By: Delegate Shoemaker
Introduced and read first time: February 11, 2022
Assigned to: Judiciary

A BILL ENTITLED

AN ACT concerning

Family Law – Child Care – Volunteer Clearance

FOR the purpose of requiring employers of certain volunteers who work with children to require from the volunteers certain criminal history records checks and certain child abuse and neglect clearances; requiring certain volunteers who work with children to submit a certain child abuse and neglect clearance renewal after a certain amount of time; requiring the Department of Public Safety and Correctional Services to maintain certain confidential records; authorizing the dissemination of certain records kept by the Department only to certain individuals; establishing a database of certain information about certain volunteers that is maintained by the Department; and generally relating to child care and volunteer clearance.

BY repealing and reenacting, with amendments,

Article – Family Law
Section 5–551, 5–552(b), 5–553, and 5–554(a), (c)(4), and (d)
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY adding to

Article – Family Law
Section 5–551.1
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Family Law
Section 5–552(c) and 5–554(e) and (f)
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Family Law

5–551.

(a) Notwithstanding any provision of law to the contrary, an employee and
employer in a facility identified in subsection (b) of this section and individuals identified
in subsection (c) of this section shall apply for a national and State criminal history records
check at any designated law enforcement office in this State or other location approved by
the Department.

(b) The following facilities shall require employees and employers to obtain a
criminal history records check under this Part V of this subtitle:

(1) a child care center required to be licensed under Title 9.5, Subtitle 4 of
the Education Article;

(2) a family child care home or large family child care home required to be
registered under Title 9.5, Subtitle 3 of the Education Article;

(3) a child care home required to be licensed under this subtitle or under
Title 9 of the Human Services Article;

(4) a child care institution required to be licensed under this subtitle or under
Title 9 of the Human Services Article;

(5) a juvenile detention, correction, or treatment facility provided for in
Title 9 of the Human Services Article;

(6) a public school as defined in Title 1 of the Education Article;

(7) a private or nonpublic school required to report annually to the State
Board of Education under Title 2 of the Education Article;

(8) a foster care family home or group facility as defined under this subtitle;

(9) a recreation center or recreation program operated by the State, a local
government, or a private entity primarily serving minors;

(10) a day or residential camp, as defined in Title 10, Subtitle 16 of the Code
of Maryland Regulations, primarily serving minors; or

(11) a home health agency or residential service agency licensed by the
Maryland Department of Health and authorized under Title 19 of the Health – General
Article to provide home– or community–based health services for minors.
(b–1) A contractor or subcontractor shall require an employee that will have direct, unsupervised, and uncontrolled access to children in a facility listed in subsection (b) of this section to obtain a criminal history records check under this Part V of this subtitle.

(c) The following individuals shall obtain a criminal history records check under this Part V of this subtitle:

(1) an individual who is seeking to adopt a child through a child placement agency;

(2) an individual who is seeking to become a guardian through a local department;

(3) an individual whom the juvenile court appoints as a guardian of a child;

(4) an adult relative with whom a child, committed to a local department, is placed by the local department;

(5) any adult known by a local department or the State Department of Education to be residing in:

(i) a family child care home or large family child care home required to be registered under this title;

(ii) a home where informal child care, as defined in child care subsidy regulations adopted under Title 13A of the Code of Maryland Regulations, is being provided or will be provided to a child who does not reside there;

(iii) a home of an adult relative of a child with whom the child, committed to a local department, is placed by the local department;

(iv) a foster care home or child care home required to be approved under this title;

(v) a home of an individual seeking to adopt a child through a child placement agency; or

(vi) a home of an individual seeking to become a guardian through a local department;

(6) an individual who agrees to provide, or to continue providing, informal child care, as defined in child care subsidy regulations, adopted under Title 13A of the Code of Maryland Regulations; and

(7) if requested by a local department:
(i) a parent or guardian of a child who is committed to the local
department and is or has been placed in an out–of–home placement within the past year;
and

(ii) any adult known by the local department to be residing in the
home of the parent or guardian.

(d) (1) An employer at a facility under subsection (b) of this section [may]
SHALL require a volunteer WHO WORKS WITH CHILDREN at the facility to obtain:

(I) a criminal history records check under this Part V of this
subtitle; AND

(II) A CHILD ABUSE AND NEGLECT CLEARANCE FROM THE
DEPARTMENT OF HUMAN SERVICES.

(2) AN EMPLOYER AT A FACILITY UNDER SUBSECTION (B) OF THIS
SECTION MAY REQUIRE A VOLUNTEER WHO DOES NOT WORK WITH CHILDREN AT THE
FACILITY TO OBTAIN A CRIMINAL HISTORY RECORDS CHECK UNDER THIS PART V OF
THIS SUBTITLE.

(e) A local department [may] SHALL require a volunteer of that department who
works with children to obtain:

(1) a criminal history records check under this Part V of this subtitle; AND

(2) A CHILD ABUSE AND NEGLECT CLEARANCE FROM THE
DEPARTMENT OF HUMAN SERVICES.

(f) An employer at a facility not identified in subsection (b) of this section who
employs individuals to work with children may require employees[, including volunteers,] to obtain a criminal history records check under this Part V of this subtitle.

(G) AN EMPLOYER AT A FACILITY NOT IDENTIFIED IN SUBSECTION (B) OF
THIS SECTION WHO EMPLOYS VOLUNTEERS TO WORK WITH CHILDREN SHALL
REQUIRE THE VOLUNTEERS TO OBTAIN:

(1) A CRIMINAL HISTORY RECORDS CHECK UNDER THIS PART V OF
THIS SUBTITLE; AND

(2) A CHILD ABUSE AND NEGLECT CLEARANCE FROM THE
DEPARTMENT OF HUMAN SERVICES.
An employer, as defined in § 5–550(e)(2) of this subtitle, shall require an employee, as defined in § 5–550(d)(2) of this subtitle, to obtain a criminal history records check under this Part V of this subtitle.

Except as provided in paragraph (2) of this subsection, a person who is required to have a criminal history records check under this Part V of this subtitle shall pay for:

(i) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check;

(ii) reasonable administrative costs to the Department, not to exceed 10% of the processing fee; and

(iii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

A volunteer under subsection (d), (e), or (f) of this section who volunteers for a program that is registered with the Maryland Mentoring Partnership is not required to pay for costs or fees under paragraph (1)(ii) and (iii) of this subsection.

An employer or other party may pay for the costs borne by the employee or other individual under subsection [(h)] (I) of this section.

The local department shall reimburse:

(i) an adult residing in a foster care home for the costs borne by the individual under subsection [(h)] (I) of this section; and

(ii) an individual described in subsection (c)(7)(ii) of this section for the costs borne by the individual under subsection [(h)] (I) of this section.

5–551.1.

(A) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL MAINTAIN A CENTRALIZED CONFIDENTIAL DATABASE OF VOLUNTEERS WHO HAVE BEEN APPROVED TO WORK WITH CHILDREN UNDER § 5–551(D), (E), OR (G) OF THIS SUBTITLE.

(B) THE DATABASE SHALL INCLUDE:

(1) THE IDENTIFICATION OF EACH VOLUNTEER;

(2) THE VOLUNTEER’S PREVIOUS VOLUNTEER AND PAID POSITIONS;
(3) THE VOLUNTEER’S REFERENCES;

(4) THE VOLUNTEER’S CRIMINAL HISTORY RECORDS CHECK; AND

(5) THE VOLUNTEER’S CHILD ABUSE AND NEGLECT CLEARANCE.

(c) THE INFORMATION IN THE CENTRALIZED CONFIDENTIAL DATABASE SHALL BE ACCESSIBLE ONLY TO:

(1) those involved in the volunteer approval process under § 5–551(D), (E), or (G) of this subtitle; AND

(2) the individual who is the subject of the information.

(d) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES:

(1) shall maintain the database in a manner that ensures the security of the information; and

(2) may adopt regulations necessary to implement the provisions of this section.

5–552.

(b) As part of the application for a criminal history records check, the employee, employer, and individual identified in § 5–551(c), (d), (e), [or] (f), OR (G) of this subtitle shall submit:

(1) except as provided in subsection (c) of this section, a complete set of legible fingerprints at any designated State or local law enforcement office in the State or other location approved by the Department;

(2) the disclosure statement required under § 5–553 of this subtitle; and

(3) payment for the costs of the criminal history records check.

(c) The requirement that a complete set of legible fingerprints be submitted as part of the application for a criminal history records check may be waived by the Department if:

(1) the application is submitted by a person who has attempted to have a complete set of fingerprints taken on at least 2 occasions;

(2) the taking of a complete set of legible fingerprints is not possible because of a physical or medical condition of the person’s fingers or hands;
(3) the person submits documentation satisfactory to the Department of the requirements of this subsection; and

(4) the person submits the other information required for a criminal history records check.

5–553.

As part of the application process for a criminal history records check, the employee, employer, and individual identified in § 5–551(c), (d), (e), [or] (f), OR (G) of this subtitle shall complete and sign a sworn statement or affirmation disclosing the existence of a criminal conviction, probation before judgment disposition, not criminally responsible disposition, or pending criminal charges without a final disposition.

5–554.

(a) (1) (i) The Department shall conduct the criminal history records check and issue the printed statement provided for under this Part V of this subtitle.

(ii) It shall update an initial criminal history records check for an employee, employer, or individual identified in § 5–551(c), (d), (e), [or] (f), OR (G) of this subtitle and issue a revised printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

(2) The Department shall adopt regulations requiring:

(i) employers to verify periodically the continuing employment of an employee and the continuing assignment of a volunteer;

(II) EMPLOYERS TO REQUIRE A VOLUNTEER UNDER § 5–551(D), (E), OR (G) OF THIS SUBTITLE TO SUBMIT A CHILD ABUSE AND NEGLECT CLEARANCE EVERY 36 MONTHS;

[(iii)] (III) State or local agencies that license, register, approve, or certify any of the facilities identified in § 5–551(b) of this subtitle to verify periodically the continuing licensure, registration, approval, or certification of a facility or the continuing assignment of individuals identified in § 5–551(e) of this subtitle; and

[(iii)] (IV) child placement agencies that place a child as described in § 5–551(c) of this subtitle to verify periodically the continuing participation or presence of individuals identified in § 5–551(c) of this subtitle.

(3) The employee, employer, volunteer, or other individual identified in § 5–551 of this subtitle is not responsible for payment of any fee to update criminal history records checks.
Upon completion of the criminal history records check of an individual identified in § 5–551(c), (d), (e), [or] (f), OR (G) of this subtitle, the Department shall submit the printed statement to the appropriate child placement or registering agency.

Information obtained from the Department under this Part V of this subtitle shall be confidential and may be disseminated only to the individual who is the subject of the criminal history records check OR CHILD ABUSE AND NEGLECT CLEARANCE and to the participants in the hiring or approval process.

Information obtained from the Department under this Part V of this subtitle may not:

1. be used for any purpose other than that for which it was disseminated; or
2. be redisseminated.

Information obtained from the Department under this Part V of this subtitle shall be maintained in a manner to ensure the security of the information.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.