

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Public Safety and Correctional Services
(DLS Control No. 16-004)**

Overview and Legal and Fiscal Impact

The regulation updates Police Training Commission regulations to conform with the requirements of § 3-209.1 of the Public Safety Article and federal regulations concerning procedures for fingerprinting and obtaining a criminal history records information on a police officer applicant.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Public Safety and Correctional Services:

Police Training Commission: General Regulation: COMAR 12.04.01.05

Legal Analysis

Background

Chapter 305 of the Acts of 2015 requires an applicant who is seeking certification as a police officer, correctional officer, or a Department of Juvenile Services employee to apply to the Central Repository for a State and national criminal history records check. As part of the application, the applicant must submit a complete set of legible fingerprints taken on an approved form and the authorized fees. The subject of the check may contest the contents of the printed statement issued by the Central Repository.

Summary of Regulation

The regulation requires an agency head submitting an application for certification for an applicant to be certified as a police officer to require that the applicant be fingerprinted and 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 (COMAR 12.04.01.05B(1)). The applicant must request the results of the check be provided to the applicant, Police Training Commission, and the agency submitting the application for certification for the applicant (COMAR 12.04.01.05B(2)). If the results reveal that the applicant has been convicted of a felony or a misdemeanor for which a sentence of imprisonment for one

year or more could have been imposed, the Commission must include available information concerning the conviction with the Commission records related to the application (COMAR 12.04.01.05B(3)). The Commission must notify the applicant that the applicant may contest the contents of the check in accordance with the statute (COMAR 12.04.01.05B(4)). The Commission may refuse to certify an applicant based on supplemental information resulting from the check or other verified reliable source (COMAR 12.04.01.05B(5)).

Legal Issues

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites § 2-109 of the Correctional Services Article and § 3-208(a) of the Public Safety Article as statutory authority for the regulation.

Section 2-109(c) of the Correctional Services Article provides that the Secretary of Public Safety and Correctional Services shall adopt regulations to govern the policies and management of correctional facilities in the Department.

Section 3-208(a) of the Public Safety Article authorizes the Police Training Commission, subject to the authority of the Secretary, to adopt regulations necessary or appropriate to carry out the subtitle.

This authority is correct and complete. The regulation(s) comply(ies) with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation reflects current practice; therefore, there is no impact on State or local governments. The Department of Legislative Services concurs and notes that, in part, the regulation implements Chapter 305 of 2015 (House Bill 1237). The fiscal and policy note for House Bill 1237 indicated that the bill would have no impact on the State or local governments.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: John J. Joyce – (410) 946/(301) 970-5350

Fiscal Analysis: Shirleen M. Pilgrim – (410) 946/(301) 970-5510