

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 749  
Appropriations

(Delegate Pena-Melnyk, *et al.*)

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State Personnel - Applicants for Employment - Criminal History Records Checks

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This bill specifies that an Executive, Judicial, or Legislative branch agency may not *inquire* into the criminal record or criminal history of an applicant for hire until the applicant is selected for an interview. Even so, they may *notify* an applicant that a criminal history may prohibit employment.

The bill's provisions do not apply to the Department of Public Safety and Correctional Services (DPSCS) or an agency of State government that has a statutory duty to conduct criminal history records checks.

The bill takes effect July 1, 2010.

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Fiscal Summary

**State Effect:** None. The bill codifies existing procedure.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** All criminal history records checks conducted by State government agencies must be obtained through the Criminal Justice Information System (CJIS) Central Repository of DPSCS.

State government employment applications that do not inquire into the criminal history of an applicant for employment may not be used until applications in print before the July 1, 2010 effective date of the bill have been used.

**Current Law:** Maryland law requires a criminal history records check for various types of public- and private-sector employment in the State, typically where it is determined that there is a job-related need. 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.

**Background:** The Department of Budget and Management advises that agencies exclusively use the CJIS Central Repository at DPSCS to conduct background checks and that standard procedure in the State is to conduct criminal history background checks *after* an applicant has been interviewed.

CJIS 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. When a state mandates a national check, the Federal Bureau of Investigation requires that the national check be set in statute. The CJIS Central Repository is authorized by law to collect a fee for providing criminal history record information for purposes other than criminal justice.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 581 (Senator Pugh, *et al.*) - Finance.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, University System of Maryland, Department of Budget and Management, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2010  
ncs/ljm Revised - Clarification - February 22, 2010

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