

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 539

S.P. 227

In Senate, February 24, 2021

**An Act To Require Law Enforcement Agencies To Do a Thorough
Background Check of Applicant Officers and To Require the
Release of Records, Including Sealed Records, to the Requesting
Agency**

Received by the Secretary of the Senate on February 22, 2021. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MIRAMANT of Knox.
Cosponsored by Representative EVANGELOS of Friendship and
Representatives: DOUDERA of Camden, PLUECKER of Warren, RECKITT of South
Portland.

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

2 **Sec. 1. 25 MRSA §2804-G, sub-§2** is enacted to read:

3 **2. Background check; waiver.** A law enforcement agency shall require from every
4 candidate for employment as a law enforcement officer with that agency who has previous
5 law enforcement experience a written waiver from the candidate authorizing every law
6 enforcement agency that previously employed the candidate to disclose the candidate's
7 employment records to the hiring law enforcement agency and releasing the hiring and the
8 disclosing law enforcement agency from any liability related to the disclosure or use of the
9 employment records. A previous employer is immune from any confidentiality or
10 nondisclosure law, policy or contractual requirement for providing information to a hiring
11 law enforcement agency under this section. The hiring law enforcement agency shall
12 perform a thorough review of the employment records of a candidate disclosed pursuant to
13 this subsection prior to hiring the candidate or making any offer of employment. If a
14 candidate refuses to provide a written waiver required by this subsection, the hiring law
15 enforcement agency may not hire or make an offer of employment to the candidate. For
16 purposes of this subsection, "employment records" means any files or information related
17 to conduct or job performance including performance reviews, administrative files,
18 grievances, previous personnel applications, personnel-related claims, disciplinary actions,
19 complaints, early warnings, commendations and any internal review files and includes
20 sealed records, but does not include data or any other information of the candidate's
21 employment not related to conduct or performance, including medical records, pay and
22 benefit information or other similar data or information.

23 **SUMMARY**

24 This bill requires a candidate for employment as a law enforcement officer who has
25 previous law enforcement experience to provide the hiring law enforcement agency a
26 written waiver authorizing prior law enforcement employers to release all performance-
27 related employment records on the candidate, including sealed records but not including
28 medical, pay and other nonperformance data, and releasing the hiring and disclosing law
29 enforcement agencies of liability related to the disclosure or use of the employment records.
30 A previous employer is immune from any confidentiality or nondisclosure law, policy or
31 contractual requirement for providing information to a hiring law enforcement agency.
32 This bill requires a hiring law enforcement agency to conduct a background check on the
33 employment records prior to hiring the candidate and forbids a law enforcement agency
34 from hiring a candidate who refuses to provide the written waiver.