



Department of Public Safety and Correctional Services

Office of Government and Legislative Affairs

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BILL: HOUSE BILL 1269

POSITION: LETTER OF INFORMATION

EXPLANATION: This bill would expand the category of persons to include volunteers working with children required to obtain a federal and state criminal background check. The bill also seeks to require the Department of Public Safety and Correctional Services (Department) to maintain a centralized confidential database of volunteers who work with children.

Comments:

- The Department houses the Information Technology and Communications Division (ITCD) which provides automated criminal justice information services for criminal justice and non-criminal justice purposes to the Department, other federal, state, and local criminal justice agencies; and authorized users among the general public.
- ITCD houses the Criminal Justice Information System (CJIS) which is the official State repository for criminal history record information (Code Criminal Procedure Article, sec. 10-213). It maintains and disseminates criminal history record information, and receives and screens applications for criminal history background checks for criminal justice, employment and licensing purposes.
- HB 1269 seeks to require the Department to disseminate State and National criminal history record information to an employer at a facility defined in §5-551 (b) for volunteers who will have contact with children. **The bill as written is unable to be implemented pursuant to federal law and regulations.**
- Any nationwide background check and its results shall be handled in accordance with the requirement of 28 Code of Federal Regulations (CFR) 20.1-20.38; 28 CFR 901.1-907.
- Currently, a national criminal history background check may only be disseminated to a State or local government agency, and NOT to a private employer.

- The Department as a criminal justice agency maintains records of individuals who have criminally offended or who have submitted their fingerprints for a background check. It does not have access and would not be entitled to access to “child abuse and neglect clearances” as these are maintained by the Department of Human Services; nor would the Department have a volunteer’s references; nor volunteers’ previous or paid positions.
- Finally, HB 1269 seeks to require the Department to maintain a confidential database of volunteers who have been approved to work with children. This is beyond the scope of the Department. Such a database should be housed with an agency that has expertise in such matters.
- However, should the Department be required to maintain the confidential database under the bill would have a significant fiscal impact. It estimates that the cost to develop and maintain a database of this magnitude would be in excess of \$5,000,000.

CONCLUSION: The Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates House Bill 1269.