

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

House Bill 1272

(Chairman, Judiciary Committee)

(Departmental – Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

---

**Criminal Justice Information System - Criminal History Records Checks**

---

This departmental bill makes changes to provisions governing national criminal history records checks for employment and licensing purposes under provisions relating to the Maryland Racing Commission, handgun permits, private detectives, security guards, and firearms dealers' licenses.

---

**Fiscal Summary**

**State Effect:** None. Complying with federal criteria necessary for having national criminal history records checks performed by the Federal Bureau of Investigation (FBI) should have no impact on State operations or finances.

**Local Effect:** None.

**Small Business Effect:** The Department of Public Safety and Correctional Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

---

**Analysis**

**Current Law:** Various provisions of State law require State and national criminal history records checks for licensing or employment purposes. As a condition of performing a national criminal history records check for a noncriminal justice purpose, Public Law 92-544 provides that each state statute requiring a national check must be

approved by the U.S. Attorney General. Under provisions of the Code of Federal Regulations (Title 28), this authority has been delegated to the FBI.

The currently established criteria for a state provision to be in compliance is as follows:

- the provision must result from a legislative enactment;
- it must require the fingerprinting of applicants who are subjected to a national criminal history background check;
- it must expressly or implicitly authorize the use of FBI records for the screening of applicants;
- it must identify the specific category of licensees/employees falling within its purview (avoiding too broad a coverage);
- it must not be against established public policy; and
- it may not authorize receipt of the criminal history records information by a private entity.

This bill brings these current law provisions into compliance with federal criteria.

**Background:** On May 4, 2001, the FBI notified Maryland that several of its existing statutes authorizing or requiring national criminal history records checks were not in compliance with federal criteria that require an express or implicit authorization for the use of FBI records.

In Maryland, criminal history records checks are performed by the Criminal Justice Information System (CJIS). CJIS and the Criminal Justice Information Advisory Board are in the Department of Public Safety and Correctional Services (DPSCS) for administrative and budgetary purposes only. Except in accordance with applicable federal law and regulations, a criminal justice unit and the CJIS Central Repository may not disseminate criminal history records information.

The advisory board provides oversight of CJIS and provides advice and recommendations to the Secretary of Public Safety and Correctional Services and the Chief Judge of the Court of Appeals.

CJIS is the database containing the criminal history records information reflecting the official fingerprint-supported criminal records of each offender charged and adjudicated in Maryland. The CJIS Central Repository is administratively managed by DPSCS and is designated by the FBI as Maryland's State identification bureau for the exchange of criminal history records.

For a national criminal history records check, the CJIS Central Repository collects an \$18 fee for State background checks, a \$24 FBI fee, and \$10 for two sets of fingerprint cards. State fee revenue is used to provide the service. If only a State check is required, the applicant must only pay an \$18 background check fee and \$5 for one set of fingerprints.

In recent years the scope of authorized and mandated records checks have expanded into areas with non-criminal justice purposes. These now include a range of business and professional licensing as well as employment in various childcare, educational, and recreational settings. Federal laws have expanded criminal history records checks to include caregivers who serve children, the elderly, and the disabled. Since 1994 the Central Repository has housed fingerprint-supported records of certain juveniles adjudicated delinquent for some serious crimes, as well as records of the issuance and withdrawal of juvenile writs of attachment since 1998.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of State Police; Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2002  
mam/cer

---

Analysis by: Guy G. Cherry

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510