

HOUSE BILL 281

E4, D4

EMERGENCY BILL
ENROLLED BILL

(6lr0098)

— *Judiciary/Judicial Proceedings* —

Introduced by **Chair, Judiciary Committee (By Request – Departmental – Public Safety and Correctional Services)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Family Law – Child Care Providers – Criminal Background Investigations**

3 FOR the purpose of altering provisions relating to criminal background investigations for
4 certain individuals who care for or supervise children; requiring certain facilities to
5 apply to the Criminal Justice Information System Central Repository for a national
6 and State criminal history records check for each employee, employer, individual, or
7 volunteer; altering provisions relating to the process under which a certain State or
8 local law enforcement agency conducts a certain name-based check on certain
9 individuals; and generally relating to child care and criminal background
10 investigations.

11 BY repealing and reenacting, with amendments,
12 Article – Family Law
13 Section 5–551(a) and (b), 5–555, and 5–559

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Annotated Code of Maryland
2 (2019 Replacement Volume and 2025 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 **Article – Family Law**

6 5–551.

7 (a) The following facilities shall require employees and employers to obtain a
8 criminal history records check under this Part V of this subtitle:

9 (1) a child care center required to be licensed under Title 9.5, Subtitle 4 of
10 the Education Article;

11 (2) a family child care home or large family child care home required to be
12 registered under Title 9.5, Subtitle 3 of the Education Article;

13 (3) a child care home required to be licensed [under this subtitle or] under
14 Title 9 of the Human Services Article;

15 **(4) A CHILD CARE INSTITUTION REQUIRED TO BE LICENSED UNDER
16 THIS SUBTITLE BY AN ADMINISTRATION OF THE DEPARTMENT;**

17 **[(4)] (5)** a child care institution required to be licensed [under this
18 subtitle or] under Title 9 of the Human Services Article;

19 **[(5)] (6)** a juvenile detention, correction, or treatment facility provided for
20 in Title 9 of the Human Services Article;

21 **[(6)] (7)** a public school as defined in Title 1 of the Education Article;

22 **[(7)] (8)** a private or nonpublic school required to report annually to the
23 State Board of Education under Title 2 of the Education Article;

24 **[(8)] (9)** a foster care family home or group facility as defined under this
25 subtitle;

26 **[(9)] (10)** a recreation center or recreation program operated by the State,
27 a local government, or a private entity primarily serving minors;

28 **[(10)] (11)** a day or residential camp, as defined in Title 10, Subtitle 16 of
29 the Code of Maryland Regulations, primarily serving minors; or

1 [(11)] (12) a home health agency or residential service agency licensed by
2 the Maryland Department of Health and authorized under Title 19 of the Health – General
3 Article to provide home– or community–based health services for minors.

4 (b) The following individuals shall obtain a criminal history records check under
5 this Part V of this subtitle:

6 (1) an individual who is seeking to adopt a child through a child placement
7 agency;

8 (2) an individual who is seeking to become a guardian through a local
9 department;

10 (3) an individual whom the juvenile court appoints as a guardian of a child;

11 (4) an adult relative with whom a child, committed to a local department,
12 is placed by the local department;

13 (5) any adult known by a local department or the State Department of
14 Education to be residing in:

15 (i) a family child care home or large family child care home required
16 to be registered under this title;

17 (ii) a home where informal child care, as defined in child care subsidy
18 regulations adopted under Title 13A of the Code of Maryland Regulations, is being provided
19 or will be provided to a child who does not reside there;

20 (iii) a home of an adult relative of a child with whom the child,
21 committed to a local department, is placed by the local department;

22 (iv) a foster care home or child care home required to be approved
23 under this title;

24 (v) a home of an individual seeking to adopt a child through a child
25 placement agency; or

26 (vi) a home of an individual seeking to become a guardian through a
27 local department;

28 (6) an individual who agrees to provide, or to continue providing, informal
29 child care, as defined in child care subsidy regulations, adopted under Title 13A of the Code
30 of Maryland Regulations; [and]

31 (7) if requested by a local department:

1 (i) a parent or guardian of a child who is committed to the local
2 department and is or has been placed in an out-of-home placement within the past year;
3 and

4 (ii) any adult known by the local department to be residing in the
5 home of the parent or guardian; AND

6 **(8) AN ADULT OR AN INDIVIDUAL WHO IS NOT A RELATIVE AND WHO**
7 **AGREES TO PROVIDE CARE AS A RESULT OF A SUDDEN UNAVAILABILITY OF THE**
8 **CHILD'S PRIMARY CARETAKER, INCLUDING:**

9 **(I) A NEIGHBOR;**

10 **(II) A FRIEND;**

11 **(III) AN ACQUAINTANCE;**

12 **(IV) A COMMUNITY MEMBER; OR**

13 **(V) A COLLEAGUE OR COWORKER OF THE CHILD'S PRIMARY**
14 **CARETAKER.**

15 5-555.

16 (a) The Department shall conduct the criminal history records checks required
17 under this Part V of this subtitle.

18 (b) (1) The facilities identified in § 5-551(a) of this subtitle shall apply to the
19 Central Repository for a national and State criminal history records check for each
20 employee, employer, individual, or volunteer.

21 (2) As part of an application for a criminal history records check, a facility
22 identified in § 5-551(a) of this subtitle shall submit to the Central Repository:

23 (i) a legible set of the employee's, employer's, individual's, or
24 volunteer's fingerprints taken in a format approved by the Director of the Central
25 Repository and the Director of the Federal Bureau of Investigation;

26 (ii) the fee authorized under § 10-221(b)(7) of the Criminal
27 Procedure Article for access to State criminal history records; and

28 (iii) the mandatory processing fee required by the Federal Bureau of
29 Investigation for a national criminal history records check.

1 (3) In accordance with §§ 10–201 through 10–229 of the Criminal
2 Procedure Article, the Central Repository shall forward the employee’s, employer’s,
3 individual’s, or volunteer’s [criminal history record information to]:

4 (i) **STATE CRIMINAL HISTORY RECORD INFORMATION TO** the
5 employee, employer, individual, or volunteer; and

6 (ii) **NATIONAL CRIMINAL HISTORY RECORD INFORMATION TO**
7 the authorized agencies required to license, register, approve, or certify the facility
8 identified in § 5–551(a) of this subtitle.

9 (c) The Department shall update an initial criminal history records check for an
10 employee, employer, or individual identified in § 5–551(b), (c), (d), or (e) of this subtitle and
11 issue an updated records check in accordance with this subsection.

12 (d) The Department shall provide an applicant’s initial and updated State
13 criminal history record to:

14 (1) the recipients of the State criminal history record specified in
15 subsection (e) of this section; and

16 (2) the State Department of Education if the applicant is:

17 (i) an employee of or an adult resident in a child care center that is
18 required to be licensed or to hold a letter of compliance under Title 9.5, Subtitle 4 of the
19 Education Article;

20 (ii) an employee of or an adult resident in a family child care home
21 or large family child care home that is required to be registered under Title 9.5, Subtitle 3
22 of the Education Article; or

23 (iii) an individual who provides or agrees to provide informal child
24 care or an adult who resides in a home where informal child care is being provided or will
25 be provided to a child who does not reside there.

26 (e) (1) Except as provided in paragraph (2) of this subsection, on receiving a
27 written request from an employee, the Department shall disseminate the national and
28 State criminal history records check to authorized agencies if the criminal history records
29 check was completed during the prior 180 days.

30 (2) On receiving a written request from a student teacher employed under
31 § 6–107 of the Education Article, the Department shall disseminate the national and State
32 criminal history records check to authorized agencies if the criminal history records check
33 was completed during the prior 365 days.

34 (f) Information obtained from the Central Repository under this subtitle:

- 1 (1) is confidential;
- 2 (2) may not be disseminated; and
- 3 (3) may be used only for the purposes authorized by this subtitle.

4 (g) The subject of a criminal history records check under this subtitle may contest
5 the contents of the national and State criminal history records check issued by the Central
6 Repository as provided in § 10–223 of the Criminal Procedure Article.

7 5–559.

8 (a) In this section, “emergency out–of–home placement” means an out–of–home
9 placement in which a local department places a child in the home of [a private individual,
10 including a neighbor, friend, or relative,] **AN INDIVIDUAL DESCRIBED IN § 5–551(B) OF**
11 **THIS SUBTITLE** as a result of a sudden unavailability of the child’s primary caretaker.

12 (b) (1) **[If] IN ADDITION TO THE REQUIREMENTS UNDER § 5–551(B) OF**
13 **THIS SUBTITLE, IF** a child is placed in an emergency out–of–home placement, a local
14 department may request that a designated State or local law enforcement agency in the
15 State [perform] **CONDUCT** a [federal] **NATIONAL** name–based check on any individual
16 described in [**§ 5–551(b)(4), (5)(iii), and (7)(ii)] § 5–551(B)** of this subtitle.

17 (2) The designated **STATE OR LOCAL LAW ENFORCEMENT** agency
18 described in paragraph (1) of this subsection may provide the results of the name–based
19 check to the local department.

20 (3) Within 15 calendar days after the [local department receives the results
21 of] **DATE ON WHICH THE STATE OR LOCAL LAW ENFORCEMENT AGENCY ~~PROVIDES~~**
22 **CONDUCTS** the name–based check, the local department shall submit a complete set of
23 fingerprints to the Department for each individual described in paragraph (1) of this
24 subsection on whom a name–based check was [performed] **CONDUCTED**.

25 (4) **[Within 15 calendar days after the name–based check] ON RECEIPT**
26 **OF THE COMPLETE SET OF FINGERPRINTS DESCRIBED IN PARAGRAPH (3) OF THIS**
27 **SUBSECTION**, the Department shall perform a **NATIONAL** criminal history records check,
28 in accordance with § 5–555 of this subtitle.

29 (c) A child shall be removed immediately from an emergency out–of–home
30 placement if any individual required to submit to a name–based check refuses to submit
31 the follow–up fingerprints.

1 (d) When the placement of a child in a home is denied as a result of a name-based
2 criminal history records check of an individual and the individual contests that denial, the
3 individual shall submit to the local department:

4 (1) a complete set of fingerprints; and

5 (2) written permission allowing the local department to forward the
6 fingerprints to the Department for submission to the Federal Bureau of Investigation.

7 (e) An individual who is required to submit to a criminal history records check
8 under this section shall pay the fees required under § 5-551(g) of this subtitle.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
10 measure, is necessary for the immediate preservation of the public health or safety, has
11 been passed by a yea and nay vote supported by three-fifths of all the members elected to
12 each of the two Houses of the General Assembly, and shall take effect from the date it is
13 enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.