

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1697

H.P. 1086

House of Representatives, April 18, 2023

An Act to Implement Background Checks for School Board Members

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ANDREWS of Paris.

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

2 **Sec. 1. 20-A MRSA §1003**, as enacted by PL 1981, c. 693, §§5 and 8, is amended
3 to read:

4 **§1003. Commencement of term of office**

5 The term of newly elected school board members ~~shall start~~ starts upon completion of
6 a criminal history record check in accordance with section 1003-A and:

7 **1. After election.** Immediately upon being elected and sworn in; or

8 **2. Fixed date.** On a fixed date established by the voters on an appropriate article at a
9 properly called town meeting, the date ~~shall be~~ being between the municipal election and
10 July 1st.

11 **Sec. 2. 20-A MRSA §1003-A** is enacted to read:

12 **§1003-A. Background check required**

13 **1. Criminal history record check defined.** "Criminal history record check" means a
14 fingerprint-based criminal history record check.

15 **2. Background check requirement.** A newly elected school board member and a
16 school board member upon reelection is required to submit to a criminal history record
17 check in accordance with this section prior to commencing office under section 1003. The
18 department shall request a criminal history record check for each person who submits to a
19 criminal history record check under this section. The criminal history record check must
20 include criminal history record information obtained from the Maine Criminal Justice
21 Information System established in Title 16, section 631 and the Federal Bureau of
22 Investigation.

23 A. The criminal history record information obtained from the Maine Criminal Justice
24 Information System must include a record of public criminal history record information
25 as defined in Title 16, section 703, subsection 8.

26 B. The criminal history record information obtained from the Federal Bureau of
27 Investigation must include other state and national criminal history record information.

28 C. An applicant shall submit to having fingerprints taken. The State Police, upon
29 payment of a fee established by the department by rule by the applicant, shall take or
30 cause to be taken the applicant's fingerprints and shall immediately transmit the
31 fingerprints to the State Bureau of Identification so that the bureau can conduct state
32 and national criminal history record checks. Except for the portion of the payment, if
33 any, that constitutes the processing fee charged by the Federal Bureau of Investigation,
34 all money received by the State Police for purposes of this paragraph must be paid over
35 to the Treasurer of State. The money must be applied to the expenses of administration
36 incurred by the Department of Public Safety. Any person who fails to transmit criminal
37 fingerprint records to the State Bureau of Identification pursuant to this paragraph is
38 subject to the provisions of Title 25, section 1550.

39 D. The subject of a Federal Bureau of Investigation criminal history record check may
40 obtain a copy of the criminal history record check by following the procedures outlined
41 in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state

1 criminal history record check may inspect and review the criminal history record
2 information pursuant to Title 16, section 709.

3 E. State and federal criminal history record information may be used by the department
4 for the purpose of screening each applicant. An action against an applicant under this
5 subsection is subject to the provisions of Title 5, chapter 341.

6 F. Information obtained pursuant to this subsection is confidential. The results of
7 criminal history record checks received by the department are for official use only and
8 may not be disseminated to any other person or entity.

9 G. An applicant whose term has expired and who is not running for reelection may
10 request in writing that the State Bureau of Identification remove the applicant's
11 fingerprints from the bureau's fingerprint file. In response to a written request, the
12 bureau shall remove the applicant's fingerprints from the fingerprint file and provide
13 written confirmation of that removal.

14 **3. Rules.** The department, following consultation with the State Bureau of
15 Identification, shall adopt rules to implement this section. Rules adopted pursuant to this
16 section relating to screening requirements must be identical to the screening requirements
17 for sports coaches and substitute teachers. Rules adopted pursuant to this subsection are
18 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

19 **Sec. 3. 25 MRSA §1542-A, sub-§1, ¶AA** is enacted to read:

20 AA. Who is required to have a criminal history record check under Title 20-A, section
21 1003-A.

22 **Sec. 4. 25 MRSA §1542-A, sub-§3, ¶Z** is enacted to read:

23 Z. The State Police shall take or cause to be taken the fingerprints of the person named
24 in subsection 1, paragraph AA at the request of that person and upon payment of the
25 fee as required under Title 20-A, section 1003-A, subsection 2, paragraph C.

26 **SUMMARY**

27 This bill requires newly elected school board members and school board members upon
28 reelection to submit to a fingerprint-based background check with screening requirements
29 identical to those required for coaches and substitute teachers.