

Department of Legislative Services  
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 61

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

Judicial Proceedings

Judiciary

**Family Law - Criminal History Records Checks - Employees and Employers in  
Facilities and Other Individuals That Care for or Supervise Children**

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 expands the requirement to include employees and employers of privately operated recreation centers and programs.

In addition, the bill updates certain obsolete related provisions of the Family Law Article and makes changes to provisions relating to the conditions, under which a waiver may be granted, the information that must be included in a printed statement, and the manner in which certain findings are contested.

**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 (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

## 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.

DPSCS must record on a printed statement the existence of a conviction, a probation before judgment disposition, a not criminally responsible disposition, or pending charge reported in the criminal history record information received from the Federal Bureau of Investigation (FBI). Although the specific crime or attempted crime may not be identified, DPSCS must disclose whether the conviction, probation before judgment disposition, not criminally responsible disposition, or pending charge is for a crime, attempted crime, or criminal offense that is the equivalent to one of 41 specified crimes which are enumerated in regulations (see COMAR 12.15.02.07B).

**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. DPSCS advises that this bill will allow those entities who are required to have criminal history record background checks completed on their employees to receive a full “Report of Arrests and Prosecutions (RAP) sheet.” Currently, the entities are getting filtered “RAP sheets,” which may hinder the best determination of suitability for employment. In addition, expanding the categories of persons that care for or supervise children who must have background checks will allow for better protection of this vulnerable population.

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 (Grade 8, base – standard salary schedule: \$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 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:

<u>State and National CHRI Check</u>	<u>Maryland CHRI Check</u>
\$19.25 FBI fee	\$18.00 CJIS fee
18.00 CJIS fee	<u>20.00</u> Fingerprinting fee
<u>20.00</u> Fingerprint fee	\$38.00 Total
\$57.25 Total	

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 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.

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### **Additional Information**

**Prior Introductions:** HB 1384 of 2009, a similar bill, received an unfavorable report from the Judiciary Committee after being withdrawn by DPSCS.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - January 13, 2010  
ncs/kdm

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

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

BILL NUMBER: SB 61

PREPARED BY: Department of Public Safety and Correctional Services

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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.