
By: **Delegates Doory, Petzold, Hecht, Montague, Barkley, Dembrow, Zirkin,
Grosfeld, and Goldwater**

Introduced and read first time: January 17, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Background Investigations - Care and Supervision of Children -**
3 **Substitute Employee Pools**

4 FOR the purpose of requiring that provisions of law related to criminal history
5 records checks apply to certain child care resource and referral centers and to
6 associations of licensed child care providers that establish and maintain a pool
7 of individuals to work as substitute or temporary employees in certain facilities;
8 requiring that provisions of law related to criminal history records checks apply
9 to certain substitute or temporary employees of certain centers and associations;
10 and generally relating to criminal history records checks and child care resource
11 and referral centers and associations of licensed child care providers.

12 BY repealing and reenacting, with amendments,
13 Article - Family Law
14 Section 5-560(d) and (e)
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2000 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article - Family Law
19 Section 5-561
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2000 Supplement)

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

24 **Article - Family Law**

25 5-560.

26 (d) (1) "Employee" means a person that for compensation is employed to
27 work in a facility identified in § 5-561 of this subtitle and who:

1 (i) cares for or supervises children in the facility; or

2 (ii) has access to children who are cared for or supervised in the
3 facility.

4 (2) "EMPLOYEE" INCLUDES A PERSON THAT FOR COMPENSATION IS
5 EMPLOYED ON A SUBSTITUTE OR TEMPORARY BASIS TO WORK IN A FACILITY
6 IDENTIFIED IN § 5-561 OF THIS SUBTITLE AND WHO:

7 (I) CARES FOR OR SUPERVISES CHILDREN IN THE FACILITY; OR

8 (II) HAS ACCESS TO CHILDREN WHO ARE CARED FOR OR
9 SUPERVISED IN THE FACILITY.

10 [(2)] (3) "Employee" does not include any person employed to work for
11 compensation by the Department of Juvenile Justice.

12 (e) (1) "Employer" means an owner, operator, proprietor, or manager of a
13 facility identified in § 5-561 of this subtitle who has frequent contact with children
14 who are cared for or supervised in the facility.

15 (2) TO THE EXTENT THAT ANY OF THE FOLLOWING ENTITIES ESTABLISH
16 AND MAINTAIN A POOL OF INDIVIDUALS WHO ARE QUALIFIED TO WORK AS
17 SUBSTITUTE OR TEMPORARY EMPLOYEES IN A FACILITY IDENTIFIED IN § 5-561 OF
18 THIS SUBTITLE, "EMPLOYER" INCLUDES:

19 (I) CHILD CARE RESOURCE AND REFERRAL CENTERS;

20 (II) ASSOCIATIONS OF LICENSED FAMILY CHILD CARE PROVIDERS;
21 AND

22 (III) ASSOCIATIONS OF LICENSED CHILD CARE CENTERS.

23 [(2)] (3) "Employer" does not include a State or local agency responsible
24 for the temporary or permanent placement of children in a facility identified in §
25 5-561 of this subtitle.

26 5-561.

27 (a) Notwithstanding any provision of law to the contrary, an employee and
28 employer in a facility identified in subsection (b) of this section and persons identified
29 in subsection (c) of this section shall apply for a national and State criminal history
30 records check at any designated law enforcement office in this State.

31 (b) The following facilities shall require employees and employers to obtain a
32 criminal history records check under this Part VI of this subtitle:

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

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

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

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

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

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

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

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

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

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

18 (c) The following individuals shall obtain a criminal history records check
19 under this Part VI of this subtitle:

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

22 (2) an adult relative with whom a child, committed to a local department
23 of social services, is placed by the local department of social services;

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

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

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

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

33 (iv) home of an individual seeking to adopt a child through a local
34 department of social services or a licensed child placement agency; and

1 (4) if requested by a local department of social services:

2 (i) a parent or guardian of a child who is committed to the local
3 department and is or has been placed in an out-of-home placement within the past
4 year; and

5 (ii) any adult known by the local department to be residing in the
6 home of the parent or guardian.

7 (d) An employer at a facility under subsection (b) of this section may require a
8 volunteer at the facility to obtain a criminal history records check under this Part VI
9 of this subtitle.

10 (e) A local department of social services may require a volunteer of that
11 department who works with children to obtain a criminal history records check under
12 this Part VI of this subtitle.

13 (f) An employer at a facility not identified in subsection (b) of this section who
14 employs individuals to work with children may require employees, including
15 volunteers, to obtain a criminal history records check under this Part VI of this
16 subtitle.

17 (g) A person who is required to have a criminal history records check under
18 this Part VI of this subtitle shall pay for:

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

21 (2) reasonable administrative costs to the Department, not to exceed
22 10% of the processing fee; and

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

25 (h) (1) An employer or other party may pay for the costs borne by the
26 employee or other individual under subsection (g) of this section.

27 (2) The local department of social services shall reimburse:

28 (i) an adult residing in a foster care home for the costs borne by the
29 individual under subsection (g) of this section; and

30 (ii) an individual described in subsection (c)(4)(ii) of this section for
31 the costs borne by the individual under subsection (g) of this section.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2001.