

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 180
Appropriations

(Delegate Kelly)

**State Employees - Department of Public Safety and Correctional Services and the
Department of State Police - Denial of Employment**

This bill requires the Department of Public Safety and Correctional Services (DPSCS) and the Department of State Police (DSP), if an applicant for employment is denied employment based on a criminal history records check, to provide a written statement of the specific information from the report on which the denial was based, if requested in writing by the applicant.

Fiscal Summary

State Effect: DSP and DPSCS could handle the bill's requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: In general, an appointing authority may use any appropriate selection process to rate qualified applicants. A unit must be able to establish the job relatedness, reliability, and validity of the selection tests that it uses. A selection test must be free of charge and open to all qualified applicants. An appointing authority (1) may disqualify and refuse to examine an otherwise qualified applicant who intentionally falsifies information in the application; and (2) must give the applicant a written notice of the reason for the proposed disqualification. An applicant who is disqualified may submit a

written response to the notice. In practice, applicants denied employment with either DSP or DPSCS do not receive any specifics from criminal history records checks, whether or not information contained therein was the basis for the denial.

Background: DSP receives about 2,000 employment applications per year. Typically, 25% of applicants are “weeded out” by the application process itself. Applicants are asked to sign a disclosure agreement at the beginning of the vetting process and any untruthful statement made during the process (including polygraph examination), if contradicted by the records check, is grounds for automatic denial. In fiscal 2002, 100 applicants were hired. DPSCS receives about 4,000 employment applications per year and has a denial rate of about three to one.

The Criminal Justice Information System (CJIS) Central Repository is established within DPSCS to collect, manage, and disseminate Maryland criminal history record information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. CJIS is a fingerprint-supported system for positive identification.

CJIS is the database containing the criminal history record information reflecting the official fingerprint-supported criminal record 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.

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

State Effect: It is noted that DPSCS asserts that this bill would necessitate the hiring of two office clerks, four personnel officers, and one office secretary with costs in fiscal 2006 of about \$259,000, and growing to about \$394,000 by fiscal 2010. Legislative Services does not believe that such costs would be warranted for the limited requirements of this bill.

Additional Information

Prior Introductions: Similar bills were introduced in 2004 and 2003. HB 257 of 2004 passed the House and received an unfavorable report from the Judicial Proceedings Committee. HB 273 of 2003 passed the House, had a hearing before the Judicial Proceedings Committee, and had no further action taken on it.

Cross File: None.

Information Source(s): Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2005
mll/jr Revised - Clarification - February 7, 2005

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