
By: **Delegate Krebs**
Introduced and read first time: February 13, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Care Centers - Background Checks**

3 FOR the purpose of requiring certain child care centers to submit the results of a
4 criminal history records check to the Child Care Administration; requiring
5 employees and employers of certain child care centers to obtain a child
6 protective services check, the results of which shall be submitted to the Child
7 Care Administration; authorizing the Child Care Administration to prohibit
8 certain child care centers from hiring an employee based on the results of the
9 criminal history records check and child protective services check; authorizing
10 the Child Care Administration to require certain child care centers to dismiss an
11 employee based on the results of the criminal history records check and child
12 protective services check; and generally relating to background checks for child
13 care centers.

14 BY repealing and reenacting, with amendments,
15 Article - Family Law
16 Section 5-561
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2003 Supplement)

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

21 **Article - Family Law**

22 5-561.

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

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

- 1 (1) a child care center required to be licensed under Part VII of this
2 subtitle;
- 3 (2) a family day care home required to be registered under Part V of this
4 subtitle;
- 5 (3) a child care home required to be licensed under this subtitle or under
6 Article 83C of the Code;
- 7 (4) a child care institution required to be licensed under this subtitle or
8 under Article 83C of the Code;
- 9 (5) a juvenile detention, correction, or treatment facility provided for in
10 Article 83C of the Code;
- 11 (6) a public school as defined in Title 1 of the Education Article;
- 12 (7) a private or nonpublic school required to report annually to the State
13 Board of Education under Title 2 of the Education Article;
- 14 (8) a foster care family home or group facility as defined under this
15 subtitle;
- 16 (9) a recreation center or recreation program operated by State or local
17 government primarily serving minors; or
- 18 (10) a day or residential camp, as defined in Title 10, Subtitle 16 of the
19 Code of Maryland Regulations, primarily serving minors.

20 (C) (1) A CHILD CARE CENTER REQUIRED TO BE LICENSED UNDER PART VII
21 OF THIS SUBTITLE SHALL:

22 (I) SUBMIT THE RESULTS OF THE CRIMINAL HISTORY RECORDS
23 CHECK TO THE CHILD CARE ADMINISTRATION; AND

24 (II) REQUIRE EMPLOYEES AND EMPLOYERS TO OBTAIN A CHILD
25 PROTECTIVE SERVICES CHECK, THE RESULTS OF WHICH SHALL BE SUBMITTED TO
26 THE CHILD CARE ADMINISTRATION.

27 (2) THE CHILD CARE ADMINISTRATION MAY:

28 (I) PROHIBIT A CHILD CARE CENTER REQUIRED TO BE LICENSED
29 UNDER PART VII OF THIS SUBTITLE FROM HIRING AN EMPLOYEE BASED ON THE
30 RESULTS OF THE CRIMINAL HISTORY RECORDS CHECK AND THE CHILD PROTECTIVE
31 SERVICES CHECK; AND

32 (II) REQUIRE A CHILD CARE CENTER REQUIRED TO BE LICENSED
33 UNDER PART VII OF THIS SUBTITLE TO DISMISS AN EMPLOYEE BASED ON THE
34 RESULTS OF THE CRIMINAL HISTORY RECORDS CHECK AND THE CHILD PROTECTIVE
35 SERVICES CHECK.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 [(g)] (H) An employer, as defined in § 5-560(e)(2) of this subtitle, shall require
35 an employee, as defined in § 5-560(d)(2) of this subtitle, to obtain a criminal history
36 records check under this Part IV of this subtitle.

1 [(h)] (I) A person who is required to have a criminal history records check
2 under this Part VI of this subtitle shall pay for:

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

5 (2) reasonable administrative costs to the Department, not to exceed
6 10% of the processing fee; and

7 (3) the fee authorized under § 10-221(b)(7) of the Criminal Procedure
8 Article for access to Maryland criminal history records.

9 [(i)] (J) (1) An employer or other party may pay for the costs borne by the
10 employee or other individual under subsection [(h)] (I) of this section.

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

12 (i) an adult residing in a foster care home for the costs borne by the
13 individual under subsection [(h)] (I) of this section; and

14 (ii) an individual described in subsection [(c)(4)(ii)] (D)(4)(II) of this
15 section for the costs borne by the individual under subsection [(h)] (I) of this section.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2004.