

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 281

(Chair, Judiciary Committee)(By Request - Departmental
- Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

Family Law - Child Care Providers - Criminal Background Investigations

This emergency departmental bill generally alters statutory provisions related to criminal background investigations for specified individuals who care for, supervise, or otherwise have specified access to children, including provisions that govern the process for the dissemination of criminal history records checks (CHRC).

Fiscal Summary

State Effect: The bill's changes primarily codify current practice and clarify existing statute to ensure that State law conforms to federal requirements and that designated entities may continue to secure national CHRCs as required. However, general fund expenditures likely increase minimally beginning as early as FY 2026, as discussed below. Revenues are not materially affected.

Local Effect: Potential minimal increase in local government expenditures to the extent the bill increases workloads related to the processing of background checks. No material impact on revenues.

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: In general, the bill alters numerous provisions under Part V of Title 5, Subtitle 5 of the Family Law Article that govern when certain individuals who care for, supervise, or otherwise have access to children are required (or authorized) to secure a CHRC. While several alterations represent only stylistic or technical changes, the bill notably:

- specifies that in accordance with provisions within the Criminal Procedure Article, the Central Repository must forward an employee's, employer's, individual's, or volunteer's *State* criminal history record information (CHRI) to the employee, employer, individual, or volunteer and the *national* CHRI to the authorized agencies required to license, register, approve, or certify the facility that is required to have employees and employers obtain a CHRI (instead of, as under current law, forwarding the CHRI to the employee, employer, individual, or volunteer *and* the authorized agencies required to license, register, approve, or certify the facility);
- specifies that an adult or an individual who is not a relative and who agrees to provide care as a result of a sudden unavailability of a child's primary caretaker, as specified, must obtain a CHRC; and
- alters the definition of "emergency out-of-home placement" to mean an out-of-home placement in which a local department places a child in the home of an individual for whom a facility is required to apply for a CHRC as a result of a sudden unavailability of the child's primary caretaker.

Current Law/Background: The Criminal Justice Information System - Central Repository (CJIS-CR) is established by the Criminal Procedure Article, §§ 10-213 et seq., within DPSCS to collect, manage, and disseminate Maryland CHRI for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. For national CHRCs, CJIS-CR collects the fee and submits the requests for national CHRI to the Federal Bureau of Investigation (FBI) electronically.

In general, employees and employers who work in specified facilities and who care for or supervise children (or have access to children who are cared for or supervised in the facility) are required to apply for a national and State CHRC at any designated law enforcement office in the State or other location approved by DPSCS. Among the facilities requiring CHRCs are child care centers, family child care homes, schools, foster care homes, and recreation centers that primarily serve minors. Contractors or subcontractors must also require employees that will have direct, unsupervised, and uncontrolled access to children in one of the specified facilities to obtain a CHRC. Employers and local departments of social services may require volunteers at the facility to obtain a CHRC. Statutory provisions also authorize a local department of social services, if a child is placed

in an emergency out-of-home placement, to request that a designated State or local law enforcement agency in the State perform a federal name-based check on specified individuals, such as adults residing in the home. Within 15 calendar days after the local department receives the results of the name-based check, the local department must submit a complete set of fingerprints on the individual to DPSCS. Within 15 calendar days after the name-based check, DPSCS must perform a CHRC. A child must be removed immediately from an emergency out-of-home placement if any individual required to submit to a name-based check refuses to submit the follow-up fingerprints.

DPSCS advises that, in 2025, the FBI updated its compliance language for the dissemination of national background checks. The bill's changes are intended to bring the State into compliance with federal law and are necessary to ensure Maryland agencies continue to receive national background checks on employees working with children. According to DPSCS, if these changes are not made, the FBI will deny Maryland access to National Background Checks for individuals who have unsupervised and controlled access to children. Currently, the FBI has granted the State a temporary grace period which allows the State to continue receiving national background checks under existing statutes. However, this grace period ends on December 31, 2026.

State Expenditures: Under the bill, the Department of Human Services (DHS) *must* require a CHRC for an adult or an individual who is not a relative and who agrees to provide care as a result of a sudden unavailability of the child's primary caretaker, as specified. DHS advises that, in 2025, 2,886 safety plans were implemented; however, the department is unable to determine the number of placements that involved a substitute caregiver who was not a relative or family member. In addition, CJIS-CR is authorized by law to collect a fee for providing CHRC for purposes other than criminal justice and DHS usually covers the cost of CHRCs for individuals serving as emergency placements under a safety plan. Further, in instances where non-relatives are unable to obtain a CHRC, children may be placed in foster care, with an associated impact on expenditures. *For illustrative purposes only*, and assuming a foster care rate of \$65.75 per day, if 200 children are placed in foster care for three nights as a result of an individual's inability to serve as a temporary caregiver, general fund expenditures increase by \$39,450.

Small Business Effect: As noted above, the bill is intended to conform statutory language regarding CHRCs to federal requirements; otherwise, according to DPSCS, specified entities will no longer have the ability to continue to secure required national background checks. Accordingly, DLS advises that the bill has a meaningful impact on small businesses (particularly child care providers) that are required to have background checks performed on certain individuals within their facilities.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, and Howard counties; Maryland Municipal League; Town of La Plata; Maryland State Department of Education; Department of Human Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law - Child Care Providers - Criminal Background Investigations

BILL NUMBER: HB 281

PREPARED BY: Jason Davidson, Director, Government and Legislative Affairs

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