

## Chapter 144

**(House Bill 1300)**

AN ACT concerning

**Family Law – Child Care – Criminal Background Investigations**

FOR the purpose of altering provisions relating to criminal background investigations for certain individuals who care for or supervise children; requiring certain facilities to apply to the Central Repository for a national and State criminal history records check for each employee, employer, individual, or volunteer; and generally relating to child care and criminal background investigations.

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 5–550 through 5–554, 5–554.1, and 5–559  
Annotated Code of Maryland  
(2019 Replacement Volume and 2022 Supplement)

BY repealing  
Article – Family Law  
Section 5–555  
Annotated Code of Maryland  
(2019 Replacement Volume and 2022 Supplement)

BY adding to  
Article – Family Law  
Section 5–555  
Annotated Code of Maryland  
(2019 Replacement Volume and 2022 Supplement)

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

**Article – Family Law**

5–550.

(a) In this Part V of this subtitle the following words have the meanings indicated.

**(B) “AUTHORIZED AGENCY” MEANS A STATE, COUNTY, OR MUNICIPAL GOVERNMENT AGENCY.**

**(C) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT.**

**[(b)] (D)** “Conviction” means a plea or verdict of guilty or a plea of nolo contendere.

**(E) “CRIMINAL HISTORY RECORDS CHECK” MEANS A RECORDS CHECK OF THE CRIMINAL HISTORY RECORD INFORMATION MAINTAINED BY THE CENTRAL REPOSITORY OR THE FEDERAL BUREAU OF INVESTIGATION.**

**[(c)] (F)** “Department” means the Department of Public Safety and Correctional Services.

**[(d)] (G)** (1) “Employee” means a person that for compensation is employed to work in a facility identified in § 5–551 of this subtitle and who:

(i) cares for or supervises children in the facility; or

(ii) has access to children who are cared for or supervised in the facility.

(2) “Employee” includes [a person who]:

(i) **A PERSON WHO:**

**1.** participates in a pool described in subsection **[(e)(2)] (H)(2)** of this section;

**[(ii)] 2.** for compensation will be employed on a substitute or temporary basis to work in a facility identified in **[§ 5–551(b)(1) or (2)] § 5–551(A)(1) OR (2)** of this subtitle; and

**[(iii)] 3.** will care for or supervise children in the facility or will have access to children who are cared for or supervised in the facility; **AND**

**(II) A CONTRACTOR OR SUBCONTRACTOR WHO WILL HAVE DIRECT, UNSUPERVISED, AND UNCONTROLLED ACCESS TO CHILDREN IN A FACILITY IDENTIFIED IN § 5–551(A) OF THIS SUBTITLE.**

(3) “Employee” does not include any person employed to work for compensation by the Department of Juvenile Services.

**[(e)] (H)** (1) “Employer” means an owner, operator, proprietor, or manager of a facility identified in § 5–551 of this subtitle who has frequent contact with children who are cared for or supervised in the facility.

(2) For purposes of [§§ 5-551(g), 5-554(a)(2)(i) and (c)(1)(i) and (2)] **§§ 5-551(F), 5-554(1), 5-555(B) AND (E)**, and 5-557 of this subtitle, “employer” includes a child care resource and referral center, an association of registered family child care providers, and an association of licensed child care centers to the extent that the center or association establishes and maintains a pool of individuals who are qualified to work as substitute or temporary employees in a facility identified in [§ 5-551(b)(1) or (2)] **§ 5-551(A)(1) OR (2)** of this subtitle.

(3) “Employer” does not include a State or local agency responsible for the temporary or permanent placement of children in a facility identified in § 5-551 of this subtitle.

**(I) “LOCAL DEPARTMENT” HAS THE MEANING STATED IN § 1-101(H) OF THIS ARTICLE.**

[(f)] **(J)** “Private entity” means a nongovernmental agency, organization, or employer.

[(g)] **(K)** “Secretary” means the Secretary of Public Safety and Correctional Services.

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)] **(A)** 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)] **(B)** 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)] (C)** An employer at a facility under subsection **[(b)] (A)** of this section may require a volunteer at the facility to obtain a criminal history records check under this Part V of this subtitle.

**[(e)] (D)** A local department may require a volunteer of that department who works with children to obtain a criminal history records check under this Part V of this subtitle.

**[(f)] (E)** An employer at a facility not identified in subsection **[(b)] (A)** 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)] (F)** An employer, as defined in **[\\$ 5-550(e)(2)] § 5-550(H)(2)** of this subtitle, shall require an employee, as defined in **[\\$ 5-550(d)(2)] § 5-550(G)(2)** of this subtitle, to obtain a criminal history records check under this Part V of this subtitle.

**[(h)] (G)** (1) 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.

(2) A volunteer under subsection [(d), (e), or (f)] **(C), (D), OR (E)** 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] **REQUIRED TO PAY ONLY THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

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

(2) The local department shall reimburse:

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

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

5–552.

(a) **[(1)]** On or before the 1st day of actual employment **OF AN EMPLOYEE**, [an employee] **A FACILITY IDENTIFIED IN § 5–551 OF THIS SUBTITLE** shall apply to the Department for a [printed statement] **NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK FOR AN EMPLOYEE.**

**[(2)] (B)** On or before the 1st day of actual operation of a facility identified in § 5–551 of this subtitle, an employer shall apply to the Department for a [printed statement] **NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK.**

**[(3) (i)] (C)** Before an individual may be approved 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, the individual shall apply to the Department for a [printed statement] **NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK.**

[(ii) An individual who was approved before January 1, 2014, to provide informal child care and who intends to continue providing informal child care on or after that date has until June 30, 2014, to apply to the Department for a printed statement.]

[(4) (D) Within 5 days after a local department places a child who is committed to the local department with an adult relative, an individual identified in [§ 5-551(c) or (e)] **§ 5-551(B) OR (D)** of this subtitle shall apply to the Department for a [printed statement] **NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK.**

[(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) 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] **THE** employee, employer, and individual identified in [§ 5-551(c), (d), (e), or (f)] **§ 5-551(B), (C), (D), OR (E)** 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) 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) (1) employers to verify periodically the continuing employment of an employee and the continuing assignment of a volunteer;

[(ii) (2) State or local agencies that license, register, approve, or certify any of the facilities identified in [§ 5–551(b)] § 5–551(A) 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)] § 5–551(D) of this subtitle; and

[(iii) (3) child placement agencies that place a child as described in [§ 5–551(c)] § 5–551(B) of this subtitle to verify periodically the continuing participation or presence of individuals identified in [§ 5–551(c)] § 5–551(B) 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.

(b) (1) The Department shall provide an initial and a revised statement of the applicant’s State criminal record to:

(i) the recipients of the printed statement specified in subsection (c) of this section; and

(ii) the State Department of Education if the applicant is:

1. an employee of, or an adult resident in, a child care center that is required to be licensed or to hold a letter of compliance under Title 9.5, Subtitle 4 of the Education Article;

2. an employee of, or an adult resident in, a family child care home or large family child care home that is required to be registered under Title 9.5, Subtitle 3 of the Education Article; or



3. an individual who provides or agrees to provide informal child care or an adult who resides in a home where informal child care is being provided or will be provided to a child who does not reside there.

(2) The Department shall distribute the printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

(c) (1) Upon completion of the criminal history records check of an employee, the Department shall submit the printed statement to:

(i) the employee's current or prospective employer at the facility or program;

(ii) the employee; and

(iii) for an employee of a child care center that is required to be licensed or to hold a letter of compliance under Title 9.5, Subtitle 4 of the Education Article or an employee of a family child care home that is required to be registered under Title 9.5, Subtitle 3 of the Education Article, the State Department of Education.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, upon receiving a written request from an employee, the Department shall submit the printed statement to additional employers, if the criminal history records check was completed during the prior 180 days.

(ii) Upon receiving a written request from a student teacher employed under § 6–107 of the Education Article, the Department shall submit the printed statement to additional employers if the criminal history records check was completed during the prior 365 days.

(3) Upon completion of the criminal history records check of an employer, the Department shall submit the printed statement to:

(i) the appropriate State or local agency responsible for the licensure, registration, approval, or certification of the employer's facility; and

(ii) the employer.

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

(5) A printed statement issued under this section is valid in any county in the State.

(d) 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 and to the participants in the hiring or approval process.

(e) 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.

(f) 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.]

#### 5-554.1.

The State Department of Education shall conduct a cross-reference check, including cross-referencing the individual and the individual's address, with the central registry of registrants transmitted weekly by the Department under § 11-713 of the Criminal Procedure Article, of:

(1) an employee, employer, or individual identified in [§ 5-551(b)(1), (b)(2), or (c)(5)(i)] **§ 5-551(A)(1) OR (2) OR (B)(5)(I)** of this subtitle; and

(2) an individual who provides or agrees to provide informal child care, as defined in child care subsidy regulations adopted under Title 13A of the Code of Maryland Regulations.

#### [5-555.

An individual may contest the finding of a criminal conviction, a probation before judgment disposition, a not criminally responsible disposition, or pending charge reported in a printed statement in accordance with §§ 10-223 through 10-228 of the Criminal Procedure Article.]

#### **5-555.**

**(A) THE DEPARTMENT SHALL CONDUCT THE CRIMINAL HISTORY RECORDS CHECKS REQUIRED UNDER THIS PART V OF THIS SUBTITLE.**

**(B) (1) THE FACILITIES IDENTIFIED IN § 5-551(A) OF THIS SUBTITLE SHALL APPLY TO THE CENTRAL REPOSITORY FOR A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK FOR EACH EMPLOYEE, EMPLOYER, INDIVIDUAL, OR VOLUNTEER.**

**(2) AS PART OF AN APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, A FACILITY IDENTIFIED IN § 5-551(A) OF THIS SUBTITLE SHALL SUBMIT TO THE CENTRAL REPOSITORY:**

**(I) A LEGIBLE SET OF THE EMPLOYEE'S, EMPLOYER'S, INDIVIDUAL'S, OR VOLUNTEER'S FINGERPRINTS TAKEN IN A FORMAT APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;**

**(II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND**

**(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

**(3) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-229 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD THE EMPLOYEE'S, EMPLOYER'S, INDIVIDUAL'S, OR VOLUNTEER'S CRIMINAL HISTORY RECORD INFORMATION TO:**

**(I) THE EMPLOYEE, EMPLOYER, INDIVIDUAL, OR VOLUNTEER;**  
**AND**

**(II) THE AUTHORIZED AGENCIES REQUIRED TO LICENSE, REGISTER, APPROVE, OR CERTIFY THE FACILITY IDENTIFIED IN § 5-551(A) OF THIS SUBTITLE.**

**(C) THE DEPARTMENT SHALL UPDATE AN INITIAL CRIMINAL HISTORY RECORDS CHECK FOR AN EMPLOYEE, EMPLOYER, OR INDIVIDUAL IDENTIFIED IN § 5-551(B), (C), (D), OR (E) OF THIS SUBTITLE AND ISSUE AN UPDATED RECORDS CHECK IN ACCORDANCE WITH THIS SUBSECTION.**

**(D) THE DEPARTMENT SHALL PROVIDE AN APPLICANT'S INITIAL AND UPDATED STATE CRIMINAL HISTORY RECORD TO:**

**(1) THE RECIPIENTS OF THE STATE CRIMINAL HISTORY RECORD SPECIFIED IN SUBSECTION (E) OF THIS SECTION; AND**

**(2) THE STATE DEPARTMENT OF EDUCATION IF THE APPLICANT IS:**

**(I) AN EMPLOYEE OF OR AN ADULT RESIDENT IN A CHILD CARE CENTER THAT IS REQUIRED TO BE LICENSED OR TO HOLD A LETTER OF COMPLIANCE UNDER TITLE 9.5, SUBTITLE 4 OF THE EDUCATION ARTICLE;**

**(II) AN EMPLOYEE OF OR AN ADULT RESIDENT IN A FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD CARE HOME THAT IS REQUIRED TO BE REGISTERED UNDER TITLE 9.5, SUBTITLE 3 OF THE EDUCATION ARTICLE; OR**

**(III) AN INDIVIDUAL WHO PROVIDES OR AGREES TO PROVIDE INFORMAL CHILD CARE OR AN ADULT WHO RESIDES IN A HOME WHERE INFORMAL CHILD CARE IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE.**

**(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON RECEIVING A WRITTEN REQUEST FROM AN EMPLOYEE, THE DEPARTMENT SHALL DISSEMINATE THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK TO AUTHORIZED AGENCIES IF THE CRIMINAL HISTORY RECORDS CHECK WAS COMPLETED DURING THE PRIOR 180 DAYS.**

**(2) ON RECEIVING A WRITTEN REQUEST FROM A STUDENT TEACHER EMPLOYED UNDER § 6-107 OF THE EDUCATION ARTICLE, THE DEPARTMENT SHALL DISSEMINATE THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK TO AUTHORIZED AGENCIES IF THE CRIMINAL HISTORY RECORDS CHECK WAS COMPLETED DURING THE PRIOR 365 DAYS.**

**(F) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBTITLE:**

**(1) IS CONFIDENTIAL;**

**(2) MAY NOT BE DISSEMINATED; AND**

**(3) MAY BE USED ONLY FOR THE PURPOSES AUTHORIZED BY THIS SUBTITLE.**

**(G) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SUBTITLE MAY CONTEST THE CONTENTS OF THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.**

5-559.

(a) In this section, “emergency out-of-home placement” means an out-of-home placement in which a local department places a child in the home of a private individual, including a neighbor, friend, or relative, as a result of a sudden unavailability of the child’s primary caretaker.

(b) (1) If a child is placed in an emergency out-of-home placement, a local department may request that a designated State or local law enforcement agency in the State [or other location approved by the Department] perform a federal name-based check on any individual described in [§ 5-551(c)(4), (5)(iii), and (7)(ii)] **§ 5-551(B)(4), (5)(III), AND (7)(II)** of this subtitle.

(2) The designated agency described in paragraph (1) of this subsection may provide the results of the name-based check to the local department.

(3) Within 15 calendar days after the local department receives the results of the name-based check, the local department shall submit a complete set of fingerprints to the Department for each individual described in paragraph (1) of this subsection on whom a name-based check was performed.

(4) Within 15 calendar days [after the date on which the name-based check was performed] **AFTER THE NAME-BASED CHECK**, the Department shall perform a criminal history records check, in accordance with [§ 5-554] **§ 5-555** of this subtitle.

(c) A child shall be removed immediately from an emergency out-of-home placement if any individual required to submit to a name-based check [fails to comply with this section] **REFUSES TO SUBMIT THE FOLLOW-UP FINGERPRINTS**.

(d) When the placement of a child in a home is denied as a result of a name-based criminal history records check of an individual and the individual contests that denial, the individual shall submit to the local department:

(1) a complete set of fingerprints; and

(2) written permission allowing the local department to forward the fingerprints to the Department for submission to the Federal Bureau of Investigation.

(e) An individual who is required to submit to a criminal history records check under this section shall pay the fees required under [§ 5-551(h)] **§ 5-551(G)** of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act. The publisher shall adequately describe any correction that is made in an editor’s note following the section affected.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

**Approved by the Governor, April 24, 2023.**