

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 45

H.P. 46

House of Representatives, January 9, 2019

An Act To Amend the Law Regarding Maine's Background Check Center

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HYMANSON of York.

Cosponsored by Representatives: BAILEY of Saco, INGWERSEN of Arundel, JOHANSEN of Monticello, MADIGAN of Waterville, McCREIGHT of Harpswell, PERRY of Calais, Senator: GRATWICK of Penobscot.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §9054, sub-§9-A** is enacted to read:

3 **9-A. Acquisition and use of criminal history record information.** Any criminal
4 history record information in a background check report under this chapter must be
5 obtained and used by the department as follows.

6 A. The criminal history record information obtained from the Maine Criminal Justice
7 Information System must include a record of public criminal history record
8 information as defined in Title 16, section 703, subsection 8.

9 B. The criminal history record information obtained from the Federal Bureau of
10 Investigation must include other state and national criminal history record
11 information.

12 C. A direct access worker who is the subject of a Federal Bureau of Investigation
13 criminal history record check may obtain a copy of the criminal history record check
14 by following the procedures outlined in 28 Code of Federal Regulations, Sections
15 16.32 and 16.33. A direct access worker who is the subject of a state criminal history
16 record check may inspect and review the criminal history record information pursuant
17 to Title 16, section 709.

18 D. State and national criminal history record information may be used by the
19 department for the purpose of screening each direct access worker.

20 E. A direct access worker shall submit to having fingerprints taken. The State Police
21 shall take or cause to be taken the direct access worker's fingerprints and shall
22 forward the fingerprints to the bureau so that the bureau can conduct state and
23 national criminal history record checks. A transfer of payment by the department to
24 the Department of Public Safety from the fees collected under section 9055 must be
25 made pursuant to a schedule developed in consultation with the State Controller and
26 agreed upon by the department and the Department of Public Safety, and payment
27 must be based on documentation of fees and processing and administration costs
28 incurred.

29 F. Information obtained pursuant to this subsection is confidential. The results of
30 background checks received by the department are for official use only and may not
31 be disclosed to any other person or entity.

32 G. If a person is no longer subject to this chapter, the person may request in writing
33 that the bureau remove the person's fingerprints from the bureau's fingerprint file. In
34 response to a written request, the bureau shall remove the person's fingerprints from
35 the fingerprint file and provide written confirmation of that removal.

36 **Sec. 2. 25 MRSA §1542-A, sub-§1, ¶Q**, as enacted by PL 2017, c. 457, §13, is
37 amended to read:

38 Q. Who is an applicant for licensure with the State Board of Nursing as required
39 under Title 32, section 2111, subsection 1; or

1 **Sec. 3. 25 MRSA §1542-A, sub-§1, ¶R**, as enacted by PL 2017, c. 457, §13, is
2 amended to read:

3 R. Who is required to have a criminal background check under Title 22, section
4 8302-A or 8302-B; or

5 **Sec. 4. 25 MRSA §1542-A, sub-§1, ¶S** is enacted to read:

6 S. Who is a direct access worker subject to a background check under Title 22,
7 chapter 1691.

8 **Sec. 5. 25 MRSA §1542-A, sub-§3, ¶R** is enacted to read:

9 R. The State Police shall take or cause to be taken the fingerprints of the person
10 identified in subsection 1, paragraph S in accordance with Title 22, chapter 1691.

11 **Sec. 6. 25 MRSA §1542-A, sub-§4**, as amended by PL 2017, c. 452, §27 and c.
12 457, §16, is repealed and the following enacted in its place:

13 **4. Duty to submit to State Bureau of Identification.** It is the duty of the law
14 enforcement agency taking the fingerprints as required by subsection 3, paragraphs A, B
15 and G to transmit immediately to the State Bureau of Identification the criminal
16 fingerprint record. Fingerprints taken pursuant to subsection 1, paragraph C, D, E or F or
17 pursuant to subsection 5 may not be submitted to the State Bureau of Identification unless
18 an express request is made by the commanding officer of the State Bureau of
19 Identification. Fingerprints taken pursuant to subsection 1, paragraph G must be
20 transmitted immediately to the State Bureau of Identification to enable the bureau to
21 conduct state and national criminal history record checks for the Department of
22 Education. The bureau may not use the fingerprints for any purpose other than that
23 provided for under Title 20-A, section 6103. The bureau shall retain the fingerprints,
24 except as provided under Title 20-A, section 6103, subsection 9. Fingerprints taken
25 pursuant to subsection 1, paragraph I and subsection 3, paragraph I must be transmitted
26 immediately to the State Bureau of Identification to enable the bureau to conduct state
27 and national criminal history record checks for the court and the Department of Public
28 Safety, Gambling Control Board, respectively. Fingerprints taken pursuant to subsection
29 1, paragraph J, K or L must be transmitted immediately to the State Bureau of
30 Identification to enable the bureau to conduct state and national criminal history record
31 checks for the Department of Administrative and Financial Services, Bureau of Revenue
32 Services. Fingerprints taken pursuant to subsection 1, paragraph P must be transmitted
33 immediately to the State Bureau of Identification to enable the bureau to conduct state
34 and national criminal history record checks for the Board of Osteopathic Licensure,
35 established in Title 32, chapter 36. Fingerprints taken pursuant to subsection 1, paragraph
36 N must be transmitted immediately to the State Bureau of Identification to enable the
37 bureau to conduct state and national criminal history record checks for the Board of
38 Licensure in Medicine, established in Title 32, chapter 48. Fingerprints taken pursuant to
39 subsection 1, paragraph Q must be transmitted immediately to the State Bureau of
40 Identification to enable the bureau to conduct state and national criminal history record
41 checks for the State Board of Nursing, established in Title 32, chapter 31. Fingerprints
42 taken pursuant to subsection 1, paragraph O must be transmitted immediately to the State
43 Bureau of Identification to enable the bureau to conduct state and national criminal

1 history record checks under Title 28-B, section 204. Fingerprints taken pursuant to
2 subsection 1, paragraphs R and S must be transmitted immediately to the State Bureau of
3 Identification to enable the bureau to conduct state and national criminal history record
4 checks for the Department of Health and Human Services.

5

SUMMARY

6 This bill grants the Department of Health and Human Services the authority to
7 request state and national criminal history records, including fingerprint-based criminal
8 history records, for direct access workers undergoing a background check under the
9 Maine Background Check Center Act.