

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 482

(Delegate Harrison)

Economic Matters

Finance and Education, Energy, and the
 Environment

**Occupational Licensing and Certification - Criminal History - Predetermination
 Review Process**

This bill amends § 1-209 of the Criminal Procedure Article to establish a predetermination review process under which an individual can request specified departments of State government to review the individual’s criminal history to determine whether that criminal history would disqualify the individual from obtaining the occupational license or certificate being sought. The bill requires a department to use existing resources to conduct a criminal history review but also authorizes a department to charge a fee of up to \$100 per criminal history review; the fee must be waived if the individual’s income is at or below 300% of the federal poverty level, as determined by the District Court. The bill also repeals statutory provisions that prohibit a department from denying an occupational license or certificate to the applicant solely on the basis that the applicant was previously convicted of a crime if at least seven years have passed since the applicant finished serving the sentence.

Fiscal Summary

State Effect: Special fund expenditures for the Maryland Department of Labor (MD Labor) and the Maryland Department of Agriculture (MDA) increase by \$296,100 in FY 2026, as discussed below. Future years reflect annualization and inflation. Special fund expenditures for the Maryland Department of Health (MDH) also increase by an indeterminate amount (not shown in table), as discussed below. The bill has an indeterminate, but overall minimal, effect on special fund revenues, as discussed below.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	(-)/-	(-)/-	(-)/-	(-)/-	(-)/-
SF Expenditure	\$296,100	\$224,400	\$228,600	\$232,800	\$237,200
Net Effect	(-)	(-)	(-)	(-)	(-)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Definitions and Exceptions to Application of § 1-209 of the Criminal Procedure Article

Under current law, for purposes of § 1-209, “department” means MDA, the Maryland Department of the Environment, MDH, the Department of Human Services (DHS), MD Labor, or the Department of Public Safety and Correctional Services (DPSCS). “Department” includes any unit of these departments. The bill removes DPSCS from the definition of “department.”

Under current law, § 1-209 in its entirety does not apply to a person who was previously convicted of a crime of violence, as defined in § 14-101 of the Criminal Law Article. The bill establishes that § 1-209 also does not apply to a person who is applying for licensure or license renewal under Title 11, Subtitle 6 of the Financial Institutions Article (mortgage loan originators).

Predetermination Review Process

Under current law, with the exception of a crime for which registration on the sex offender registry is required, if at least seven years have passed since an applicant completed serving the sentence for a crime, including all imprisonment, mandatory supervision, probation, and parole, and the applicant has not been charged with another crime other than a minor traffic violation during that time, a department may not deny an occupational license or certificate to the applicant solely on the basis that the applicant was previously convicted of the crime. The bill repeals these provisions.

The bill authorizes an individual to file a request with a department for review of the individual’s criminal history to determine whether that criminal history would disqualify the individual from obtaining the occupational license or certificate being sought. This predetermination must be binding on the department unless there is a subsequent direct and material adverse change to the individual’s criminal history. If, during this predetermination process, a department determines that an occupational license or certificate would be denied to the individual, the department must, if applicable, advise the individual of actions that may be taken to remedy the disqualification. An individual may submit a revised request for a predetermination to the department that includes the

completion of any recommended remedial actions. An individual may submit a revised predetermination request the earlier of one year after the individual received the initial predetermination or on completion of the department's recommended remedial actions.

Policy of the State and Other Provisions

The remaining provisions of § 1-209 remain unchanged by the bill. Those provisions express the policy of the State to encourage the employment of nonviolent ex-offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State. With the exception of provisions repealed by the bill and replaced by the predetermination review process, a department may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime, unless the department determines that (1) there is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought or (2) the issuance of the license or certificate would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

In making this determination, the department must consider (1) the aforementioned State policy; (2) the specific duties and responsibilities required of a licensee or certificate holder; (3) whether the applicant's previous conviction has any impact on the applicant's fitness or ability to perform the duties and responsibilities authorized by the license or certificate; (4) the age of the applicant at the time of the conviction and the amount of time that has elapsed since the conviction; (5) the seriousness of the offense for which the applicant was convicted; (6) other information provided by the applicant or on the applicant's behalf with regard to the applicant's rehabilitation and good conduct; and (7) the legitimate interest of the department in protecting property and the safety and welfare of specific individuals or the general public.

Disclaimer

Under the bill, nothing in § 1-209 may be construed to (1) override, supersede, or invalidate any compact or agreement already in place with regard to the regulation of any profession or occupation by a department or (2) supersede the authority of a department to require an applicant or a licensee to submit to a criminal history records review in accordance with the bill's provisions.

State Fiscal Effect: The bill includes a requirement for departments to use existing resources to conduct criminal history (predetermination) reviews. However, certain agencies, particularly those with a higher volume of licensees, are unable to appropriately implement the bill (*i.e.*, provide predetermination reviews in a timely manner without

negatively affecting other operations) unless additional resources are provided. Thus, this analysis reflects increases in State expenditures to implement the bill, as discussed below.

The overall effect of predetermination reviews on State special fund revenues is unclear at this time and depends on revenues from background check fees and the bill's effect on applications for licensing and certification. Should reviews and advice from licensing entities result in otherwise reluctant applicants filing applications, revenues increase; if predetermination reviews discourage individuals from applying for licensing or certification, application fee revenues decrease. This analysis assumes that the implementation costs for affected agencies exceeds background check fee revenues.

Maryland Department of Health

Special fund expenditures for MDH professional occupations boards increase by an indeterminate amount. Expenditures for these boards depend on the number of potential applicants for licenses and certifications who opt for MDH predetermination criminal history reviews. MDH did not provide adequate information on how it developed its projections on requested reviews (which cannot be reliably quantified at this time) and the corresponding need for personnel. Thus, while additional resources may be needed to implement the bill, any associated expenditures are not quantified in this analysis. However, additional information regarding MDH-licensing activity and potential expenditures as estimated by MDH is provided below for context.

The Maryland Board of Physicians (MBP) and the Maryland Board of Nursing (MBON) consider additional factors when determining whether to issue a license to an applicant with a criminal history, including the applicant's age at the time the crime was committed, the nature of the crime, the circumstances surrounding the crime, the length of time that has passed since the crime, subsequent work history, employment and character references, and other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

MBP processed 7,911 criminal history records checks (CHRCs) in fiscal 2022; 166 of these checks (2%) were positive, and no one was denied a license due to a positive criminal history records check. In fiscal 2023, MBON processed 16,000 CHRCs; only 2.5% were positive. Of those approximately 400 positive background checks, MBON only denied one license/certificate.

MBP advises that implementation of the bill requires additional staff to process predetermination applications (approximately 700 per year) and to provide counsel in predetermination cases; updates to its licensing system are also anticipated. MBP estimates costs for implementation, including additional staff (one compliance analyst and one part-time assistant Attorney General), at \$153,641 in fiscal 2026 and increasing to \$195,112 by fiscal 2030. This estimate also includes additional costs of approximately

\$25,000 in fiscal 2026 only to update its database and approximately \$25,000 annually beginning in fiscal 2027 for administrative hearings for applicants appealing the predeterminations. MBP can use existing resources to promulgate regulations and develop the procedures for processing predetermination applications.

MBP also anticipates fewer licensure applicants due to negative predetermination reviews. According to MBP, even with the anticipated \$7,000 in annual predetermination application revenues, the board estimates a 0.10% loss in annual revenues (approximately \$10,500) from license application fees.

MBON advises that implementation of the bill requires at least six administrative specialists for collecting and reviewing all documents submitted by the potential applicants, verifying verbal attestations provided at the time of inquiry, communicating with court clerks regarding missing information, and providing guidance to potential applicants on what further information is needed for the predetermination review. The employees would additionally need to prepare the background review case and present the collected information to MBON and internal committees. MBON estimates costs for these positions at \$367,735 in fiscal 2026 and increasing to \$483,661 by fiscal 2030.

The State Board of Pharmacy advises that it requires at least one part-time staff member to assist with the predetermination process, at a cost of \$43,393 in fiscal 2026 and increasing to \$52,745 by fiscal 2030.

The State Board of Dental Examiners advises that it cannot determine estimated demand for predeterminations and whether the corresponding workload can be absorbed with existing budgeted resources.

Maryland Department of Agriculture

Special fund expenditures for the State Board of Veterinary Medical Examiners increase by \$20,000 in fiscal 2026 only for one-time costs to create/upgrade an online portal to allow for an online application and fee collection process.

Maryland Department of Labor

Special fund expenditures increase by \$276,108 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring one contractual employee to manage administrative functions for the predetermination process (including salary, fringe benefits, one-time start-up costs, and ongoing operating expenses associated with the employee), as well as legal fees and one-time computer programming.

Contractual Position	1.0
Salary and Fringe Benefits	\$44,164
Legal Fees	124,575
Computer Programming	100,000
Other Operating Expenses	<u>7,369</u>
MD Labor – FY 2026 SF Expenditures	\$276,108

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

MD Labor’s Division of Occupational and Professional Licensing processes over 110,000 licenses each year. According to MD Labor, if 0.5% (550) of applicants request a predetermination review of their criminal history, the costs for legal fees associated with these reviews total \$166,100 annually and one administrative support position will be required to manage administrative functions for the process. The bill’s provisions also necessitate an upgrade to MD Labor’s application system, which handles 250 different applications for boards and commissions, at a cost of \$100,000 in fiscal 2026.

Other Impacts

DHS does not anticipate a fiscal impact from the bill. The Judiciary advises that while the bill affects District Court workloads, it cannot fully assess this impact without clarifying language in the fee waiver provision regarding who within the District Court is required to make criminal history review fee waiver determinations. The Department of Legislative Services advises that it is unlikely that the bill significantly increases District Court workloads.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see HB 175 of 2024.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of Health; Department of Human Services; Maryland Department of Labor;
 HB 482/ Page 6

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

Fiscal Note History: First Reader - February 12, 2025
km/jkb Third Reader - March 18, 2025
Revised - Amendment(s) - March 18, 2025
Revised - Updated Information - March 18, 2025

Analysis by: Amy A. Devadas

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