

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 413

(Senator King, *et al.*)

Judicial Proceedings

Judiciary

Criminal History Records Checks - Informal Child Care Providers

This bill requires individuals who provide informal child care, as defined in State regulations, to obtain a criminal history records check. Any adult residing in a home where specified informal child care is being provided or will be provided must also obtain a criminal history records check.

The bill takes effect January 1, 2014.

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. Potential minimal reduction in federal and general fund expenditures if providers are deemed ineligible for child care subsidy payments.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Before being approved to provide or to continue providing informal child care, the individual providing the care must apply to the Department of Public Safety and Correctional Services (DPSCS) for a printed statement from the Central Repository of CJIS. An individual who was approved before January 1, 2014, to provide informal child care and who intends to continue providing such care must apply for a printed statement by June 30, 2014.

DPSCS is required to provide an initial and revised statement of the applicant's State criminal record to the Maryland State Department of Education (MSDE), if the applicant provides or agrees to provide informal child care or is an adult who resides in a home where informal child care is being provided or will be provided to a child who does not reside there. The bill also requires DPSCS to provide an initial and a revised statement of the applicant's State criminal record to MSDE if the applicant is an adult resident in a child care center, family child care home, or large child care home that is required to be licensed, registered, or hold a letter of compliance, as specified.

Current Law: The child care subsidy program provides child care subsidies for recipients of Temporary Cash Assistance and low-income families who meet eligibility requirements. In addition to providing vouchers for child care that may be used at registered family homes or licensed child care centers, an informal voucher may be provided and used when care is provided by (1) a relative in the relative's home or in the child's home; (2) a nonrelative in the child's home; or (3) a nonrelative in the nonrelative's home for less than 20 hours per month. Informal child care is defined in regulations relating to the child care subsidy program as child care that (1) is self-arranged and nonregulated and (2) requires child care providers to submit a signed affirmation of compliance with child care health and safety standards and to agree to a Child Protective Services record check. Informal child care providers are not required to be licensed or regulated under State law. A local department of social services is required to deny payment to an informal provider if it has documented information indicating a risk to the health and safety of the child. (See the Code of Maryland Regulations (COMAR) 13A.14.06.09).

The following individuals must obtain a criminal history records check: (1) an individual seeking to adopt a child through a child placement agency; (2) an individual who is seeking to become a guardian through a local department of social services; (3) an individual whom the juvenile court appoints as a guardian; and (4) an adult relative with whom a child, committed to a local department of social services, is placed by the local department. In addition, any adult known by a local department of social services to be residing in (1) a family child care home or large family child care home required to be registered; (2) a home of an adult relative of a child with whom the child, committed to a local department, is placed by the local department; (3) specified foster care homes or child care homes; (4) a home of an individual seeking to adopt a child through a child placement agency; or (5) the home of an individual seeking to become a guardian through a local department. Other individuals must obtain a criminal history records check if requested by a local department, as specified.

Employees and employers in the following facilities must apply for a criminal history records check: (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; (10) a day or residential camp that primarily serves minors; or (11) a home health agency or residential service agency licensed by the Department of Health and Mental Hygiene that is authorized to provide home or community-based health services for minors.

Background: According to MSDE, as of September 2012, there were 1,083 informal providers actively receiving payments from child care subsidy recipients in the State. This bill requires these providers, before receiving child care subsidy funds, to undergo criminal background checks.

The CJIS Central Repository is established by the Criminal Procedure Article, §§ 10-213 *et seq.*, within DPSCS to collect, manage, and disseminate Maryland Criminal History Record Information (CHRI) for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

State Fiscal Effect: The CJIS Central Repository is authorized by law to collect a fee for providing CHRI 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. The total cost for each criminal history records check and fingerprinting is \$54.50, which includes State and national background checks. Any additional expenditures for CJIS to provide the additional background checks is offset by the fees from the CHRI checks, which are paid by the applicants.

The Governor's proposed fiscal 2014 budget includes \$75.0 million in child care subsidy funds (\$35.1 million in federal funds/\$39.9 million in general funds). Expenditures for the child care subsidy program may be minimally reduced to the extent that informal child care providers do not submit to criminal history records checks or have information on their criminal records that requires the local departments to deny payments. However, any such impact is expected to be minimal.

Additional Information

Prior Introductions: HB 1330 of 2012 received an unfavorable report from the House Judiciary Committee.

Cross File: HB 443 (Delegate Dumais) - Judiciary.

Information Source(s): Maryland State Department of Education, Department of Public Safety and Correctional Services, Department of Legislative Services

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