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**By: Senator Hafer**

Introduced and read first time: January 31, 1996

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Public Senior Higher Education Institutions - Resident Students - Criminal Background**  
3 **Investigations**

4 FOR the purpose of requiring certain students at a public senior highereducation  
5 institution to complete an application for student housing; providing that the  
6 application shall contain a certain question; requiring certain students to complete  
7 a certain statement or affirmation; prohibiting a public senior higher education  
8 institution from approving an application for student housing under certain  
9 circumstances; requiring criminal background investigations for certain resident  
10 students at public senior higher education institutions; requiring disclosure of  
11 certain criminal convictions or pending criminal charges by certain resident  
12 students; requiring public senior higher education institutions to deny student  
13 housing for certain students under certain circumstances; requiring public senior  
14 higher education institutions to consider certain conditions when approving student  
15 housing for certain students; providing for the confidentiality of certain information  
16 in certain circumstances; providing for a certain procedure for applying for a  
17 criminal background investigation; providing immunity from civil andcriminal  
18 liability for certain institutions; requiring the Department of Public Safety and  
19 Correctional Services to conduct the criminal background investigation and to adopt  
20 certain rules and regulations; defining certain terms; providing forthe prospective  
21 application of this Act; providing for a certain penalty under certain circumstances;  
22 and generally relating to criminal background investigations for resident students at  
23 public senior higher education institutions.

24 BY adding to

25 Article - Education  
26 Section 15-201 through 15-210, inclusive, to be under the new subtitle "Subtitle 2.  
27 Public Senior Higher Education Institutions - Resident Students - Criminal  
28 Background Investigations"  
29 Annotated Code of Maryland  
30 (1992 Replacement Volume and 1995 Supplement)

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

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1           **Article - Education**

2    SUBTITLE 2. PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS - RESIDENT  
3       STUDENTS - CRIMINAL BACKGROUND INVESTIGATIONS.

4 15-201.

5           (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7           (B) "CONVICTION" MEANS A PLEA OR VERDICT OF GUILTY OR A PLEA OF  
8 NOLO CONTENDERE.

9           (C) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND  
10 CORRECTIONAL SERVICES.

11           (D) "PRINTED STATEMENT" MEANS A DOCUMENT ISSUED BY THE CRIMINAL  
12 JUSTICE SYSTEM CENTRAL REPOSITORY IN THE DEPARTMENT IN RESPONSE TO AN  
13 APPLICATION FOR A CRIMINAL BACKGROUND CHECK.

14           (E) "PUBLIC SENIOR HIGHER EDUCATION INSTITUTION" HAS THE MEANING  
15 STATED IN § 10-101 OF THIS ARTICLE.

16           (F) "RESIDENT STUDENT" MEANS AN INDIVIDUAL WHO:

17                   (1) IS ENROLLED IN A PUBLIC SENIOR HIGHER EDUCATION  
18 INSTITUTION;

19                   (2) HAS APPLIED TO RESIDE IN STUDENT HOUSING; AND

20                   (3) HAS STATED ON THE APPLICATION FOR STUDENT HOUSING THAT  
21 THEY HAVE BEEN CONVICTED OF A CRIME.

22           (G) "SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND  
23 CORRECTIONAL SERVICES.

24           (H) (1) "STUDENT HOUSING" MEANS ANY RESIDENCE HALL, DORMITORY,  
25 OR OTHER RESIDENCE OWNED BY A PUBLIC SENIOR HIGHER EDUCATION  
26 INSTITUTION.

27                   (2) "STUDENT HOUSING" DOES NOT INCLUDE A SORORITY OR  
28 FRATERNITY RESIDENCE.

29 15-202.

30           (A) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION SHALL REQUIRE A  
31 STUDENT WHO INTENDS TO RESIDE IN STUDENT HOUSING TO COMPLETE AN  
32 APPLICATION FOR STUDENT HOUSING.

33           (B) (1) THE APPLICATION SHALL ASK IF THE STUDENT HAS BEEN  
34 CONVICTED OF A CRIME OR IF THERE ARE PENDING CRIMINAL CHARGES WITHOUT  
35 FINAL DISPOSITION AGAINST THE STUDENT.

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1 (2) THE STUDENT SHALL COMPLETE AND SIGN A SWORN STATEMENT  
2 OR AFFIRMATION THAT THE ANSWER TO THE QUESTION UNDER PARAGRAPH (1) OF  
3 THIS SUBSECTION IS TRUE UNDER PENALTY OF PERJURY.

4 (C) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION MAY NOT APPROVE  
5 AN APPLICATION FOR STUDENT HOUSING UNLESS THE STUDENT HAS COMPLETED  
6 AND SIGNED A SWORN STATEMENT OR AFFIRMATION UNDER SUBSECTION (B)(2) OF  
7 THIS SECTION.

8 15-203.

9 (A) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION SHALL REQUIRE A  
10 RESIDENT STUDENT TO OBTAIN A CRIMINAL BACKGROUND INVESTIGATION UNDER  
11 THIS SUBTITLE IF THE STUDENT HAS STATED IN THE APPLICATION FOR STUDENT  
12 HOUSING THAT THE STUDENT HAS BEEN CONVICTED OF A CRIME.

13 (B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE  
14 RESIDENT STUDENT SHALL APPLY FOR A STATE CRIMINAL BACKGROUND  
15 INVESTIGATION AT ANY DESIGNATED LAW ENFORCEMENT OFFICE IN THIS STATE.

16 (C) THE RESIDENT STUDENT SHALL PAY:

17 (1) REASONABLE ADMINISTRATIVE COSTS TO THE DEPARTMENT, NOT  
18 TO EXCEED 10% OF THE PROCESSING FEE; AND

19 (2) THE FEE AUTHORIZED UNDER ARTICLE 27, § 746(B)(8) OF THE CODE  
20 FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS.

21 15-204.

22 (A) AS PART OF THE APPLICATION FOR A CRIMINAL BACKGROUND  
23 INVESTIGATION, THE RESIDENT STUDENT SHALL SUBMIT:

24 (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A  
25 COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN ON STANDARD FINGERPRINT  
26 CARDS AT ANY DESIGNATED STATE OR LOCAL LAW ENFORCEMENT OFFICE IN THE  
27 STATE OR OTHER LOCATION APPROVED BY THE DEPARTMENT;

28 (2) THE DISCLOSURE STATEMENT REQUIRED UNDER § 15-204 OF THIS  
29 SUBTITLE; AND

30 (3) PAYMENT FOR THE COSTS OF THE CRIMINAL BACKGROUND  
31 INVESTIGATION.

32 (B) THE REQUIREMENT THAT A COMPLETE SET OF LEGIBLE FINGERPRINTS  
33 TAKEN ON STANDARD FINGERPRINT CARDS BE SUBMITTED AS PART OF THE  
34 APPLICATION FOR A CRIMINAL BACKGROUND INVESTIGATION MAY BE WAIVED BY  
35 THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION IF:

36 (1) THE APPLICATION IS SUBMITTED BY A RESIDENT STUDENT WHO  
37 HAS ATTEMPTED TO HAVE A COMPLETE SET OF FINGERPRINTS TAKEN ON AT LEAST  
38 THREE OCCASIONS;

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1 (2) THE TAKING OF A COMPLETE SET OF LEGIBLE FINGERPRINTS IS NOT  
2 POSSIBLE BECAUSE OF A PHYSICAL OR MEDICAL CONDITION OF THE RESIDENT  
3 STUDENT'S FINGERS OR HANDS;

4 (3) THE RESIDENT STUDENT SUBMITS DOCUMENTATION  
5 SATISFACTORY TO THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION OF THE  
6 REQUIREMENTS OF THIS SUBSECTION; AND

7 (4) THE RESIDENT STUDENT SUBMITS THE OTHER INFORMATION  
8 REQUIRED FOR A CRIMINAL BACKGROUND INVESTIGATION.

9 15-205.

10 (A) AS PART OF THE APPLICATION PROCESS FOR A CRIMINAL BACKGROUND  
11 INVESTIGATION, THE RESIDENT STUDENT SHALL COMPLETE AND SIGN A SWORN  
12 STATEMENT OR AFFIRMATION DISCLOSING THE EXISTENCE OF A CRIMINAL  
13 CONVICTION OR PENDING CRIMINAL CHARGES WITHOUT A FINAL DISPOSITION.

14 (B) THE DEPARTMENT OR ITS DESIGNEE SHALL MAIL AN ACKNOWLEDGED  
15 RECEIPT OF THE APPLICATION WITH A SWORN STATEMENT OR AFFIRMATION FROM  
16 A RESIDENT STUDENT TO THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION TO  
17 WHICH THE RESIDENT STUDENT HAS APPLIED FOR STUDENT HOUSING WITHIN 3  
18 DAYS OF THE APPLICATION.

19 15-206.

20 (A) THE DEPARTMENT SHALL CONDUCT THE CRIMINAL BACKGROUND  
21 INVESTIGATION AND ISSUE THE PRINTED STATEMENT PROVIDED FOR UNDER THIS  
22 SUBTITLE.

23 (B) THE DEPARTMENT SHALL PROVIDE A STATEMENT OF THE APPLICANT'S  
24 STATE CRIMINAL RECORD TO THE PUBLIC SENIOR HIGHER EDUCATION  
25 INSTITUTION SPECIFIED IN § 15-204(B) OF THIS SUBTITLE.

26 (C) UPON COMPLETION OF THE CRIMINAL BACKGROUND INVESTIGATION OF  
27 A RESIDENT STUDENT, THE DEPARTMENT SHALL SUBMIT THE PRINTED STATEMENT  
28 TO:

29 (1) THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION; AND

30 (2) THE RESIDENT STUDENT.

31 (D) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS  
32 SUBTITLE SHALL BE CONFIDENTIAL AND MAY BE DISSEMINATED ONLY TO THE  
33 RESIDENT STUDENT WHO IS THE SUBJECT OF THE CRIMINAL BACKGROUND  
34 INVESTIGATION AND TO OFFICIALS AT THE PUBLIC SENIOR HIGHER EDUCATION  
35 INSTITUTION INVOLVED IN APPROVING STUDENT HOUSING APPLICATIONS.

36 (E) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS  
37 SUBTITLE MAY NOT:

38 (1) BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS  
39 DISSEMINATED; OR

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1 (2) BE REDISSEMINATED.

2 (F) INFORMATION OBTAINED FROM THE DEPARTMENT UNDER THIS  
3 SUBTITLE SHALL BE MAINTAINED IN A MANNER TO INSURE THE SECURITY OF THE  
4 INFORMATION.

5 15-207.

6 (A) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION SHALL RECEIVE A  
7 RESIDENT STUDENT'S PRINTED STATEMENT IDENTIFIED IN § 15-205 OF THIS  
8 SUBTITLE BEFORE APPROVING A RESIDENT STUDENT'S APPLICATION FOR STUDENT  
9 HOUSING.

10 (B) IF A PRINTED STATEMENT DISCLOSES THAT A STUDENT HAS BEEN  
11 CONVICTED OF A CRIME, THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION  
12 SHALL CONSIDER THE FOLLOWING FACTORS BEFORE APPROVING THE  
13 APPLICATION FOR STUDENT HOUSING:

14 (1) THE TYPE OF CRIME FOR WHICH THE STUDENT HAS BEEN  
15 CONVICTED;

16 (2) WHEN THE CRIME WAS COMMITTED;

17 (3) THE SENTENCE THAT WAS IMPOSED ON THE STUDENT; AND

18 (4) WHETHER THE STUDENT WOULD PRESENT A DANGER TO OTHER  
19 STUDENTS IN STUDENT HOUSING.

20 (C) IF A STUDENT HAS BEEN CONVICTED OF A CRIME OF VIOLENCE, AS  
21 DEFINED IN ARTICLE 27, § 643B OF THE CODE, THE PUBLIC SENIOR HIGHER  
22 EDUCATION INSTITUTION MAY NOT APPROVE THE APPLICATION FOR STUDENT  
23 HOUSING.

24 (D) THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION MAY DENY AN  
25 APPLICATION FOR STUDENT HOUSING AFTER CONSIDERING THE FACTORS IN  
26 SUBSECTION (B) OF THIS SECTION.

27 15-208.

28 (A) IN CONFORMITY WITH THE FOLLOWING PROCEDURES, A RESIDENT  
29 STUDENT MAY CONTEST THE FINDING OF A CRIMINAL CONVICTION OR PENDING  
30 CHARGE REPORTED IN A PRINTED STATEMENT.

31 (B) IN CONTESTING THE FINDING OF A CONVICTION OR A PENDING CHARGE,  
32 THE RESIDENT STUDENT SHALL CONTACT THE OFFICE OF THE SECRETARY, OR A  
33 DESIGNEE OF THE SECRETARY, AND A HEARING SHALL BE CONVENED WITHIN 20  
34 WORKDAYS, UNLESS SUBSEQUENTLY WAIVED BY THE INDIVIDUAL. THE  
35 SECRETARY, OR A DESIGNEE OF THE SECRETARY, SHALL RENDER A DECISION  
36 REGARDING THE APPEAL WITHIN 5 WORKDAYS OF THE HEARING.

37 (C) FOR PURPOSES OF THIS SUBTITLE, THE RECORD OF A CONVICTION FOR A  
38 CRIME OR A COPY OF THE CONVICTION RECORD CERTIFIED BY THE CLERK OF THE  
39 COURT OR BY A JUDGE OF THE COURT IN WHICH THE CONVICTION OCCURRED  
40 SHALL BE CONCLUSIVE EVIDENCE OF THE CONVICTION. IN A CASE WHERE A

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1 PENDING CHARGE IS RECORDED, DOCUMENTATION PROVIDED BY A COURT TO THE  
2 SECRETARY, OR A DESIGNEE OF THE SECRETARY, THAT A PENDING CHARGE FOR A  
3 CRIME WHICH HAS NOT BEEN FINALLY ADJUDICATED SHALL BE CONCLUSIVE  
4 EVIDENCE OF THE PENDING CHARGE.

5 (D) FAILURE OF THE RESIDENT STUDENT TO APPEAR AT THE SCHEDULED  
6 HEARING SHALL BE CONSIDERED GROUNDS FOR DISMISSAL OF THE APPEAL.

7 15-209.

8 (A) A RESIDENT STUDENT WHO FAILS TO DISCLOSE A CONVICTION OR THE  
9 EXISTENCE OF PENDING CHARGES FOR A CRIMINAL OFFENSE OR ATTEMPTED  
10 CRIMINAL OFFENSE AS REQUIRED UNDER § 15-204 OF THIS SUBTITLE SHALL BE  
11 GUILTY OF PERJURY AND UPON CONVICTION IS SUBJECT TO THE PENALTY  
12 PROVIDED BY LAW.

13 (B) UNLESS OTHERWISE PROVIDED, A RESIDENT STUDENT WHO VIOLATES  
14 ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON  
15 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT  
16 EXCEEDING 1 YEAR OR BOTH.

17 15-210.

18 A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION SHALL HAVE IMMUNITY  
19 FROM CIVIL OR CRIMINAL LIABILITY IN CONNECTION WITH A CRIMINAL  
20 BACKGROUND INVESTIGATION.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1996.