

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1269

(Delegate Shoemaker)

Judiciary

Family Law - Child Care - Volunteer Clearance

This bill generally requires employers (including a local department of social services) to require a volunteer who works with children to obtain a criminal history records check and a child abuse and neglect clearance from the Department of Human Services (DHS). The bill requires the Department of Public Safety and Correctional Services (DPSCS) to maintain a centralized confidential database of volunteers who have been approved to work with children and to adopt regulations to require employers to require a volunteer to submit a child abuse and neglect clearance every 36 months.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$3.4 million between FY 2023 and 2024 to develop and maintain the required database and for staffing costs for DPSCS and DHS. General fund expenditures increase by at least \$540,000 annually thereafter for ongoing staffing costs. State revenues increase, potentially significantly, from fees associated with additional criminal history record checks.

Local Effect: Local expenditures may increase, potentially significantly, to the extent that local governments (1) pay for volunteers to obtain the necessary background checks and (2) incur administrative expenses to track volunteer compliance.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The database maintained by DPSCS must 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. The information in the database must be accessible only to those involved in the volunteer approval process and the individual who is the subject of the information. DPSCS must maintain the database in a manner that ensures the security of the information and may adopt implementing regulations as necessary.

Current Law: Employers at a number of facilities specified in statute *may* require a volunteer at the facility to obtain a criminal history records check. Specified facilities include (1) a licensed child care center; (2) a registered family child care home; (3) a licensed child care institution; (4) a juvenile detention, correction, or treatment facility; (5) a public school or a private or nonpublic school that is required to report to the State Board of Education; (6) a foster care family home or group facility; (7) a government-operated recreation center or program that primarily serves minors; (8) a day or residential camp that primarily serves minors; and (9) a home health agency or residential service agency licensed by the Maryland Department of Health that is authorized to provide home or community-based health services for minors. A local department of social services *may* require a volunteer of that department who works with children to obtain a criminal history check. Employers at facilities not specified above who employ individuals to work with children *may* require employees, including volunteers, to obtain a criminal history records check.

The Criminal Justice Information System Central Repository (CJIS-CR) is established by the Criminal Procedure Article, §§ 10-213 *et seq.*, within DPSCS to collect, manage, and disseminate Maryland Criminal History Record Information (CHRI) for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. Costs associated with each check are shown below. For child care volunteers, the FBI reduces its fee to \$11.25.

State and National CHRI Check

\$13.25	FBI fee
18.00	CJIS-CR fee
<u>20.00</u>	Fingerprinting fee
\$51.25	Total

State Expenditures: General fund expenditures increase *significantly* beginning in fiscal 2023 for the State to establish and maintain a database and for additional staff at DHS and DPSCS.

Department of Public Safety and Correctional Services

DPSCS advises that the development of a database that meets the bill's requirements likely takes at least two years to fully develop. Contractual costs associated with the database development are estimated at more than \$3.0 million (assumed to occur between fiscal 2023 and fiscal 2024).

In addition, a new unit within DPSCS needs to be established in order to manage the database and its ongoing operations. For purposes of this fiscal and policy note, it is assumed that the database has enough functionality to allow for the unit's creation by October 1, 2023, and that DPSCS requires, *at a minimum*, one administrator and five clerks. The unit will respond to requests for information from authorized entities involved in the volunteer approval process and oversee the ongoing additions to the database as new volunteers are added (as well as updating the information that will be included in the database, such as updated child abuse and neglect clearances every 36 months once required regulations are adopted).

Accordingly, general fund expenditures increase by a *minimum* of \$439,791 in fiscal 2024 for staff. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	6.0
Salaries and Fringe Benefits	\$395,709
Operating Expenses	<u>44,082</u>
Minimum FY 2024 DPSCS Staff Expenditures	\$439,791

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. The estimate shown above is limited to minimum staffing-related expenditures (and does not account for costs associated with the ongoing development of the database in fiscal 2024).

Department of Human Services

General fund expenditures increase, potentially significantly, beginning in fiscal 2023 to account for the additional workload anticipated once DHS has to respond to an increased volume of requests for child abuse and neglect clearances from volunteers. For each additional clerk required, general fund expenditures increase by approximately \$56,400 in fiscal 2023 and by approximately \$68,000 annually thereafter. Based on information

prepared by DHS, up to 10 clerks and a supervisor may be required, with estimated expenditures of approximately \$654,000 in fiscal 2023 and more than \$765,000 on an annual basis.

Small Business Effect: Small businesses that utilize volunteers who work with children may incur additional costs to the extent they reimburse volunteers for required criminal history records checks. Small businesses may also incur minimal administrative costs to ensure that volunteers are in compliance with the bill's requirements.

Additional Comments: According to DPSCS, although the bill specifies that the information in the database is to be accessible to those involved in the volunteer approval process and the individual who is the subject of the information, federal regulations prohibit CHRI from being disseminated to a private entity. As such, even if this bill were to be enacted with the intent of a national background check being sent to any entity with volunteers working with children, legally it would not be permissible.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Montgomery and Prince George's counties; Maryland Association of Counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of Human Services; Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of Natural Resources; St. Mary's County Public Schools; Department of Legislative Services

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