

Chapter 519

(Senate Bill 129)

AN ACT concerning

International Marriage Brokers – Regulation

FOR the purpose of requiring an international marriage broker to provide certain information to a recruit; requiring a client of an international marriage broker to provide certain information to the international marriage broker and to affirm that certain information is accurate and complete; requiring an international marriage broker to ~~request~~ conduct a certain criminal history records ~~checks from the Criminal Justice Information System Central Repository; requiring the Central Repository to process certain State and national criminal history records checks on submission of certain information and fees~~ check; prohibiting an international marriage broker from providing ~~services~~ certain information to a certain client or recruit until certain information is received and provided to a recruit; prohibiting an international marriage broker from further dissemination of certain information; authorizing an international marriage broker to disclose certain information only after obtaining certain written consent; providing that a certain international marriage broker shall be deemed to be doing business in the State; establishing penalties for violating this Act; requiring the court to consider certain factors in determining a certain penalty; requiring the Department of Labor, Licensing, and Regulation, in consultation with the Department of Public Safety and Correctional Services, to report on and make certain recommendations relating to registering and licensing international marriage brokers; defining certain terms; and generally relating to international marriage brokers.

BY adding to

Article – Business Regulation

Section 19–601 through ~~19–606~~ 19–607 to be under the new subtitle “Subtitle 6. International Marriage Brokers”

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

SUBTITLE 6. INTERNATIONAL MARRIAGE BROKERS.

19–601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BASIC RIGHTS INFORMATION” MEANS INFORMATION APPLICABLE TO A NONCITIZEN, INCLUDING INFORMATION ABOUT HUMAN RIGHTS, IMMIGRATION, AND EMERGENCY ASSISTANCE AND RESOURCES.

~~(C) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 10-213 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(D)~~ (C) “CLIENT” MEANS AN INDIVIDUAL WHO IS A CITIZEN OR RESIDENT OF THE UNITED STATES AND THE STATE OF MARYLAND AND WHO USES THE SERVICES OF AN INTERNATIONAL MARRIAGE BROKER TO MEET RECRUITS.

~~(E)~~ (D) “CRIMINAL HISTORY RECORD INFORMATION” MEANS CRIMINAL HISTORY RECORD INFORMATION AS DESCRIBED IN § 10-201 OF THE CRIMINAL PROCEDURE ARTICLE ~~THAT IS OBTAINED FROM THE CENTRAL REPOSITORY.~~

~~(F)~~ (E) (1) “INTERNATIONAL MARRIAGE BROKER” MEANS A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, OR OTHER LEGAL ENTITY THAT DOES BUSINESS IN THE UNITED STATES AND OFFERS TO MARYLAND RESIDENTS DATING, MATRIMONIAL, OR SOCIAL REFERRAL SERVICES INVOLVING RECRUITS BY:

(I) EXCHANGING NAMES, TELEPHONE NUMBERS, ADDRESSES, PHOTOGRAPHS, OR STATISTICS OR OTHERWISE FACILITATING COMMUNICATION BETWEEN A CLIENT AND A RECRUIT; OR

(II) PROVIDING A SOCIAL ENVIRONMENT FOR INTRODUCING CLIENTS TO RECRUITS IN ~~A COUNTRY OTHER THAN THE UNITED STATES~~ PERSON.

(2) “INTERNATIONAL MARRIAGE BROKER” DOES NOT INCLUDE:

(I) A TRADITIONAL MARRIAGE BROKER ~~OF A RELIGIOUS NATURE~~ THAT OPERATES ON A NONPROFIT BASIS AND OTHERWISE OPERATES IN COMPLIANCE WITH THE LAWS OF THE COUNTRIES IN WHICH IT OPERATES, INCLUDING THE LAWS OF THE UNITED STATES; OR

(II) AN ORGANIZATION THAT DOES NOT CHARGE A FEE BASED ON GENDER OR COUNTRY OF ORIGIN TO ANY PARTY FOR THE SERVICES PROVIDED ENTITY THAT PROVIDES DATING SERVICES IF ITS PRINCIPAL BUSINESS IS NOT TO PROVIDE INTERNATIONAL DATING SERVICES BETWEEN MARYLAND RESIDENTS AND FOREIGN NATIONALS AND IT CHARGES COMPARABLE RATES AND OFFERS COMPARABLE SERVICES TO ALL INDIVIDUALS IT SERVES REGARDLESS OF THE INDIVIDUAL'S GENDER OR COUNTRY OF CITIZENSHIP.

(G) "MARITAL HISTORY INFORMATION" MEANS A DECLARATION OF AN INDIVIDUAL'S CURRENT MARITAL STATUS, THE NUMBER OF TIMES THE INDIVIDUAL HAS BEEN MARRIED, THE NUMBER OF DOMESTIC VIOLENCE PROTECTIVE ORDERS ISSUED AGAINST THE INDIVIDUAL, AND WHETHER ANY PREVIOUS MARRIAGE OCCURRED AS A RESULT OF RECEIVING SERVICES FROM AN INTERNATIONAL MARRIAGE BROKER.

(H) "RECRUIT" MEANS AN INDIVIDUAL WHO IS NOT A CITIZEN OR RESIDENT OF THE UNITED STATES AND WHO USES THE SERVICES OF OR IS RECRUITED BY AN INTERNATIONAL MARRIAGE BROKER FOR DATING, MATRIMONIAL, OR SOCIAL REFERRAL SERVICES.

19-602.

(A) (1) AN INTERNATIONAL MARRIAGE BROKER SHALL PROVIDE EACH RECRUIT WITH CRIMINAL HISTORY RECORD INFORMATION AND MARITAL HISTORY INFORMATION OF ITS CLIENT AND BASIC HUMAN RIGHTS INFORMATION BEFORE ~~ANY~~ PERSONAL CONTACT INFORMATION ABOUT A RECRUIT IS GIVEN TO THE CLIENT.

(2) THE HUMAN RIGHTS INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE PREPARED BY AN ORGANIZATION THAT IS NOT AFFILIATED WITH THE INTERNATIONAL MARRIAGE BROKER.

(B) THE INFORMATION REQUIRED IN SUBSECTION (A) OF THIS SECTION MUST BE:

(1) IN THE RECRUIT'S NATIVE LANGUAGE; AND

(2) DISPLAYED IN A MANNER THAT:

(I) SEPARATES THE CRIMINAL HISTORY RECORD INFORMATION, THE MARITAL HISTORY INFORMATION, AND THE BASIC RIGHTS INFORMATION FROM ANY OTHER INFORMATION; AND

(II) IS HIGHLY NOTICEABLE.

(C) THE INTERNATIONAL MARRIAGE BROKER SHALL PAY THE COSTS INCURRED TO TRANSLATE THE INFORMATION.

19-603.

(A) ~~A~~ IN ACCORDANCE WITH FEDERAL LAW, A CLIENT SHALL:

~~(1) PROVIDE TWO COMPLETE SETS OF THE CLIENT'S LEGIBLE FINGERPRINTS THAT MEET THE REQUIREMENTS OF § 19-604(C)(1) OF THIS SUBTITLE TO THE INTERNATIONAL MARRIAGE BROKER; AND~~

~~(2)~~ (1) PROVIDE THE CLIENT'S OWN MARITAL HISTORY INFORMATION TO THE INTERNATIONAL MARRIAGE BROKER; AND

~~(3)~~ ~~(2)~~ PROVIDE THE CLIENT'S OWN STATE AND FEDERAL CRIMINAL HISTORY TO THE INTERNATIONAL MARRIAGE BROKER; AND

~~(4)~~ ~~(3)~~ (2) NOTIFY THE INTERNATIONAL MARRIAGE BROKER IF THE CLIENT HAS PREVIOUSLY SPONSORED AN INTERNATIONAL SPOUSE.

(B) THE INTERNATIONAL MARRIAGE BROKER SHALL REQUIRE THE CLIENT TO AFFIRM THAT THE MARITAL HISTORY INFORMATION IS COMPLETE AND ACCURATE AND INCLUDES INFORMATION REGARDING MARRIAGES, ANNULMENTS, DISSOLUTIONS, AND THE NUMBER OF DOMESTIC VIOLENCE PROTECTIVE ORDERS ISSUED AGAINST THE CLIENT THAT OCCURRED IN THIS STATE, IN ANOTHER STATE, OR IN A FOREIGN COUNTRY.

(C) THE INTERNATIONAL MARRIAGE BROKER MAY NOT PROVIDE ANY ~~SERVICES~~ PERSONAL CONTACT INFORMATION TO THE CLIENT OR THE RECRUIT, INCLUDING THE LAST NAME, PHONE NUMBER, ADDRESS, OR ELECTRONIC MAIL ADDRESS OF THE CLIENT OR THE RECRUIT, UNTIL THE INTERNATIONAL MARRIAGE BROKER HAS:

(1) RECEIVED THE ~~REQUESTED CRIMINAL HISTORY RECORD~~ INFORMATION ~~IN ACCORDANCE WITH~~ FROM THE CRIMINAL HISTORY RECORDS CHECK REQUIRED UNDER § 19-604 OF THIS SUBTITLE;

(2) RECEIVED THE REQUESTED MARITAL HISTORY INFORMATION;
AND

(3) PROVIDED THE INFORMATION TO THE RECRUIT.

(D) INFORMATION OBTAINED BY THE INTERNATIONAL MARRIAGE BROKER UNDER THIS SECTION SHALL BE CONFIDENTIAL AND MAY NOT BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS DISSEMINATED.

19-604.

~~(A) THE AT THE TIME AN INTERNATIONAL MARRIAGE BROKER CONTRACTS FOR SERVICES WITH A CLIENT, PRIOR TO THE RELEASE OF ANY PERSONAL CONTACT INFORMATION TO THE CLIENT OR THE RECRUIT, THE INTERNATIONAL MARRIAGE BROKER SHALL REQUEST WITH REFERENCE TO A CLIENT CONDUCT A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS FROM THE CENTRAL REPOSITORY ON A FORM APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY CHECK OF THE CLIENT, INCLUDING A SEARCH OF THE SEX OFFENDER REGISTRY.~~

~~(B) FOR EACH REQUEST FOR STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS UNDER SUBSECTION (A) OF THIS SECTION, THE CENTRAL REPOSITORY SHALL PROCESS THE STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS AND FORWARD TO THE INTERNATIONAL MARRIAGE BROKER AND THE CLIENT A PRINTED STATEMENT LISTING ANY CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL CHARGE.~~

~~(C) AN INTERNATIONAL MARRIAGE BROKER SHALL SUBMIT TO THE CENTRAL REPOSITORY:~~

~~(1) TWO COMPLETE SETS OF THE CLIENT'S LEGIBLE FINGERPRINTS TAKEN AT ANY DESIGNATED STATE OR LOCAL LAW ENFORCEMENT OFFICE IN THE STATE OR OTHER LOCATION APPROVED BY THE SECRETARY ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;~~

~~(2) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK; AND~~

~~(3) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS.~~

19-605.

AN INTERNATIONAL MARRIAGE BROKER MAY DISCLOSE PERSONAL CONTACT INFORMATION ON A RECRUIT ONLY AFTER OBTAINING CONSENT FROM THE RECRUIT, WRITTEN IN THE RECRUIT'S NATIVE LANGUAGE.

~~19-605.~~ 19-606.

AN INTERNATIONAL MARRIAGE BROKER SHALL BE DEEMED TO BE DOING BUSINESS IN THE STATE IF IT CONTRACTS FOR SERVICES WITH A MARYLAND RESIDENT OR IS CONSIDERED TO BE DOING BUSINESS UNDER OTHER LAWS OF THE STATE.

~~19-606.~~ 19-607.

(A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$12,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH, IN ADDITION TO ANY PENALTY IMPOSED UNDER FEDERAL LAW.

(B) IN DETERMINING THE PENALTY, THE COURT SHALL CONSIDER:

(1) ANY PREVIOUS VIOLATIONS OF THIS SUBTITLE BY THE INTERNATIONAL MARRIAGE BROKER;

(2) THE SERIOUSNESS OF THE VIOLATION, INCLUDING THE NATURE, CIRCUMSTANCES, AND EXTENT OF THE VIOLATION;

(3) THE DEMONSTRATED GOOD FAITH OF THE INTERNATIONAL MARRIAGE BROKER; AND

(4) THE NECESSITY OF DETERRING FUTURE VIOLATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010, the Department of Labor, Licensing, and Regulation, in consultation with the Department of Public Safety and Correctional Services, shall:

(a) report on the feasibility of registering or licensing international marriage brokers;

(b) recommend whether to implement a registration or licensing scheme through legislation; and

(c) provide draft legislation to implement any recommended registration or licensing scheme.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2010.

Approved by the Governor, May 20, 2010.