

Chapter 663

(Senate Bill 111)

AN ACT concerning

**Maryland Health Benefit Exchange – Criminal History Records Checks –
Contractors With Access to Federal Tax Information**

FOR the purpose of authorizing the Maryland Health Benefit Exchange to require certain contractors to provide certain information for a certain background investigation; authorizing the Exchange to request from the Criminal Justice Information System Central Repository a State and national criminal history records check for certain contractors; authorizing the Exchange to collect and submit to the Central Repository certain fees and information from certain contractors; authorizing the Exchange to conduct a certain reinvestigation within a certain period of time after a previous background investigation; requiring the Central Repository to forward certain criminal history record information to the Exchange and certain contractors; providing that certain information is confidential and may be used only for certain purposes; requiring the Central Repository to provide revised criminal history record information under certain circumstances; authorizing certain contractors to contest under certain provisions of law certain information issued by the Central Repository; prohibiting certain contractors from performing certain work functions for the Exchange under certain circumstances; authorizing the Maryland Health Benefit Exchange Board to adopt certain regulations, guidelines, and policies; providing that this Act does not limit the authority of the Exchange to perform certain actions in accordance with certain provisions of law; specifying the purpose of this Act; defining certain terms; and generally relating to the Maryland Health Benefit Exchange and criminal background checks for contractors with access to federal tax information.

BY adding to

Article – Insurance

Section 31–120

Annotated Code of Maryland

(2017 Replacement Volume)

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

Article – Insurance**31–120.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(3) “CONTRACTOR” MEANS AN INDIVIDUAL WHO:

(I) IS NOT A STATE EMPLOYEE WITH A POSITION IN THE STATE PERSONNEL MANAGEMENT SYSTEM; AND

(II) PERFORMS WORK FUNCTIONS FOR THE EXCHANGE IN ACCORDANCE WITH THE TERMS OF A WRITTEN AGREEMENT.

(B) THE PURPOSE OF THIS SECTION IS TO AUTHORIZE THE EXCHANGE TO PERFORM A CRIMINAL BACKGROUND CHECK, INCLUDING A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, TO DETERMINE THE SUITABILITY OF A CONTRACTOR TO ACCESS CONFIDENTIAL OR SENSITIVE FEDERAL TAX INFORMATION IN ACCORDANCE WITH FEDERAL LAWS AND REGULATIONS.

(C) FOR ANY CONTRACTOR WHO HAS OR MAY OBTAIN ACCESS TO FEDERAL TAX INFORMATION THAT IS CONSIDERED CONFIDENTIAL OR SENSITIVE UNDER FEDERAL OR STATE LAW OR REGULATION, THE EXCHANGE MAY:

(1) REQUIRE THE CONTRACTOR TO PROVIDE INFORMATION NECESSARY TO PERFORM A CRIMINAL BACKGROUND CHECK INCLUDING, FOR AT LEAST THE IMMEDIATELY PRECEDING 5-YEAR PERIOD, THE CONTRACTOR’S:

(I) ADDRESS HISTORY; AND

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

(2) REQUEST A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK ON THE CONTRACTOR FROM THE CENTRAL REPOSITORY;

(3) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, COLLECT FROM THE CONTRACTOR AND SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF THE CONTRACTOR’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 MARYLAND CRIMINAL HISTORY RECORDS;

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

(IV) ANY OTHER DOCUMENTS OR FEES REQUIRED BY THE CENTRAL REPOSITORY FOR COMPLETION OF A CRIMINAL HISTORY RECORDS CHECK; AND

(4) CONDUCT A REINVESTIGATION WITHIN 10 YEARS AFTER THE DATE OF THE PREVIOUS BACKGROUND INVESTIGATION FOR EACH CONTRACTOR WITH ACCESS TO FEDERAL TAX INFORMATION.

(D) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-229 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE CONTRACTOR AND THE EXCHANGE THE CONTRACTOR'S CRIMINAL HISTORY RECORD INFORMATION.

(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(1) IS CONFIDENTIAL;

(2) MAY NOT BE REDISSEMINATED EXCEPT AS ALLOWED BY FEDERAL OR STATE LAW OR REGULATION; AND

(3) MAY BE USED ONLY FOR THE PURPOSES AUTHORIZED UNDER THIS SECTION.

(F) A CONTRACTOR WHO IS THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CRIMINAL HISTORY RECORD INFORMATION ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

(G) 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 EXCHANGE AND THE CONTRACTOR REVISED CRIMINAL HISTORY RECORD INFORMATION ON THE CONTRACTOR.

(H) A CONTRACTOR WHO REFUSES TO COMPLY WITH OR FAILS THE CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY NOT PERFORM WORK FUNCTIONS FOR THE EXCHANGE THAT REQUIRE ACCESS TO FEDERAL TAX INFORMATION.

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

(J) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF THE EXCHANGE TO PERFORM A BACKGROUND INVESTIGATION OR REQUEST A CRIMINAL HISTORY RECORDS CHECK FOR PERSONNEL IN ACCORDANCE WITH §§ 7-103 AND 7-104 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018.

Approved by the Governor, May 15, 2018.