

HOUSE BILL 442

D4

3lr2616
CF SB 415

By: **Delegate Dumais**

Introduced and read first time: January 28, 2013

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2013

CHAPTER _____

1 AN ACT concerning

2 **Criminal History Records Checks – Child Care Providers**

3 FOR the purpose of requiring the Department of Public Safety and Correctional
4 Services to transmit weekly a certain registry ~~and a certain listing~~ to the State
5 Department of Education in a certain format; prohibiting a registered sex
6 offender from entering onto certain real property on which a home is located
7 where certain informal child care is provided or will be provided; requiring
8 certain adults known by the State Department of Education to be residing in
9 certain locations to obtain a certain criminal history records check; ~~requiring an~~
10 ~~adult known to be residing in an informal child care provider's home to obtain a~~
11 ~~criminal history records check; requiring certain informal child care providers to~~
12 ~~obtain a criminal history records check;~~ requiring the State Department of
13 Education to conduct ~~a certain cross reference~~ certain cross references;
14 providing for a delayed effective date; and generally relating to criminal history
15 records checks of individuals who care for or supervise children.

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Procedure
18 Section 11–713 and 11–722
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2012 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Family Law
23 Section 5–561(c)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2012 Replacement Volume)

3 BY adding to
4 Article – Family Law
5 Section 5–564.1
6 Annotated Code of Maryland
7 (2012 Replacement Volume)

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

10 **Article – Criminal Procedure**

11 11–713.

12 The Department:

13 (1) as soon as possible but not later than 3 working days after
14 receiving the conviction data and fingerprints of a registrant, shall transmit the data
15 and fingerprints to the Federal Bureau of Investigation if the Bureau does not have
16 that information;

17 (2) shall keep a central registry of registrants and a listing of juvenile
18 sex offenders;

19 **(3) SHALL WEEKLY TRANSMIT THE CENTRAL REGISTRY OF**
20 **REGISTRANTS ~~AND LISTING OF JUVENILE SEX OFFENDERS~~ TO THE STATE**
21 **DEPARTMENT OF EDUCATION IN A FORMAT THAT CAN BE USED BY THE STATE**
22 **SUPERINTENDENT TO CROSS-REFERENCE WITH THE DATABASE OF LICENSED**
23 **CHILD CARE CENTERS, REGISTERED FAMILY CHILD CARE HOMES, AND**
24 **APPROVED CHILD CARE SUBSIDY PROGRAM INFORMAL PROVIDERS;**

25 **[(3)] (4)** shall reimburse local law enforcement units for the cost of
26 processing the registration statements of registrants, including the cost of taking
27 fingerprints, palm prints, and digital images;

28 **[(4)] (5)** shall reimburse local law enforcement units for the
29 reasonable costs of implementing community notification procedures;

30 **[(5)] (6)** shall be responsible for receiving and distributing all
31 intrastate, federal, and foreign government communications relating to the
32 registration of sex offenders; and

1 ~~[(6)]~~ **(7)** shall notify all jurisdictions where the registrant will reside,
2 carry on employment, or attend school within 3 days of changes in the registrant's
3 registration.

4 11-722.

5 (a) This section does not apply to a registrant who enters real property:

6 (1) where the registrant is a student or the registrant's child is a
7 student or receives child care, if:

8 (i) within the past year the registrant has been given the
9 specific written permission of the Superintendent of Schools, the local school board,
10 the principal of the school, or the owner or operator of the registered family child care
11 home, licensed child care home, or licensed child care institution, as applicable; and

12 (ii) the registrant promptly notifies an agent or employee of the
13 school, home, or institution of the registrant's presence and purpose of visit; or

14 (2) for the purpose of voting at a school on an election day in the State
15 if the registrant is properly registered to vote and the registrant's polling place is at
16 the school.

17 (b) A registrant may not knowingly enter onto real property:

18 (1) that is used for public or nonpublic elementary or secondary
19 education; or

20 (2) on which is located:

21 (i) a family child care home registered under Title 5, Subtitle 5
22 of the Family Law Article; **[or]**

23 (ii) a child care home or a child care institution licensed under
24 Title 5, Subtitle 5 of the Family Law Article; **OR**

25 **(III) A HOME WHERE INFORMAL CHILD CARE, AS DEFINED IN**
26 **CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE**
27 **OF MARYLAND REGULATIONS, IS BEING PROVIDED OR WILL BE PROVIDED TO A**
28 **CHILD WHO DOES NOT RESIDE THERE.**

29 (c) A person who enters into a contract with a county board of education or a
30 nonpublic school may not knowingly employ an individual to work at a school if the
31 individual is a registrant.

1 (d) A person who violates this section is guilty of a misdemeanor and on
 2 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
 3 \$5,000 or both.

4 **Article – Family Law**

5 5–561.

6 (c) The following individuals shall obtain a criminal history records check
 7 under this Part VI of this subtitle:

8 (1) an individual who is seeking to adopt a child through a child
 9 placement agency;

10 (2) an individual who is seeking to become a guardian through a local
 11 department;

12 (3) an individual whom the juvenile court appoints as a guardian of a
 13 child;

14 (4) an adult relative with whom a child, committed to a local
 15 department, is placed by the local department;

16 (5) any adult known by a local department **OR THE STATE**
 17 **DEPARTMENT OF EDUCATION** to be residing in:

18 (i) a family child care home or large family child care home
 19 required to be registered under this title;

20 ~~(ii) A HOME WHERE INFORMAL CHILD CARE, AS DEFINED IN~~
 21 ~~CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE~~
 22 ~~OF MARYLAND REGULATIONS, IS BEING PROVIDED OR WILL BE PROVIDED TO A~~
 23 ~~CHILD WHO DOES NOT RESIDE THERE;~~

24 ~~{(ii)}~~ ~~(iii)~~ a home of an adult relative of a child with whom the
 25 child, committed to a local department, is placed by the local department;

26 ~~{(iii)}~~ ~~(iv)~~ a foster care home or child care home required to be
 27 approved under this title;

28 ~~{(iv)}~~ ~~(v)~~ a home of an individual seeking to adopt a child
 29 through a child placement agency; or

30 ~~{(v)}~~ ~~(vi)~~ a home of an individual seeking to become a guardian
 31 through a local department; ~~and~~

1 ~~(6) AN INDIVIDUAL WHO AGREES TO PROVIDE, OR TO CONTINUE~~
 2 ~~PROVIDING, INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY~~
 3 ~~REGULATIONS, ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND~~
 4 ~~REGULATIONS; AND~~

5 ~~[(6)] (7)~~ if requested by a local department:

6 (i) a parent or guardian of a child who is committed to the local
 7 department and is or has been placed in an out-of-home placement within the past
 8 year; and

9 (ii) any adult known by the local department to be residing in
 10 the home of the parent or guardian.

11 **5-564.1.**

12 **THE STATE DEPARTMENT OF EDUCATION SHALL CONDUCT A**
 13 **CROSS-REFERENCE CHECK ~~OF AN EMPLOYEE, EMPLOYER, OR INDIVIDUAL~~**
 14 **~~IDENTIFIED IN § 5-561(B)(1), (B)(2), (C)(5)(I), (C)(5)(II), AND (C)(6) OF THIS~~**
 15 **SUBTITLE, INCLUDING CROSS-REFERENCING THE INDIVIDUAL AND THE**
 16 **INDIVIDUAL'S ADDRESS, WITH THE CENTRAL REGISTRY OF REGISTRANTS ~~AND~~**
 17 **~~LISTING OF JUVENILE SEX OFFENDERS~~ TRANSMITTED WEEKLY BY THE**
 18 **DEPARTMENT UNDER § 11-713 OF THE CRIMINAL PROCEDURE ARTICLE, OF:**

19 **(1) AN EMPLOYEE, EMPLOYER, OR INDIVIDUAL IDENTIFIED IN §**
 20 **5-561(B)(1), (B)(2), OR (C)(5)(I) OF THIS SUBTITLE; AND**

21 **(2) AN INDIVIDUAL WHO PROVIDES OR AGREES TO PROVIDE**
 22 **INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS**
 23 **ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 25 January 1, 2014.