

Chapter 167

(Senate Bill 391)

AN ACT concerning

State Board of Morticians and Funeral Directors – Licenses, Permits, and Registrations – Processes and Criminal History Records Checks

FOR the purpose of clarifying that a certain process for regulating crematories must provide for the registration of crematory operators or the issuance of permits for operating crematories; requiring certain applicants to the State Board of Morticians and Funeral Directors to submit to a certain criminal history records check or submit to the Board a criminal history records check conducted by a certain entity; requiring certain applicants to submit certain fingerprints and certain fees to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services under certain circumstances; requiring the Central Repository to forward to the Board and certain applicants certain criminal history record information; authorizing the Board to accept certain alternate methods of criminal history records checks under certain circumstances; providing that certain information is confidential, may not be redisseminated, and may be used only for certain purposes; authorizing certain individuals to contest the contents of certain statements issued by the Central Repository under certain circumstances; requiring the Board to consider certain factors in determining whether to grant certain licenses, permits, and registrations on receipt of certain criminal history record information; prohibiting the Board from issuing certain licenses, permits, and registrations under certain circumstances; providing for the application of this Act; making a conforming change; and generally relating to licenses, permits, and registrations issued by the State Board of Morticians and Funeral Directors.

BY repealing and reenacting, with amendments,

Article – Health Occupations
Section 7–205(c)
Annotated Code of Maryland
(2014 Replacement Volume)

BY adding to

Article – Health Occupations
Section 7–301.1
Annotated Code of Maryland
(2014 Replacement Volume)

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

Article – Health Occupations

7-205.

(c) In conjunction with the Office of Cemetery Oversight, the Board shall:

(1) Establish a process for regulating crematories that provides for:

(i) Registration **OF CREMATORY OPERATORS** or **[licensure]** **ISSUANCE OF PERMITS FOR OPERATING CREMATORIES**, and renewal;

(ii) Applications, including certification of ownership and identification of individuals who will perform cremation;

(iii) Registration or **[licensure]** **PERMIT** fees;

(iv) Inspections and oversight;

(v) Grounds for discipline and penalties; and

(vi) Complaints and hearings; and

(2) Adopt regulations that are identical to regulations adopted by the Director of the Office of Cemetery Oversight to:

(i) Implement item (1) of this subsection; and

(ii) Ensure public health and safety.

7-301.1.

(A) THIS SECTION DOES NOT APPLY TO THE REGISTRATION OF CREMATORY OPERATORS OR ISSUANCE OF PERMITS FOR OPERATING CREMATORIES UNDER REGULATIONS ADOPTED UNDER § 7-205(C) OF THIS SUBTITLE.

(B) IN ADDITION TO ANY OTHER REQUIREMENT FOR A LICENSE, PERMIT, OR REGISTRATION ISSUED UNDER THIS TITLE, AN APPLICANT FOR A LICENSE, PERMIT, OR REGISTRATION SHALL ~~SUBMIT~~:

(1) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION; OR

(2) SUBMIT TO THE BOARD A CRIMINAL HISTORY RECORDS CHECK CONDUCTED BY AN ACCREDITED AGENCY APPROVED BY THE BOARD.

(C) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(2) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

(III) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(3) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.

(4) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(5) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

~~(5) (D) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:~~

(I) SHALL BE CONFIDENTIAL;

(II) MAY NOT BE REDISSEMINATED; AND

(III) SHALL BE USED ONLY FOR THE LICENSING, PERMITTING, OR REGISTERING PURPOSES AUTHORIZED BY THIS TITLE.

~~(6) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(D)~~ (E) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT ~~FORWARDED TO THE BOARD IN ACCORDANCE WITH SUBSECTION (C) OF~~ REQUIRED UNDER THIS SECTION, IN DETERMINING WHETHER TO GRANT A LICENSE, PERMIT, OR REGISTRATION UNDER THIS TITLE, THE BOARD SHALL CONSIDER:

- (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;
- (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;
- (III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;
- (IV) SUBSEQUENT WORK HISTORY;
- (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

(VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.

(2) THE BOARD MAY NOT ISSUE A LICENSE, PERMIT, OR REGISTRATION UNDER THIS TITLE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER THIS SECTION HAS NOT BEEN RECEIVED.

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

Approved by the Governor, May 12, 2015.