

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

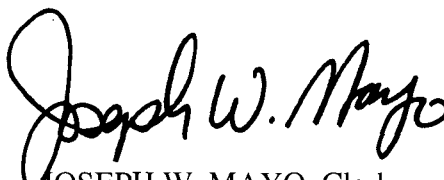
No. 827

H.P. 617

House of Representatives, March 14, 1995

**An Act to Provide for Record Checks of Elementary and Secondary
Education Employees and Applicants.**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative O'NEAL of Limestone.
Cosponsored by Representatives: AHEARNE of Madawaska, BUNKER of Kossuth
Township, CLARK of Millinocket, DRISCOLL of Calais, GERRY of Auburn, KILKELLY of
Wiscasset, LAYTON of Cherryfield, LEMAIRE of Lewiston, McALEVEY of Waterboro,
MORRISON of Bangor, POIRIER of Saco, ROSEBUSH of East Millinocket, WHEELER of
Bridgewater, Senator: PARADIS of Aroostook.

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

4 **Sec. 1. 20-A MRSA c. 221, sub-c. III, first 2 lines** are repealed and
the following enacted in their place:

6 **SUBCHAPTER III**

8 **EMPLOYEE AND APPLICANT RECORDS**

10 **Sec. 2. 20-A MRSA §6101, sub-§2, ¶B,** as amended by PL 1987, c.
12 620, §1, is further amended to read:

14 B. Except as provided in paragraph A, information in any
16 form relating to an employee or applicant for employment, or
to the employee's immediate family, ~~shall~~ must be kept
confidential if it relates to the following:

18 (1) All information, working papers and examinations
20 used in the examination or evaluation of all applicants
for employment;

22 (2) Medical information of any kind, including
24 information pertaining to diagnosis or treatment of
mental or emotional disorders;

26 (3) Performance evaluations, personal references and
28 other reports and evaluations reflecting on the quality
or adequacy of the employee's work or general character
30 compiled and maintained for employment purposes;

32 (4) Credit information;

34 (5) Except as provided by subsection 1, the personal
36 history, general character or conduct of the employee
or any member of the employee's immediate family;

38 (6) Complaints, charges of misconduct, replies thereto
and memoranda and other materials pertaining to
40 disciplinary action;

42 (7) Social security number; ~~and~~

44 (8) The teacher action plan and support system
documents and reports maintained for certification
46 purposes; and

48 (9) Information obtained from criminal record checks
and Department of Human Services' record checks
pursuant to section 6103.

50 **Sec. 3. 20-A MRSA §6103** is enacted to read:

2 **§6103. Applicant record checks**

4 All applicants for employment with the department, local
6 school administrative units and private schools within the State
8 are subject to record checks for the purposes of determining the
10 applicants' fitness for positions.

12 **1. Authority granted.** Record checks of applicants for
14 certification, recertification and employment are authorized as
16 follows.

18 A. The commissioner may conduct criminal record checks,
20 including Federal Bureau of Investigation fingerprint
22 records and intelligence and investigative information and
24 nonconviction data as defined in Title 16, section 611,
26 subsections 8 and 9, and record checks with the Department
28 of Human Services, including child protection records as
30 provided by Title 22, section 4008, subsection 3, paragraph
32 F, for all applicants for certification and all applicants
34 for employment in positions in which there is direct or
36 indirect contact with children, regardless of whether that
38 contact with children is supervised.

40 B. All state school superintendents may conduct criminal
42 record checks, including Federal Bureau of Investigation
44 fingerprint records and intelligence and investigative
46 information and nonconviction data as defined in Title 16,
48 section 611, subsections 8 and 9, and record checks with the
50 Department of Human Services, including child protection
records as provided by Title 22, section 4008, subsection 3,
paragraph F, for all applicants for employment in positions
in which there is direct or indirect contact with children,
regardless of whether that contact with children is
supervised.

C. The commissioner and all state school superintendents
may conduct record checks on all of a contractors' employees
who directly or indirectly come into contact with school
children. The commissioner and superintendents may charge
the contractor for the cost of the record checks.

2. Applicant's refusal. An applicant's refusal to submit
to a record check is sufficient reason to deny certification,
recertification or employment.

3. Confidentiality. Any information obtained as a result
of a record check pursuant to this section is confidential,
whether the applicant is or is not hired.

4. Fees. Notwithstanding Title 26, sections 594 and 629,
the commissioner or a state school superintendent may charge a

2 fee to the successful applicant to cover the cost of the record
3 checks. The fee may not exceed the actual cost of the record
4 checks.

5 5. Exception. This section does not apply when a
6 collective bargaining agreement is in existence that has a
7 provision regarding record checks. This exception lasts for the
8 duration of the agreement.

10 **Sec. 4. 20-A MRSA §13004, sub-§1,** as enacted by PL 1981, c.
11 693, §§5 and 8, is amended to read:

12 **1. Records.** The commissioner shall keep a list of
13 personnel certified teachers by the department. This list shall
14 be is a public record. The commissioner shall send copies of the
15 list to school boards and superintendents on their request, and
16 annually to the Commissioner of Human Services pursuant to Title
17 22, section 4008, subsection 3, paragraph F.

20 **Sec. 5. 20-A MRSA §13023** is enacted to read:

22 **§13023. Record checks**

24 Any person subject to certification or recertification under
25 the provisions of chapter 501 or 502 must submit to a record
26 check as provided in section 6103. The failure of a person to
27 submit to the record check is sufficient reason to deny that
28 person certification or recertification.

30 **Sec. 6. 22 MRSA §4008, sub-§3, ¶F-1** is enacted to read:

32 F-1. At least once a year, the department shall obtain a
33 list of all certified teachers and other certified personnel
34 from the Department of Education and compare the list with
35 the records maintained in connection with the department's
36 child protective activities. The department shall report
37 the results of this comparison to the commissioner and the
38 Commissioner of Education.

40
41 **STATEMENT OF FACT**

42
43 This bill authorizes the Commissioner of Education and state
44 school superintendents to conduct record checks of criminal and
45 investigative information on applicants for employment,
46 certification or recertification in positions that are directly
or indirectly in contact with children.