

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 359 (Senator Henson)
Education, Energy, and the Environment

Child Care Facilities - Criminal History Records Check - Requirement

This bill requires individuals who will have direct contact with children in certain child care facilities to submit to a criminal history records check (CHRC), in accordance with current statutory provisions under the Family Law Article. The Maryland State Department of Education (MSDE) must establish a centralized unit for the processing and management of information about CHRCs. The bill also alters statutory provisions requiring MSDE to establish probationary employment qualifications for first-time child care teachers in a child care center that serves preschool or school-age children. Finally, the bill repeals the limitation on the number of Deputy State Superintendents of Schools that may be appointed.

Fiscal Summary

State Effect: It is generally anticipated that MSDE can implement the bill's requirements with existing resources, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Required Criminal History Record Checks

The bill requires an "applicant" (*i.e.*, an individual who is applying for a position involving direct contact with children in a child care facility) to submit to a criminal history records check in accordance with Section 5-555 of the Family Law Article. "Applicant" includes a volunteer or other individuals who may be subject to federally required background checks.

Establishment of Centralized Unit

The centralized unit may be staffed by licensing specialists in the regional child care licensing offices throughout the State. The centralized unit must notify an applicant for a CHRC (1) of the status of the application within 10 days after submission and (2) subject to the receipt of the CHRC information from the Criminal Justice Information System Central Repository (CJIS-CR), of the applicant's eligibility to provide child care services in a child care facility.

The centralized unit must review and maintain background checks completed in accordance with Section 5-555 of the Family Law Article. Information obtained from CJIS-CR under the bill (1) is confidential; (2) may not be disseminated without the express permission of the applicant; and (3) may be used only for the purposes authorized by Title 9.5 of the Education Article.

The centralized unit may maintain a list of applicants who have submitted a CHRC in accordance with the bill. The centralized unit may also share the name and status of an applicant on the list with (1) a child care facility at which the applicant seeks to be employed or volunteer and (2) the applicant.

On request by an applicant or a child care facility, the centralized unit may provide written notice to the applicant or the child care facility that an applicant who seeks to be employed by (or volunteer with) the child care facility has a criminal history records check on file with the department.

Probationary Employment Qualifications

The bill requires MSDE to establish probationary employment qualifications for an individual who is applying for the first time to be a child care teacher in a child care center in the State that serves preschool or school-age children who are least age *two* (rather than age three).

Current Law: CJIS-CR is established by the Criminal Procedure Article, §§ 10-213 *et seq.*, within the Department of Public Safety and Correctional Services (DPSCS) to collect, manage, and disseminate Maryland CHRCs for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. For national records' checks, CJIS-CR collects the fee and submits the requests for national information to the Federal Bureau of Investigation (FBI) electronically.

Pursuant to provisions in the Family Law Article, 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 to DPSCS for a national and State CHRC. Among the facilities requiring records' checks are child care

centers, family child care homes, schools, foster care homes, and recreation centers that primarily serve minors.

Furthermore, each employee of a child care center that is required to be licensed or to hold a letter of compliance must apply to the Department of Human Services (DHS), on or before the first day of actual employment, for a child abuse and neglect clearance. DHS may prohibit the operator of a child care center that is required to be licensed or to hold a letter of compliance from employing an individual who:

- has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for any crime or attempted crime enumerated in specified regulations; or
- has been identified as responsible for child abuse or neglect.

Similarly, the operator of a child care center that is required to be licensed or to hold a letter of compliance must immediately notify DHS if an *employee* reports a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for any crime or attempted crime enumerated in specified regulations.

State Superintendents

The following employees must be appointed to positions in MSDE:

- no more than *three* Deputy State Superintendents of Schools;
- any assistant State superintendents and directors authorized by the State Board of Education and provided in the State budget; and
- any other employees to fill positions authorized by the State Board and provided in the State budget.

State Expenditures: MSDE advises that the new unit required by the bill can likely be established with existing resources, but also notes that additional support (*i.e.*, greater funding or staffing levels) may be required should the unit or its responsibilities be expanded. However, the bill does not contemplate the expansion of responsibilities or increase the overall volume of CHRCs for child care facility employees that MSDE is already responsible for ensuring are reviewed appropriately. Thus, it is assumed that MSDE can generally implement the new centralized unit with minimal fiscal impact.

While the bill *authorizes* the appointment of additional Deputy State Superintendents, it does not *require* additional positions nor provide additional specifications regarding how the existing structure of MSDE might be altered. MSDE advises that should the department decide to appoint another deputy, comprehensive assessments are likely required to determine whether additional operational costs and other changes are necessary. Any

associated impacts are outside the scope of this analysis and have therefore not been accounted for.

Small Business Effect: Expanding the probationary teacher qualification to include children who are at least two years old (rather than three) may help child care programs maintain child to staff ratios by increasing access to more probationary staff while individuals complete their remaining qualifications/training.

Additional Comments: DPSCS advises that the FBI requires each agency to be responsible for its own background checks and that MSDE cannot be a hub for background checks of other agencies. To the extent the FBI does not approve provisions within the bill, national background checks would not be permitted until the requirements are changed and then approved by the FBI.

As referenced above, current law generally already requires individuals within child care facilities to obtain CHRCs, pursuant to provisions in the Family Law Article that are unchanged by the bill. However, the bill includes a provision for the centralized unit to review and maintain background checks completed *in accordance with § 5-555 of the Family Law Article*; background checks required under this section include those unrelated to MSDE. The Department of Legislative Services notes that legislation has been introduced in multiple years at the request of DPSCS to clarify State statutory language regarding CHRCs in order to remain compliant with the FBI's stringent standards regarding national background checks.

Additional Information

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

Designated Cross File: HB 635 (Delegate Miller, *et al.*) - Ways and Means.

Information Source(s): Anne Arundel; Howard; and Prince George's counties; Maryland State Department of Education; Maryland Department of Health; Department of Human Services; Department of Juvenile Services; Department of Public Safety and Correctional Services; Montgomery County Public Schools; St. Mary's County Public Schools; Department of Legislative Services

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Analysis by: Eric F. Pierce

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