

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 265

(Chair, Judiciary Committee)(By Request – Departmental
– Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

**Family Law - Emergency Placement of Children - Criminal History Records
Checks**

This departmental bill authorizes a local department of social services to request a federal name-based criminal history records check of adults living in a home in which an emergency out-of-home placement is made.

Fiscal Summary

State Effect: The bill would not materially affect State finances or operations.

Local Effect: Local law enforcement and social services agencies will not incur additional revenues or expenditures in generating name-based criminal history records checks.

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. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: If a child is placed in an emergency out-of-home placement, a local department of social services may request a federal name-based check on an adult relative with whom the child is placed, any adult residing in that home, and any adult residing in the home of the child's parent or guardian. The local department must immediately remove a child from an emergency out-of-home placement if an individual does not comply with requirements for a name-based check.

Within 15 days of receiving the results of an individual's name-based check, the local department of social services must submit a complete set of the individual's fingerprints to law enforcement for a criminal history records check; DPSCS must perform the criminal history records check within 15 days of performing the name-based check. If placement is denied as a result of a name-based check, an individual may contest the denial by submitting a complete set of fingerprints and written permission to forward the fingerprints to the Federal Bureau of Investigation (FBI).

Current Law: State law requires criminal background investigations of certain individuals who work or volunteer with children. Among the individuals requiring a criminal history records check are an adult relative with whom a child is placed by a local department of social services, any adults living in that home, a parent or guardian of a child in an out-of-home placement, and any adult living in the home of that child's parent or guardian.

A person who is required to submit to a criminal history records check must pay the fee assessed by the FBI for processing the national records check, reasonable DPSCS administrative costs, and Maryland criminal history records access fees. An employer or other party may pay the costs for the person required to obtain the records check. A local department of social services must reimburse the costs of the required background check to an adult residing in a foster home and any adult known by the local department to be residing in the home of a parent or guardian of a child committed to the local department.

Background: This bill attempts to reduce the potential risk to a child in an emergency out-of-home placement by authorizing an interim name-based check of all adults living in the home in which the placement is made. The bill retains existing criminal history records check requirements and additionally requires that the local department of social services submit the fingerprints for the criminal history records check within 15 days of the name-based check. The proposed requirements are intended to provide an interim measure to minimize the amount of time a child in an emergency placement remains in a home with an adult with a criminal history.

Local Fiscal Effect: Unlike a fingerprint-based records check, DPSCS advises that law enforcement agencies are able to generate a name-based records check at no cost to the agency. The department anticipates that a law enforcement officer who accompanies a local department of social services employee in making an emergency out-of-home placement will be able to run a name-based check as part of his or her regular duties without any cost to the adults in the home or the local department of social services.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Department of Public Safety and Correctional Services, Department of Legislative Services

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