

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 503

S.P. 174

In Senate, January 28, 1997

**An Act to Provide for State and Federal Criminal Record Checks on
Educational Personnel in the State.**

Submitted by the Department of Education pursuant to Joint Rule 204.
Reference to the Committee on Education and Cultural Affairs suggested and ordered
printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PENDLETON of Cumberland.
Cosponsored by Representative O'BRIEN of Augusta and
Senator SMALL of Sagadahoc, Representative: O'NEAL of Limestone.

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

2
4 **Sec. 1. 20-A MRSA §6101, sub-§1, ¶¶E and F,** as amended by PL 1995, c. 547, §2, are further amended to read:

6 E. Major and minor fields of study recognized by the
8 post-secondary institutions attended; and

10 F. Degrees received and dates awarded; ~~and.~~

12 **Sec. 2. 20-A MRSA §6101, sub-§1, ¶G,** as enacted by PL 1995, c. 547, §3, is repealed.

14 **Sec. 3. 20-A MRSA §6103,** as enacted by PL 1995, c. 547, §5,
16 is amended to read:

18 **§6103. Criminal history record information conviction data**

20 Beginning January 1, 1999, certification, authorization,
22 approval and renewal under chapters 501 and 502 are subject to
the provisions of this section.

24 **1. Conviction data obtained; reliance.** The commissioner
26 shall obtain criminal history record information containing a
28 record of conviction data from the Maine Criminal Justice
30 Information System for any person applying for certification,
authorization, approval or renewal. The commissioner may rely on
information provided by the Maine Criminal Justice Information
System within 24 months prior to the issuance of a certificate,
authorization, approval or renewal.

32 **2. Issuance restriction.** Issuance of a certificate,
34 authorization, approval or renewal to any person whose criminal
36 history record information includes a criminal conviction is
subject to the provisions of Title 5, chapter 341 and section
13020.

38 **3. Confidentiality.** Any information obtained pursuant to
40 this section is confidential. The results of criminal history
42 record checks received by the commissioner are for official use
only and may not be disseminated outside the department.

44 **4. Expenses.** Notwithstanding Title 26, sections 594 and
46 629, the expense of obtaining the information required by this
section must be paid by the applicant.

48 **5. Criminal record information obtained from the Federal
50 Bureau of Investigation.** The commissioner shall obtain other
state and national criminal history record information from the
Federal Bureau of Investigation for any person applying for

2 certification, authorization, approval or renewal. The
3 commissioner may rely on information provided by the Federal
4 Bureau of Investigation within 24 months prior to the issuance of
5 a certificate, authorization, approval or renewal.

6 6. Fingerprinting. The applicant shall submit 2
7 fingerprint cards bearing the legible rolled and flat impression
8 of the applicant's fingerprints prepared by a state or local
9 public law enforcement agency to the department which shall
10 forward the fingerprint cards to the Department of Public Safety,
11 State Bureau of Identification for the purpose of conducting
12 state and national criminal history record checks.

13 7. Use of criminal history record. State and federal
14 criminal history record information may be used for the purpose
15 of screening educational personnel applicants by the commissioner
16 in order to determine whether certification, authorization,
17 approval or renewal of educational personnel is granted or
18 maintained.

19 8. Applicant's access to criminal history record check.
20 The subject of a Federal Bureau of Investigation criminal history
21 record check may obtain a copy of a criminal history record check
22 by following the procedures outlined in 28 Code of Federal
23 Regulations, Sections 16.32 and 16.33. The subject of a state
24 criminal record check may inspect and review criminal record
25 information pursuant to Title 16, section 620.

26 Sec. 4. 20-A MRSA §13011, sub-§1, ¶D, as amended by PL 1995,
27 c. 207, §1, is further amended to read:

28 D. Seek a revocation of a certificate in the Administrative
29 Court; and

30 Sec. 5. 20-A MRSA §13011, sub-§1, ¶E, as enacted by PL 1995,
31 c. 207, §1, is amended to read:

32 E. Certify or authorize personnel who provide early
33 childhood educational programs or developmental therapy to
34 children with disabilities from birth to under 9 years of
35 age in the home, in community-based special purpose and
36 integrated programs and in public schools; and

37 Sec. 6. 20-A MRSA §13011, sub-§1, ¶F is enacted to read:

38 F. Approval must be obtained from the department and
39 maintained by all individuals for whom certification or
40 authorization is not required prior to being hired or being
41 placed under contract by a public school or an approved
42 private school.

2 **Sec. 7. 20-A MRSA §13011, sub-§8** is enacted to read:

4 **8. Criminal history record checks.** Criminal history record
6 checks of an applicant for certification, authorization, approval
or renewal must be conducted in accordance with this section,
8 section 6103 and pursuant to rules adopted by the state board.
Rules adopted pursuant to this subsection are minor technical
10 rules in accordance with Title 5, chapter 375, subchapter II-A.

12 **SUMMARY**

14 This bill requires the Commissioner of Education to obtain
16 from the Department of Public Safety, State Bureau of
Identification state criminal history record checks and from the
18 Federal Bureau of Investigation federal and other state criminal
history record checks on individuals seeking initial
20 certification or renewal as administrators, teachers or education
specialists; individuals seeking authorization or renewal as
22 education technicians; or other educational personnel seeking
approval or renewal in this State from the Department of
24 Education. Individuals covered by this requirement include, but
are not limited to, school bus drivers, custodians, coaches and
26 secretaries. All of these individuals have or potentially have
direct contact with students. The purpose of this bill is to
28 protect the well-being of school-age students and to prevent
applicants from omitting conviction information from
30 applications, particularly when these convictions pertain to sex
offenses, controlled substances, or violent crimes. The
32 conviction data may be a factor used in considering the
individual's fitness for renewal of certification, authorization
or approval.

34 This bill limits the dissemination of criminal history
36 record information received by the Department of Education. This
bill also references the procedures that the subject of a
38 criminal history record check may follow for access to the
applicant's criminal history record check.