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

Introduced and read first time: January 17, 2001  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 6, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of requiring that certain 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~~ entities that establish and maintain  
7 a pool of individuals to work as substitute or temporary employees in certain  
8 facilities; ~~requiring that provisions of law related to criminal history records~~  
9 ~~checks apply to certain substitute or temporary employees of certain centers and~~  
10 ~~associations~~ requiring a certain employer to require a certain employee to obtain  
11 a criminal history records check; altering certain definitions; and generally  
12 relating to criminal history records checks ~~and child care resource and referral~~  
13 ~~centers and associations of licensed child care providers.~~

14 BY repealing and reenacting, with amendments,  
15 Article - Family Law  
16 Section 5-560(d) and (e) and 5-561  
17 Annotated Code of Maryland  
18 (1999 Replacement Volume and 2000 Supplement)

19 ~~BY repealing and reenacting, without amendments,~~  
20 ~~Article - Family Law~~  
21 ~~Section 5-561~~  
22 ~~Annotated Code of Maryland~~  
23 ~~(1999 Replacement Volume and 2000 Supplement)~~

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

3 **Article - Family Law**

4 5-560.

5 (d) (1) "Employee" means a person that for compensation is employed to  
6 work in a facility 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 supervised in the  
9 facility.

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

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

14 ~~(II) HAS ACCESS TO CHILDREN WHO ARE CARED FOR OR~~  
15 ~~SUPERVISED IN THE FACILITY WHO:~~

16 ~~(I) PARTICIPATES IN A POOL DESCRIBED IN SUBSECTION (E)(2) OF~~  
17 ~~THIS SECTION;~~

18 ~~(II) FOR COMPENSATION WILL BE EMPLOYED ON A SUBSTITUTE OR~~  
19 ~~TEMPORARY BASIS TO WORK IN A FACILITY IDENTIFIED IN § 5-561(B)(1) OR (2) OF THIS~~  
20 ~~SUBTITLE; AND~~

21 ~~(III) WILL CARE FOR OR SUPERVISE CHILDREN IN THE FACILITY OR~~  
22 ~~WILL HAVE ACCESS TO CHILDREN WHO ARE CARED FOR OR SUPERVISED IN THE~~  
23 ~~FACILITY.~~

24 [(2)] (3) "Employee" does not include any person employed to work for  
25 compensation by the Department of Juvenile Justice.

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

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

33 ~~(I) CHILD CARE RESOURCE AND REFERRAL CENTERS;~~

1                    (HI)     ~~ASSOCIATIONS OF LICENSED FAMILY CHILD CARE PROVIDERS;~~  
2 ~~AND~~

3                    (HII)    ~~ASSOCIATIONS OF LICENSED CHILD CARE CENTERS FOR~~  
4 ~~PURPOSES OF §§ 5-561(G), 5-563(B)(1), 5-564(A)(2)(I) AND (D)(1)(I) AND (2), AND 5-567 OF~~  
5 ~~THIS SUBTITLE, "EMPLOYER" INCLUDES A CHILD CARE RESOURCE AND REFERRAL~~  
6 ~~CENTER, AN ASSOCIATION OF REGISTERED FAMILY DAY CARE PROVIDERS, AND AN~~  
7 ~~ASSOCIATION OF LICENSED CHILD CARE CENTERS TO THE EXTENT THAT THE~~  
8 ~~CENTER OR ASSOCIATION ESTABLISHES AND MAINTAINS A POOL OF INDIVIDUALS~~  
9 ~~WHO ARE QUALIFIED TO WORK AS SUBSTITUTE OR TEMPORARY EMPLOYEES IN A~~  
10 ~~FACILITY IDENTIFIED IN § 5-561(B)(1) OR (2) OF THIS SUBTITLE.~~

11                   [(2)]   (3)     "Employer" does not include a State or local agency responsible  
12 for the temporary or permanent placement of children in a facility identified in §  
13 5-561 of this subtitle.

14 5-561.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (f) An employer at a facility not identified in subsection (b) of this section who  
35 employs individuals to work with children may require employees, including

1 volunteers, to obtain a criminal history records check under this Part VI of this  
2 subtitle.

3 ~~(G)~~ (H) AN EMPLOYER, AS DEFINED IN § 5-560(E)(2) OF THIS SUBTITLE, SHALL  
4 REQUIRE AN EMPLOYEE, AS DEFINED IN § 5-560(D)(2) OF THIS SUBTITLE, TO OBTAIN  
5 A CRIMINAL HISTORY RECORDS CHECK UNDER THIS PART IV OF THIS SUBTITLE.

6 ~~(G)~~ (H) A person who is required to have a criminal history records check  
7 under this Part VI of this subtitle shall pay for:

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

10 (2) reasonable administrative costs to the Department, not to exceed  
11 10% of the processing fee; and

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

14 ~~(H)~~ (I) (1) An employer or other party may pay for the costs borne by the  
15 employee or other individual under subsection ~~(G)~~ (H) of this section.

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

17 (i) an adult residing in a foster care home for the costs borne by the  
18 individual under subsection ~~(G)~~ (H) of this section; and

19 (ii) an individual described in subsection (c)(4)(ii) of this section for  
20 the costs borne by the individual under subsection ~~(G)~~ (H) of this section.

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