

HOUSE BILL 642

E4, O4, F1

(5lr1483)

ENROLLED BILL

— *Ways and Means/ Education, Health, and Environmental Affairs* —

Introduced by **Delegates Luedtke, Morales, Afzali, Barkley, Buckel, Dumais, Fraser-Hidalgo, Gutierrez, Hixson, C. Howard, Jackson, Jalisi, Kaiser, Kelly, Krimm, Moon, Platt, Reilly, Smith, Turner, A. Washington, M. Washington, and B. Wilson**

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 **Children – Child Care Facilities, Public Schools, and Nonpublic Schools –**
3 **Contractors and Subcontractors**

4 FOR the purpose of prohibiting certain county boards of education and certain nonpublic
5 schools from ~~allowing certain individuals to hire or retain~~ hiring or retaining certain
6 individuals who have been convicted of certain crimes ~~and who have a certain type~~
7 ~~of access to certain students in certain circumstances;~~ requiring certain contracts to
8 provide that certain contractors or subcontractors for certain nonpublic schools and
9 certain local school systems may not knowingly assign employees to work on school
10 premises with certain access to children if the employee has been convicted of certain
11 crimes; *authorizing the State Board of Education to revoke a certain certificate of*
12 *approval or letter of tentative approval of a nonpublic school under certain*

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 *circumstances*; adding certain contractors and subcontractors who have a certain
 2 type of access to certain children to the list of individuals required to obtain a certain
 3 criminal history records check; ~~amending a certain definition of “employee” to~~
 4 ~~include certain contractors and subcontractors who have a certain type of access to~~
 5 ~~certain children~~ *requiring certain contractors and subcontractors to require certain*
 6 *employees with certain access to children at certain facilities to obtain a certain*
 7 *criminal history records check*; making certain *conforming and* stylistic changes; and
 8 generally relating to contractors and subcontractors who work with or have access
 9 to children.

10 BY repealing and reenacting, with amendments,
 11 Article – Education
 12 Section 2–206.1 and 6–113
 13 Annotated Code of Maryland
 14 (2014 Replacement Volume and 2014 Supplement)

15 BY repealing and reenacting, without amendments,
 16 Article – Family Law
 17 Section 5–560(a) and (d) and ~~5–561(b)~~ *5–561(a) and (b)*
 18 Annotated Code of Maryland
 19 (2012 Replacement Volume and 2014 Supplement)

20 BY adding to
 21 Article – Family Law
 22 Section ~~5–561(a)~~ *5–561(b–1)*
 23 Annotated Code of Maryland
 24 (2012 Replacement Volume and 2014 Supplement)

25 ~~BY repealing and reenacting, with amendments,~~
 26 ~~Article – Family Law~~
 27 ~~Section 5–561(a)~~
 28 ~~Annotated Code of Maryland~~
 29 ~~(2012 Replacement Volume and 2014 Supplement)~~

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

32 Article – Education

33 2–206.1.

34 **(A) ~~IN THIS SUBSECTION, “APPLICABLE OFFENSE” MEANS:~~**

35 **(1) ~~AN OFFENSE UNDER § 3–307 OF THE CRIMINAL LAW ARTICLE;~~**

~~(2) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE, OR AN OFFENSE UNDER THE LAWS OF ANOTHER STATE THAT WOULD CONSTITUTE CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE IF COMMITTED IN THIS STATE; OR~~

~~(3) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, OR AN OFFENSE UNDER THE LAWS OF ANOTHER STATE THAT WOULD BE A VIOLATION OF § 14-101 OF THE CRIMINAL LAW ARTICLE IF COMMITTED IN THIS STATE.~~

~~[(a)] (B)~~ A nonpublic school that is subject to the requirements of this title may not ~~hire~~:

~~(1) Hire~~ or retain ~~[any employee]~~ ~~AN INDIVIDUAL~~ who works with or has access to students and who the school knows has been convicted of ~~[a crime involving:~~

(1) An offense under § 3-307 OR § 3-308 of the Criminal Law Article OR AN OFFENSE UNDER THE LAWS OF ANOTHER STATE THAT WOULD CONSTITUTE A VIOLATION OF § 3-307 OR § 3-308 OF THE CRIMINAL LAW ARTICLE IF COMMITTED IN THE STATE;

(2) Child sexual abuse under § 3-602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under § 3-602 of the Criminal Law Article if committed in this State; or

(3) A crime of violence as defined in § 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14-101 of the Criminal Law Article if committed in this State; ~~AN APPLICABLE OFFENSE; OR.~~

(B) A NONPUBLIC SCHOOL CONTRACT SHALL PROVIDE THAT A CONTRACTOR OR SUBCONTRACTOR FOR THE SCHOOL MAY NOT KNOWINGLY ASSIGN AN EMPLOYEE TO WORK ON SCHOOL PREMISES WITH DIRECT, UNSUPERVISED, AND UNCONTROLLED ACCESS TO CHILDREN, IF THE EMPLOYEE HAS BEEN CONVICTED OF A CRIME IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION.

~~(2) ALLOW A CONTRACTOR OR SUBCONTRACTOR FOR THE NONPUBLIC SCHOOL TO HIRE OR RETAIN AN INDIVIDUAL WHO WORKS WITH OR HAS DIRECT, UNSUPERVISED, AND UNCONTROLLED ACCESS TO STUDENTS AND WHO THE SCHOOL KNOWS HAS BEEN CONVICTED OF AN APPLICABLE OFFENSE.~~

[(b)] (C) The State Board shall:

(1) SHALL revoke the certificate of approval or letter of tentative approval of a nonpublic school that violates ~~this section~~ SUBSECTION (A) OF THIS SECTION; AND

1 **(2) MAY REVOKE THE CERTIFICATE OF APPROVAL OR LETTER OF**
 2 **TENTATIVE APPROVAL OF A NONPUBLIC SCHOOL THAT VIOLATES SUBSECTION (B)**
 3 **OF THIS SECTION.**

4 6–113.

5 **~~(A) IN THIS SUBSECTION, “APPLICABLE OFFENSE” MEANS:~~**

6 **~~(1) AN OFFENSE UNDER § 3-307 OF THE CRIMINAL LAW ARTICLE;~~**

7 **~~(2) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW~~**
 8 **~~ARTICLE, OR AN OFFENSE UNDER THE LAWS OF ANOTHER STATE THAT WOULD~~**
 9 **~~CONSTITUTE CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE~~**
 10 **~~IF COMMITTED IN THIS STATE; OR~~**

11 **~~(3) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL~~**
 12 **~~LAW ARTICLE, OR AN OFFENSE UNDER THE LAWS OF ANOTHER STATE THAT WOULD~~**
 13 **~~BE A VIOLATION OF § 14-101 OF THE CRIMINAL LAW ARTICLE IF COMMITTED IN~~**
 14 **~~THIS STATE.~~**

15 **~~(B)~~ (A)** A county board may not ~~knowingly~~;

16 **~~(1) KNOWINGLY~~** hire or retain ~~any~~ ~~AN~~ individual who has been convicted
 17 of ~~a~~ crime involving:

18 (1) An offense under § 3–307 OR § 3–308 of the Criminal Law Article OR
 19 AN OFFENSE UNDER THE LAWS OF ANOTHER STATE THAT WOULD CONSTITUTE A
 20 VIOLATION OF § 3–307 OR § 3–308 OF THE CRIMINAL LAW ARTICLE IF COMMITTED
 21 IN THE STATE;

22 (2) Child sexual abuse under § 3–602 of the Criminal Law Article, or an
 23 offense under the laws of another state that would constitute child sexual abuse under §
 24 3–602 of the Criminal Law Article if committed in this State; or

25 (3) A crime of violence as defined in § 14–101 of the Criminal Law Article,
 26 or an offense under the laws of another state that would be a violation of § 14–101 of the
 27 Criminal Law Article if committed in this State] ~~AN APPLICABLE OFFENSE; OR~~

28 **~~(2) ALLOW A CONTRACTOR OR SUBCONTRACTOR FOR THE LOCAL~~**
 29 **~~SYSTEM TO KNOWINGLY HIRE OR RETAIN AN INDIVIDUAL WHO HAS DIRECT,~~**
 30 **~~UNSUPERVISED, AND UNCONTROLLED ACCESS TO STUDENTS AND WHO HAS BEEN~~**
 31 **~~CONVICTED OF AN APPLICABLE OFFENSE.~~**

1 (B) A LOCAL SCHOOL SYSTEM CONTRACT SHALL PROVIDE THAT A
 2 CONTRACTOR OR SUBCONTRACTOR FOR THE SCHOOL MAY NOT KNOWINGLY ASSIGN
 3 AN EMPLOYEE TO WORK ON SCHOOL PREMISES WITH DIRECT, UNSUPERVISED, AND
 4 UNCONTROLLED ACCESS TO CHILDREN, IF THE EMPLOYEE HAS BEEN CONVICTED OF
 5 A CRIME IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION.

6 **Article – Family Law**

7 5–560.

8 (a) In this Part VI of this subtitle the following words have the meanings
 9 indicated.

10 (d) (1) “Employee” means a person that for compensation is employed to work
 11 in a facility identified in § 5–561 of this subtitle and who:

12 (i) cares for or supervises children in the facility; or

13 (ii) has access to children who are cared for or supervised in the
 14 facility.

15 (2) “Employee” includes a person who:

16 (i) participates in a pool described in subsection (e)(2) of this section;

17 (ii) for compensation will be employed on a substitute or temporary
 18 basis to work in a facility identified in § 5–561(b)(1) or (2) of this subtitle; and

19 (iii) will care for or supervise children in the facility or will have
 20 access to children who are cared for or supervised in the facility.

21 (3) “Employee” does not include any person employed to work for
 22 compensation by the Department of Juvenile Services.

23 5–561.

24 ~~(A) (1) IN THIS SECTION, “EMPLOYEE” HAS THE MEANING STATED IN §~~
 25 ~~5–560 OF THIS SUBTITLE.~~

26 ~~(2) “EMPLOYEE” INCLUDES A CONTRACTOR OR A SUBCONTRACTOR~~
 27 ~~WHO HAS DIRECT, UNSUPERVISED, AND UNCONTROLLED ACCESS TO CHILDREN.~~

28 ~~[(a)] (A-1)~~ Notwithstanding any provision of law to the contrary, an employee and
 29 employer in a facility identified in subsection (b) of this section and individuals identified
 30 in subsection (c) of this section shall apply for a national and State criminal history records

1 check at any designated law enforcement office in this State or other location approved by
2 the Department.

3 (b) The following facilities shall require employees and employers to obtain a
4 criminal history records check under this Part VI of this subtitle:

5 (1) a child care center required to be licensed under Part VII of this
6 subtitle;

7 (2) a family child care home or large family child care home required to be
8 registered under Part V of this subtitle;

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

11 (4) a child care institution required to be licensed under this subtitle or
12 under Title 9 of the Human Services Article;

13 (5) a juvenile detention, correction, or treatment facility provided for in
14 Title 9 of the Human Services Article;

15 (6) a public school as defined in Title 1 of the Education Article;

16 (7) a private or nonpublic school required to report annually to the State
17 Board of Education under Title 2 of the Education Article;

18 (8) a foster care family home or group facility as defined under this subtitle;

19 (9) a recreation center or recreation program operated by the State, a local
20 government, or a private entity primarily serving minors;

21 (10) a day or residential camp, as defined in Title 10, Subtitle 16 of the Code
22 of Maryland Regulations, primarily serving minors; or

23 (11) a home health agency or residential service agency licensed by the
24 Department of Health and Mental Hygiene and authorized under Title 19 of the Health –
25 General Article to provide home– or community–based health services for minors.

26 **(B-1) A CONTRACTOR OR SUBCONTRACTOR SHALL REQUIRE AN**
27 **EMPLOYEE THAT WILL HAVE DIRECT, UNSUPERVISED, AND UNCONTROLLED ACCESS**
28 **TO CHILDREN IN A FACILITY LISTED IN SUBSECTION (B) OF THIS SECTION TO OBTAIN**
29 **A CRIMINAL HISTORY RECORDS CHECK UNDER THIS PART VI OF THIS SUBTITLE.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
31 1, 2015.