

SENATE BILL 391

J2

5lr1170

By: **Senator Montgomery**

Introduced and read first time: February 6, 2015

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2015

CHAPTER _____

1 AN ACT concerning

2 **State Board of Morticians and Funeral Directors – Licenses, Permits, and**
3 **Registrations – Processes and Criminal History Records Checks**

4 FOR the purpose of clarifying that a certain process for regulating crematories must
5 provide for the registration of crematory operators or the issuance of permits for
6 operating crematories; requiring certain applicants to the State Board of Morticians
7 and Funeral Directors to submit to a certain criminal history records check or submit
8 to the Board a criminal history records check conducted by a certain entity; requiring
9 certain applicants to submit certain fingerprints and certain fees to the Criminal
10 Justice Information System Central Repository of the Department of Public Safety
11 and Correctional Services under certain circumstances; requiring the Central
12 Repository to forward to the Board and certain applicants certain criminal history
13 record information; authorizing the Board to accept certain alternate methods of
14 criminal history records checks under certain circumstances; providing that certain
15 information is confidential, may not be redisseminated, and may be used only for
16 certain purposes; authorizing certain individuals to contest the contents of certain
17 statements issued by the Central Repository under certain circumstances; requiring
18 the Board to consider certain factors in determining whether to grant certain
19 licenses, permits, and registrations on receipt of certain criminal history record
20 information; prohibiting the Board from issuing certain licenses, permits, and
21 registrations under certain circumstances; providing for the application of this Act;
22 making a conforming change; and generally relating to licenses, permits, and
23 registrations issued by the State Board of Morticians and Funeral Directors.

24 BY repealing and reenacting, with amendments,

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 Article – Health Occupations
2 Section 7–205(c)
3 Annotated Code of Maryland
4 (2014 Replacement Volume)

5 BY adding to
6 Article – Health Occupations
7 Section 7–301.1
8 Annotated Code of Maryland
9 (2014 Replacement Volume)

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

12 **Article – Health Occupations**

13 7–205.

14 (c) In conjunction with the Office of Cemetery Oversight, the Board shall:

15 (1) Establish a process for regulating crematories that provides for:

16 (i) Registration **OF CREMATORY OPERATORS** or [licensure]
17 **ISSUANCE OF PERMITS FOR OPERATING CREMATORIES**, and renewal;

18 (ii) Applications, including certification of ownership and
19 identification of individuals who will perform cremation;

20 (iii) Registration or [licensure] **PERMIT** fees;

21 (iv) Inspections and oversight;

22 (v) Grounds for discipline and penalties; and

23 (vi) Complaints and hearings; and

24 (2) Adopt regulations that are identical to regulations adopted by the
25 Director of the Office of Cemetery Oversight to:

26 (i) Implement item (1) of this subsection; and

27 (ii) Ensure public health and safety.

28 **7–301.1.**

1 (A) THIS SECTION DOES NOT APPLY TO THE REGISTRATION OF CREMATORY
2 OPERATORS OR ISSUANCE OF PERMITS FOR OPERATING CREMATORIES UNDER
3 REGULATIONS ADOPTED UNDER § 7-205(C) OF THIS SUBTITLE.

4 (B) IN ADDITION TO ANY OTHER REQUIREMENT FOR A LICENSE, PERMIT, OR
5 REGISTRATION ISSUED UNDER THIS TITLE, AN APPLICANT FOR A LICENSE, PERMIT,
6 OR REGISTRATION SHALL ~~SUBMIT~~:

7 (1) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN
8 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION; OR

9 (2) SUBMIT TO THE BOARD A CRIMINAL HISTORY RECORDS CHECK
10 CONDUCTED BY AN ACCREDITED AGENCY APPROVED BY THE BOARD.

11 (C) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" MEANS THE
12 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE
13 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

14 (2) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR
15 A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL
16 SUBMIT TO THE CENTRAL REPOSITORY:

17 (I) A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN ON
18 FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE
19 DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

20 (II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE
21 CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY
22 RECORDS; AND

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

25 (3) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE
26 CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO
27 THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION
28 OF THE APPLICANT.

29 (4) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL
30 ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN
31 ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY
32 THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE
33 FEDERAL BUREAU OF INVESTIGATION.

1 **(5) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER**
 2 **THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED**
 3 **BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL**
 4 **PROCEDURE ARTICLE.**

5 ~~(5)~~ **(D)** INFORMATION OBTAINED ~~FROM THE CENTRAL~~
 6 ~~REPOSITORY~~ UNDER THIS SECTION:

7 **(I) SHALL BE CONFIDENTIAL;**

8 **(II) MAY NOT BE REDISSEMINATED; AND**

9 **(III) SHALL BE USED ONLY FOR THE LICENSING, PERMITTING,**
 10 **OR REGISTERING PURPOSES AUTHORIZED BY THIS TITLE.**

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

15 ~~(D)~~ **(E)** **(1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD**
 16 **INFORMATION OF AN APPLICANT ~~FORWARDED TO THE BOARD IN ACCORDANCE~~**
 17 **~~WITH SUBSECTION (C) OF~~ REQUIRED UNDER THIS SECTION, IN DETERMINING**
 18 **WHETHER TO GRANT A LICENSE, PERMIT, OR REGISTRATION UNDER THIS TITLE,**
 19 **THE BOARD SHALL CONSIDER:**

20 **(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;**

21 **(II) THE CIRCUMSTANCES SURROUNDING THE CRIME;**

22 **(III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;**

23 **(IV) SUBSEQUENT WORK HISTORY;**

24 **(V) EMPLOYMENT AND CHARACTER REFERENCES; AND**

25 **(VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE**
 26 **APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

27 **(2) THE BOARD MAY NOT ISSUE A LICENSE, PERMIT, OR**
 28 **REGISTRATION UNDER THIS TITLE IF THE CRIMINAL HISTORY RECORD**
 29 **INFORMATION REQUIRED UNDER THIS SECTION HAS NOT BEEN RECEIVED.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.