

**Department of Legislative Services**  
 Maryland General Assembly  
 2024 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 175

(Delegate Harrison)

Economic Matters

Finance and Education, Energy, and the  
 Environment

**Occupational Licensing and Certification - Criminal History - Predetermination  
 Review Process**

This bill establishes a predetermination review process under which an individual can request specified departments of State government to review the individual’s criminal history to determine whether that criminal history would disqualify the individual from obtaining the occupational license or certificate being sought. A department may charge a fee of up to \$100 to conduct a criminal history review under this process, but the fee must be waived if the individual’s income is at or below 300% of the federal poverty level, as determined by the District Court. The bill also repeals statutory provisions that prohibit a department from denying an occupational license or certificate to the applicant solely on the basis that the applicant was previously convicted of a crime if at least seven years have passed since the applicant finished serving the sentence.

**Fiscal Summary**

**State Effect:** Special fund expenditures for the Maryland Department of Labor (MDL) and the Maryland Department of Agriculture (MDA) increase by \$289,800 in FY 2025. Future years reflect annualization and inflation. General fund/special fund expenditures for the Maryland Department of Health (MDH) and the Department of Public Safety and Correctional Services (DPSCS) also increase by an indeterminate amount (not shown in table), as discussed below. The bill has an indeterminate, but overall minimal, effect on general fund and special fund revenues, as discussed below.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
GF/SF Rev.	(-)/-	(-)/-	(-)/-	(-)/-	(-)/-
GF/SF Exp.	\$289,800	\$209,800	\$213,700	\$217,700	\$221,800
Net Effect	(-)	(-)	(-)	(-)	(-)

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

**Local Effect:** The bill does not materially affect local government finances or operations.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary/Current Law:** Under current law and the bill, “department” means MDA; the Maryland Department of the Environment (MDE); MDH; the Department of Human Services (DHS); MDL; or the DPSCS. “Department” includes any unit of these departments.

With the exception of a crime of violence, as defined in § 14-101 of the Criminal Law Article and a crime for which registration on the sex offender registry is required, if at least seven years have passed since an applicant completed serving the sentence for a crime, including all imprisonment, mandatory supervision, probation, and parole, and the applicant has not been charged with another crime other than a minor traffic violation during that time, a department may not deny an occupational license or certificate to the applicant solely on the basis that the applicant was previously convicted of the crime. The bill repeals these provisions.

The bill authorizes an individual to file a request with a department for review of the individual’s criminal history to determine whether that criminal history would disqualify the individual from obtaining the occupational license or certificate being sought. This predetermination must be binding on the department unless there is a subsequent direct and material adverse change to the individual’s criminal history. If, during this predetermination process, a department determines that an occupational license or certificate would be denied to the individual, the department must, if applicable, advise the individual of actions that may be taken to remedy the disqualification. An individual may submit a revised request for a predetermination to the department that includes the completion of any recommended remedial actions. An individual may submit a revised predetermination request the earlier of one year after the individual received the initial predetermination or on completion of the department’s recommended remedial actions.

**State Fiscal Effect:** As discussed below, special fund expenditures for MDH increase by an indeterminate amount for health occupations boards to implement the bill. General fund expenditures for DPSCS increase by an indeterminate amount for implementation. Special fund expenditures for MDA increase by \$25,150 in fiscal 2025, and special fund expenditures for MDL increase by \$264,650 in fiscal 2025. The overall effect of predetermination reviews on State revenues (special fund and general fund) is unclear at this time and depends on revenues from background check fees and the bill’s effect on applications for licensing and certification. Should reviews and advice from licensing entities result in otherwise reluctant applicants filing applications, revenues increase; if predetermination reviews discourage individuals from applying for licensing or

certification, application fee revenues decrease. This analysis assumes that the implementation costs for affected agencies exceeds background check fee revenues.

### *Maryland Department of Health*

Special fund expenditures for MDH professional occupations boards increase by an indeterminate amount. Expenditures for these boards depends on the number of potential applicants for licenses and certifications who opt for MDH predetermination criminal history reviews. MDH did not provide adequate information on how it developed its projections on requested reviews (which cannot be reliably quantified at this time) and the corresponding need for personnel. Thus, while additional resources may be needed to implement the bill, any associated expenditures are not quantified in this analysis. However, additional information regarding MDH-licensing activity and potential expenditures as estimated by MDH is provided below for context.

The Maryland Board of Physicians (MBP) and Maryland Board of Nursing (MBON) consider additional factors when determining whether to issue a license to an applicant with a criminal history, including the applicant's age at the time the crime was committed, the nature of the crime, the circumstances surrounding the crime, the length of time that has passed since the crime, subsequent work history, employment and character references, and other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

MBP processed 7,911 criminal history records checks (CHRCs) in fiscal 2022; 166 of these checks (2%) were positive, and no one was denied a license due to a positive criminal history records check. In fiscal 2023, MBON processed 16,000 CHRCs; only 2.5% were positive. Of those approximately 400 positive background checks, MBON only denied one license/certificate.

MBP advises that implementation of the bill requires additional staff to process predetermination applications (approximately 700 per year) and to provide counsel in predetermination cases; updates to its licensing system are also anticipated. MBP estimates costs for implementation, including additional staff (one compliance analyst and one part-time assistant Attorney General), at \$140,898 in fiscal 2025 and increasing to \$177,680 by fiscal 2029. This estimate also includes additional costs of \$25,000 in fiscal 2025 only to update its database and \$25,000 annually beginning in fiscal 2026 for administrative hearings for applicants appealing the predeterminations. MBP can use existing resources to promulgate regulations and develop the procedures for processing predetermination applications.

MBP also anticipates fewer licensure applicants due to negative predetermination reviews. According to MBP, even with the anticipated \$7,000 in annual predetermination

application revenues, the board estimates a 0.10% loss in annual revenues (approximately \$10,500) from license application fees.

MBON advises that implementation of the bill requires at least five administrative specialists for collecting and reviewing all documents submitted by the potential applicants, verifying verbal attestations provided at the time of inquiry, communicating with court clerks regarding missing information, and providing guidance to potential applicants on what further information is needed for the predetermination review. The employees would additionally need to prepare the background review case and present the collected information to MBON and internal committees. MBON estimates costs for these positions at \$277,359 in fiscal 2025 and increasing to \$363,270 by fiscal 2029.

*Department of Public Safety and Correctional Services*

DPSCS advises that it does not anticipate a fiscal impact from the bill. However, regarding legislation that required an identical criminal history predetermination process (along with other extensive provisions restricting the use of criminal history in the issuance of occupational licenses or certifications and prohibiting disclosures of criminal history by applicants), DPSCS advised that it would need three background investigators and two administrative employees to address additional workloads, including follow-up background investigations related to reconsideration when an application for certification has been denied by the Police Training and Standards Commission or the Correctional Training Commission. The cost associated with these positions was approximately \$292,000 in fiscal 2025 and exceeded \$350,000 in subsequent years. ***DPSCS did not respond to a request for further explanation of its fiscal estimate for this bill.*** Thus, this estimate assumes that general fund expenditures for DPSCS increase, at least minimally, to implement the bill.

*Maryland Department of Agriculture*

Special fund expenditures for the State Board of Veterinary Medical Examiners increase by \$25,150 in fiscal 2025, which reflects the bill's October 1, 2024 effective date. It includes one-time costs to create to create/upgrade an online portal to allow for an online application and fee collection process and \$200 in annual expenditures to conduct predetermination criminal background checks.

*Maryland Department of Labor*

Special fund expenditures increase by \$264,650 in fiscal 2025, which accounts for the bill's October 1, 2024 effective date. This estimate reflects the cost of hiring one contractual employee to manage administrative functions for the predetermination process (including

salary, fringe benefits, one-time start-up costs, and ongoing operating expenses associated with the employee), as well as legal fees and one-time computer programming.

Contractual Position	1.0
Salary and Fringe Benefits	\$41,894
Legal Fees	115,500
Computer Programming	100,000
Other Operating Expenses	<u>7,256</u>
<b>MDL – FY 2025 SF Expenditures</b>	<b>\$264,650</b>

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

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.

MDL’s Division of Occupational and Professional Licensing processes over 110,000 licenses each year. According to MDL, if 0.5% (550) of applicants request a predetermination review of their criminal history, the costs for legal fees associated with these reviews total \$154,000 annually and one administrative support position will be required to manage administrative functions for the process. The bill’s provisions also necessitate an upgrade to MDL’s application system, which handles 250 different applications for boards and commissions, at a cost of \$100,000 in fiscal 2025.

#### *Office of Administrative Hearings*

The Office of Administrative Hearings (OAH) advises that it conducts several types of hearings related to occupational licenses or certificates. In some cases, administrative law judges (ALJs) review evidence including criminal histories. Although unable to determine the number of additional hearings generated by the bill, OAH does not anticipate a fiscal impact at this time. However, OAH advises that it needs to train its ALJs on the substantive areas of the bill, which can be accomplished with existing budgeted resources.

#### *Maryland Department of the Environment*

MDE advises that predetermination requests could exceed the number of applications MDE currently receives, and the \$100 application fee may not cover the actual costs incurred by the department. MDE further advises that the requirement that licensing agencies advise applicants on potential remedial actions may require legal review and consultation in each case, which increases MDE workloads. MDE did not provide information regarding what additional resources would be needed for full implementation of the bill.

## *Other Agencies*

DHS does not anticipate a fiscal impact from the bill. The Judiciary advises that while the bill affects District Court workloads, it cannot fully assess this impact without clarifying language in the fee waiver provision regarding who within the District Court is required to make criminal history review fee waiver determinations. The Department of Legislative Services advises that it is unlikely that the bill significantly increases District Court workloads.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see HB 906 of 2023.

**Designated Cross File:** SB 54 (Senator Carter) - Finance and Education, Energy, and the Environment.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Health; Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of the Environment; Department of Human Services; Maryland Department of Labor; Department of Public Safety and Correctional Services; Office of Administrative Hearings; Department of Legislative Services

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Analysis by: Amy A. Devadas

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