

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2057

H.P. 1319

House of Representatives, December 13, 2023

**An Act to Require the State Board of Examiners of Psychologists
and the Board of Examiners in Physical Therapy to Obtain
Fingerprint-based Federal Bureau of Investigation Criminal
Background Checks for Applicants for Licensure**

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 203.

Received by the Clerk of the House on December 11, 2023. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT

Clerk

Presented by Representative PERRY of Calais.

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

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

3 AA. Who is an applicant for licensure as a psychologist with the State Board of
4 Examiners of Psychologists as required under Title 32, section 3833-B.

5 **Sec. 2. 25 MRSA §1542-A, sub-§1, ¶BB** is enacted to read:

6 BB. Who is an applicant for licensure as a physical therapist or a physical therapy
7 assistant with the Board of Examiners in Physical Therapy as required under Title 32,
8 section 3114-D.

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

10 Z. The State Police shall take or cause to be taken the fingerprints of the person named
11 in subsection 1, paragraph AA at the request of that person or the State Board of
12 Examiners of Psychologists and upon payment of the fee by that person as required by
13 Title 32, section 3833-B.

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

15 AA. The State Police shall take or cause to be taken the fingerprints of the person
16 named in subsection 1, paragraph BB at the request of that person or the Board of
17 Examiners in Physical Therapy and upon payment of the fee by that person as required
18 by Title 32, section 3114-D.

19 **Sec. 5. 32 MRSA §3114-D** is enacted to read:

20 **§3114-D. Criminal history record information; fees**

21 **1. Background check.** The board shall request a background check for each person
22 who submits an application for initial licensure or licensure by endorsement as a physical
23 therapist or a physical therapist assistant under this chapter. The background check must
24 include criminal history record information obtained from the Maine Criminal Justice
25 Information System, established in Title 16, section 631, and the Federal Bureau of
26 Investigation.

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

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

32 C. An applicant shall submit to having fingerprints taken. The Department of Public
33 Safety, Bureau of State Police, upon payment by the applicant of a fee established by
34 the board, shall take or cause to be taken the applicant's fingerprints and shall forward
35 the fingerprints to the Department of Public Safety, Bureau of State Police, State
36 Bureau of Identification so that the State Bureau of Identification can conduct state and
37 national criminal history record checks. Except for the portion of the payment, if any,
38 that constitutes the processing fee charged by the Federal Bureau of Investigation, all
39 money received by the Bureau of State Police for purposes of this paragraph must be
40 paid to the Treasurer of State. The money must be applied to the expenses of
41 administration incurred by the Department of Public Safety. Any person who fails to

1 transmit criminal fingerprint records to the State Bureau of Identification pursuant to
2 this paragraph is subject to the provisions of Title 25, section 1550.

3 D. The subject of a Federal Bureau of Investigation criminal history record check may
4 obtain a copy of the criminal history record check by following the procedures outlined
5 in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state
6 criminal history record check may inspect and review the criminal history record
7 information pursuant to Title 16, section 709.

8 E. State and federal criminal history record information of an applicant for a physical
9 therapist or physical therapist assistant license may be used by the board for the purpose
10 of screening the applicant. A board action against an applicant under this subsection is
11 subject to the provisions of Title 5, chapter 341.

12 F. Information obtained pursuant to this subsection is confidential. The results of
13 background checks received by the board are for official use only and may not be
14 disseminated to the physical therapy compact commission, established under section
15 18708, or to any other person.

16 G. An applicant whose license has expired and who has not applied for renewal may
17 request in writing that the Department of Public Safety, Bureau of State Police, State
18 Bureau of Identification remove the applicant's fingerprints from the State Bureau of
19 Identification's fingerprint file. In response to a written request, the bureau shall remove
20 the applicant's fingerprints from the fingerprint file and provide written confirmation
21 of that removal.

22 **2. Rules.** The board, following consultation with the Department of Public Safety,
23 Bureau of State Police, State Bureau of Identification, may adopt rules to implement this
24 section. Rules adopted pursuant to this subsection are routine technical rules as defined in
25 Title 5, chapter 375, subchapter 2-A.

26 **Sec. 6. 32 MRSA §3833-B** is enacted to read:

27 **§3833-B. Criminal history record information; fees**

28 **1. Background check.** The board shall request a background check for each person
29 who submits an application for initial licensure or licensure by endorsement as a
30 psychologist under this chapter. The background check must include criminal history
31 record information obtained from the Maine Criminal Justice Information System,
32 established in Title 16, section 631, and the Federal Bureau of Investigation.

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

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

38 C. An applicant shall submit to having fingerprints taken. The Department of Public
39 Safety, Bureau of State Police, upon payment by the applicant of a fee established by
40 the board, shall take or cause to be taken the applicant's fingerprints and shall forward
41 the fingerprints to the Department of Public Safety, Bureau of State Police, State
42 Bureau of Identification so that the State Bureau of Identification can conduct state and
43 national criminal history record checks. Except for the portion of the payment, if any,

1 that constitutes the processing fee charged by the Federal Bureau of Investigation, all
2 money received by the Bureau of State Police for purposes of this paragraph must be
3 paid to the Treasurer of State. The money must be applied to the expenses of
4 administration incurred by the Department of Public Safety. Any person who fails to
5 transmit criminal fingerprint records to the State Bureau of Identification pursuant to
6 this paragraph is subject to the provisions of Title 25, section 1550.

7 D. The subject of a Federal Bureau of Investigation criminal history record check may
8 obtain a copy of the criminal history record check by following the procedures outlined
9 in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state
10 criminal history record check may inspect and review the criminal history record
11 information pursuant to Title 16, section 709.

12 E. State and federal criminal history record information of an applicant for a
13 psychologist license may be used by the board for the purpose of screening the
14 applicant. A board action against an applicant under this subsection is subject to the
15 provisions of Title 5, chapter 341.

16 F. Information obtained pursuant to this subsection is confidential. The results of
17 background checks received by the board are for official use only and may not be
18 disseminated to the Psychology Interjurisdictional Compact Commission, established
19 under section 3850, or to any other person.

20 G. An applicant whose license has expired and who has not applied for renewal may
21 request in writing that the Department of Public Safety, Bureau of State Police, State
22 Bureau of Identification remove the applicant's fingerprints from the State Bureau of
23 Identification's fingerprint file. In response to a written request, the bureau shall remove
24 the applicant's fingerprints from the fingerprint file and provide written confirmation
25 of that removal.

26 **2. Rules.** The board, following consultation with the Department of Public Safety,
27 Bureau of State Police, State Bureau of Identification, may adopt rules to implement this
28 section. Rules adopted pursuant to this subsection are routine technical rules as defined in
29 Title 5, chapter 375, subchapter 2-A.

30 SUMMARY

31 This bill requires the State Board of Examiners of Psychologists and the Board of
32 Examiners in Physical Therapy to obtain national and state fingerprint-based criminal
33 history record information for certain applicants for initial licensure and licensure by
34 endorsement by each board.