

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 920
Appropriations

(Delegate Proctor, *et al.*)

State Personnel - Applicants for Employment - Criminal History Records Checks

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, an agency 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, 2011.

Fiscal Summary

State Effect: Potential minimal increase in State expenditures (all funds) to maintain two distinct State applications for employment. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Any 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, 2011 effective date of the bill have been used.

Current Law/Background: 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.

The Department of Budget and Management (DBM) advises that many agencies 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.

State Expenditures: DBM advises that applications for employment with the State include a question inquiring into an applicant's criminal history, if any. The bill requires the State, in some cases, to refrain from making such an inquiry until an applicant has been selected for an interview. DBM advises that the bill results in a minimal increase in State expenditures by requiring the State to maintain two separate State employment applications – applications that inquire into an individual's criminal history and applications that do not – in print and in an online format. Legislative Services cannot reliably estimate the extent to which the bill increases State expenditures, but assumes any such impact is minimal.

Additional Information

Prior Introductions: SB 581 of 2010 received a hearing in the Senate Finance Committee, but no further action was taken. Its cross file, HB 749, received an unfavorable report from the House Appropriations Committee.

Cross File: SB 448 (Senator Pugh, *et al.*) - Finance.

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

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