

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

House Bill 1384

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

Judiciary

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**Family Law - Criminal History Records Checks - Employees of Facilities and  
Other Individuals Who Care for or Supervise Children**

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This departmental bill adds employees and employers at a licensed home health or residential service agency, which is authorized to provide home or community-based health services for minors, to the list of entities that must apply for a national and State criminal history records check. The bill also includes privately operated recreation centers and programs to the requirement.

In addition, the bill updates certain obsolete related provisions of the Family Law Article and makes changes to provisions relating to deadline dates for applications by employers for printed statements of criminal history records checks and to the manner in which certain findings are contested.

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**Fiscal Summary**

**State Effect:** Any additional payments to the Criminal Justice Information System (CJIS) for criminal history records checks are cost recovery only. CJIS can handle the bill's requirements with existing resources.

**Local Effect:** None.

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

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## Analysis

**Current Law:** Employees and employers in the following facilities must apply for a national and State criminal history records check at any designated law enforcement office in Maryland: (1) a licensed child care center; (2) a registered family day care home; (3) a licensed child care home; (4) a licensed child care institution; (5) a juvenile detention, correction, or treatment facility; (6) a public school; (7) a private or nonpublic school that is required to report to the State Board of Education; (8) a foster care family home or group facility; (9) a government-operated recreation center or program that primarily serves minors; or (10) a day or residential camp that primarily serves minors.

A person who is required to have a criminal history records check must pay the mandatory processing fee for the national records check assessed by the Federal Bureau of Investigation (FBI), reasonable administrative costs to DPSCS, and the fee for access to Maryland criminal history records. An employer or other party may pay the costs for the person who must obtain the records check. The local department of social services is required to 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:** CJIS Central Repository at DPSCS collects, manages, and disseminates 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. Fingerprints can be taken at many police departments, private organizations that have been certified by CJIS, and the CJIS Customer Service Center at Reisterstown Road Plaza in Baltimore. Fingerprints may also be taken at Motor Vehicle Administration “Hazmat” sites. The CJIS Customer Service Center charges a \$20 flat fingerprinting fee and the Maryland State Police charges \$5 per fingerprint card to offset the cost of taking the fingerprints. Local police departments and private organizations charge varying fees for fingerprinting. One fingerprint card is required for a Maryland-only records check; two fingerprint cards (Maryland/FBI) are needed for a State and national records check. However, new automated systems, including “livescan” machines have made some of the provisions of the Family Law Article relating to criminal history records checks obsolete.

When a bill (or the cumulative effect of bills during a session) is expected to generate a large number of applications for criminal history records checks, the fingerprint identification system must be expanded. For every 40,000 additional applications, one fingerprinting specialist may need to be hired (Gr. 8, base – standard salary schedule July 1, 2008: \$25,239). Any additional applications generated by this bill can be handled with existing budgeted resources.

When a state mandates a national check, the FBI requires that the national check be set in statute. The FBI charges a fee of \$19.25 for a national records check. In the case of volunteers who work with children, the elderly, or the disabled, the FBI only charges an \$18 fee. The CJIS Central Repository collects the fee from the applicant and reimburses the FBI. The CJIS Central Repository is authorized by law to collect a fee for providing criminal history record information for purposes other than criminal justice. COMAR 12.15.01.14A sets the fee at \$18. Revenue from these fees is used to provide the service.

Representative cost per records check:

**State and National CHRI Check**

\$19.25 FBI fee  
18.00 CJIS fee  
20.00 Fingerprint fee  
\$57.25 Total

**Maryland CHRI Check**

\$18.00 CJIS fee  
20.00 Fingerprinting fee  
\$38.00 Total

**Additional Information:** The Maryland State Department of Education (MSDE) reports that the responsibility for child care licensing was transferred from the Department of Human Resources to MSDE in fiscal 2005. MSDE is concerned that some of the bill's changes may endanger the health and safety of children in out-of-home child care settings.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Allegany County, Baltimore City, Harford County, Montgomery County, Judiciary, Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2009  
ncs/hlb

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Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510



## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Criminal Background Investigations – Employees of Facilities and Other Individuals who Care for or Supervise Children

BILL NUMBER: HB 1384

PREPARED BY: Department of Public Safety and Correctional Services

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

  X   WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

       WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.