

HOUSE BILL 642

E4, O4, F1

5lr1483
CF SB 508

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**
Introduced and read first time: February 12, 2015
Assigned to: Ways and Means

A BILL ENTITLED

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 certain individuals who
6 have been convicted of certain crimes and who have a certain type of access to certain
7 students in certain circumstances; adding certain contractors and subcontractors
8 who have a certain type of access to certain children to the list of individuals required
9 to obtain a certain criminal history records check; amending a certain definition of
10 “employee” to include certain contractors and subcontractors who have a certain type
11 of access to certain children; making certain stylistic changes; and generally relating
12 to contractors and subcontractors who work with or have access to children.

13 BY repealing and reenacting, with amendments,
14 Article – Education
15 Section 2–206.1 and 6–113
16 Annotated Code of Maryland
17 (2014 Replacement Volume and 2014 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Family Law
20 Section 5–560(a) and (d) and 5–561(b)
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2014 Supplement)

23 BY adding to
24 Article – Family Law
25 Section 5–561(a)
26 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



(2012 Replacement Volume and 2014 Supplement)

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

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

Article – Education

2–206.1.

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

(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 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] AN APPLICABLE OFFENSE; OR

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

5 **[(b)] (C)** The State Board shall revoke the certificate of approval or letter of
6 tentative approval of a nonpublic school that violates this section.

7 6–113.

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

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

10 **(2) CHILD SEXUAL ABUSE UNDER § 3–602 OF THE CRIMINAL LAW**
11 **ARTICLE, OR AN OFFENSE UNDER THE LAWS OF ANOTHER STATE THAT WOULD**
12 **CONSTITUTE CHILD SEXUAL ABUSE UNDER § 3–602 OF THE CRIMINAL LAW ARTICLE**
13 **IF COMMITTED IN THIS STATE; OR**

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

18 **(B) A county board may not [knowingly]:**

19 **(1) KNOWINGLY** hire or retain [any] AN individual who has been convicted
20 of [a crime involving:

21 (1) An offense under § 3–307 of the Criminal Law Article;

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 **Article – Family Law**

2 5–560.

3 (a) In this Part VI of this subtitle the following words have the meanings
4 indicated.5 (d) (1) “Employee” means a person that for compensation is employed to work
6 in a facility identified in § 5–561 of this subtitle and who:

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

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

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

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

12 (ii) for compensation will be employed on a substitute or temporary
13 basis to work in a facility identified in § 5–561(b)(1) or (2) of this subtitle; and14 (iii) will care for or supervise children in the facility or will have
15 access to children who are cared for or supervised in the facility.16 (3) “Employee” does not include any person employed to work for
17 compensation by the Department of Juvenile Services.

18 5–561.

19 **(A) (1) IN THIS SECTION, “EMPLOYEE” HAS THE MEANING STATED IN §**
20 **5–560 OF THIS SUBTITLE.**21 **(2) “EMPLOYEE” INCLUDES A CONTRACTOR OR A SUBCONTRACTOR**
22 **WHO HAS DIRECT, UNSUPERVISED, AND UNCONTROLLED ACCESS TO CHILDREN.**23 **[(a)] (A–1)** Notwithstanding any provision of law to the contrary, an employee and
24 employer in a facility identified in subsection (b) of this section and individuals identified
25 in subsection (c) of this section shall apply for a national and State criminal history records
26 check at any designated law enforcement office in this State or other location approved by
27 the Department.28 (b) The following facilities shall require employees and employers to obtain a
29 criminal history records check under this Part VI of this subtitle:

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

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

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

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

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

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

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

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

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

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

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
23 1, 2015.