

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 708

(Chair, Judicial Proceedings Committee)(By Request -
 Departmental - Health)

Judicial Proceedings

Judiciary

**Public Health - Youth Camps, Development Organizations, and Programs -
 Criminal History Records Checks**

This departmental bill requires the Maryland Department of Health (MDH) to apply to the Criminal Justice Information System Central Repository for State and national criminal history records checks (CHRC) for individuals seeking to become a youth camp owner, operator, employee, or volunteer who will have access to a camper. Within three business days after receiving a request from the operator of a youth camp, MDH must issue a written determination to the youth camp whether the results would provide a basis for prohibiting the hiring of the applicant. The bill also repeals the definition of – and eliminates references to – a “youth development organization or program” and makes other conforming changes.

Fiscal Summary

State Effect: MDH general fund expenditures increase by an estimated \$172,000 in FY 2024, as discussed below. Future years reflect annualization and elimination of one-time costs. MDH general fund revenues increase by an indeterminate amount beginning in FY 2024 due to existing authority to charge a fee to cover the cost of CHRCs.

| (in dollars) | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
|----------------|-----------|-----------|-----------|-----------|-----------|
| GF Revenue | - | - | - | - | - |
| GF Expenditure | \$172,000 | \$182,100 | \$189,800 | \$197,900 | \$207,200 |
| Net Effect | (\$-) | (\$-) | (\$-) | (\$-) | (\$-) |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: MDH has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: MDH must screen an individual who is seeking to become a youth camp owner, operator, employee, or volunteer who will have access to a camper by obtaining a State and national CHRC for that individual from the Central Repository. To obtain a CHRC, a complete set of an applicant's legible fingerprints must be sent to the Central Repository, along with the required State and national fees.

The Central Repository must forward the applicant's criminal history record information to MDH and the applicant. The information received from the Central Repository (1) is confidential; (2) may not be redisseminated; and (3) may be used only for screening prospective youth camp personnel. An applicant may contest the contents of the printed statement containing their criminal history record information issued by the Central Repository.

If criminal history record information is reported to the Central Repository after the date of an applicant's initial CHRC, the Central Repository must provide MDH with the applicant's revised criminal history record information.

Current Law: MDH is responsible for monitoring, inspecting, and certifying youth camps in the State. "Youth camp" means any day camp, residential camp, travel camp, or trip camp that (1) accommodates at least seven campers who are unrelated to the person operating the camp; (2) provides primarily recreational activities or has a substantial outdoor recreational component; (3) has permanent buildings, temporary buildings, or no buildings; and (4) operates on owned or leased private property or facilities or public property or facilities.

State regulations require that a youth camp personnel administrator have a completed national and State CHRC and a Child Protective Services background clearance on file with the employer. A youth camp operator may not employ an individual who, as reported on or after October 1, 2005, has received a conviction, a probation before judgment (PBJ) disposition, a not criminally responsible (NCR) disposition, or a pending charge for the commission or attempted commission of specified crimes and offenses, including (1) a crime involving a child, cruelty to animals, domestic violence, or a weapon or firearm violation; (2) a sex offense; (3) a violent crime classified as a felony; (4) abduction or kidnapping; (5) abuse of a child or an adult; (6) confinement of an unattended child; (7) manufacturing, distributing, or dispensing a controlled dangerous substance (CDS), or possession with intent to manufacture, distribute, or dispense a CDS; (8) perjury; (9) pornography; or (10) reckless endangerment.

If, as reported on or after October 1, 2005, an individual has been identified as responsible for child abuse or neglect or received a conviction, a PBJ disposition, an NCR disposition,

or a pending charge for the commission or attempted commission of a crime or offense that is not specified above, the operator must assess, on the basis of specified factors, the individual's suitability for employment. Specifically, the operator must consider:

- the job position at the camp for which the individual is applying or for which the individual is currently employed;
- the nature and seriousness of the incident, crime, or offense;
- the period of time that has elapsed since the incident, crime, or offense, and the age of the individual at the time the incident, crime, or offense occurred;
- the individual's probation or parole status; and
- any other information that the camp considers pertinent.

Chapter 186 of 2022 specifies that the operator of a youth camp or youth development organization or program, prior to making a formal offer of employment to a job applicant, may request that MDH provide a determination as to whether the results of a federal CHRC would be the basis for prohibiting the hiring of the applicant. On receipt of a request, MDH must issue a written determination to the youth camp (or youth development organization or program) as to whether the results of a federal CHRC would be the basis for prohibiting the hiring of the applicant. A determination issued by MDH is binding unless the applicant has subsequently been convicted of a crime, has pending criminal charges, or has previously undisclosed criminal convictions. MDH may set a reasonable fee to cover the cost of a CHRC.

State Fiscal Effect:

Expenditures

MDH estimates that approximately 18,000 camp staff are hired annually in the State. Based on this estimate, it is assumed that MDH must handle CHRCs for at least 18,000 applicants annually under the bill. MDH advises that a regular administrator and regular office clerk are needed, respectively, to oversee the CHRC process and the hiring, supervision, and training of seasonal contractual staff. According to MDH, temporary contractual employees are needed during each summer camp season (March through August) to assist the department in vetting CHRCs for youth camp employment applicants. DLS concurs with MDH regarding the necessity of temporary contractual staff but advises that a regular administrator should have the capacity to handle both the administration of the CHRC process and the management of temporary contractual staff.

Accordingly, MDH general fund expenditures increase by \$172,030 in fiscal 2024, which accounts for the bill's October 1, 2023 effective date. This estimate reflects the cost of hiring one regular, full-time administrator to oversee the CHRC process for youth camps,

two temporary contractual staff for four months the first fiscal year (but six months annually thereafter) to assist MDH in vetting CHRCs during the summer camp season, and six additional temporary contractual staff for three months each year (April through June) to assist in vetting CHRCs during the peak hiring period for summer camps (and ensure that MDH can provide written determinations within three business days). The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. To the extent that MDH requires additional staff to handle the bill's requirements, general fund expenditures increase further.

| | |
|--|------------------|
| Regular Position | 1.0 |
| Contractual Positions | 8.0 |
| Regular Salary and Fringe Benefits | \$62,802 |
| Contractual Salaries and Fringe Benefits | 63,054 |
| Operating Expenses | <u>46,174</u> |
| Total FY 2024 State Expenditures | \$172,030 |

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act. Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

DLS notes that personnel costs (for one half-time (50%) regular administrator and five temporary contractual staff) were accounted for in the fiscal and policy note for Chapter 186. However, MDH advises that it was not provided any funding or positions based on that legislation. Thus, DLS assumes that MDH requires additional personnel under this bill.

Revenues

MDH is authorized under current law to set a reasonable fee to cover the cost of a CHRC for youth camp applicants. Thus, beginning in fiscal 2024, MDH general fund revenues increase to the extent the department sets and collects a fee. DLS advises that, assuming MDH receives 18,000 applications for CHRCs annually, a fee of \$10.00 per applicant would cover projected MDH expenditures in fiscal 2024 and 2025. A fee of \$11.00 would cover costs in fiscal 2026 and 2027, and a fee of \$12.00 would cover costs in fiscal 2028.

Additional Comments: Although the bill requires MDH to issue a written determination regarding the hiring of an applicant within three days of receiving *a request from a youth camp*, this analysis assumes that MDH must issue a written determination within three business days of receiving *the results of the applicant's CHRC*.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2023
km/jc Third Reader - April 4, 2023
Revised - Amendment(s) - April 4, 2023

Analysis by: Ralph W. Kettell

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Health - Youth Camps, Development Organizations, and Programs - Criminal History Records Checks

BILL NUMBER: SB708

PREPARED BY: Maryland Department of Health – PHPA – Environmental Health Bureau

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Currently, MDH is not involved in the background check process, other than for the personnel administrators. The additional staffing would allow MDH to review and process background checks once the agency receives legal authorization to receive background checks.

MDH estimates 18,000 youth camp staff are hired annually who require background checks, based on information from the camping community. There is no better way of estimating the number, because to date, MDH has not been involved in the background check process except as it pertains to the personnel administrators for each camp.

MDH estimates it will need 10 full-time temporary emergency staff (Office Clerk II) for six months around each camp season. In addition, MDH will need a 1.0 FTE Administrator I and 1.0 FTE Office Clerk II to design and oversee the criminal history record check process, as well as to hire, supervise, and train the Office Clerks each year. MDH anticipates that a determination for returning staff will take less time, however MDH anticipates increases in the overall number of camps and camp staff year after year in Maryland.

The salary and fringe for State Fiscal Year 2023 is \$218,547 with associated operating costs of \$94,270 and Salesforce licenses at \$18,000. The total cost to MDH for State Fiscal Year 2023 is \$330,817.