

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1340

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H.P. 968

House of Representatives, March 21, 2019

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

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Submitted by the Office of the State Auditor pursuant to Joint Rule 204.  
Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script, reading "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative MARTIN of Sinclair.  
Cosponsored by Senator CLAXTON of Androscoggin.

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

2               **Sec. 1. 5 MRSA §247** is enacted to read:

3       **§247. Criminal history background checks for State Auditor employees**

4               **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5       following terms have the following meanings.

6               A. "Department" means the Department of Public Safety.

7               B. "Federal Bureau of Investigation" means the United States Department of Justice,  
8       Federal Bureau of Investigation.

9               C. "Office" means the Office of the State Auditor.

10              D. "State Police" means the Department of Public Safety, Bureau of State Police.

11              **2. Criminal history; information about criminal records and data obtained.**  
12       Notwithstanding any other provision of law, the office shall obtain the fingerprints and, in  
13       print or electronic format, criminal history record information as defined in Title 16,  
14       section 703, subsection 3 of a person employed by or who may be offered employment by  
15       the office.

16              **3. Fingerprint-based criminal history obtained.** A person employed by the office  
17       shall consent to having the person's fingerprints taken pursuant to subsection 2. A person  
18       who may be offered employment by the office shall consent to and have the person's  
19       fingerprints taken pursuant to subsection 2 prior to being employed by the office. The  
20       State Police shall take or cause to be taken the fingerprints of a person who has consented  
21       under this subsection and shall forward the fingerprints to the State Bureau of  
22       Identification for the department to conduct a criminal background check on the person  
23       pursuant to subsection 2 including criminal history record information and national  
24       criminal history record information obtained from the Federal Bureau of Investigation.  
25       The national criminal history record information obtained from the Federal Bureau of  
26       Investigation must include, if available, other state and national criminal history record  
27       checks. The department shall forward a report of all information obtained pursuant to  
28       this subsection to the office. The fee charged to the office by the State Police must be  
29       consistent with the fee charged to executive branch agencies receiving similar services.  
30       Except for the portion of the payment that constitutes the processing fee charged by the  
31       Federal Bureau of Investigation, all money received by the State Police under this  
32       subsection must be paid to the Treasurer of State, who shall apply the money to the  
33       expenses of administration of this section by the department.

34              **4. Reliance on criminal history record information.** The office may rely on the  
35       information from the department under subsection 3 for 24 months after receiving the  
36       information.

37              **5. Updates to information.** The office may request a subsequent criminal  
38       background check under subsection 3 on an employee or a person who may be offered  
39       employment by the office as the office determines appropriate, including receiving

1 continuous notifications of updated criminal history record information if a service  
2 providing notifications of updated criminal history record information becomes available.

3 **6. Confidentiality.** Information obtained pursuant to this section is confidential and  
4 may not be disseminated for purposes other than as provided in subsection 7.

5 **7. Use of information obtained.** Criminal history record and fingerprint  
6 information obtained pursuant to this section may be used by the office to screen an  
7 employee and a person who may be offered employment by the office for employment  
8 purposes. The subject of any criminal background check search under subsection 3 may  
9 contest any negative decision made by the office based upon the information received  
10 pursuant to the criminal background check.

11 **8. Person's access to information obtained.** A person subject to a criminal  
12 background check pursuant to subsection 3 must be notified each time a criminal  
13 background check is performed on the person. A person subject to a criminal background  
14 check under subsection 3 may inspect and review the criminal history record information  
15 pursuant to Title 16, section 709 and obtain federal information obtained pursuant to the  
16 criminal background check by following the procedures outlined in 28 Code of Federal  
17 Regulations, Sections 16.32 and 16.33.

18 **9. Right of subject to remove fingerprints from record.** Upon request from an  
19 applicant for employment by the office who was fingerprinted but not hired or a former  
20 employee of the office, the department shall remove the applicant's or former employee's  
21 fingerprints from the department's records and provide written confirmation of the  
22 removal to the applicant or former employee.

## 23 SUMMARY

24 This bill requires all employees of and persons who may be offered employment by  
25 the Office of the State Auditor to consent to having their fingerprints taken for criminal  
26 background checks conducted by the Department of Public Safety, which include state  
27 and federal criminal history record information from the United States Department of  
28 Justice, Federal Bureau of Investigation. This bill allows the Office of the State Auditor  
29 to request subsequent criminal background checks as the office determines appropriate  
30 and establishes provisions relating to confidentiality and use of the information and the  
31 rights of the subjects of the fingerprinting and criminal background checks.