

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

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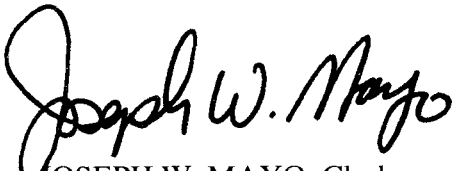
H.P. 534

House of Representatives, January 26, 1999

**An Act to Assist the Department of Public Safety in Implementing the
Requirements of Fingerprint-based Background Checks.**

(EMERGENCY)

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative McALEVEY of Waterboro.
Cosponsored by Senator O'GARA of Cumberland and
Representatives: CARR of Lincoln, TOBIN of Dexter.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** commencing July 1, 1999, certification,
authorization, approval and renewal of teachers and educational
personnel are subject to the provisions of the Maine Revised
Statutes, Title 20-A, section 6103; and

10 **Whereas,** to aid in ensuing compliance with the July 1, 1999
beginning date, it is essential that certain changes be made in
Title 20-A, section 6103 and Title 25, section 1542-A relating to
the taking of the fingerprints of applicants; and

14
16 **Whereas,** the issue of certain expenses relating to obtaining
the conviction data information required by Title 20-A, section
6103 needs to be expressly addressed; and

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20 **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,

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

28 **Sec. 1. 20-A MRSA §6103, sub-§4,** as enacted by PL 1995, c.
547, §5, is amended to read:

30 **4. Expenses.** Notwithstanding Title 26, sections 594 and
629, the expense of obtaining the information required by this
section must be paid by the applicant. That expense consists of
the following fees:

34 A. Any processing fee charged by the Federal Bureau of
Investigation to conduct the national criminal history
record check; and

38 B. When initially subject to the provisions of this
section, a one-time processing fee of \$25 to offset the
expenses incurred by the Department of Public Safety to
obtain the fingerprints.

42
44 **Sec. 2. 20-A MRSA §6103, sub-§6,** as enacted by PL 1997, c.
452, §3, is repealed and the following enacted in its place:

46
48 6. Fingerprinting. The applicant shall submit to having
fingerprints taken. The Maine State Police, upon payment by the
applicant of the expenses specified in subsection 4, shall take
or cause to be taken the applicant's fingerprints and shall

2 forward the fingerprints to the State Bureau of Identification so
3 that the bureau can conduct state and national criminal history
4 record checks. Except for the portion of the payment, if any,
5 that constitutes the processing fee charged by the Federal Bureau
6 of Investigation, all money received from the applicant by the
7 Maine State Police must be paid over to the Treasurer of State.
8 The money must be applied to the expenses of administration
9 incurred by the Department of Public Safety.

10 **Sec. 3. 25 MRSA §1542-A, sub-§1, ¶E,** as amended by PL 1991, c.
11 548, Pt. A, §22, is further amended to read:

12 E. Who dies under circumstances of death constituting a
13 medical examiner case under Title 22, section 3025, if
14 sought pursuant to Title 22, section 3028, subsection 3, or
15 at the request of the Chief Medical Examiner or the Attorney
16 General; or

17 **Sec. 4. 25 MRSA §1542-A, sub-§1, ¶F,** as enacted by PL 1987, c.
18 512, §3, is amended to read:

19 F. Whose fingerprints have been ordered by a court; or

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

21 G. Who is a teacher or educational personnel applicant
22 subject to Title 20-A, section 6103.

23 **Sec. 6. 25 MRSA §1542-A, sub-§3, ¶F** is enacted to read:

24 F. The Maine State Police shall take or cause to be taken
25 the fingerprints of the person named in subsection 1,
26 paragraph G, at the request of that person and upon payment
27 of the expenses specified under Title 20-A, section 6103,
28 subsection 4.

29 **Sec. 7. 25 MRSA §1542-A, sub-§4,** as enacted by PL 1987, c.
30 512, §3, is amended to read:

31 **4. Duty to submit to State Bureau of Identification.** It is
32 the duty of the law enforcement agency taking the fingerprints as
33 required by subsection 3, paragraphs A and B, to transmit
34 forthwith to the State Bureau of Identification the criminal
35 fingerprint record. Fingerprints taken pursuant to subsection 1,
36 paragraph C, D, E or F, or pursuant to subsection 5, shall may
37 not be submitted to the State Bureau of Identification unless an
38 express request is made by the commanding officer of the State
39 Bureau of Identification. Fingerprints taken pursuant to
40 subsection 1, paragraph G must be transmitted forthwith to the
41 State Bureau of Identification to enable the bureau to conduct
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2 state and national criminal history record checks for the
3 Department of Education. The bureau shall retain the
4 fingerprints.

6 **Sec. 8. 25 MRSA §1542-A, sub-§8**, as enacted by PL 1987, c.
512, §3, is amended to read:

8 **8. Fingerprint record forms.** Fingerprints taken pursuant to
9 subsection 1, paragraphs A, B and D, and subsection 5,
10 paragraphs B, C and D, ~~shall~~ **must** be taken on a form furnished
11 by the State Bureau of Identification, such form to be known as
12 the Criminal Fingerprint Record. Fingerprints taken pursuant to
13 subsection 1, ~~paragraph E,~~ paragraphs E, F and G **must** be
14 taken on a form furnished by the bureau, such form to be known as
15 the Noncriminal Fingerprint Record. Fingerprints taken pursuant
16 to subsection 5, paragraph A, ~~shall~~ **must** be taken on a form
17 furnished by the State Bureau of Identification, such form to be
18 known as the Juvenile Crime Fingerprint Record. Fingerprints
19 taken pursuant to subsection 1, paragraphs C or F, ~~shall~~ **must** be
20 taken upon the form appropriate for that purpose.

22 **Emergency clause.** In view of the emergency cited in the
23 preamble, this Act takes effect when approved.

26 SUMMARY

28 This bill changes the fingerprinting process currently
29 provided for in the Maine Revised Statutes, Title 20-A, section
30 6103, subsection 6 in 4 ways. First, it places the
31 responsibility for the taking of fingerprints for applicants
32 solely upon the Maine State Police. Second, it removes the
33 responsibility from the applicant to forward the fingerprints to
34 the Department of Education and instead requires the Maine State
35 Police to forward the prints to the State Bureau of
36 Identification, which is the state entity that will actually
37 conduct or arrange for the necessary state and national criminal
38 history record checks on behalf of the Department of Education.
39 Third, fingerprinting by the Maine State Police is made
40 contingent upon payment of the necessary expenses by the
41 applicant. Those expenses are as specified in Title 20-A,
42 section 6103, subsection 4. Fourth, it eliminates the
43 requirement that 2 fingerprint cards be prepared.

44 The bill also amends Title 20-A, section 6103, subsection 4
45 to specifically identify the expenses to be borne by the
46 applicant. The first expense identified is whatever fee is
47 charged by the Federal Bureau of Investigation to conduct the
48 national criminal history record check. The 2nd expense is the
49 one-time \$25 processing fee charged by the Department of Public
50

2 Safety to offset the expenses incurred in taking or causing to be
taken the applicant's fingerprints.

4 The bill also amends the fingerprinting provisions of Title
25, section 1542-A to accommodate the changes to Title 20-A,
6 section 6103, subsections 4 and 6.