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By: **Delegates Petzold and Doory**

Introduced and read first time: February 11, 1998

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Informal Child Care Providers - Criminal History Records Check**

3 FOR the purpose of requiring child care providers who receive a purchase of child care  
4 subsidy from a local department of social services for provision of informal child  
5 care to obtain a criminal history records check except under certain  
6 circumstances; defining certain terms; and generally relating to criminal history  
7 records checks for individuals who care for or supervise children.

8 BY repealing and reenacting, with amendments,

9 Article - Family Law

10 Section 5-561, 5-562(a)(3) and (b), 5-563(a) and (b)(3), and 5-564(a) and (d)(4)

11 Annotated Code of Maryland

12 (1991 Replacement Volume and 1997 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Family Law**

16 5-561.

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

19 (2) "INFORMAL CHILD CARE" MEANS CHILD CARE THAT:

20 (I) IS SELF-ARRANGED AND NONREGULATED; AND

21 (II) REQUIRES CHILD CARE PROVIDERS TO SUBMIT A SIGNED  
22 AFFIRMATION OF COMPLIANCE WITH CHILD CARE HEALTH AND SAFETY  
23 STANDARDS, BUT DOES NOT REQUIRE THE PROVIDERS TO BE LICENSED OR  
24 REGULATED UNDER STATE LAW.

25 (3) "PURCHASE OF CHILD CARE" MEANS THE SYSTEM OF PROVIDING TO  
26 AN ELIGIBLE FAMILY A CHILD CARE SUBSIDY FOR WHICH A LOCAL DEPARTMENT

1 PAYS TO THE CHILD CARE PROVIDER, ALL OR PART OF THE PAYMENT ON BEHALF OF  
2 THE FAMILY.

3 (4) "SUBSIDY" MEANS THE PORTION OF THE FINANCIAL COST OF CHILD  
4 CARE SERVICES PAID IN AUTHORIZED UNIT RATES BY A LOCAL DEPARTMENT TO A  
5 CHILD CARE PROVIDER.

6 [(a)] (B) Notwithstanding any provision of law to the contrary, an employee  
7 and employer in a facility identified in subsection [(b)](C) of this section and persons  
8 identified in subsection[(c)] (D) of this section shall apply for a national and State  
9 criminal history records check at any designated law enforcement office in this State.

10 [(b)] (C) The following facilities shall require employees and employers to  
11 obtain a criminal history records check under this Part VI of this subtitle:

12 (1) a child care center required to be licensed under Part VII of this  
13 subtitle;

14 (2) a family day care home required to be registered under Part V of this  
15 subtitle;

16 (3) a child care home required to be licensed under this subtitle or under  
17 Article 83C of the Code;

18 (4) a child care institution required to be licensed under this subtitle or  
19 under Article 83C of the Code;

20 (5) a juvenile detention, correction, or treatment facility provided for in  
21 Article 83C of the Code;

22 (6) a public school as defined in Title 1 of the Education Article;

23 (7) a private or nonpublic school required to report annually to the State  
24 Board of Education under Title 2 of the Education Article;

25 (8) a foster care family home or group facility as defined under this  
26 subtitle;

27 (9) a recreation center or recreation program operated by State or local  
28 government primarily serving minors; or

29 (10) a day or residential camp, as defined in Title 10, Subtitle 16 of the  
30 Code of Maryland Regulations, primarily serving minors.

31 [(c)] (D) The following individuals shall obtain a criminal history records  
32 check under this Part VI of this subtitle:

33 (1) an individual who is seeking to adopt a child through a local  
34 department of social services or licensed child placement agency;

1 (2) an adult relative with whom a child, committed to a local department  
2 of social services, is placed by the local department of social services; [and]

3 (3) any adult known by a local department of social services to be  
4 residing in a:

5 (i) family day care home required to be registered under Title 5 of  
6 this article;

7 (ii) home of an adult relative of a child with whom the child,  
8 committed to a local department of social services, is placed by the local department of  
9 social services;

10 (iii) foster care home or child care home required to be approved  
11 under Title 5 of this article; or

12 (iv) home of an individual seeking to adopt a child through a local  
13 department of social services or a licensed child placement agency; AND

14 (4) UNLESS THE CHILD CARE PROVIDER IS RELATED TO THE CHILD BY  
15 BLOOD OR MARRIAGE, A PROVIDER WHO RECEIVES A PURCHASE OF CHILD CARE  
16 SUBSIDY FOR PROVISION OF INFORMAL CHILD CARE.

17 [(d)] (E) An employer at a facility under subsection [(b)] (C) of this section  
18 may require a volunteer at the facility to obtain a criminal history records check  
19 under this Part VI of this subtitle.

20 [(e)] (F) A local department of social services may require a volunteer of that  
21 department who works with children to obtain a criminal history records check under  
22 this Part VI of this subtitle.

23 [(f)] (G) An employer at a facility not identified in subsection [(b)](C) of this  
24 section who employs individuals to work with children may require employees,  
25 including volunteers, to obtain a criminal history records check under this Part VI of  
26 this subtitle.

27 [(g)] (H) A person who is required to have a criminal history records check  
28 under this Part VI of this subtitle shall pay for:

29 (1) the mandatory processing fee required by the Federal Bureau of  
30 Investigation for a national criminal history records check;

31 (2) reasonable administrative costs to the Department, not to exceed  
32 10% of the processing fee; and

33 (3) the fee authorized under Article 27, § 746(b)(8) of the Code for access  
34 to Maryland criminal history records.

35 [(h)] (I) (1) An employer or other party may pay for the costs borne by the  
36 employee or other individual under subsection [(g)](H) of this section.

1           (2)       The local department of social services shall reimburse an adult  
2 residing in a foster care home for the costs borne by the individual under subsection  
3 [(g)] (H) of this section.

4 5-562.

5       (a)       (3)       Within 5 days after a child who is committed to a local department of  
6 social services is placed by the local department of social services with an adult  
7 relative, an individual identified in § 5-561[(c)] (D) or [(e)] (F) of this subtitle shall  
8 apply to the Department for a printed statement.

9       (b)       As part of the application for a criminal history records check, the  
10 employee, employer, and individual identified in § 5-561[(c)] (D), [(d)] (E), [(e)] (F),  
11 or [(f)] (G) of this subtitle shall submit:

12           (1)       except as provided in subsection (c) of this section, a complete set of  
13 legible fingerprints taken on standard fingerprint cards at any designated State or  
14 local law enforcement office in the State or other location approved by the  
15 Department;

16           (2)       the disclosure statement required under § 5-563 of this subtitle; and

17           (3)       payment for the costs of the criminal history records check.

18 5-563.

19       (a)       As part of the application process for a criminal history records check, the  
20 employee, employer, and individual identified in § 5-561[(c)] (D), [(d)] (E), [(e)] (F),  
21 or [(f)] (G) of this subtitle shall complete and sign a sworn statement or affirmation  
22 disclosing the existence of a criminal conviction, probation before judgment  
23 disposition, not criminally responsible disposition, or pending criminal charges  
24 without a final disposition.

25       (b)       (3)       The Department or its designee shall mail an acknowledged receipt of  
26 the application with a sworn statement or affirmation from an individual identified  
27 in § 5-561[(c)] (D), [(d)] (E), [(e)] (F), or [(f)] (G) of this subtitle to the appropriate  
28 local department of social services, registering agency, licensed child placement  
29 agency, or facility.

30 5-564.

31       (a)       (1)       (i)       The Department shall conduct the criminal history records  
32 check and issue the printed statement provided for under this Part VI of this subtitle.

33                   (ii)       It shall update an initial criminal history records check for an  
34 employee, employer, or individual identified in § 5-561[(c)] (D), [(d)] (E), [(e)] (F), or  
35 [(f)] (G) of this subtitle and issue a revised printed statement, listing any convictions,  
36 probation before judgment dispositions, not criminally responsible dispositions, or  
37 pending criminal charges occurring in the State after the date of the initial criminal  
38 history records check.

1           (2)     The Department shall adopt regulations requiring:

2                   (i)     employers to verify periodically the continuing employment of  
3 an employee and the continuing assignment of a volunteer;

4                   (ii)    State or local agencies that license, register, approve, or certify  
5 any of the facilities identified in § 5-561[(b)] (C) of this subtitle to verify periodically  
6 the continuing licensure, registration, approval, or certification of a facility or the  
7 continuing assignment of individuals identified in § 5-561[(e)] (F) of this subtitle;  
8 and

9                   (iii)   local departments of social services and licensed child  
10 placement agencies that place a child as described in § 5-561[(c)] (D) of this subtitle  
11 to verify periodically the continuing participation or presence of individuals identified  
12 in § 5-561[(c)] (D) of this subtitle.

13           (3)     The employee, employer, volunteer, or other individual identified in §  
14 5-561 of this subtitle is not responsible for payment of any fee to update criminal  
15 history records checks.

16   (d)   (4)     Upon completion of the criminal history records check of an  
17 individual identified in § 5-561[(c)] (D), [(d)] (E), [(e)] (F), or [(f)] (G) of this subtitle,  
18 the Department shall submit the printed statement to the appropriate local  
19 department of social services, registering agency, or licensed placement agency.

20   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 1998.