

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 43 (Senator Simonaire)

Education, Health, and Environmental Affairs
and Judicial Proceedings

Licensing - Fingerprint Requirement

This bill exempts a person from submitting his/her fingerprints as a part of a license application for (1) any license regulated under the Business Occupations and Professions Article; (2) any license regulated under the Business Regulation Article; (3) a firearms dealer's license, handgun qualification license, or handgun permit; (4) a license to manufacture, sell, or possess explosives; or (5) a plaster's permit if the applicant has already submitted his/her fingerprints for any other license application in the State.

Fiscal Summary

State Effect: Special fund revenues decrease, potentially significantly, as specified license and permit applicants no longer pay fingerprint fees. State expenditures are not directly affected, but may increase significantly if a new system that is not fingerprint-based is needed to conduct State-only criminal history background checks, as discussed below.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law/Background: The National Crime Prevention and Privacy Compact of 1998, to which Maryland is a party, requires that *national* background checks for noncriminal justice purposes, such as licensing and employment, *must* be fingerprint-based (42 U.S.C. § 14616, Article 5(1)). This provides positive identification of the applicant and eliminates false positives and false negatives associated with name-based checks.

Criminal Justice Information System Central Repository

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

CJIS-CR is authorized by law to collect a fee for providing CHRI for purposes other than criminal justice. The Code of Maryland Regulations sets the fee at \$18. An additional \$20 fingerprinting fee is also collected. The Federal Bureau of Investigation (FBI) charges a fee of \$13.25 for a national CHRI check. Revenue from these fees is used to provide the service. CJIS-CR collects the fee from the applicant and reimburses the FBI. CJIS-CR submits requests for national criminal records to the FBI electronically.

The Criminal Justice Information System (CJIS) advises that it receives more than \$6 million in special fund revenues annually from fingerprinting fees (which are separate from the fees to actually conduct criminal background checks).

State Occupational Licenses Requiring Fingerprints

Broadly, applicants for some occupations that are regulated by the State must submit their fingerprints as part of their license application. The fingerprints are used for a criminal background check and are submitted to CJIS-CR.

State licenses under the Business Occupations and Professions and Business Regulations Articles requiring fingerprints as a component of the initial and/or renewal application include:

- automated purchasing machine owners;
- locksmiths;
- the Maryland Horse Racing Commission;
- real estate appraisers;
- private detectives;
- private home detention monitoring agencies;
- secondhand precious metal object dealers;
- security guards; and
- security systems technicians.

Firearms Dealer's Licenses

A person must lawfully possess a dealer's license issued by the Secretary of State Police before the person engages in the business of selling, renting, or transferring regulated firearms. Generally, an applicant for a firearms dealer's license must submit an application and submit to a State and national criminal history records check. If an applicant is a corporation, a corporate officer who is a resident of the State must complete and execute the application.

Handgun Qualification Licenses

A Handgun Qualification Licenses (HQL) authorizes a person to purchase, rent, or receive a handgun. Generally, the Secretary of State Police must issue an HQL to a person who (1) is at least 21 years old; (2) is a State resident; (3) has completed a firearms safety training course; and (4) is not prohibited by federal or State law from purchasing or possessing a handgun. The Secretary of State Police must apply for a State and national criminal history records check for each applicant. As part of the application for a criminal history records check, the Secretary must submit one complete set of fingerprints of the applicant.

Handgun Permits

A person must have a handgun permit before the person carries, wears, or transports a handgun. The Department of State Police (DSP) must apply for a CHRI for each applicant for a permit. An application for renewal of a handgun permit does not require fingerprinting unless DSP requires a set of the person's fingerprints to resolve a question of the person's identity.

Licenses to Manufacture, Deal, Possess, or Use Explosives

With certain exceptions, a person must obtain a license before engaging in business as a manufacturer or dealer, possessing explosives other than explosives for use in firearms, or possessing or storing explosives for use in firearms in the State. The Office of the State Fire Marshal within DSP issues one-year licenses for the manufacture, dealing, possession, or use of explosives to each applicant who meets the statutory requirements. An applicant for a license dealing with explosives is subject to fingerprint-based State and national criminal history records checks and must pay all associated fees.

State Revenues: CJIS revenues generally decrease from collecting fewer fees for State criminal background checks and fingerprinting. The general fund revenue decrease is generally offset by CJIS having to process fewer background checks, but special fund revenues decrease from collecting fewer \$20 fees for fingerprinting. The effect on special

fund revenues depends on the extent to which individuals seeking licensure by the State do not resubmit their fingerprints for the affected licenses and permits. For the purposes of this analysis, it is assumed that criminal background checks submitted to CJIS-CR can be completed without submitting fingerprints to the FBI.

As noted above, only a small number of occupational licenses require the submission or resubmission of fingerprints. Both security guards and security system technicians require fingerprints as a part of their triennial license renewals. However, there is no statutory requirement for fingerprints as a part of a license renewal for locksmiths. Secondhand precious metal object dealers must resubmit their fingerprints only if they move to a new location.

Over the past few years, an average of about 800 security system technicians and 4,300 security guards have applied for license or registration renewals each year. *For illustrative purposes only*, special fund revenues decrease by about \$102,000 each year due to these individuals not having to pay the \$20 fingerprinting fee with their renewal applications.

Additional special fund revenue losses likely result from individuals with more than one license or permit not paying the fingerprint fee more than once. While the issuance of a new handgun permit requires an applicant's fingerprints, the renewal of a handgun permit does not. However, under the bill, if an individual has already submitted his/her fingerprints as part of an occupational license regulated by the State, the individual would not be required to include his/her fingerprints as a part of the handgun permit application. Although a reliable estimate of any decrease in fee revenues cannot be made, it could be significant.

Small Business Effect: Small businesses in sectors requiring their employees to be licensed by the State will benefit from not needing to resubmit their fingerprints as a part of their license renewals if their fingerprints are already on file. In addition, small businesses and their employees may see cost savings as a result of not needing to pay the fees associated with submitting their fingerprints.

Additional Comments: DSP advises that State agencies may not share the results of a CJIS-CR background check with other State agencies. Statute generally prohibits the dissemination of information obtained by CJIS and may be used only for the original licensing purpose. DSP further advises that FBI guidelines state that fingerprint background checks are valid for only 30 days.

As noted above, national criminal background checks must be fingerprint-based, and DSP advises that fingerprint records cannot be resubmitted or reused without a fresh set of fingerprints. Thus, national CHRI checks would no longer be feasible. DPSCS advises that

a new system would need to be developed to verify an individual's identity for a *State-only* criminal records check based on information other than fingerprints. DPSCS estimates that, if such a new system were required, it would cost several hundreds of thousands of dollars to develop, and it would not be as reliable as fingerprint-based records checks.

The Department of Legislative Services notes that about 20 different boards and commissions within the Maryland Department of Health regulate licensees in a variety of medical professions. Some of these regulatory entities require fingerprinting but are not included in the bill. Thus, holders of medical licenses that require the submission of fingerprints must continue to submit their fingerprints to obtain and/or renew their medical licenses. However, they are exempt, under the bill, from submitting fingerprints for the various handgun and explosives licenses covered by the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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