

TO: Senate Judicial Proceedings Committee

BILL: House Bill (HB) 281 – Family Law - Child Care Providers - Criminal Background Investigations

DATE: April 2, 2026

POSITION: Information Only

The Maryland State Department of Education (MSDE) would like to provide updated information regarding House Bill (HB) 281 – Family Law - Child Care Providers - Criminal Background Investigations, departmental legislation from the Department of Public Safety and Correctional Services (DPSCS), and its anticipated impact.

Since January, MSDE has been in discussion with DPSCS to better understand the bill’s intent and operational implications. In the Department’s initial interpretation, MSDE noted that HB 281 would modify Family Law §5-555 to limit access to national criminal history record information (federal results) to authorized agencies, in order to bring the State of Maryland into compliance with federal distribution requirements. Under that interpretation, MSDE would have become the sole recipient of federal background check results for all nonpublic school employees statewide, estimated at approximately 22,910 employees across 863 schools based on the most recent data. This would have represented a significant shift from current practice, in which nonpublic schools receive federal results directly and conduct background checks at the point of hiring, and would have required substantial additional resources for the Department.

MSDE’s initial analysis was based on the assumption that process changes would be required to comply with the law. However, following continued discussions with DPSCS and the federal government after the bill hearing, MSDE received clarification that significantly changes the implementation requirements and fiscal impact of the bill. DPSCS informed MSDE that the Federal Bureau of Investigation (FBI) has verified that both local education agencies and nonpublic schools are authorized to receive National Background Checks directly using the ORI number assigned to their entity under the Adam Walsh Act.

On February 4th, 2026, DPSCS provided the following update to MSDE to inform this analysis:

“There is no operational need for MSDE to establish a background check screening unit unless the department chooses to assume that responsibility.

The FBI provided the following guidance in an email thread dated January 23, 2026:

‘Maryland is approved to utilize Section 153 of the Adam Walsh Act to the purpose of conducting fingerprint-based background checks of individuals employed by, under consideration for employment, or in positions that would work with or around children in...private elementary or secondary schools. Pursuant to Section 153 of the Adam Walsh Act, the FBI criminal history record

may be disseminated to a private school that meets the definition of an elementary or secondary school as defined in Title 20, United States Code (U.S.C.), Section 7801.”

On January 28, 2026, DPSCS inquired about the eligibility of these non-public schools for the RapBack service. The FBI provided the following guidance:

“A state may enroll individuals in Rap Back for Section 153 of the Adam Walsh Act when the state has been approved to do so for the specific authority/population.”

DPSCS further confirmed that the bill’s primary purpose is to codify current practice, clarifying that State criminal history checks are disseminated to private entities while national checks are sent to authorized agencies. This language was updated at the FBI’s request to ensure statutory clarity.

As a result of this clarification, the concerns raised in MSDE’s prior fiscal note and Letter of Information have been addressed. Because the bill does not prevent nonpublic schools from receiving background check information directly, MSDE does not anticipate additional costs associated with implementation.

MSDE respectfully asks the Committee to consider this updated information in its deliberations on **HB 281**. For further information, please contact Laurel Cratsley, Interim Executive Director of Government Affairs, at 443-571-5461 or Laurel.Cratsley@maryland.gov.