

# HOUSE BILL 1269

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By: **Delegate Shoemaker**

Introduced and read first time: February 11, 2022

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Care – Volunteer Clearance**

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

12 BY repealing and reenacting, with amendments,  
13 Article – Family Law  
14 Section 5–551, 5–552(b), 5–553, and 5–554(a), (c)(4), and (d)  
15 Annotated Code of Maryland  
16 (2019 Replacement Volume and 2021 Supplement)

17 BY adding to  
18 Article – Family Law  
19 Section 5–551.1  
20 Annotated Code of Maryland  
21 (2019 Replacement Volume and 2021 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article – Family Law  
24 Section 5–552(c) and 5–554(e) and (f)  
25 Annotated Code of Maryland  
26 (2019 Replacement Volume and 2021 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Family Law**

4 5–551.

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

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

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

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

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

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

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

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

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

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

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

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

30 (11) a home health agency or residential service agency licensed by the  
31 Maryland Department of Health and authorized under Title 19 of the Health – General  
32 Article to provide home– or community–based health services for minors.

1 (b-1) A contractor or subcontractor shall require an employee that will have direct,  
2 unsupervised, and uncontrolled access to children in a facility listed in subsection (b) of this  
3 section to obtain a criminal history records check under this Part V of this subtitle.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (7) if requested by a local department:

1 (i) a parent or guardian of a child who is committed to the local  
2 department and is or has been placed in an out-of-home placement within the past year;  
3 and

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

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

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

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

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

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

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

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

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

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

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

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

1            **[(g)] (H)**     An employer, as defined in § 5–550(e)(2) of this subtitle, shall require  
2 an employee, as defined in § 5–550(d)(2) of this subtitle, to obtain a criminal history records  
3 check under this Part V of this subtitle.

4            **[(h)] (I)**     (1)     Except as provided in paragraph (2) of this subsection, a person  
5 who is required to have a criminal history records check under this Part V of this subtitle  
6 shall pay for:

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

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

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

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

16            **[(i)] (J)**     (1)     An employer or other party may pay for the costs borne by the  
17 employee or other individual under subsection **[(h)] (I)** of this section.

18            (2)     The local department shall reimburse:

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

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

23 **5–551.1.**

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

28            **(B)    THE DATABASE SHALL INCLUDE:**

29                            **(1)    THE IDENTIFICATION OF EACH VOLUNTEER;**

30                            **(2)    THE VOLUNTEER’S PREVIOUS VOLUNTEER AND PAID POSITIONS;**

- 1           **(3) THE VOLUNTEER'S REFERENCES;**
- 2           **(4) THE VOLUNTEER'S CRIMINAL HISTORY RECORDS CHECK; AND**
- 3           **(5) THE VOLUNTEER'S CHILD ABUSE AND NEGLECT CLEARANCE.**

4           **(C) THE INFORMATION IN THE CENTRALIZED CONFIDENTIAL DATABASE**  
5 **SHALL BE ACCESSIBLE ONLY TO:**

6           **(1) THOSE INVOLVED IN THE VOLUNTEER APPROVAL PROCESS**  
7 **UNDER § 5-551(D), (E), OR (G) OF THIS SUBTITLE; AND**

8           **(2) THE INDIVIDUAL WHO IS THE SUBJECT OF THE INFORMATION.**

9           **(D) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES:**

10           **(1) SHALL MAINTAIN THE DATABASE IN A MANNER THAT ENSURES**  
11 **THE SECURITY OF THE INFORMATION; AND**

12           **(2) MAY ADOPT REGULATIONS NECESSARY TO IMPLEMENT THE**  
13 **PROVISIONS OF THIS SECTION.**

14 5-552.

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

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

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

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

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

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

28           (2) the taking of a complete set of legible fingerprints is not possible  
29 because of a physical or medical condition of the person's fingers or hands;

1           (3)    the person submits documentation satisfactory to the Department of  
2 the requirements of this subsection; and

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

5 5-553.

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

11 5-554.

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

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

18           (2)    The Department shall adopt regulations requiring:

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

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

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

28                               **[(iii)] (IV)**    child placement agencies that place a child as described in  
29 § 5-551(c) of this subtitle to verify periodically the continuing participation or presence of  
30 individuals identified in § 5-551(c) of this subtitle.

31           (3)    The employee, employer, volunteer, or other individual identified in §  
32 5-551 of this subtitle is not responsible for payment of any fee to update criminal history  
33 records checks.

1 (c) (4) Upon completion of the criminal history records check of an individual  
2 identified in § 5–551(c), (d), (e), [or] (f), **OR (G)** of this subtitle, the Department shall submit  
3 the printed statement to the appropriate child placement or registering agency.

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

8 (e) Information obtained from the Department under this Part V of this subtitle  
9 may not:

10 (1) be used for any purpose other than that for which it was disseminated;  
11 or

12 (2) be redisseminated.

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

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