

TO: House Committee on Ways and Means

BILL: House Bill (HB) 1105 Applicants for Positions Involving Direct Contact With Minors - Required Information, Review Process, and Reporting – Alterations

DATE: February 24, 2025

Position: Information

The Maryland State Department of Education (MSDE) is providing information for your consideration regarding House Bill (HB) 1105 *Applicants for Positions Involving Direct Contact With Minors - Required Information, Review Process, and Reporting – Alterations*.

Md Code, Education Article §6-113.2 establishes a process to screen public school, nonpublic school, and contracting agency applicants for employment who would have direct contact with minors. This procedure requires prospective employers to request and obtain specific documentation from an applicant's current employer and specified former employers as to whether the applicant has ever been disciplined for allegations of "child sexual abuse" or "sexual misconduct." This is referred to as an "employment history review." The implementation regulations are codified in the Code of Maryland Regulations (COMAR) 13A.07.14.

How does HB 1105 alter the existing law?

HB 1105 expands the requirements of §6-113.2 to all child care centers as defined in Education Article §9.5-101 and "youth-serving organizations," defined as "an institution, an agency, a government program, a community group, or any other entity that is responsible for the care, supervision, guidance, education, development, or training of minors, including after school programs, mentor programs, summer camps, and recreational sports leagues and teams." Additionally, HB 1105 expands the questions that employers are required to ask of previous employers and applicants when conducting the employment history review during the application process. Specifically, the bill introduces the concept of allegations of "boundary-violating behavior," which is defined as an adult behaving in a manner that:

- (i) compromises the safety and well-being of a minor;
- (ii) is exploitative or harmful to a minor; or
- (iii) is otherwise inappropriate, including unwanted physical contact, emotional manipulation or abuse, or sharing inappropriate information.

Further, HB 1105 requires applicants to electronically submit a notarized Child Protective Services (CPS) background clearance form to their prospective employer through the Department of Human Services (DHS) myDHR Web Portal. Prospective employers must similarly request this CPS background clearance from DHS to determine whether the applicant has been identified as responsible for abuse or neglect of a child in any record maintained by DHS, CPS, or any local department of social services.

Finally, HB 1105 requires all Maryland county boards to provide a report to MSDE by September 1, 2025, and annually thereafter by September 1, that includes: (1) the annual training and instruction developed and implemented for employees to implement §6-113.2; (2) the policies and procedures to screen applicants; and (3) the employee code of conduct for the county board and each nonpublic school and contracting agency in that county. The bill requires MSDE to compile a report from the information provided and submit it to the General Assembly by December 1, 2025, and annually thereafter by December 1.

Impact on the Maryland State Department of Education

Educ. §6-113.2 requires the Maryland State Department of Education (MSDE) to provide a report as to whether the applicant holds an active and valid certificate and has ever been the subject of professional discipline related to child sexual abuse or sexual misconduct. Currently, MSDE must provide this report for every applicant who will have direct contact with minors for the State's nonpublic schools (861 schools), public schools (1400 schools), and contracting agencies placing employees in Maryland schools (number unknown). MSDE provides training to employees in each of the local education agencies on how to review the State educator licensure system to determine whether the applicant is credentialed and whether disciplinary action has ever been taken against the applicant's educator credential; however, all reports to nonpublic schools and contracting agencies are completed by MSDE. In 2024, MSDE received an average of 570 report requests per month from nonpublic schools and contracting agencies.

HB 1105 expands the requirements of the law to childcare providers and youth-serving organizations. There are approximately 6,700 childcare providers in Maryland that employ approximately 70,000 people. The addition of childcare providers is estimated to increase the number of reports required to be completed by MSDE by 775% (861 nonpublic school employers plus 7,560 childcare employers).

MSDE cannot estimate how many youth-serving organizations exist in Maryland given the broad definition in HB 1105. For every additional employer, MSDE will be responsible for providing the certification information required in the law.

Additionally, §6-113.2 requires all prospective employers (county boards, nonpublic schools, contracting agencies) to report to MSDE any employer that fails to complete the employment history review form within 20 days. MSDE reviews each complaint and issues a violation letter to every employer that does not meet the requirements of the law. In the calendar year 2024, MSDE received 1,267 employer reports. With the expansion of employers required to conduct the employment history review, MSDE anticipates a significant increase in the number of employer reports received should HB 1105 be adopted.

Since the establishment of §6-113.2 in 2019, MSDE modified two existing positions to carve out job responsibilities to focus on this law. One position spends 15% of its time delegated to this work and the other is currently spending 80% of its time completing tasks associated with the law. **To accommodate the expected increase in work should HB 1105 pass, MSDE would need to employ two additional full-time administrative assistants to process requests for certification and disciplinary action status and review and process employer complaints.** MSDE does not currently have the capacity to

take on the additional responsibilities associated with HB 1105. Funds have not been included in MSDE's proposed operating/capital budget in anticipation of this legislation; thus, the MSDE does anticipate a change in the operating/capital budget as a result of HB 1105.

Impact on Childcare Providers and Youth-Serving Organizations

When §6-113.2 was enacted in 2019, it required local school systems, nonpublic schools, and contracting agencies to adjust their hiring practices, including extending the time it takes to hire an applicant for a minimum of an additional 20 days to receive the employment history review forms from previous employers. While some employers hired additional staff to handle the work associated with the law, some contracted with vendors to complete this work on their behalf. Both solutions have a fiscal impact.

Childcare providers and youth-serving organizations may not have the resources to modify their hiring practices and/or the time to extend the application process by at least 20 days. This may exacerbate the shortage in childcare and lead to a reduction of youth-serving organizations if those organizations are unable to fill positions or conduct the required review. Although the law allows employers to hire "emergent employees" while the employment history review is conducted, many if not most employers can't provide the supervision required for emergent employees.

We respectfully request that you consider this information as you deliberate House Bill 1105. Please contact Akilah Alleyne, Ph.D. (Executive Director of Government Affairs) akilah.alleyne@maryland.gov for any additional information.