

Department of Legislative Services

Maryland General Assembly

2026 Session

FISCAL AND POLICY NOTE

First Reader

House Bill 281

(Chair, Judiciary Committee)(By Request - Departmental
- Public Safety and Correctional Services)

Judiciary

Family Law - Child Care Providers - Criminal Background Investigations

This emergency departmental bill generally alters statutory provisions related to criminal background investigations for specified individuals who care for, supervise, or otherwise have specified access to children, including provisions that govern the process for the dissemination of criminal history records checks (CHRC).

Fiscal Summary

State Effect: Although the bill's changes are intended to ensure that State law conforms to federal requirements and that designated entities may continue to secure national CHRC as required, general fund expenditures are assumed to increase by *at least* \$900,000 in FY 2027 and by potentially significantly amounts annually thereafter for affected agencies to conform to the bill's requirements. Revenues are not materially affected.

Local Effect: Potential local government expenditures to the extent the bill increases workloads related to the processing of CHRIs. No material impact on revenues.

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment, as discussed below.

Analysis

Bill Summary: In general, the bill alters numerous provisions under Part V of Title 5, Subtitle 5 of the Family Law Article that govern when certain individuals who care for, supervise, or otherwise have access to children are required (or authorized) to secure a CHRC. While several alterations represent only stylistic or technical changes, the bill notably:

- specifies that in accordance with provisions within the Criminal Procedure Article, the Central Repository must forward an employee's, employer's, individual's, or volunteer's *State* criminal history record information (CHRI) to the employee, employer, individual, or volunteer and the *national* CHRI to the authorized agencies required to license, register, approve, or certify the facility that is required to have employees and employers obtain a CHRI (instead of, as under current law, forwarding the CHRI to the employee, employer, individual, or volunteer *and* the authorized agencies required to license, register, approve, or certify the facility);
- specifies that an adult or an individual who is not a relative and who agrees to provide care as a result of a sudden unavailability of a child's primary caretaker, as specified, must obtain a CHRC; and
- alters the definition of "emergency out-of-home placement" to mean an out-of-home placement in which a local department places a child in the home of an individual for whom a facility is required to apply for a CHRC as a result of a sudden unavailability of the child's primary caretaker.

Current Law/Background: The Criminal Justice Information System - Central Repository (CJIS-CR) is established by the Criminal Procedure Article, §§ 10-213 et seq., within DPSCS to collect, manage, and disseminate Maryland CHRI for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. For national CHRCs, CJIS-CR collects the fee and submits the requests for national CHRI to the Federal Bureau of Investigation (FBI) electronically.

In general, employees and employers who work in specified facilities and who care for or supervise children (or have access to children who are cared for or supervised in the facility) are required to apply for a national and State CHRC at any designated law enforcement office in the State or other location approved by DPSCS. Among the facilities requiring CHRCs are child care centers, family child care homes, schools, foster care homes, and recreation centers that primarily serve minors. Contractors or subcontractors must also require employees that will have direct, unsupervised, and uncontrolled access to children in one of the specified facilities to obtain a CHRC. Employers and local departments of social services may require volunteers at the facility to obtain a CHRC. Statutory provisions also authorize a local department of social services, if a child is placed

in an emergency out-of-home placement, to request that a designated State or local law enforcement agency in the State perform a federal name-based check on specified individuals, such as adults residing in the home. Within 15 calendar days after the local department receives the results of the name-based check, the local department must submit a complete set of fingerprints on the individual to DPSCS. Within 15 calendar days after the name-based check, DPSCS must perform a CHRC. A child must be removed immediately from an emergency out-of-home placement if any individual required to submit to a name-based check refuses to submit the follow-up fingerprints.

DPSCS advises that, in 2025, the FBI updated its compliance language for the dissemination of national background checks. The bill's changes are intended to bring the State into compliance with federal law and are necessary to ensure Maryland agencies continue to receive national background checks on employees working with children. According to DPSCS, if these changes are not made, the FBI will deny Maryland access to National Background Checks for individuals who have unsupervised and controlled access to children. Currently, the FBI has granted the State a temporary grace period which allows the State to continue receiving national background checks under existing statutes. However, this grace period ends on December 31, 2026.

State Expenditures:

Maryland State Department of Education

The bill limits access to national CHRI results to *authorized agencies required to license, register, approve, or certify* specified facilities including nonpublic schools. As a result, MSDE assumes that the department will be the only authorized recipient of the national CHRI completed for all new employees for nonpublic schools in Maryland, and therefore required to review the results for all nonpublic employees prior to the date of employment. Although a reliable estimate of the number of new employees requiring national CHRIs annually is not available, for context, MSDE estimates there are approximately 23,000 nonpublic school employees in the State. According to MSDE, in order for it to receive CHRI results, process the review, and document any due process proceedings associated with rejecting the employment of an applicant, a new database is needed at an estimated cost of \$900,000. In addition, to facilitate the review of each record and provide timely information to nonpublic schools, additional staff are needed. Specifically, MSDE assumes the need for six new positions, at an estimated cost of approximately \$630,000 on an annual basis.

MSDE further advises that it is unclear whether the bill also requires the department to provide assistance with national CHRI for local school system employees or any other education related employers in the State. To the extent that MSDE must assist with CHRIs

for such employees, the need for additional staff and general fund expenditures increases, likely significantly.

However, in the absence of clarity regarding the bill's overall effect on the dissemination of national CHRIs through MSDE, DLS advises that a reliable estimate regarding the need for additional staff is not feasible and has therefore not been specifically accounted for in this analysis.

Department of Human Services

Under the bill, DHS *must* require a CHRC for an adult or an individual who is not a relative and who agrees to provide care as a result of a sudden unavailability of the child's primary caretaker, as specified. DHS advises that, in 2025, 2,886 safety plans were implemented; however, the department is unable to determine the number of placements that involved a substitute caregiver who was not a relative or family member. In addition, CJIS-CR is authorized by law to collect a fee for providing CHRC for purposes other than criminal justice and DHS usually covers the cost of CHRCs for individuals serving as emergency placements under a safety plan. Further, in instances where non-relatives are unable to obtain a CHRC, children may be placed in foster care, with an associated impact on expenditures. *For illustrative purposes only*, and assuming a foster care rate of \$65.75 per day, if 200 children are placed in foster care for three nights as a result of an individual's inability to serve as a temporary caregiver, general fund expenditures increase by \$39,450.

Small Business Effect: As noted above, the bill is intended to conform statutory language regarding CHRCs to federal requirements; otherwise, according to DPSCS, specified entities will no longer have the ability to continue to secure required national background checks. Accordingly, DLS advises that the bill has a meaningful impact on small businesses (particularly child care providers) that are required to have background checks performed on certain individuals within their facilities.

Additional Information

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

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, and Howard counties; Maryland Municipal League; Town of La Plata; Maryland State

Department of Education; Department of Human Services; Department of Public Safety
and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2026
jg/jkb

Analysis by: Shirleen M. E. Pilgrim

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law - Child Care Providers - Criminal Background
Investigations

BILL NUMBER: HB281

PREPARED BY: Jason Davidson, Director, Government and Legislative Affairs

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS