

MAINE STATE LEGISLATURE

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L.D. 1340

Date: 5-31-19

(Filing No. H-420)

STATE AND LOCAL GOVERNMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 968, L.D. 1340, Bill, "An Act To Require Criminal History Record Checks for All Prospective and Current Staff Members of the Office of the State Auditor"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the work of the Office of the State Auditor requires that its employees have access to federal tax information and other confidential financial records; and

Whereas, the United States Internal Revenue Service requires state agencies that permit employees and contractors access to federal tax information must complete a criminal history background investigation that is favorably adjudicated; and

Whereas, this background investigation must include submission of fingerprints to the United States Department of Justice, Federal Bureau of Investigation; and

Whereas, the work of the Office of the State Auditor will be delayed until such time as its employees have completed the required criminal history background investigation; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill in section 1 in §247 in subsection 1 in paragraph A in the first line (page 1, line 6 in L.D.) by inserting after the following: "Safety" the following: ', State Bureau of Identification'

Amend the bill in section 1 in §247 by striking out all of subsections 2 and 3 (page 1, lines 11 to 33 in L.D.) and inserting the following:

COMMITTEE AMENDMENT

1 **2. Criminal history; information about criminal records and data obtained.**

2 The office shall obtain in print or electronic format, criminal history record information
3 containing a record of public criminal history record information as defined in Title 16,
4 section 703, subsection 8 from the Maine Criminal Justice Information System, created
5 pursuant to Title 16, section 631, and the Federal Bureau of Investigation for any person
6 employed by or who may be offered employment by the office to comply with the United
7 States Internal Revenue Service's tax information security guidelines for federal, state and
8 local agencies.

9 **3. Fingerprint-based criminal history obtained.** A person employed by the office
10 shall consent to having the person's fingerprints taken. A person who may be offered
11 employment by the office shall consent to and have the person's fingerprints taken prior
12 to being employed by the office. The Maine State Police shall take or cause to be taken
13 the fingerprints of a person who has consented under this subsection and shall forward the
14 fingerprints to the department so that the department may conduct a state and national
15 criminal history record check on the person. The department shall forward the results
16 obtained to the office. The fee charged to the office by the Maine State Police must be
17 consistent with the fee charged to executive branch agencies receiving similar services.
18 Except for the portion of the payment that constitutes the processing fee charged by the
19 Federal Bureau of Investigation, all money received by the Maine State Police under this
20 subsection must be paid to the Treasurer of State, who shall apply the money to the
21 expenses of administration of this section by the department.'

22 Amend the bill by adding after section 1 the following:

23 'Sec. 2. 25 MRSA §1542-A, sub-§1, ¶P, as enacted by PL 2017, c. 452, §25, is
24 reallocated to 25 MRSA §1542-A, sub-§1, ¶S.

25 Sec. 3. 25 MRSA §1542-A, sub-§1, ¶¶Q and R, as enacted by PL 2017, c. 457,
26 §13, are amended to read:

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

29 R. Who is required to have a criminal background check under Title 22, section
30 8302-A or 8302-B; or

31 Sec. 4. 25 MRSA §1542-A, sub-§1, ¶T is enacted to read:

32 T. Who is employed or may be offered employment by the Office of the State
33 Auditor as required under Title 5, section 247.

34 Sec. 5. 25 MRSA §1542-A, sub-§3, ¶O, as enacted by PL 2017, c. 452, §26, is
35 repealed.

36 Sec. 6. 25 MRSA §1542-A, sub-§3, ¶R is enacted to read:

37 R. The State Police shall take or cause to be taken the fingerprints of the person
38 named in subsection 1, paragraph S at the request of that person or the Department of
39 Administrative and Financial Services under Title 22, section 2425-A, subsection
40 3-A.

41 Sec. 7. 25 MRSA §1542-A, sub-§3, ¶S is enacted to read:

1 S. The State Police shall take or cause to be taken the fingerprints of the person
2 named in subsection 1, paragraph T at the request of that person or the Office of the
3 State Auditor and upon payment by the Office of the State Auditor of the fee
4 established in Title 5, section 247, subsection 3.

5 **Sec. 8. 25 MRSA §1542-A, sub-§4**, as amended by PL 2017, c. 452, §27 and c.
6 457, §16, is repealed and the following enacted in its place:

7 **4. Duty to submit to State Bureau of Identification.** It is the duty of the law
8 enforcement agency taking the fingerprints as required by subsection 3, paragraphs A, B
9 and G to transmit immediately to the State Bureau of Identification the criminal
10 fingerprint record. Fingerprints taken pursuant to subsection 1, paragraph C, D, E or F or
11 pursuant to subsection 5 may not be submitted to the State Bureau of Identification unless
12 an express request is made by the commanding officer of the State Bureau of
13 Identification. Fingerprints taken pursuant to subsection 1, paragraph G must be
14 transmitted immediately to the State Bureau of Identification to enable the bureau to
15 conduct state and national criminal history record checks for the Department of
16 Education. The bureau may not use the fingerprints for any purpose other than that
17 provided for under Title 20-A, section 6103. The bureau shall retain the fingerprints,
18 except as provided under Title 20-A, section 6103, subsection 9. Fingerprints taken
19 pursuant to subsection 1, paragraph I and subsection 3, paragraph I must be transmitted
20 immediately to the State Bureau of Identification to enable the bureau to conduct state
21 and national criminal history record checks for the court and the Department of Public
22 Safety, Gambling Control Board, respectively. Fingerprints taken pursuant to subsection
23 1, paragraph J, K, L or S must be transmitted immediately to the State Bureau of
24 Identification to enable the bureau to conduct state and national criminal history record
25 checks for the Department of Administrative and Financial Services. Fingerprints taken
26 pursuant to subsection 1, paragraph P must be transmitted immediately to the State
27 Bureau of Identification to enable the bureau to conduct state and national criminal
28 history record checks for the Board of Osteopathic Licensure, established in Title 32,
29 chapter 36. Fingerprints taken pursuant to subsection 1, paragraph N must be transmitted
30 immediately to the State Bureau of Identification to enable the bureau to conduct state
31 and national criminal history record checks for the Board of Licensure in Medicine,
32 established in Title 32, chapter 48. Fingerprints taken pursuant to subsection 1, paragraph
33 Q must be transmitted immediately to the State Bureau of Identification to enable the
34 bureau to conduct state and national criminal history record checks for the State Board of
35 Nursing, established in Title 32, chapter 31. Fingerprints taken pursuant to subsection 1,
36 paragraph O must be transmitted immediately to the State Bureau of Identification to
37 enable the bureau to conduct state and national criminal history record checks under Title
38 28-B, section 204. Fingerprints taken pursuant to subsection 1, paragraph R must be
39 transmitted immediately to the State Bureau of Identification to enable the bureau to
40 conduct state and national criminal history record checks for the Department of Health
41 and Human Services. Fingerprints taken pursuant to subsection 1, paragraph T must be
42 transmitted immediately to the State Bureau of Identification to enable the bureau to
43 conduct state and national criminal history record checks for the Office of the State
44 Auditor.

45 **Sec. 8. Appropriations and allocations.** The following appropriations and
46 allocations are made.

R. 08.

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AUDITOR, OFFICE OF THE STATE

Audit Bureau 0067

Initiative: Provides funding for employee fingerprint-based background checks required by the United States Internal Revenue Service.

GENERAL FUND	2019-20	2020-21
All Other	\$784	\$118
GENERAL FUND TOTAL	<hr/> \$784	<hr/> \$118
OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	\$1,216	\$182
OTHER SPECIAL REVENUE FUNDS TOTAL	<hr/> \$1,216	<hr/> \$182

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment adds an emergency preamble to ensure the Office of the State Auditor may immediately meet the fingerprint background check requirements set in federal regulation. This amendment makes several minor changes to section 1 to bring this law into conformity with similar criminal background check laws in Maine statute. The amendment authorizes the State Bureau of Identification to obtain fingerprints and conduct state and national criminal history record checks for the Office of the State Auditor. This amendment removes conflicts in the Maine Revised Statutes, Title 25, section 1542-A, subsection 4. The amendment also resolves lettering conflicts in the statutes regarding the taking of fingerprints by the State Bureau of Identification created when 2 public laws enacted substantively different provisions with the same paragraph designations. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



129th MAINE LEGISLATURE

LD 1340

LR 2250(02)

An Act To Require Criminal History Record Checks for All Prospective and Current Staff Members of the Office of the State Auditor

Fiscal Note for Bill as Amended by Committee Amendment *Aⁿ (H 420)*
Committee: State and Local Government
Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$784	\$118	\$118	\$118
Appropriations/Allocations				
General Fund	\$784	\$118	\$118	\$118
Other Special Revenue Funds	\$1,216	\$182	\$182	\$182

Fiscal Detail and Notes

This bill requires all employees of the Office of the State Auditor (OSA) to consent to having their fingerprints taken for criminal background checks conducted by the Department of Public Safety. Assuming an average cost per employee of \$50, OSA estimates it will cost about \$2,000 to process all current employees and \$300 annually for new employees based on existing turnover. Accordingly, the bill includes General Fund appropriations of \$748 in fiscal year 2019-20 and \$118 in fiscal year 2020-21 and Other Special Revenue Funds allocations of \$1,216 in fiscal year 2019-20 and \$182 in fiscal year 2020-21.

Additional costs to the Department of Public Safety associated with performing background checks can be absorbed within existing budgeted resources. Other Special Revenue Funds revenue will be increased by minor amounts not requiring any change to the budget.