

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 381

(Delegate Hill, *et al.*)

Health and Government Operations

Finance

State Board of Examiners in Optometry - Criminal History Records Checks

This bill requires an applicant for an initial license or limited license to practice optometry from the State Board of Examiners in Optometry to submit to a criminal history records check (CHRC). On the first application for renewal of a license submitted on or after January 1, 2026 by an applicant whose initial license was issued prior to October 1, 2024, the applicant must also submit satisfactory evidence of having completed a CHRC. An applicant must obtain a State and national CHRC from the Criminal Justice Information System Central Repository (CJIS-CR) in the Department of Public Safety and Correctional Services (DPSCS). CJIS-CR must forward the individual's criminal history record information (CHRI) to the board and the individual. The board must consider certain specified elements in determining whether to grant a license upon receipt of an individual's CHRI.

Fiscal Summary

State Effect: Processing of CHRC results can be handled by the board with existing budgeted resources. Any additional payments to CJIS-CR for CHRCs are anticipated to cover the costs associated with the additional checks.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Information obtained from CJIS-CR is confidential, may not be disseminated, and must be used only for licensing purposes authorized under the bill. The

subject of a CHRC under the bill may contest the contents of the CHRC as specified. If the CHRI is reported to CJIS-CR after the date of the initial CHRC, CJIS-CR must provide the board and the individual a revised CHRI.

As part of an application to obtain a CHRC from CJIS-CR, an applicant must complete and submit: (1) a complete set of legible fingerprints taken in a format approved by the Director of CJIS-CR and the director of the Federal Bureau of Investigation (FBI); (2) the applicable fee for access to Maryland criminal history records; and (3) the mandatory processing fee required by the FBI for a national CHRC.

On receipt of the CHRI of an applicant for licensure, in determining whether to grant a license, the board must consider (1) the age at which the crime was committed; (2) the nature of the crime; (3) the circumstances surrounding the crime; (4) the length of time that has passed since the crime; (5) subsequent work history; (6) employment and character references; and (7) other evidence that demonstrates whether the applicant poses a threat to public health or safety.

Current Law: The State Board of Examiners in Optometry is responsible for licensing individuals to practice optometry in the State, regulating the practice of optometry, investigating alleged violations of the Maryland Optometry Act, and taking disciplinary actions where warranted.

In general, to qualify for a license, an applicant must be of good moral character, be at least 18 years old, meet certain educational criteria, and pass an examination given by the board. Licenses may be renewed upon expiration for a term no longer than two years provided the licensee is otherwise entitled to be licensed, pays the renewal fee, and submits a renewal application including satisfactory evidence of compliance with continuing education requirements as specified. Under certain specified circumstances, the board may waive the examinations requirements and issue a limited license for one year to practice optometry to certain individuals.

All but four of Maryland's health occupations boards currently require at least a State CHRC either as part of the initial licensure process or at both initial and renewal licensure. In addition to the State Board of Examiners in Optometry, the following boards do not require any CHRC: the State Acupuncture Board; the State Board of Dietetic Practice; and the State Board of Environmental Health Specialists.

CJIS-CR collects, manages, and disseminate Maryland CHRI for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. The FBI charges a fee of \$13.25 for a national check. CJIS-CR collects the fee from the applicant and reimburses the FBI. CJIS-CR submits requests for national criminal records to the FBI electronically. When State legislation includes a national check, the FBI requires that the bill contain

certain specific language. If the FBI does not approve the language of an enacted bill, national checks will not be provided.

Each individual who uses CJIS-CR to conduct a CHRC is required to pay \$51.25 for a State and national CHRC, including a \$20 fingerprinting fee, a \$13.25 FBI fee, an \$18 fee to CJIS-CR.

Additional Comments: DPSCS advises that it has already requested FBI review and approval of the language in the bill but that it cannot give a timeline for approval. The Department of Legislative Services notes that the language in the bill is consistent with existing statutory language regarding CHRCs for other health occupations boards.

Additional Information

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

Designated Cross File: SB 175 (Senator Augustine) - Finance.

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

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