

CHAPTER 738

(House Bill 1521)

AN ACT concerning

Department of Transportation – Prospective and Current Employees – Criminal History Records Checks

FOR the purpose of authorizing the Secretary of Transportation to request from the Criminal Justice Information System Central Repository State and national criminal history records checks for certain prospective and current employees; establishing certain procedures to apply for a criminal history records check; requiring the Central Repository to forward criminal history record information to the current or prospective employee under certain circumstances; providing that certain information is confidential and may be used only for certain purposes; authorizing a person who is the subject of a criminal history records check under this Act to contest certain information in the record; authorizing the Secretary to adopt certain regulations, guidelines, and policies to implement this Act; and generally relating to State and national criminal history records checks for prospective and current employees of the Department of Transportation.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.4(b)(1)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Transportation
Section 2–103.4(b–1)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Transportation

2–103.4.

(b) (1) In the exercise of the Secretary’s powers under this section, the Secretary may:

(i) Create and abolish any position other than positions specifically provided for in this article; and

(ii) [Determine] **SUBJECT TO SUBSECTION (B-1) OF THIS SECTION, DETERMINE** the qualifications, appointment, removal, tenure, terms of employment, and compensation of employees unless otherwise prohibited by law.

(B-1) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(2) (I) IN THE EXERCISE OF THE SECRETARY'S POWERS UNDER SUBSECTION (B) OF THIS SECTION, THE SECRETARY MAY REQUEST, ~~WITH REFERENCE TO A PROSPECTIVE OR CURRENT EMPLOYEE OF THE DEPARTMENT,~~ A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FROM THE CENTRAL REPOSITORY FOR:

1. A PROSPECTIVE EMPLOYEE; OR

2. A CURRENT EMPLOYEE FOR WHOM A CRIMINAL HISTORY RECORDS CHECK IS REQUIRED BY FEDERAL OR STATE LAW.

(II) THE SECRETARY SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH PROSPECTIVE OR CURRENT EMPLOYEE FOR WHOM A RECORDS CHECK IS SOUGHT.

(III) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE SECRETARY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

1. TWO COMPLETE SETS OF THE PROSPECTIVE OR CURRENT EMPLOYEE'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

2. THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; AND

3. THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(IV) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE PROSPECTIVE OR CURRENT EMPLOYEE AND THE DEPARTMENT THE PROSPECTIVE OR CURRENT EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

(V) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS PARAGRAPH:

1. IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

2. MAY BE USED ONLY FOR THE EMPLOYMENT PURPOSE AUTHORIZED BY THIS SECTION.

(3) A PERSON WHO IS THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

(4) THE SECRETARY MAY ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.