

**Maryland State Department of Education
Division of Early Childhood Development – Office of Child Care**

CRIMINAL BACKGROUND CHECKS in Child Care Facilities

BACKGROUND

Maryland State Family Law Article §5-551 Mandatory Criminal History Records Checks requires an employer, employee and certain other individuals in a licensed child care center or registered family child care home to apply for a national and State criminal history records check. Child care facility applicants must apply for the criminal history records checks upon submission of the child care center or family child care home application and must be cleared prior to issuance of the license or registration. As required by **Family Law Article §5-552 Application for Printed Statement**, potential employees of child care facilities must apply to the Department of Public Safety and Correctional Services (Department) for a printed statement on or before the first day of employment and employers must apply on or before the first day of actual operation of the child care facility. As part of the application, the individual shall submit a complete set of legible fingerprints at any designated State or local law enforcement office in the State or Live Scan Vendor site approved by the Department; the disclosure statement required by **Family Law Article §5-553 Disclosing Criminal Convictions and Pending Charges**; and payment for the cost of the criminal history records check.

The Department of Public Safety and Correctional Services conducts the criminal history record checks of individuals in Maryland and is responsible for issuing the printed statement of charges as required by **Family Law Article §5.554 Duties of Department**. The criminal histories are housed in the Department’s Criminal Justice Information System (CJIS) Central Repository and are distributed upon request by employers. As required by **Family Law Article §5.554.1 Cross Reference Checks of Employers, Employees, and Other Individuals**, MSDE conducts a cross-reference check with the central registry of registrants transmitted weekly by the Department.

Family Law Article §5.555 Administrative Review allows an individual to contest the finding of a criminal conviction, a probation before judgement disposition, a not criminally responsible disposition or pending charge reported in a printed statement by contacting the Secretary of the Department of Public Safety and Corrections Services. A hearing is convened within 20 workdays and the Secretary shall render a decision regarding the appeal within 5 workdays of the hearing.

PROCESS

In response to the above referenced statutory requirements, the Maryland State Department of Education Division of Early Childhood Development, Office of Child Care (OCC) requires all child care center and family child care provider applicants, employees, residents, and certain individuals who have frequent access to children in care, to apply for and receive FBI and State of Maryland criminal history record checks. **COMAR 13A.15** Family Child Care Homes, **COMAR 13A.16** Child Care Centers, **COMAR 13A.17** Letters of

Compliance, and **COMAR 13A.18** Large Family Child Care Homes each require child care provider applicants to obtain criminal history records checks for themselves, employees and certain individuals during the initial application process; and for the duration of the child care center license or family child care home registration, to notify OCC of any changes relative to any new individuals who would be required to obtain criminal history records checks.

A. Initial Applicants for Licenses and Registrations

- Child Care facility applicants, employees, and other appropriate individuals, are fingerprinted for State and FBI criminal history record checks using the child care facility and the Maryland State Department of Education (MSDE), Office of Child Care (OCC) Regional Office authorization numbers. Family child care home applicants and other individuals use the OCC Regional Office authorization number only.
- Whenever submitting a criminal background check (CBC) request, a child care center operator must include the appropriate OCC Regional Office authorization number on the CBC request form along with the applicant’s authorization number. The following is a list of Regional Office authorization numbers:

<u>Authorization Number</u>	<u>OCC Regional Office</u>
1100000016	Region 1 (Anne Arundel Co.)
1100000020	Region 2 (Baltimore City)
1100000031	Region 3 (Baltimore Co.)
1100000042	Region 4 (Prince George’s Co.)
1100000053	Region 5 (Montgomery Co.)
1100000064	Region 6 (Howard Co.)
1100000075	Region 7 (Allegany, Garrett, Washington Co.)
1100000086	Region 8 (Caroline, Dorchester, Kent, Queen Anne’s, Talbot Co.)
1100000090	Region 9 (Somerset, Wicomico, Worcester Co.)
1100000101	Region 10 (Calvert, Charles, St. Mary’s Co.)
1100000112	Region 11 (Cecil, Harford Co.)
1100000123	Region 12 (Frederick Co.)
1100000182	Region 13 (Carroll Co.)

- Criminal history results are usually received by the employer and regional office within 3-7 days after a properly completed request reaches CJIS. CJIS sends criminal history results to the child care facility and to the appropriate OCC Regional Office daily, via a certified e-mail account. Alerts, that identify criminal activity subsequent to initial criminal history record checks, are also sent to the regional offices. OCC thoroughly investigates all alerts.
- Each Regional Office saves the electronic criminal histories and maintains an electronic file of all criminal background checks received from CJIS. An

electronic file called **JES2MAIL Reports** is maintained and updated weekly by the OCC central office which gives a quick overview of criminal history results noting “yes” or “no” in response to the existence of criminal activity. Full rap sheets are housed in the electronic email file and are used to investigate certain noted crimes.

- Until results are received, child care center employees and other individuals who requested a printed statement, must be chaperoned and never left alone with children. Family child care providers cannot be registered until the results are received by OCC.

B. New Employees/Individuals

- All new facility employees must apply to CJIS for a State and FBI criminal records check. If, however, a new employee has previously had a State and FBI records check and OCC has received the results from CJIS, the person is “known” to OCC and may begin child care duties before the results of the new records check application are returned. This means that the new employee need not be “chaperoned” pending receipt of the new CBC application results.
- In the case of a multi-site operator, if an employee transfers, from one site to another within the same Regional Office jurisdiction, a new records check application is not required. Since the person’s employer remains the same regardless of the person’s actual job site location, the person is not considered to be a new employee; therefore the background check requirements for new employees do not apply.
- In the case of a multi-site operator, if an employee transfers to a site located in another Regional Office’s jurisdiction, the individual must pay to be re-fingerprinted using the new Regional Office’s authorization code. This allows the new regional office to receive alerts.
- When an individual changes employers, application for State and FBI criminal records must be made again using the new employer’s authorization code and the appropriate regional office authorization code. This allows the new employer to receive alerts as well as the regional office.
- In family child care homes, new individuals required to obtain criminal history records checks, must use the appropriate regional office authorization code.

C. CJIS “365-Day Requests”

If a new employee’s previous employer was a child care facility, school, adoption or foster care agency, children’s recreation center, or similar program or service for children, and if CJIS received a Maryland State and FBI record check request on that person from the previous employer within the year, the person’s current employer may file a **“365-Day Request”** with CJIS.

- The 365-day request is made by submitting a special CJIS form, authorizing CJIS to send the results of that previous record check to the new employer and to the appropriate OCC Regional Office.

- Results are usually received by the new employer and the Regional Office within 3-4 days after a properly completed request reaches CJIS.
- Facility operators may obtain copies of the 365-Day Request form and instructions for completing the form by calling CJIS Customer Service at 410-764-4501 or going to <http://www.dpscs.state.md.us/publicservs/pdfs/bgchecks/365-day-form.pdf> to download a .pdf copy of the form, or going to <https://www.pdfFiller.com/46127435-fillable-365-day-form> to use a fillable form.
- There is no fee for filing a 365-Day Request Form
- The operator must submit two copies of the special 365-Day Request form to CJIS. One copy should include the operator's authorization number, and the other copy should include the appropriate Regional Office's authorization number. Without these authorization numbers, CJIS will not know where to send the record check results.
- The operator should photocopy the completed request form and forward the photocopy to the OCC Regional Office as proof that the 365-Day Request has been submitted.
- State and FBI record check results received on the basis of a 35-Day Request will be accepted by OCC in lieu of a brand new criminal background check application. If, however, CJIS rejects the 35-Day Request for any reason, the new employee will have to submit a new criminal background check application.

CONFIDENTIALITY OF CRIMINAL HISTORIES

The confidentiality of criminal histories is maintained at all times. Departmental policy outlines requirements for maintaining the confidentiality of criminal history information in addition to Noncriminal Justice Applicants Privacy Rights, and Maryland Personal Information Protection Act (Security Breaches).

For further information, contact Paula Johnson Chief, Licensing Branch at paulad.johnson@mryland.gov or by phone at 410-569-8071.