

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 266

H.P. 188

House of Representatives, January 11, 1999

An Act to Require Records Checks for Persons Providing Direct Care to Clients of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WHEELER of Eliot.
Cosponsored by President LAWRENCE of York and
Representatives: CLARK of Millinocket, DUGAY of Cherryfield, LEMONT of Kittery,
SNOWE-MELLO of Poland, TUTTLE of Sanford.

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

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Sec. 1. 34-B MRSA §1222 is enacted to read:

§1222. Criminal history record information

1. Record check requirement. Beginning July 1, 1999, the department and any facility that is licensed by the department or that provides services directly or indirectly funded by the department, referred to in this section as "any facility or entity," shall perform checks for state and federal criminal history record information as provided in this section.

A. Checks must be performed on all contractors, grantees and independent contractors, referred to in this section as "employees," who provide direct care to clients of the department.

B. Checks must be performed on all persons applying to be employees, contractors, grantees or independent contractors, referred to in this section as "prospective employees," who may provide direct care to clients of the department.

C. Checks must be performed through the State Bureau of Identification.

D. Checks must be performed at the expense of the department or facility or entity required to perform the check.

E. The employee or prospective employee must submit 2 fingerprint cards bearing legible rolled and flat impressions of the person's own fingerprints prepared by a state, county or municipal law enforcement agency.

F. The fingerprint cards must be sent to the department for forwarding to the State Bureau of Identification.

2. Exclusion from employment. Employees and prospective employees who refuse to submit to a check or who do not present usable fingerprint cards under subsection 1, paragraph E may not be employed by the department or any facility or entity in any direct care capacity.

3. Probationary employment. Employees and prospective employees may be employed on a probationary status pending the completion of the criminal history record check.

4. Reliance on record check. The department and any facility or entity may rely on information provided by the State Bureau of Identification and the Federal Bureau of Investigation

2 that is dated within 24 months of making a decision regarding the
3 employment of an employee or prospective employee.

4 5. Confidentiality: access to information. Information
5 obtained as a result of a record check by the department and any
6 facility or entity is confidential, may be used only as part of
7 the employment process and may not be disclosed except as
8 necessary in the employment of the employee or prospective
9 employee. The employee or prospective employee may apply to
10 inspect and review criminal history record information pursuant
11 to Title 16, section 620 and 28 Code of Federal Regulations,
12 Sections 16.32 and 16.33.

13 6. Rulemaking. The department shall adopt rules to
14 implement this section, including but not limited to rules
15 regarding the management and storage of information obtained
16 pursuant to this section and appeals of decisions based upon
17 information obtained under this section. Rules adopted pursuant
18 to this subsection are routine technical rules as defined in
19 Title 5, chapter 375, subchapter II-A.
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22 SUMMARY

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25 This bill requires criminal history record checks for direct
26 care employees and prospective employees of the Department of
27 Mental Health, Mental Retardation and Substance Abuse Services
28 and facilities and entities providing services to clients of the
29 department. The bill provides for the confidentiality of
30 criminal history record information and access and review for the
31 person whose record is checked. The bill requires rulemaking as
32 necessary to implement the new provision.