

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2000

2000-01

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Quality Assurance and Regulation

Positions - Legislative Count	(1.000)
Personal Services	\$57,475
All Other	440,636 <u>10,636</u>

Appropriates additional funds for one additional Supervising Inspector position and necessary operating costs to initiate a poultry and meat inspection program.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

TOTAL \$168,114 68,111

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

Effective May 18, 2000, unless otherwise indicated.

CHAPTER 791

S.P. 951 - L.D. 2490

An Act to Provide Funding for Background Checks and Fingerprinting for School District Employees

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

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

Whereas, the Department of Education estimates that implementation of the criminal history record check statutes will involve both fingerprinting and conducting state and national criminal history record checks by the Department of Public Safety,

State Bureau of Identification for over 25,000 affected applicants over the current biennium; and

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,

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

Sec. 1. 20-A MRSA §6103, first ¶, as amended by PL 1999, c. 35, §1, is further amended to read:

Beginning July 1, 2000, certification, authorization and renewal under chapters 501 and 502 are subject to the provisions of this section. A person who has complied with the requirements of this section is not required to submit to a subsequent national criminal history record check unless that person has not been continuously employed in a position requiring certification or authorization under chapters 501 and 502. A person who has not been continuously employed in such a position is subject to a subsequent national criminal history record check upon renewal. School vacations are not a break in employment. Fingerprinting of immediately affected applicants for certification, authorization or renewal, conducting of the needed state and national criminal history record checks by the State Bureau of Identification and forwarding of the results by the bureau to the department must begin on September 1, 1999.

Sec. 2. 20-A MRSA §6103, 2nd ¶, as enacted by PL 1999, c. 35, §2, is amended to read:

Beginning September 1, 1999, approval under chapters 501 and 502 is subject to the provisions of this section. A person who has complied with the requirements of this section is not required to submit to a subsequent national criminal history record check unless that person has not been continuously employed in a position requiring approval under chapters 501 and 502. A person who has not been continuously employed in such a position is subject to a subsequent national criminal history record check upon renewal. School vacations are not a break in employment. Fingerprinting of applicants for approval, conducting of the needed state and national criminal history record checks by the State Bureau of Identification and forwarding of the results by the bureau to the department must begin on September 1, 1999.

Sec. 3. 20-A MRSA §6103, sub-§4, as enacted by PL 1995, c. 547, §5, is amended to read:

4. Expenses. ~~Notwithstanding Title 26, sections 594 and 629, the~~ The expense of obtaining the

information required by this section must be paid by the applicant State.

Sec. 4. 20-A MRSA §6103, sub-§4-A is enacted to read:

4-A. Phase-in plan. The fingerprinting and approval process established by this section for certain classes of individuals must be phased in as follows:

A. The fingerprinting and approval process must be phased in for all persons regularly employed in a school during the 1999-2000 school year who require department approval to continue in their positions and who have not been fingerprinted pursuant to this section prior to enactment of this subsection. The department shall issue each person a temporary approval card valid through a specified year from 2001 to 2004. Prior to July 1st of the year specified on the temporary approval card, the person must meet the requirements of this section. Once a person has met the requirements of this section, an approval card must be issued;

B. A person placed under contract by a school and subject to the requirements of this section, who has not been fingerprinted prior to the effective date of this subsection, must meet these requirements by July 1, 2002;

C. A person employed as a substitute who has not been fingerprinted prior to the effective date of this subsection must meet the requirements by July 1, 2002; and

D. A regular employee subject to the requirements of this section who begins work in a school after the effective date of this subsection must meet these requirements prior to their 20th day of employment.

Sec. 5. 20-A MRSA §13011, sub-§1, ¶F, as enacted by PL 1997, c. 452, §6, is repealed and the following enacted in its place:

F. Approve all individuals for whom certification or authorization is not required prior to being hired or being placed under contract by a public school or a private school that enrolls 60% or more publicly funded students.

Sec. 6. 25 MRSA §1541, sub-§8 is enacted to read:

8. Carrying balance. Any unencumbered balance from funds appropriated from the General Fund to accomplish the purpose of Title 20-A, section 6103 may not lapse but must be carried forward to be used for the same purpose.

Sec. 7. 25 MRSA §1542-A, sub-§4, as amended by PL 1999, c. 260, Pt. B, §12 and affected by §18, is further amended to read:

4. Duty to submit to State Bureau of Identification. It is the duty of the law enforcement agency taking the fingerprints as required by subsection 3, paragraphs A, B and G to transmit ~~forthwith~~ immediately to the State Bureau of Identification the criminal fingerprint record. Fingerprints taken pursuant to subsection 1, paragraph C, D, E or F or pursuant to subsection 5 may not be submitted to the State Bureau of Identification unless an express request is made by the commanding officer of the State Bureau of Identification. Fingerprints taken pursuant to subsection 1, paragraph G must be transmitted ~~forthwith~~ immediately to the State Bureau of Identification to enable the bureau to conduct state and national criminal history record checks for the Department of Education. The bureau may not use the fingerprints for any purpose other than that provided for under Title 20-A, section 6103. The bureau shall retain the fingerprints, except as provided under Title 20-A, section 6103, subsection 9.

Sec. 8. Reimbursement of payment for certification, authorization or approval. The Commissioner of Public Safety, upon receipt of proof determined to be adequate by the commissioner, shall reimburse amounts paid by those persons, including individuals or organizations placed under contract by a school, schools or school administrative units, who, prior to the effective date of this Act, have paid for the fingerprinting and conducting of the needed state and national criminal history record checks by the Department of Public Safety, Bureau of State Police, State Bureau of Identification, as required by the Maine Revised Statutes, Title 20-A, section 6103.

Sec. 9. Reimbursement. Any unexpended funds allocated from Other Special Revenue funds in fiscal years 1999-00 and 2000-01 to the Department of Public Safety to carry out the purposes of the Maine Revised Statutes, Title 20-A, section 6103 must be used to reimburse amounts paid prior to the effective date of this Act by persons, including individuals or organizations placed under contract by a school, schools or school administrative units.

Sec. 10. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1999-00	2000-01
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**EDUCATION,
DEPARTMENT OF
Support Systems**

All Other (\$250,000)
 Deappropriates funds that were reserved for offsetting the expenses of conducting certain fingerprinting and criminal records checks expenses.

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

Effective May 18, 2000.

DEPARTMENT OF EDUCATION
TOTAL _____
 (\$250,000)

**PUBLIC SAFETY,
 DEPARTMENT OF**

Fingerprint and Background Information-State Expense

All Other	\$888,855	\$561,683
Appropriates funds for the costs of conducting background checks and fingerprinting for certain school employees and for the cost of providing rebates to those individuals who have already paid for the required background checks.		

DEPARTMENT OF PUBLIC SAFETY
TOTAL _____
 \$888,855 \$561,683

TOTAL APPROPRIATIONS _____
 \$888,855 \$311,683

Sec. 11. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

2000-01

**PUBLIC SAFETY,
 DEPARTMENT OF**

Bureau of State Police

All Other (\$392,000)
 Deallocates funds no longer required for the costs of conducting fingerprint-based background checks for teachers and educational personnel.