

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

Senate Bill 391

(Senator Montgomery)

Education, Health, and Environmental Affairs

Health and Government Operations

State Board of Morticians and Funeral Directors - Licenses, Permits, and Registrations - Processes and Criminal History Records Checks

This bill requires applicants for a license, permit, or registration issued by the State Board of Morticians and Funeral Directors (except for registration of crematory operators or permits to operate a crematory) to either (1) submit to a State and national criminal history records check (CHRC) or (2) submit to the board a CHRC conducted by a board-approved accredited agency. The board is prohibited from issuing a license, permit, or registration without receipt of the required CHRC information. The bill specifies considerations the board must take when determining whether to grant a license, permit or registration on receipt of the CHRC information.

Fiscal Summary

State Effect: Processing of CHRC results for new applicants can be handled by the State Board of Morticians and Funeral Directors with existing budgeted resources. No effect on revenues.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: On receipt of criminal history records information, the board must consider the following factors in determining whether to grant a license, permit, or registration:

- the age at which the crime was committed;
- the circumstances surrounding the crime;
- the length of time that has passed since the crime;
- subsequent work history;
- employment and character references; and
- other evidence that demonstrates whether the applicant poses a threat to public health or safety.

If an applicant chooses to fulfill the CHRC requirement using the Criminal Justice Information System (CJIS), the applicant must apply to CJIS for both a State and national CHRC. An applicant must submit a complete set of fingerprints taken on the required forms, the State criminal history fee, and the processing fee required by the Federal Bureau of Investigation (FBI). CJIS must forward to the board and to the applicant the criminal history record information of the applicant. If an applicant has made three or more attempts at securing legible fingerprints, the board may accept an alternate method of a CHRC as permitted by the director of CJIS and the director of the FBI. Information obtained from CJIS must be confidential, may not be disseminated, and may be used only for licensing, permitting, or registering purposes. The subject of a CHRC may contest the contents of the printed statement issued by CJIS.

Alternately, an applicant must submit to the board a CHRC conducted by a board-approved, accredited agency.

The bill's provisions do not apply to the registration of crematory operators or issuance of permits for operating crematories.

Current Law/Background: The board licenses morticians and funeral directors, apprentices, surviving spouses, executors, pre-need trustees, corporations (under limited circumstances), and funeral establishments. None of these licensees is required to submit to CHRC's prior to licensure. The board permits the owners of mortuary transport services and registers individual transporter employees of a mortuary transport service. Prior to registration, transporters must submit to a CHRC. However, mortuary transport service permittees are not required to submit to a CHRC.

As shown in **Exhibit 1**, nine health occupations boards currently require CHRCs; all but two upon initial application only. The State Board of Professional Counselors and Therapists requires subsequent CHRCs every 6 years upon renewal, while the State Board of Nursing requires subsequent CHRCs at least once every 12 years upon renewal. With the exception of registered pharmacy technicians, both a State and national check are required for all noted professions. No other health occupations board permits the option of a CHRC conducted by an accredited agency.

Some corporate funeral establishments already conduct criminal background investigations on employees through agencies accredited by the National Association of Professional Background Screeners.

Exhibit 1
Health Occupations Required to Obtain Criminal History Records Checks

<u>Board</u>	<u>Occupation(s)</u>
Chiropractic and Massage Therapy	Chiropractors ¹ Massage Therapists ¹ Massage Practitioners ¹
Morticians and Funeral Directors	Mortuary Transport Service Providers ²
Nursing	Registered Nurses ³ Licensed Practical Nurses ³ Certified Nursing Assistants ³ Electrologists ³
Pharmacy	Registered Pharmacy Technicians ⁴ Wholesale Pharmaceutical Distributors
Physical Therapy	Physical Therapists ¹ Physical Therapy Assistants ¹
Professional Counselors and Therapists	All applicants for licensure or certification ⁵
Examiners of Psychologists	Licensed Psychologists
Residential Child Care Professionals	Program Administrators Residential Child and Youth Care Practitioners ⁶
Social Work Examiners	Licensed Bachelor Social Workers ⁷ Licensed Certified Social Workers ⁷ Licensed Certified Social Workers-Clinical ⁷

¹ Per Chapter 598 of 2014.

² Certification began in 2013.

³ Subsequent criminal history records checks are required upon renewal at least once every 12 years.

⁴ State-only check required.

⁵ Per Chapter 348 of 2013; subsequent criminal history records checks are required every six years.

⁶ Certification is not required until October 1, 2015.

⁷ Per Chapter 391 of 2013.

Additional Comments: Each individual who uses CJIS to conduct a CHRC under the bill is required to pay \$52.75 for a State and national CHRC, including a \$20 fingerprinting fee, a \$14.75 FBI fee, an \$18 fee to CJIS.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Department of Legislative Services

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