILD CARE IS PROVIDED AND IN WHICH THE CHILD CARE PROVIDER:

(1) HAS NOT OBTAINED A CERTIFICATE OF REGISTRATION FROM THE DEPARTMENT;

(2) IS NOT RELATED BY BLOOD OR MARRIAGE TO EACH CHILD IN THE PROVIDER’S CARE;

(3) IS NOT A FRIEND OF EACH CHILD’S PARENTS OR LEGAL GUARDIAN AND IS PROVIDING CARE ON A REGULAR BASIS; AND

(4) HAS NOT RECEIVED THE CARE OF THE CHILD FROM A CHILD PLACEMENT AGENCY LICENSED BY THE DEPARTMENT OF HUMAN RESOURCES OR BY A LOCAL DEPARTMENT OF SOCIAL SERVICES.

9.5–303.

(a) The [Department] STATE BOARD shall adopt regulations that relate to the registration of family child care homes and large family child care homes.

(c) At a minimum, the regulations [of the Department] shall provide for:

(1) Minimum standards of environmental health and safety, including provisions for:

(i) Adequate and safe physical surroundings, including requirements for window coverings in accordance with § 5–505 of [this subtitle] **THE FAMILY LAW ARTICLE**;

(ii) The physical and mental health of child care providers; and

(iii) Investigation of any criminal record of a child care provider;

(2) A thorough evaluation of each prospective family child care home, large family child care home, and child care provider, to be completed before the Department accepts an initial registration;

(3) An initial family child care registration that expires 2 years after its effective date;

(4) A continuing family child care registration that:

(i) Upon application by the child care provider that meets the requirements set by the Department, is issued to the provider before the end of the initial registration period; and

(ii) Once issued, remains in effect until surrendered, suspended, revoked, or replaced by a conditional registration;

(5) Reporting of any changed circumstances that relate to the requirements, by the child care provider, at the time the change occurs;

(6) An orientation to be provided to prospective child care providers by the Department before initial registration;

(7) Announced inspection by the Department of each registered family child care home and large family child care home prior to issuance of an initial or continuing registration to determine whether applicable requirements are being met;

(8) Unannounced inspection by the Department of each registered family child care home and large family child care home at least once during each 12–month period that an initial or continuing registration is in effect to determine whether safe and appropriate child care is being provided;

(9) Procedures to be followed by the Department in response to a complaint about a family child care home or large family child care home;

(10) A requirement that a person who advertises a family child care home, large family child care home, or family child care service shall:

(i) Indicate in the advertisement that the family child care home or large family child care home is registered; and

(ii) Display in the advertisement the registration number issued to the family child care home, large family child care home, or family child care service by the Department;

(11) A requirement that each registered child care provider shall hold a current certificate indicating successful completion of approved:

(i) Basic first aid training through the American Red Cross or through a program with equivalent standards; and

(ii) Cardiopulmonary resuscitation (CPR) training through the American Heart Association or through a program with equivalent standards appropriate for the ages of children for whom care is provided in the family child care home or large family child care home; and

(12) (i) A requirement that a family child care home or large family child care home that receives notice of a contaminated drinking water supply from the family child care home's or large family child care home's supplier of water, in accordance with § 9-410 of the Environment Article or otherwise, send notice of the drinking water contamination to the parent or legal guardian of each child attending the family child care home or large family child care home; and

(ii) A requirement that the notice sent by the family child care home or large family child care home shall:

1. Be sent within 10 business days after receipt of the notice of contamination from the family child care home's or large family child care home's water supplier;

2. Be in writing;

3. Identify the contaminants and their levels in the family child care home's or large family child care home's water supply; and

4. Describe the family child care home's or large family child care home's plan for dealing with the water contamination problem until the family child care home's or large family child care home's water is determined by the appropriate authority to be safe for consumption.

(d) The [Department] **STATE BOARD** shall adopt regulations that:

(1) Require a family child care provider to have a written emergency preparedness plan for emergency situations that require evacuation, sheltering in place, or

other protection of children such as in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the family child care home or large family child care home;

(2) Require the plan under item (1) of this subsection to include:

(i) A designated relocation site and evacuation route;

(ii) Procedures for notifying parents or other adults responsible for the child of the relocation;

(iii) Procedures to address the needs of individual children including children with special needs;

(iv) Procedures for the reassignment of staff duties during an emergency, as appropriate; and

(v) procedures for communicating with local emergency management officials or other appropriate State or local authorities; and

(3) Require a family child care provider to train staff and ensure that staff are familiar with the plan.

9.5–304.

(c) A person may not advertise a family child care home, large family child care home, or family child care service unless the family child care home or large family child care home is registered under the provisions of this [Part V of this] subtitle.

9.5–305.

(a) For purposes of this [Part V of this] subtitle, a child care provider's own children under the age of 2 years shall be counted as children served.

(b) (1) In a family child care home:

(i) There may not be more than:

1. 8 children in care at any given time; and

2. 4 children under the age of 2 years; and

(ii) There shall be an adult to child ratio of at least 1 adult to every 2 children under the age of 2 years.

(2) In a large family child care home:

(i) There may not be more than 12 children in care at any given time; and

(ii) There shall be a limit on the number of children under the age of 2 years and an adult to child ratio that comply with regulations adopted by the Department under [§ 5–551] **§ 9.5–303** of this [Part V of this] subtitle.

9.5–306.

(a) A registration under this [Part V of this] subtitle may be revoked, a child care provider may appeal from the revocation, and the operation of an unregistered family child care home may be enjoined.

(b) (1) Revocation, appeal, or injunction under this [Part V of this] subtitle shall be in accordance with [§§ 5–513, 5–515, 5–516, 5–517, 5–518, and 5–519 of this subtitle] **SUBTITLE 1 OF THIS TITLE**.

(2) Subject to paragraph (1) of this subsection, the State Superintendent or the State Superintendent's designee shall exercise the authority granted to the Department.

9.5–307.

(c) A judge of a District Court or circuit court in the jurisdiction in which the unregistered family child care home is located may issue an administrative search warrant on finding that:

(4) The Department has shown probable cause for the issuance of the warrant by specific evidence:

(i) Of an existing violation of [§ 5–552] **§ 9.5–304** of this subtitle; and

(ii) That the health, safety, and welfare of the children in the unregistered family child care home are substantially threatened due to conditions in the unregistered family child care home.

9.5–309.

(a) [In addition to any other provision of law relating to child abuse and neglect, a local department that receives a report of suspected child abuse under § 5–704 or § 5–705 of this title that concerns a family child care home or large family child care home shall notify the State Superintendent's designee within 48 hours.

(b) Upon receipt of the notification required under [subsection (a) of this section] **§ 5-705.3 OF THE FAMILY LAW ARTICLE**, the State Superintendent's designee shall convene, either in person or by telephone, a multidisciplinary team to coordinate procedures in accordance with the agreement developed under § 5-706(f) of [this title] **THE FAMILY LAW ARTICLE** to be followed in investigating and otherwise responding to the report.

[(c)] (B) The multidisciplinary team shall be chaired by the State Superintendent's designee and shall include:

- (1) Representatives of the local department and law enforcement agency that are investigating the report under § 5-706 of [this title] **THE FAMILY LAW ARTICLE**;
- (2) Representation from the office of the local State's Attorney; and
- (3) Appropriate medical, including mental health, expertise.

[(d)] (C) Notwithstanding any other provision of law, the members of the multidisciplinary team shall share information necessary to carry out the team's responsibility under this section.

[(e)] (D) Any information shared by the multidisciplinary team shall be confidential and may be disclosed only in accordance with the provisions of §§ 1-201, 1-202, 1-204, and 1-205 of the Human Services Article.

[(f)] (E) Upon request, the Department of State Police shall provide technical assistance to a local law enforcement agency which is investigating a report of suspected child abuse concerning a family child care home or large family child care home.

9.5-311.

A person who violates [§ 5-552] **§ 9.5-304** of this subtitle is guilty of a misdemeanor and on conviction is subject to:

- (1) A fine not exceeding \$1,500 for the first violation; and
- (2) A fine not exceeding \$2,500 for a second or subsequent violation.

9.5-312.

(a) Except as provided in subsection (b) of this section and subject to the provisions of subsection (d) of this section, a person who violates any provision of this [Part V of this] subtitle or any rule or regulation adopted under this [Part V of this] subtitle is subject to a civil penalty imposed in a civil action not exceeding \$1,000 for each violation.

(b) (1) A person who violates [§ 5–552] § 9.5–304 of this subtitle and is served a civil citation under that section is subject to a civil penalty as follows:

- (i) \$250 for the first violation;
- (ii) \$500 for the second violation; and
- (iii) \$1,000 for the third and each subsequent violation.

9.5–313.

This [Part V of this] subtitle may not be construed to impair or limit the authority granted to the Department of Human Resources, the [State] Department [of Education], or the Department of Health and Mental Hygiene under any other provision of the Code unless that provision necessarily is inconsistent with this [Part V of this] subtitle.

9.5–321.

The [Department] **STATE BOARD** shall promulgate such rules as are necessary to carry out the purposes of this subtitle.

Subtitle 4. Child Care Centers.

9.5–401.

(a) In this [Part VII of this] subtitle the following words have the meanings indicated.

(b) “Child” means an individual under the age of 16 years.

(c) (1) “Child care center” means an agency, institution, or establishment that, for part or all of a day, or on a 24–hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage except as otherwise provided for in law or regulation.

(2) “Child care center” shall include a nonpublic nursery school in which an instructional program is offered or provided for children who are under the age of 5 years.

(3) “Child care center” does not include:

(i) A nonpublic kindergarten in which an instructional program is offered or provided for children who are at least 5 years old;

(ii) A nonpublic elementary school in which an instructional program is offered or provided for children who are in grades 1 through 8;

(iii) A child care home, a child care institution, or other child care facility that offers or provides a residential placement for a child and is established, licensed, or registered under this subtitle, Title 9 of the Human Services Article, or Title 10 of the Health – General Article; or

(iv) A family child care home or large family child care home that is required to be registered or is registered under this subtitle.

(d) [“Department” means the State Department of Education.

(e) [“Letter of compliance” means a letter issued by the [State] Department [of Education] to a religious organization that meets the requirements under [§ 5–573] § **9.5–404** of this subtitle.

[(f) “License” means a license issued by the State Department of Education to operate a child care center.

(g) “Person” includes a State, county, or municipal corporation.

(h) “State Superintendent” means the State Superintendent of Schools or the State Superintendent’s designee.]

9.5–403.

(a) This [Part VII of this] subtitle does not supersede:

(1) Any right or power of the Department of Health and Mental Hygiene or any local health officer;

(2) Any right or power of a county department of education;

(3) Any building code or zoning provision;

(4) Any right or power of the Administration within the Department of Human Resources or any local department; or

(5) Any right or power of the Department of Human Resources to regulate residential child care facilities.

9.5–404.

(a) The State [Superintendent] **BOARD** shall adopt rules and regulations for licensing and operating child care centers.

(b) These rules and regulations shall:

(6) Carry out otherwise the purposes and requirements of this [Part VII of this] subtitle, including imposition of intermediate sanctions to ensure compliance;

(11) Require a child care center to have window coverings in accordance with § 5-505 of [this subtitle] **THE FAMILY LAW ARTICLE**.

9.5-405.

(a) Except as otherwise provided in this [Part VII of this] subtitle, a person shall be licensed by the Department before the person may operate a child care center in this State.

9.5-407.

The Department shall issue a license to any applicant who meets the requirements of this [Part VII of this] subtitle and of the rules and regulations adopted under it.

9.5-410.

A license issued under this [Part VII of this] subtitle is not transferable.

9.5-411.

(a) Subject to the hearing requirements of this section, the Department may deny a license or letter of compliance to any applicant or deny approval for a change under [§ 5-577] **§ 9.5-408** of this subtitle if the applicant or proposed change does not meet the requirements of this subtitle.

(b) Subject to the hearing requirements of this section and [§ 5-581] **§ 9.5-415** of this subtitle, the State Superintendent may suspend or revoke a license or letter of compliance if the licensee:

(1) Violates a provision of this [Part VII of this] subtitle or any rule or regulation adopted under it; or

(2) Does not meet the current requirements for a new license or letter of compliance.

(e) The State Superintendent may petition the circuit court in the county in which the child care center is located to enjoin the activities and operations of a person who operates a child care center without a license or letter of compliance as required by this [Part VII] **SUBTITLE**, including when a license or letter of compliance has been denied, revoked, or suspended in accordance with this [Part VII] **SUBTITLE**.

9.5-412.

(c) A judge of a District Court or circuit court in the jurisdiction in which the unlicensed child care center is located may issue an administrative search warrant on finding that:

(4) The Department has shown probable cause for the issuance of the warrant by specific evidence:

(i) Of an existing violation of [§ 5-574(a) or § 5-582] **§§ 9.5-405(A) AND 9.5-416** of this subtitle; and

(ii) That the health, safety, and welfare of the children in the child care center are substantially threatened due to conditions in the child care center.

9.5-414.

(a) [(1) The requirements of this subsection apply only to an employee hired on or after October 1, 2005.

(2)] Each employee, as defined in [§ 5-560] **§ 5-550** of [this subtitle] **THE FAMILY LAW ARTICLE**, of a child care center that is required to be licensed or to hold a letter of compliance under this subtitle shall apply to the Department of Human Resources, on or before the first day of actual employment, for a child abuse and neglect clearance.

(b) The Department may prohibit the operator of a child care center that is required to be licensed or to hold a letter of compliance under this subtitle from employing an individual who:

(1) Has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for any crime or attempted crime enumerated in the regulations adopted by the Department of Public Safety and Correctional Services under [Part VI of this subtitle] **TITLE 5, SUBTITLE 5, PART VI OF THE FAMILY LAW ARTICLE**; or

(2) Has been identified as responsible for child abuse or neglect.

(c) The operator of a child care center that is required to be licensed or to hold a letter of compliance under this subtitle shall immediately notify the Department of a criminal history records check of an employee that reports a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for any crime or attempted crime enumerated in the regulations adopted by the Department of Public Safety and Correctional Services under [Part VI of this subtitle] **TITLE 5, SUBTITLE 5, PART VI OF THE FAMILY LAW ARTICLE**.

9.5-417.

A person who violates [~~§ 5-574(a) or § 5-582~~] **§ 9.5-405(A) OR § 9.5-416** of this subtitle is guilty of a misdemeanor and on conviction is subject to:

- (1) A fine not exceeding \$1,500 for the first violation; and
- (2) A fine not exceeding \$2,500 for a second or subsequent violation.

9.5-418.

(a) Subject to the provisions of subsection (c) of this section, a person who violates any provision of this [~~Part VII of this~~] subtitle or any rule or regulation adopted under this [~~Part VII of this~~] subtitle is subject to a civil penalty imposed in a civil action not exceeding \$1,000 for each violation.

9.5-419.

(a) [~~In addition to any other provision of law relating to child abuse and neglect, a local department that receives a report of suspected child abuse under § 5-704 or § 5-705 of this title that concerns a child care center, shall notify the State Superintendent's designee within 48 hours.~~

(b) On receipt of the notification required under [~~subsection (a) of this section~~] **§ 5-705.3 OF THE FAMILY LAW ARTICLE**, the State Superintendent's designee shall convene, either in person or by telephone, a multidisciplinary team to coordinate procedures in accordance with the agreement developed under § 5-706(f) of [~~this title~~] **THE FAMILY LAW ARTICLE** to be followed in investigating and otherwise responding to the report.

[(c)] **(B)** The multidisciplinary team shall be chaired by the State Superintendent's designee and shall include:

- (1) Representatives of the local department and law enforcement agency that are investigating the report under § 5-706 of [~~this title~~] **THE FAMILY LAW ARTICLE**;
- (2) Representation from the office of the local State's Attorney; and
- (3) Appropriate medical, including mental health, expertise.

[(d)] **(C)** Notwithstanding any other provision of law, the members of the multidisciplinary team shall share information necessary to carry out the team's responsibility under this section.

[(e)] (D) Any information shared by the multidisciplinary team shall be confidential and may be disclosed only in accordance with the provisions of §§ 1–201, 1–202, 1–204, and 1–205 of the Human Services Article.

[(f)] (E) On request, the Department of State Police shall provide technical assistance to a local law enforcement agency which is investigating a report of suspected child abuse concerning a child care center.

Subtitle 5. Child Care Centers in State–Occupied Buildings.

9.5–501.

(a) In this **[Part VIII of this]** subtitle the following words have the meanings indicated.

(b) **["Department"]** means the State Department of Education.

(c) **“Employee”** means a State employee.

[(d)] (C) **“Employee occupant”** means a State employee who is assigned or will be assigned to a State–occupied building.

[(e)] (D) **“Occupying agency”** means a State agency or department which is or will be located in a State–occupied building.

[(f)] (E) **“State complex”** means more than 1 State–occupied building or facility situated either adjacent to or within reasonable proximity to another State–occupied building or facility.

[(g)] (F) **“State–occupied building”** means:

(1) An office building acquired through any means by the State for use by a State agency or department; and

(2) An office building constructed by or for the State for occupancy by a State agency or department.

[(h)] **“State Superintendent”** means the State Superintendent of Schools.]

9.5–502.

(b) Before the State acquires or constructs an office building that accommodates 700 or more employees, the **[State] Department [of Education]** shall:

(1) Survey the employees who will be assigned to the building regarding the employees’ child care needs;

(2) Determine whether child care services for more than 29 children are needed; and

(3) If sufficient need is demonstrated, determine how much space is required and request that the Department of General Services designate the required amount of space within the building or acquire the designated amount of space within a nearby building for a child care center.

9.5–503.

(a) The Department of Health and Mental Hygiene and the Department of General Services shall cooperate with and assist the Department in carrying out the purposes of this [Part VIII of this] subtitle.

(b) The Department shall:

(1) Provide the guidance and means for establishing child care centers for the children of State employees in State–occupied buildings or nearby buildings in accordance with this [Part VIII of this] subtitle;

(2) Provide for licensing of child care centers for children of State employees;

(3) Ensure that space designated within a State–occupied building or nearby buildings for a child care center complies with the prevailing local and State safety building codes for child care centers;

(4) Apply the regulations adopted under [Part VII] **SUBTITLE 4 OF THIS TITLE** for child care centers; and

(5) Contract for child care services in the space provided. Contract providers must provide proof of financial responsibility.

(c) (1) The Department of General Services shall:

(i) Construct or acquire the required space to be used by the child care center, which space shall be submetered for utilities and the costs of which shall be paid by the child care center; and

(ii) Inspect the facility monthly and inform child care center personnel of maintenance deficiencies to be corrected by the child care center.

(2) If any deficiencies under paragraph (1)(ii) of this subsection are not corrected within a reasonable time, the Department of General Services shall notify the

[State] Department [of Education] which will exact compliance in accordance with the terms of the child care center contract.

(3) The child care center shall pay for any costs of operation of the child care center.

(d) Space originally set aside for a child care center may be used for other purposes if:

(1) The building has been fully occupied for 180 days; and

(2) An application to operate a child care center has not been filed under [Part VII of this subtitle] **SUBTITLE 4 OF THIS TITLE**.

(e) Children of State employees shall have priority over other children in admission to a child care center in a State-occupied building or nearby buildings.

(f) (1) After a child care center for children of State employees has been established, the Department shall assess the child care needs of the State employees using the center at least every 5 years.

(2) If the assessment demonstrates that the service is no longer needed or feasible, the State Superintendent may close the center.

(3) The State Superintendent shall give the child care center 90 days' written notice of closure.

9.5-504.

(e) (1) The Department shall contract with child care providers to operate the child care centers established under this section.

(2) The contract for operating a child care center shall require the child care provider:

(i) To be responsible for entering into agreements, and making arrangements with the employees, for the provision of child care;

(ii) To provide proof of financial responsibility;

(iii) To be licensed under [Part VII and this Part VIII of this subtitle] **THIS SUBTITLE AND SUBTITLE 4 OF THIS TITLE**;

(iv) To comply with any laws or regulations governing child care centers;

(v) To obtain and keep in effect liability insurance in an amount determined to be sufficient by the State Superintendent; and

(vi) To comply with any other requirement the State Superintendent considers reasonable and necessary.

(3) The child care provider may not be held responsible for providing the necessary space for the operation of the child care center.

9.5–505.

(A) Within 30 days after a child under the age of 6 years enters care in a child care center in a State–occupied building, a parent or guardian of the child shall provide to the child care center evidence of an appropriate screening for lead poisoning.

(B) This evidence may include documentation from the child’s continuing care health care provider that the child was screened through an initial questionnaire and was determined not be at risk for lead poisoning.

Subtitle 6. Child Care Quality Incentive Grant Program.

9.5–601.

(a) In this [part] **SUBTITLE** the following words have the meanings indicated.

(b) “Child care center” has the meaning stated in [§ 5–570] **§ 9.5–401** of this [subtitle] **TITLE**.

(c) “Child care provider” means a family child care provider or a child care center.

(d) “Direct incentive grant” means a grant awarded under the Child Care Quality Incentive Grant Program.

(e) “Family child care provider” has the meaning stated in [§ 5–550(d)] **§ 9.5–301** of this [subtitle] **TITLE**.

9.5–602.

(a) There is a Child Care Quality Incentive Grant Program administered by the [State] Department [of Education].

(b) To administer direct incentive grants to child care providers, the [State] Department [of Education] may contract with other State agencies and nonprofit organizations.

9.5–603.

(a) The State Superintendent may delegate the authority to approve direct incentive grants to any board that exists or may be created in the [State] Department [of Education].

(b) A direct incentive grant made under this [part] SUBTITLE shall be awarded as an incentive for a child care provider to improve the quality of care being provided to children through the purchase of supplies, materials, and equipment.

9.5–604.

(b) The Child Care Quality Incentive Grant Program shall be used to:

(1) Pay all expenses and disbursements authorized by the [State] Department [of Education] for administering the Child Care Quality Incentive Grant Program; and

(2) Award direct incentive grants to child care providers.

(d) Grants made under this [part] SUBTITLE shall be limited to:

(1) Child care centers located in Title I communities;

(2) Child care centers where at least 25% of the children enrolled receive subsidies through the purchase of child care program; and

(3) Family child care homes and large family child care homes that serve children who receive child care subsidies through the purchase of child care program.

9.5–605.

The [State] Department [of Education] may award a direct incentive grant to an applicant only if:

(1) The applicant meets the qualifications required by this subtitle;

(2) The direct incentive grant does not exceed \$2,500; and

(3) Federal funds are available to cover the cost of the grant.

9.5–606.

(a) To apply for a direct incentive grant, an applicant shall submit to the [State] Department [of Education] an application on the form that the [State] Department [of Education] requires.

(b) The application shall include:

- (1) The name and address of the child care provider;
- (2) An itemization of known and estimated costs including a statement from the child care provider as to how the grant funds will be used;
- (3) The total amount of funds required by the provider to purchase supplies, material, and equipment;
- (4) The funds available to the applicant to purchase supplies, material, and equipment;
- (5) The amount of direct incentive grant funds sought from the [State] Department [of Education];
- (6) The number of children that the child care provider serves who receive child care subsidies through the purchase of child care program; and
- (7) Any other relevant information that the [State] Department [of Education] requests.

9.5–607.

(a) Except as otherwise provided in this [part] SUBTITLE, the [State] Department [of Education] may set the terms and conditions for direct incentive grants.

(b) On an annual basis, the [State] Department [of Education] may establish priorities for the distribution of direct incentive grants based on the categories of children child care providers serve, including infants, toddlers, and preschool and school–age children.

9.5–608.

(a) A person may not knowingly make or cause any false statement or report to be made in any application or in any document furnished to the [State] Department [of Education] under this [part] SUBTITLE.

(b) A person may not knowingly make or cause any false statement or report to be made for the purpose of influencing the action of the [State] Department [of Education] on an application for a direct incentive grant or for the purpose of influencing any action of the [State] Department [of Education] affecting a direct incentive grant whether or not such a grant may have already been awarded.

(c) Any person or any aider or abettor who violates any provision of this part is guilty of a misdemeanor, and on conviction is subject to a fine not exceeding \$1,000 or imprisonment in the penitentiary not exceeding 1 year or both.

9.5–609.

The State Superintendent shall adopt regulations necessary to carry out the purposes of this [part] SUBTITLE.

Subtitle 7. Collective Negotiations by Family Child Care Providers.

9.5–701.

(a) In this [Part XI of this] subtitle the following words have the meanings indicated.

(b) “Family child care provider” means an individual who participates in the Maryland Child Care Subsidy Program who is:

(1) A registered provider as defined in [§ 5–550(d)] § 9.5–301(C) of this [subtitle] TITLE; or

(2) Exempt from the registration requirements under [§ 5–552(b)] § 9.5–304 of this [subtitle] TITLE.

9.5–702.

In according family child care providers and their representatives rights under this [Part XI of this] subtitle, it is the legislative intent of the General Assembly that the State action exemption to the application of federal and State antitrust laws be fully available to the extent that the activities of the family child care providers and their representatives are authorized under this title.

9.5–703.

(b) Family child care providers may designate, in accordance with the provisions of this [Part XI of this] subtitle, which provider organization, if any, shall be the exclusive representative of all family child care providers in the State.

9.5–704.

(a) The [State] Department [of Education] shall designate appropriate representatives to participate in collective bargaining with the provider organization certified as the exclusive representative of family child care providers.

(b) Except as otherwise provided in this [Part XI of this] subtitle, the parties shall adhere to the bargaining process set forth in § 3–501 of the State Personnel and Pensions Article.

(c) The [State] Department [of Education] shall negotiate in consultation with the Department of Budget and Management regarding all matters that require appropriation of State funds.

(e) (2) A family child care provider whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) Not required to pay a service fee; and

(ii) Required to pay an amount of money as determined in collective bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code and to furnish to the [State] Department [of Education] and the exclusive representative written proof of the payment.

9.5–705.

The certification of an exclusive representative of family child care providers by the [State] Department [of Education] does not prevent the certified provider organization or any other organization or individual from communicating with any State official on matters of interest, including appearing before or making proposals to the [State] Department [of Education] at a public meeting or hearing or at any other forum of the [State] Department [of Education].

9.5–706.

(b) This [Part XI of this] subtitle may not be construed to grant any right, or imply that family child care providers have any right, to engage in a strike or other collective cessation of the delivery of services.

9.5–707.

(a) This [Part XI of this] subtitle may not be construed to make family child care providers employees of the State.

(b) This [Part XI of this] subtitle may not alter in any way the role of parents in selecting, directing, and terminating the services of family child care providers.

Subtitle 8. [Early Childhood Development] **OFFICE OF CHILD CARE** Advisory Council.

[9.5–801.

- (a) In this Part IX of this subtitle the following words have the meanings indicated.
- (b) “Council” means the Early Childhood Development Advisory Council.
- (c) “State Superintendent” means the State Superintendent of Schools.]

9.5–801.

IN THIS SUBTITLE, “COUNCIL” MEANS THE OFFICE OF CHILD CARE ADVISORY COUNCIL.

9.5–802.

There is an [Early Childhood Development] **OFFICE OF CHILD CARE** Advisory Council.

9.5–803.

- (b) The members shall include:
- (3) [at] **AT** least 1 representative, appointed by the Secretary, from:
- (i) [the] **THE** Department of Health and Mental Hygiene;
 - (ii) [the Governor’s Office for Children;
 - (iii) the] **THE** Head Start Program;
 - [(iv)] **(III)** [the] **THE** [State] Department [of Education];
 - [(v)] **(IV)** [the] **THE** Office of the State Fire Marshal;
 - [(vi)] **(V)** [a] **A** local government;
 - [(vii)] **(VI)** [a] **A** child care advocacy organization;
 - [(viii)] **(VII)** [an] **AN** independent school, which may include a religious, nonsectarian, or nursery school;
 - [(ix)] **(VIII)** [a] **A** child care resource and referral agency;
 - [(x)] **(IX)** [the] **THE** Department of the Environment;

[(xi)] (X) [a] A community college with an early childhood education program;

[(xii)] (XI) [the] THE Maryland Association of Social Services Directors; and

[(xiii)] (XII) [a] A professional organization concerned with the quality of early childhood programs;

Article – Family Law

5–501.

(a) In this subtitle the following words have the meanings indicated.

(b) “Administration” means:

(1) the Social Services Administration of the Department; or

(2) any other unit within the Department to which the Secretary of Human Resources has delegated in writing specified responsibilities of the Administration under this subtitle.

(c) [“Child care provider” means the adult who has primary responsibility for the operation of a family child care home or large family child care home.

(d) “Family child care” means the care given to a child under the age of 13 years or to any developmentally disabled person under the age of 21 years, in place of parental care for less than 24 hours a day, in a residence other than the child’s residence, for which the child care provider is paid.

(e) “Family child care home” means a residence in which family child care is provided for up to 8 children.

(f) [“Foster care” means continuous 24–hour care and supportive services provided for a minor child placed by a child placement agency in an approved family home.

[(g)] (D) “Group care” means continuous 24–hour care and supportive services provided for a minor child placed in a licensed group facility.

[(h)] (E) “Kinship care” means continuous 24–hour care and supportive services provided for a minor child placed by a child placement agency in the home of a relative related by blood or marriage within the 5th degree of consanguinity or affinity under the civil law rule.

[(i)] “Large family child care home” means a residence in which family child care is provided for at least 9 but not more than 12 children.]

[(j)] (F) (1) “License” means a license issued by the Administration under this subtitle.

(2) “License” includes:

(i) a child placement agency license;

(ii) [a child care home license;

(iii)] a child care institution license; and

[(iv)] (III) a residential educational facility license.

[(k)] (G) “Local board” means a local citizen board of review for children in out-of-home care.

[(l)] (H) “Out-of-home care” means:

(1) out-of-home placement; and

(2) the monitoring of and services provided to a child in aftercare following a child’s out-of-home placement.

[(m)] (I) “Out-of-home placement” means placement of a child into foster care, kinship care, group care, or residential treatment care.

[(n)] (J) “Residential educational facility” means:

(1) a facility that:

(i) provides special education and related services for students with disabilities;

(ii) holds a certificate of approval issued by the State Board of Education; and

(iii) provides continuous 24-hour care and supportive services to children in a residential setting; or

(2) one of the following schools:

(i) the Benedictine School;

- (ii) the Linwood School;
- (iii) the Maryland School for the Blind; or
- (iv) the Maryland School for the Deaf.

[(o)] (K) “Residential treatment care” means continuous 24-hour care and supportive services for a minor child placed in a facility that provides formal programs of basic care, social work, and health care services.

[(p)] (L) “State Board” means the State Citizens Review Board for Children.

[(q)] “Unregistered family child care home” means a residence in which family child care is provided and in which the child care provider:

- (1) has not obtained a certificate of registration from the State Department of Education;
- (2) is not related by blood or marriage to each child in the provider’s care;
- (3) is not a friend of each child’s parents or legal guardian and is providing care on a regular basis; and
- (4) has not received the care of the child from a child placement agency licensed by the Administration or by a local department.]

[(r)] (M) “Voluntary placement agreement” means a binding, written agreement that:

- (1) is voluntarily entered into between a local department and:
 - (i) the parent or legal guardian of a minor child; or
 - (ii) a former CINA whose commitment to the local department was rescinded after the individual reached the age of 18 years but before the individual reached the age of 20 years and 6 months; and
- (2) specifies, at a minimum:
 - (i) the legal status of the child or former CINA; and
 - (ii) the rights and obligations of the parent or legal guardian, the child or former CINA, and the local department while the child or former CINA is in placement.

(a) Except as otherwise provided in this section, a person shall be licensed by the Administration as a child care home before the person may exercise care, custody, or control of a minor child.

(b) This section does not apply:

(1) to a parent of the child;

(2) to an individual related to the child by blood or marriage within five degrees of consanguinity or affinity under the civil law rule;

(3) to a guardian of the child;

(4) to a person who exercises temporary care, custody, or control over the child at the request of a parent or guardian of the child and who is not required otherwise to be licensed;

(5) to an individual with whom the child is placed in foster care by:

(i) a child placement agency that is licensed under § 5–507 of this subtitle;

(ii) a local department;

(iii) the Department of Juvenile Services;

(iv) the Secretary of Health and Mental Hygiene; or

(v) a court of competent jurisdiction;

(6) to a person who has the care, custody, or control of the child through placement for adoption by a parent or grandparent of the child, if the requirements of § 5–3B–12 of this title are met;

(7) to an institution that has a child care institution license under this subtitle or under § 9–236 of the Human Services Article; or

(8) to an institution that is operated by an agency of this State or any political subdivision of this State.]

5–550.

(a) In this Part [VI] V of this subtitle the following words have the meanings indicated.

(d) (1) “Employee” means a person that for compensation is employed to work in a facility identified in [§ 5-561] **§ 5-551** of this subtitle and who:

(i) cares for or supervises children in the facility; or

(ii) has access to children who are cared for or supervised in the facility.

(2) “Employee” includes a person who:

(i) participates in a pool described in subsection (e)(2) of this section;

(ii) for compensation will be employed on a substitute or temporary basis to work in a facility identified in [§ 5-561(b)(1)] **§ 5-551(B)(1)** or (2) of this subtitle; and

(iii) will care for or supervise children in the facility or will have access to children who are cared for or supervised in the facility.

(3) “Employee” does not include any person employed to work for compensation by the Department of Juvenile Services.

(e) (1) “Employer” means an owner, operator, proprietor, or manager of a facility identified in [§ 5-561] **§ 5-551** of this subtitle who has frequent contact with children who are cared for or supervised in the facility.

(2) For purposes of [§§ 5-561(g), 5-564(a)(2)(i) and (c)(1)(i) and (2), and 5-567] **§§ 5-551(G), 5-554(A)(2)(I) AND (C)(1)(I) AND (2), AND 5-557** of this subtitle, “employer” includes a child care resource and referral center, an association of registered family child care providers, and an association of licensed child care centers to the extent that the center or association establishes and maintains a pool of individuals who are qualified to work as substitute or temporary employees in a facility identified in [§ 5-561(b)(1)] **§ 5-551(B)(1)** or (2) of this subtitle.

(3) “Employer” does not include a State or local agency responsible for the temporary or permanent placement of children in a facility identified in [§ 5-561] **§ 5-551** of this subtitle.

5-551.

(b) The following facilities shall require employees and employers to obtain a criminal history records check under this Part [VI] **V** of this subtitle:

(1) a child care center required to be licensed under [Part VII of this subtitle] **TITLE 9.5, SUBTITLE 4 OF THE EDUCATION ARTICLE**;

(2) a family child care home or large family child care home required to be registered under [Part V of this subtitle] **TITLE 9.5, SUBTITLE 3 OF THE EDUCATION ARTICLE**;

(3) a child care home required to be licensed under this subtitle or under Title 9 of the Human Services Article;

(4) a child care institution required to be licensed under this subtitle or under Title 9 of the Human Services Article;

(5) a juvenile detention, correction, or treatment facility provided for in Title 9 of the Human Services Article;

(6) a public school as defined in Title 1 of the Education Article;

(7) a private or nonpublic school required to report annually to the State Board of Education under Title 2 of the Education Article;

(8) a foster care family home or group facility as defined under this subtitle;

(9) a recreation center or recreation program operated by the State, a local government, or a private entity primarily serving minors;

(10) a day or residential camp, as defined in Title 10, Subtitle 16 of the Code of Maryland Regulations, primarily serving minors; or

(11) a home health agency or residential service agency licensed by the Department of Health and Mental Hygiene and authorized under Title 19 of the Health – General Article to provide home– or community–based health services for minors.

(c) The following individuals shall obtain a criminal history records check under this Part [VI] **V** of this subtitle:

(1) an individual who is seeking to adopt a child through a child placement agency;

(2) an individual who is seeking to become a guardian through a local department;

(3) an individual whom the juvenile court appoints as a guardian of a child;

(4) an adult relative with whom a child, committed to a local department, is placed by the local department;

(5) any adult known by a local department or the State Department of Education to be residing in:

(i) a family child care home or large family child care home required to be registered under this title;

(ii) a home where informal child care, as defined in child care subsidy regulations adopted under Title 13A of the Code of Maryland Regulations, is being provided or will be provided to a child who does not reside there;

(iii) a home of an adult relative of a child with whom the child, committed to a local department, is placed by the local department;

(iv) a foster care home or child care home required to be approved under this title;

(v) a home of an individual seeking to adopt a child through a child placement agency; or

(vi) a home of an individual seeking to become a guardian through a local department;

(6) an individual who agrees to provide, or to continue providing, informal child care, as defined in child care subsidy regulations, adopted under Title 13A of the Code of Maryland Regulations; and

(7) if requested by a local department:

(i) a parent or guardian of a child who is committed to the local department and is or has been placed in an out-of-home placement within the past year; and

(ii) any adult known by the local department to be residing in the home of the parent or guardian.

(d) An employer at a facility under subsection (b) of this section may require a volunteer at the facility to obtain a criminal history records check under this Part [VI] V of this subtitle.

(e) A local department may require a volunteer of that department who works with children to obtain a criminal history records check under this Part [VI] V of this subtitle.

(f) An employer at a facility not identified in subsection (b) of this section who employs individuals to work with children may require employees, including volunteers, to obtain a criminal history records check under this Part [VI] V of this subtitle.

(g) An employer, as defined in [§ 5-560(e)(1)] **§ 5-550(E)(2)** of this subtitle, shall require an employee, as defined in [§ 5-560(d)(2)] **§ 5-550(D)(2)** of this subtitle, to obtain a criminal history records check under this Part [VI] **V** of this subtitle.

(h) (1) Except as provided in paragraph (2) of this subsection, a person who is required to have a criminal history records check under this Part [VI] **V** of this subtitle shall pay for:

(i) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check;

(ii) reasonable administrative costs to the Department, not to exceed 10% of the processing fee; and

(iii) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

5-552.

(a) (2) On or before the 1st day of actual operation of a facility identified in [§ 5-561] **§ 5-551** of this subtitle, an employer shall apply to the Department for a printed statement.

(4) Within 5 days after a local department places a child who is committed to the local department with an adult relative, an individual identified in [§ 5-561(c)] **§ 5-551(C)** or (e) of this subtitle shall apply to the Department for a printed statement.

(b) As part of the application for a criminal history records check, the employee, employer, and individual identified in [§ 5-561(c)] **§ 5-551(C)**, (d), (e), or (f) of this subtitle shall submit:

(1) except as provided in subsection (c) of this section, a complete set of legible fingerprints at any designated State or local law enforcement office in the State or other location approved by the Department;

(2) the disclosure statement required under [§ 5-563] **§ 5-553** of this subtitle; and

(3) payment for the costs of the criminal history records check.

5-553.

As part of the application process for a criminal history records check, the employee, employer, and individual identified in [§ 5-561(c)] **§ 5-551(C)**, (d), (e), or (f) of this subtitle shall complete and sign a sworn statement or affirmation disclosing the existence of a

criminal conviction, probation before judgment disposition, not criminally responsible disposition, or pending criminal charges without a final disposition.

5-554.

(a) (1) (i) The Department shall conduct the criminal history records check and issue the printed statement provided for under this Part **[VI] V** of this subtitle.

(ii) It shall update an initial criminal history records check for an employee, employer, or individual identified in **[§ 5-561(c)] § 5-551(C)**, (d), (e), or (f) of this subtitle and issue a revised printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

(2) The Department shall adopt regulations requiring:

(i) employers to verify periodically the continuing employment of an employee and the continuing assignment of a volunteer;

(ii) State or local agencies that license, register, approve, or certify any of the facilities identified in **[§ 5-561(b)] § 5-551(B)** of this subtitle to verify periodically the continuing licensure, registration, approval, or certification of a facility or the continuing assignment of individuals identified in **[§ 5-561(e)] § 5-551(E)** of this subtitle; and

(iii) child placement agencies that place a child as described in **[§ 5-561(c)] § 5-551(C)** of this subtitle to verify periodically the continuing participation or presence of individuals identified in **[§ 5-561(c)] § 5-551(C)** of this subtitle.

(3) The employee, employer, volunteer, or other individual identified in **[§ 5-561] § 5-551** of this subtitle is not responsible for payment of any fee to update criminal history records checks.

(b) (1) The Department shall provide an initial and a revised statement of the applicant's State criminal record to:

(ii) the State Department of Education if the applicant is:

1. an employee of, or an adult resident in, a child care center that is required to be licensed or to hold a letter of compliance under **[Part VII of this subtitle] TITLE 9.5, SUBTITLE 4 OF THE EDUCATION ARTICLE**;

2. an employee of, or an adult resident in, a family child care home or large family child care home that is required to be registered under **[Part V of this subtitle] TITLE 9.5, SUBTITLE 3 OF THE EDUCATION ARTICLE**; or

3. an individual who provides or agrees to provide informal child care or an adult who resides in a home where informal child care is being provided or will be provided to a child who does not reside there.

(c) (1) Upon completion of the criminal history records check of an employee, the Department shall submit the printed statement to:

(iii) for an employee of a child care center that is required to be licensed or to hold a letter of compliance under [Part VII of this subtitle] **TITLE 9.5, SUBTITLE 4 OF THE EDUCATION ARTICLE** or an employee of a family child care home that is required to be registered under [Part V of this subtitle] **TITLE 9.5, SUBTITLE 3 OF THE EDUCATION ARTICLE**, the State Department of Education.

(4) Upon completion of the criminal history records check of an individual identified in [§ 5-561(c)] **§ 5-551(C)**, (d), (e), or (f) of this subtitle, the Department shall submit the printed statement to the appropriate child placement or registering agency.

(d) Information obtained from the Department under this Part [VI] **V** of this subtitle shall be confidential and may be disseminated only to the individual who is the subject of the criminal history records check and to the participants in the hiring or approval process.

(e) Information obtained from the Department under this Part [VI] **V** of this subtitle may not:

(1) be used for any purpose other than that for which it was disseminated;
or

(2) be redisseminated.

(f) Information obtained from the Department under this Part [VI] **V** of this subtitle shall be maintained in a manner to insure the security of the information.

5-554.1.

The State Department of Education shall conduct a cross-reference check, including cross-referencing the individual and the individual's address, with the central registry of registrants transmitted weekly by the Department under § 11-713 of the Criminal Procedure Article, of:

(1) an employee, employer, or individual identified in [§ 5-561(b)(1)] **§ 5-551(B)(1)**, (b)(2), or (c)(5)(i) of this subtitle; and

(2) an individual who provides or agrees to provide informal child care, as defined in child care subsidy regulations adopted under Title 13A of the Code of Maryland Regulations.

5-556.

(a) An individual who fails to disclose a conviction, a probation before judgment disposition, a not criminally responsible disposition, or the existence of pending charges for a criminal offense or attempted criminal offense as required under [§ 5-563] **§ 5-553** of this subtitle shall be guilty of perjury and upon conviction is subject to the penalty provided by law.

(b) Unless otherwise provided, a person who violates any provision of this Part [VI] **V** of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

5-557.

The following governmental units or persons shall have the immunity from civil or criminal liability described under § 5-619 of the Courts Article in connection with a criminal history records check under this Part [VI] **V** of this subtitle:

- (1) an employer; and
- (2) a State or local agency, including a local department.

5-558.

On or before August 15, 1986, the Secretary shall:

(3) adopt rules and regulations necessary and reasonable to administer this Part [VI] **V** of this subtitle.

5-559.

(b) (1) If a child is placed in an emergency out-of-home placement, a local department may request that a designated State or local law enforcement agency in the State or other location approved by the Department perform a federal name-based check on any individual described in [§ 5-561(c)(4)] **§ 5-551(C)(4)**, (5)(iii), and (7)(ii) of this subtitle.

(4) Within 15 calendar days after the date on which the name-based check was performed, the Department shall perform a criminal history records check, in accordance with [§ 5-564] **§ 5-554** of this subtitle.

(e) An individual who is required to submit to a criminal history records check under this section shall pay the fees required under [§ 5-561(h)] **§ 5-551(H)** of this subtitle.

5-705.3.

IN ADDITION TO ANY OTHER PROVISION OF LAW RELATING TO CHILD ABUSE AND NEGLECT, A LOCAL DEPARTMENT THAT RECEIVES A REPORT OF SUSPECTED CHILD ABUSE UNDER § 5-704 OR § 5-705 OF THIS TITLE SHALL NOTIFY THE STATE SUPERINTENDENT OF SCHOOL'S DESIGNEE WITHIN 48 HOURS IF THE REPORT CONCERNS:

- (1) A FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME; OR
- (2) A CHILD CARE CENTER.

SECTION 5. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2016 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2016.

Approved by the Governor, April 26, 2016.