

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

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In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 12.10.01.05

Corresponding Federal Standard:

(5 USC 552a; 28 USC 534; 42 USC 14616; and 28 CFR Part 20 – Criminal Justice Information)

Discussion/Justification:

The proposed action adds language to the regulations for actions permitted by federal statute and regulations.

Contact Thomas C. Smith Police and Correctional Training Commission 410 875 3605 for details of the proposal.

TO BE COMPLETED BY DBED

- Agree

-Disagree

Comments:

The Department does not have subject matter expertise in this matter - however, we believe DPSCS does and trust their assertion that the regulation is not more restrictive or stringent than corresponding federal standards.

Name: Sandy Popp
Date: 8/3/2015

__-Submit to Governor's Office
Governor's Office Response

Comments:

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee 08/11/2015	TO BE COMPLETE D BY DSD Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 9/4/2015

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
12	10	01	05

3. Name of Promulgating Authority

Department of Public Safety and Correctional Services

4. Name of Regulations Coordinator

George H Hall

Telephone Number

410 339 5073

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**Title 12
DEPARTMENT
OF PUBLIC
SAFETY AND
CORRECTIONAL
SERVICES**

**Subtitle 10
CORRECTIONAL
TRAINING
COMMISSION**

**12.10.01 General
Regulations**

Authority: Correctional Services Article, §8-208, Annotated Code of Maryland

**Notice of Proposed
Action**

□

The Secretary of Public Safety and Correctional Services proposes to in cooperation with the Correctional Training Commission amend Regulation .05 under COMAR 12.10.01 — General Regulations.

506(c), Annotated Code of Maryland.

_ OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

_ Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Stewart M. Nathan, Assistant Attorney General, (telephone #410 585 3070) on July 22, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Stephen T. Moyer

Title

Secretary

Telephone No.

410 339 5000

Date

July 28, 2015

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Thomas C. Smith, Director Policy and Process Review, Police and Correctional Training Commissions, 6852 4th Street Sykesville, MD. 21784, or call 410 875 3605, or email to tcsmith@dpsc.state.md.us, or fax to 410 875 3584. Comments will be accepted through October 4, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The proposal codifies practices currently in use.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

This regulation only affects State and local government agencies.

G. Small Business Worksheet:

Attached Document:

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 10 CORRECTIONAL TRAINING COMMISSION

Chapter 01 General Regulations

.05 Background Investigation and Criminal History Record Checks.

A. (text unchanged)

B. Criminal History Record Checks and Fingerprints.

(1) An agency head submitting an AFC for an applicant *to be certified as a correctional officer or Department of Juvenile Services employee* shall require that *the applicant*:

(a) [An applicant is] *Be* fingerprinted; and

(b) [An applicant's fingerprints are forwarded to the appropriate local, State, and national agency for a criminal history record check] *Apply to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for a State and national criminal history records check.*

[(2) An agency head, or a designee, may conduct an applicant's criminal history record check using the National Crime Information Center (NCIC) files in place of a criminal history record check.

(3) An agency head, or a designee, submitting an AFC for an applicant shall:

(a) Maintain the results of an applicant's criminal history record checks; and

(b) Include the results on the AFC.]

(2) *An applicant applying for a criminal history records check under this section shall request the results of the criminal history records check be provided to the:*

(a) *Applicant;*

(b) *Commission; and*

(c) *Agency submitting the AFC for the applicant.*

[(4)] (3) Record of Criminal Conviction.

(a) [The agency head] *The Commission* shall include with the *Commission's records for the applicant's AFC* results of the [National Crime Information Center check or the local, State, or national fingerprint] *criminal history records* check that reveal an applicant has:

(i) — (iv) (text unchanged)

(b) The Commission may [refuse to certify the applicant based on derogatory information resulting from the criminal history record check.

(c) The Commission may] not certify an applicant in a mandated position if the applicant has a conviction for an offense under Regulation .20 of this chapter.

(4) *The Commission shall notify the applicant that the applicant may contest the contents of the criminal history records check results as provided under Criminal Procedures Article, Title 10, Annotated Code of Maryland.*

(5) *The Commission may refuse to certify the applicant based on derogatory information resulting from the criminal history records check or other verified reliable source.*

Stephen T. Moyer

Secretary

Department of Public Safety and Correctional Services