

SENATE BILL 201

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5lr0925
CF 5lr2288

By: **Senator Conway**

Introduced and read first time: February 2, 2015

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board for the Certification of Residential Child Care Program**
3 **Professionals – Revisions**

4 FOR the purpose of altering the requirements for the designation and appointment of a
5 certain program administrator of a residential child care program under certain
6 circumstances; requiring the State Board for the Certification of Residential Child
7 Care Program Professionals to evaluate the moral character of an acting residential
8 child care program administrator; requiring the governing body of a residential child
9 care program to appoint a chief administrator of the program; making certain
10 provisions of law that apply to the owner of a residential child care program apply
11 instead to the chief administrator of the program; providing for the designation of an
12 acting chief administrator under certain circumstances; requiring, unless waived by
13 the Board, an applicant for a program administrator certificate and a residential
14 child and youth care practitioner certificate to have completed a child protective
15 services background clearance to qualify for a certificate; requiring an applicant for
16 a certificate or for renewal or reinstatement of a certificate to provide evidence of
17 application for a child protective services background clearance; requiring the results
18 of the child protective services background clearance to be provided to the Board and
19 the applicant; authorizing the Board to waive the required evidence of application
20 for a child protective services background clearance under certain circumstances;
21 altering the requirements for an applicant to obtain a criminal history records check;
22 restricting the use of information obtained from a criminal history records check;
23 authorizing the subject of a criminal history records check to contest the contents of
24 a certain statement; clarifying the types of addresses that a certain application file
25 must contain; requiring an applicant to provide evidence of completing a national
26 criminal history records check before the Board may grant a waiver of a certain
27 examination requirement; requiring an applicant to whom the Board has issued a
28 certificate to maintain on file and update certain addresses; authorizing the Board
29 to take certain disciplinary action if an applicant or a certificate holder fails to
30 maintain certain addresses on file or notify the Board of certain address changes;
31 repealing certain obsolete provisions of law; defining certain terms; and generally

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 relating to the State Board for the Certification of Residential Child Care Program
2 Professionals.

3 BY repealing and reenacting, with amendments,
4 Article – Health Occupations
5 Section 20–101, 20–301 through 20–304, 20–306, 20–307, 20–310, 20–311, and
6 20–313
7 Annotated Code of Maryland
8 (2014 Replacement Volume)

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

11 **Article – Health Occupations**

12 20–101.

13 (a) In this title the following words have the meanings indicated.

14 (b) (1) “Agency” means:

15 (i) The Developmental Disabilities Administration in the
16 Department;

17 (ii) The Department;

18 (iii) The Department of Human Resources;

19 (iv) The Department of Juvenile Services; and

20 (v) The Behavioral Health Administration in the Department.

21 (2) “Agency” includes the State Superintendent of Schools.

22 (c) “Board” means the State Board for Certification of Residential Child Care
23 Program Professionals.

24 **(D) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE**
25 **INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC**
26 **SAFETY AND CORRECTIONAL SERVICES.**

27 **[(d)] (E)** “Certificate” means, unless the context requires otherwise, a certificate
28 issued by the Board to practice as a program administrator or as a residential child and
29 youth care practitioner.

1 [(e)] (F) “Certified program administrator” means, unless the context requires
2 otherwise, an individual who is certified by the Board to practice as a program
3 administrator.

4 [(f)] (G) “Certified residential child and youth care practitioner” means, unless
5 the context requires otherwise, an individual who is certified by the Board to practice as a
6 residential child and youth care practitioner.

7 (H) **“CHIEF ADMINISTRATOR” MEANS THE INDIVIDUAL, REGARDLESS OF
8 TITLE, WHO IS APPOINTED BY THE GOVERNING BODY OF A RESIDENTIAL CHILD CARE
9 PROGRAM AS HAVING RESPONSIBILITY FOR THE OVERALL ADMINISTRATION OF THE
10 PROGRAM.**

11 (I) **“CHILD PROTECTIVE SERVICES BACKGROUND CLEARANCE” MEANS A
12 SEARCH BY A LOCAL DEPARTMENT OF SOCIAL SERVICES OF A CENTRAL REGISTRY
13 ESTABLISHED UNDER TITLE 5, SUBTITLE 7 OF THE FAMILY LAW ARTICLE FOR
14 INFORMATION ABOUT CHILD ABUSE AND NEGLECT INVESTIGATIONS RELATING TO
15 AN INDIVIDUAL.**

16 [(g)] (J) “Program administrator” means the individual responsible for the
17 day-to-day management and operation of a residential child care program and for assuring
18 the care, treatment, safety, and protection of the children in the residential child care
19 program.

20 [(h)](K) (1) “Residential child and youth care practitioner” means an
21 individual assigned to perform direct responsibilities related to activities of daily living,
22 self-help, and socialization skills in a residential child care program under the direction of
23 a certified program administrator.

24 (2) “Residential child and youth care practitioner” does not include an
25 individual assigned to perform direct responsibilities related to activities of daily living,
26 self-help, and socialization skills in a residential child care program licensed by the
27 Developmental Disabilities Administration.

28 [(i)] (L) (1) “Residential child care program” means an entity that provides
29 for children 24-hour per day care within a structured set of services and activities that are
30 designed to achieve specific objectives relative to the needs of the children served and that
31 include the provision of food, clothing, shelter, education, social services, health, mental
32 health, recreation, or any combination of these services and activities.

33 (2) “Residential child care program” includes a program:

34 (i) Licensed by:

35 1. The Department of Health and Mental Hygiene;

1 (ii) For up to 180 days, an individual participating in a
2 Board-approved training program.

3 (c) (1) THE GOVERNING BODY OF EACH RESIDENTIAL CHILD CARE
4 PROGRAM SHALL APPOINT A CHIEF ADMINISTRATOR OF THE PROGRAM.

5 (2) IF THE CHIEF ADMINISTRATOR OF A RESIDENTIAL CHILD CARE
6 PROGRAM LEAVES OR IS REMOVED FROM A POSITION AS CHIEF ADMINISTRATOR BY
7 DEATH OR FOR ANY OTHER UNEXPECTED CAUSE, THE GOVERNING BODY OF THE
8 RESIDENTIAL CHILD CARE PROGRAM SHALL IMMEDIATELY DESIGNATE AN
9 INDIVIDUAL TO SERVE AS THE ACTING CHIEF ADMINISTRATOR FOR A PERIOD NOT
10 TO EXCEED 180 DAYS.

11 20-302.

12 (a) To qualify for a certificate as a program administrator, an applicant shall be
13 an individual who meets the requirements of this section.

14 (b) The applicant shall be of good moral character.

15 (c) The applicant shall have completed [a]:

16 (1) A State and national criminal history records check; AND

17 (2) UNLESS WAIVED BY THE BOARD UNDER § 20-303(D) OF THIS
18 SUBTITLE, A CHILD PROTECTIVE SERVICES BACKGROUND CLEARANCE.

19 (d) The applicant shall be at least 21 years old.

20 (e) The applicant shall have:

21 (1) (i) A bachelor's degree from an accredited college or university; and

22 (ii) At least 4 years experience in the human service field with at
23 least 3 years in a supervisory or administrative capacity; or

24 (2) (i) A master's degree from an accredited college or university; and

25 (ii) At least 2 years experience in the human service field with at
26 least 1 year in a supervisory or administrative capacity.

27 (f) Except as otherwise provided in this title, the applicant shall pass an
28 examination given by the Board under this subtitle.

29 20-302.1.

1 (a) To qualify for a certificate as a residential child and youth care practitioner,
2 an applicant shall be an individual who meets the requirements of this section.

3 (b) The applicant shall be of good moral character.

4 (c) The applicant shall have completed [a]:

5 (1) A State and national criminal history records check; AND

6 (2) **UNLESS WAIVED BY THE BOARD UNDER § 20-303(D) OF THIS**
7 **SUBTITLE, A CHILD PROTECTIVE SERVICES BACKGROUND CLEARANCE.**

8 (d) The applicant shall be:

9 (1) At least 21 years old; or

10 (2) At least 18 years old and have earned at least an associate's or
11 bachelor's degree from an accredited college or university.

12 (e) The applicant shall have:

13 (1) A high school diploma or equivalent and have successfully completed
14 an approved training program; AND

15 (2) (I) At least 2 years experience in the human service field [and
16 sponsorship from a certified program administrator]; or

17 [(3)] (II) An associate's or bachelor's degree from an accredited college or
18 university.

19 (f) (1) Except as provided in paragraph (2) of this subsection, the applicant
20 shall have successfully completed a training program approved under § 20-302.2 of this
21 subtitle.

22 (2) (i) An applicant who has an associate's or bachelor's degree from an
23 accredited college or university may be waived from the training program requirement, if
24 the applicant passes an examination and meets other requirements established by the
25 Board under this subtitle.

26 (ii) The Board shall establish requirements and procedures for
27 waiving the training program requirement for an applicant under subparagraph (i) of this
28 paragraph.

29 (g) The applicant shall pass an examination given by the Board under this
30 subtitle.

1 (h) The Board shall waive the education, experience, training, and examination
2 requirements of this section for an applicant who:

3 (1) Applies for certification on or before October 1, 2015; and

4 (2) Presents to the Board satisfactory evidence that the applicant worked
5 as a residential child and youth care practitioner in the State for at least 2 years before
6 October 1, 2015.

7 20–303.

8 (a) To apply for a certificate, an applicant shall:

9 (1) Submit an application to the Board on the form that the Board requires;

10 **(2) PROVIDE EVIDENCE OF APPLICATION FOR A CHILD PROTECTIVE**
11 **SERVICES BACKGROUND CLEARANCE;**

12 **[(2)] (3)** Pay to the Board the application fee set by the Board; and

13 **[(3)] (4)** [Provide fingerprints for use by the Criminal Justice Information
14 System Central Repository of the Department of Public Safety and Correctional Services to
15 conduct] **APPLY TO THE CENTRAL REPOSITORY FOR** a State and national criminal
16 history records check.

17 **[(b) (1)]** An applicant required to provide fingerprints under subsection (a)(3) of
18 this section shall pay any processing or other fees required by the Criminal Justice
19 Information System Central Repository of the Department of Public Safety and
20 Correctional Services.

21 (2) The results of the criminal history records check shall be provided to
22 the Board and the applicant.]

23 **(B) (1) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY**
24 **RECORDS CHECK, THE APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:**

25 **(I) A LEGIBLE SET OF FINGERPRINTS TAKEN IN A FORMAT**
26 **APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR**
27 **OF THE FEDERAL BUREAU OF INVESTIGATION;**

28 **(II) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE**
29 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY**
30 **RECORDS; AND**

1 **(III) THE PROCESSING FEE REQUIRED BY THE FEDERAL**
2 **BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

3 **(2) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE**
4 **CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO**
5 **THE APPLICANT AND THE BOARD THE APPLICANT'S CRIMINAL HISTORY RECORDS**
6 **INFORMATION.**

7 **(3) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY**
8 **UNDER THIS SUBSECTION:**

9 **(I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND**

10 **(II) MAY BE USED ONLY FOR THE CERTIFICATION PURPOSE**
11 **AUTHORIZED BY THIS SUBTITLE.**

12 **(4) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER**
13 **THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT**
14 **ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL**
15 **PROCEDURE ARTICLE.**

16 **(C) THE RESULTS OF THE CHILD PROTECTIVE SERVICES BACKGROUND**
17 **CLEARANCE SHALL BE PROVIDED TO THE BOARD AND THE APPLICANT.**

18 **(D) THE BOARD MAY, AT ITS DISCRETION, WAIVE THE REQUIREMENT IN**
19 **SUBSECTION (A)(2) OF THIS SECTION IF THE APPLICANT PRESENTS EVIDENCE TO**
20 **THE BOARD THAT CIRCUMSTANCES OUTSIDE THE APPLICANT'S CONTROL PREVENT**
21 **THE APPLICANT FROM OBTAINING A CHILD PROTECTIVE SERVICES BACKGROUND**
22 **CLEARANCE IN A TIMELY MANNER.**

23 20-304.

24 (a) The Board shall keep a file of each certificate application made under this
25 subtitle.

26 (b) The file shall contain:

27 (1) The name, **RESIDENT** address, **EMPLOYMENT ADDRESS**, and age of
28 the applicant;

29 (2) The date of the application;

30 (3) Complete and current information on the educational, training, and
31 experience qualifications of the applicant;

- 1 (4) The date the Board reviewed and acted on the application;
- 2 (5) The action taken by the Board on the application;
- 3 (6) The identifying numbers of any certificate or renewal certificate issued
4 to the applicant; and
- 5 (7) Any other information that the Board considers necessary.

6 (c) The application files shall be open to public inspection.

7 20–306.

8 (a) Subject to the provisions of this section, the Board may waive any examination
9 requirement of this title for an individual who is certified as a program administrator in
10 any other state that the Board determines has a comparable certification process to the one
11 established in this title.

12 (b) The Board may grant a waiver under this section only if the applicant:

13 (1) Is of good moral character;

14 (2) Pays the application fee required by the Board under § 20–303 of this
15 subtitle; and

16 (3) Provides adequate evidence that:

17 (i) At the time the applicant was certified in the other state, the
18 applicant was qualified to take the examination that then was required by the laws of this
19 State;

20 (ii) The applicant qualified for a certificate in the other state by
21 passing an examination given in that or any other state; and

22 (iii) The applicant has completed a State **AND NATIONAL** criminal
23 history records check.

24 [(c) The Board shall waive the requirements for certification as a certified program
25 administrator under § 20–302 of this subtitle for any person who:

26 (1) Has filed a letter of intent with the Board by October 1, 2007;

27 (2) Has completed not less than 8 years' experience in the human service
28 field with at least 4 years in a supervisory or administrative capacity; and

29 (3) Has by October 1, 2007, successfully passed an examination approved
30 by the Board.]

1 20–307.

2 (a) The Board shall issue a certificate to any applicant who meets the
3 requirements of this title.

4 (b) The Board shall include on each certificate that the Board issues:

5 (1) The full name of the certificate holder; **AND**

6 (2) A serial number[; and

7 (3) The seal of the Board].

8 (c) The Board may issue a certificate to replace a lost, destroyed, or mutilated
9 certificate if the certificate holder pays the certificate replacement fee set by the Board.

10 **(D) AN APPLICANT TO WHOM THE BOARD HAS ISSUED A CERTIFICATE**
11 **UNDER THIS SECTION SHALL MAINTAIN ON FILE WITH THE BOARD THE APPLICANT'S**
12 **CURRENT RESIDENT ADDRESS AND EMPLOYMENT ADDRESS AND UPDATE THE**
13 **INFORMATION WHENEVER CHANGES IN RESIDENCY OR EMPLOYMENT OCCUR.**

14 20–310.

15 (a) (1) A certificate expires on a date set by the Board, unless the certificate is
16 renewed for an additional term as provided in this section.

17 (2) A certificate may not be renewed for a term longer than 2 years.

18 (b) At least 1 month before the certificate expires, the Board shall send to the
19 certified program administrator or certified residential child and youth care practitioner,
20 by electronic means or first-class mail to the last known electronic or physical address of
21 the certified program administrator or certified residential child and youth care
22 practitioner, a renewal notice that states:

23 (1) The date on which the current certificate expires;

24 (2) The date by which the renewal application must be received by the
25 Board for the renewal to be issued and mailed before the certificate expires; and

26 (3) The amount of the renewal fee.

27 (c) Before the certificate expires, the certified program administrator or certified
28 residential child and youth care practitioner periodically may renew it for an additional
29 2-year term, if the certified program administrator or certified residential child and youth
30 care practitioner:

1 (1) Otherwise is entitled to obtain a certificate;

2 (2) Pays to the Board a renewal fee set by the Board; and

3 (3) Submits to the Board:

4 (i) A renewal application on the form that the Board requires; [and]

5 (ii) Satisfactory evidence of compliance with any continuing
6 education and other qualifications and requirements set under this section for certificate
7 renewal;

8 **(III) EVIDENCE OF APPLICATION FOR A CHILD PROTECTIVE**
9 **SERVICES BACKGROUND CLEARANCE; AND**

10 **(IV) FINGERPRINTS FOR USE BY THE CRIMINAL JUSTICE**
11 **INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC**
12 **SAFETY AND CORRECTIONAL SERVICES TO CONDUCT A STATE AND NATIONAL**
13 **CRIMINAL HISTORY RECORDS CHECK.**

14 (d) In addition to any other qualifications and requirements established in
15 consultation with the Children's Cabinet, the Board may set continuing education
16 requirements as a condition for the renewal of certificates under this section.

17 (e) The Board shall renew the certificate of each certified program administrator
18 or certified residential child and youth care practitioner who meets the requirements of this
19 section.

20 **(F) THE BOARD MAY, AT ITS DISCRETION, WAIVE THE REQUIREMENT IN**
21 **SUBSECTION (C)(3)(III) OF THIS SECTION IF THE APPLICANT PRESENTS EVIDENCE**
22 **TO THE BOARD THAT CIRCUMSTANCES BEYOND THE APPLICANT'S CONTROL**
23 **PREVENT THE APPLICANT FROM OBTAINING A CHILD PROTECTIVE SERVICES**
24 **BACKGROUND CLEARANCE IN A TIMELY MANNER.**

25 **(G) A CERTIFIED PROGRAM ADMINISTRATOR OR A CERTIFIED RESIDENTIAL**
26 **CHILD AND YOUTH CARE PRACTITIONER SHALL REPORT TO THE BOARD ANY**
27 **ARRESTS OR INVESTIGATIONS THAT WOULD APPEAR ON A CHILD PROTECTIVE**
28 **SERVICES BACKGROUND CLEARANCE AND THAT OCCUR DURING THE PERIOD**
29 **BETWEEN ISSUANCE OF THE CLEARANCE AND RENEWAL OF THE CERTIFICATE.**

30 20-311.

1 (a) The Board shall reinstate the certificate of a program administrator or
2 residential child and youth care practitioner who has failed to renew the certificate for any
3 reason, if the individual:

4 (1) Has not had the certificate suspended or revoked;

5 (2) Meets the renewal requirements of § 20–310 of this subtitle;

6 (3) Pays to the Board the reinstatement fee set by the Board;

7 (4) Submits to the Board satisfactory evidence of compliance with the
8 qualifications and requirements established under this title for certificate reinstatements;
9 [and]

10 **(5) PROVIDES FINGERPRINTS FOR USE BY THE CRIMINAL JUSTICE**
11 **INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC**
12 **SAFETY AND CORRECTIONAL SERVICES TO CONDUCT A STATE AND NATIONAL**
13 **CRIMINAL HISTORY RECORDS CHECK;**

14 **(6) PROVIDES EVIDENCE OF APPLICATION FOR A CHILD PROTECTIVE**
15 **SERVICES BACKGROUND CLEARANCE; AND**

16 **[(5)] (7)** Applies to the Board for reinstatement of the certificate within 5
17 years after the certificate expires.

18 (b) (1) The Board may not reinstate the certificate of a program administrator
19 or residential child and youth care practitioner who fails to apply for reinstatement of the
20 certificate within 5 years after the certificate expires.

21 (2) However, the program administrator or residential child and youth care
22 practitioner may be certified by meeting the current requirements for obtaining a new
23 certificate under this title.

24 **(c) THE BOARD MAY, AT ITS DISCRETION, WAIVE THE REQUIREMENT IN**
25 **SUBSECTION (A)(6) OF THIS SECTION IF THE APPLICANT PRESENTS EVIDENCE TO**
26 **THE BOARD THAT CIRCUMSTANCES BEYOND THE APPLICANT’S CONTROL PREVENT**
27 **THE APPLICANT FROM OBTAINING A CHILD PROTECTIVE SERVICES BACKGROUND**
28 **CLEARANCE IN A TIMELY MANNER.**

29 20–313.

30 (a) The Board shall investigate and take appropriate action as to any complaint
31 filed with the Board that alleges that a certified program administrator or certified
32 residential child and youth care practitioner has failed to meet any standard of the Board.

1 (b) Subject to the hearing provisions of § 20–314 of this subtitle, the Board may
2 deny a certificate to any applicant, reprimand any certified program administrator or
3 certified residential child and youth care practitioner, place any certified program
4 administrator or certified residential child and youth care practitioner on probation, or
5 suspend or revoke a certificate if the applicant, certified program administrator, or certified
6 residential child and youth care practitioner:

7 (1) Fraudulently or deceptively obtains or attempts to obtain a certificate
8 for a program administrator or residential child and youth care practitioner, or for another;

9 (2) Fraudulently or deceptively uses a certificate;

10 (3) Otherwise fails to meet substantially the standards for certification
11 adopted by the Board under § 20–205 of this title;

12 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
13 crime involving moral turpitude, whether or not any appeal or other proceeding is pending
14 to have the conviction or plea set aside;

15 (5) Performs the duties of a program administrator or residential child and
16 youth care practitioner while:

17 (i) Under the influence of alcohol; or

18 (ii) Using any narcotic or controlled dangerous substance, as defined
19 in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic
20 amounts or without valid medical indication;

21 (6) Is disciplined by a licensing or disciplinary authority of any other state
22 or country or convicted or disciplined by a court of any state or country for an act that would
23 be grounds for disciplinary action under the Board’s disciplinary statutes;

24 (7) Performs the duties of a program administrator or residential child and
25 youth care practitioner with an unauthorized person or supervises or aids an unauthorized
26 person in performing the duties of a program administrator or residential child and youth
27 care practitioner;

28 (8) Willfully makes or files a false report or record while performing the
29 duties of a program administrator or residential child and youth care practitioner;

30 (9) Willfully fails to file or record any report as required under law,
31 willfully impedes or obstructs the filing or recording of the report, or induces another to fail
32 to file or record the report;

33 (10) Commits an act of unprofessional conduct in performing the duties of a
34 program administrator or residential child and youth care practitioner; [or]

1 (11) Refuses, withholds from, denies, or discriminates against an individual
2 with regard to the provision of professional services for which the individual is certified and
3 qualified to render because the individual is HIV positive; **OR**

4 **(12) FAILS TO MAINTAIN ON FILE WITH THE BOARD A CURRENT**
5 **RESIDENT ADDRESS AND EMPLOYMENT ADDRESS OR NOTIFY THE BOARD WHEN THE**
6 **RESIDENCY OR PLACE OF EMPLOYMENT CHANGES.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2015.