

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 7, 2022 to March 30, 2023

FIRST SPECIAL SESSION
April 5, 2023 to July 26, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NONEMERGENCY LAWS IS
JUNE 29, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NONEMERGENCY LAWS IS
OCTOBER 25, 2023

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

Augusta, Maine
2023

CHAPTER 39
H.P. 139 - L.D. 218

An Act to Clarify Maine Law
Regarding Background Checks
for the Office of Child and
Family Services

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

Sec. 1. 22 MRSA §4008, sub-§2, ¶L, as re-
pealed and replaced by PL 2015, c. 494, Pt. A, §22, is
amended to read:

L. A person, organization, employer or agency for
the purpose of carrying out background or employ-
ment-related screening of an individual who is or
may be engaged in:

- (1) Child-related activities or employment; or
- (2) Activities or employment relating to adults
with intellectual disabilities, autism, related
conditions as set out in 42 Code of Federal
Regulations, Section 435.1010 or acquired
brain injury; and

Sec. 2. 22 MRSA §8101, sub-§6 is enacted to
read:

6. Transitional living program. "Transitional
living program" means a children's home that provides
board and care for up to 10 children and may provide
one or more services described in section 4099-E. For
the purposes of this subsection, "children" means per-
sons under 21 years of age.

Sec. 3. 22 MRSA §8110, as amended by PL
2021, c. 42, §§1 to 3, is further amended to read:

**§8110. Criminal history record checks for employ-
ees of children's residential care facilities,
emergency children's shelters, shelters for
homeless children and any group home that
provides care for children transitional liv-
ing programs**

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

A. "Federal Bureau of Investigation" means the
United States Department of Justice, Federal Bu-
reau of Investigation.

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

**2. Criminal history; information about criminal
records and data obtained.** The department shall ob-
tain, in print or electronic format, criminal history re-
cord information containing a record of public criminal
history record information as defined in Title 16, sec-
tion 703, subsection 8, from the Maine Criminal Justice

Information System, established pursuant to Title 16,
section 631, and the Federal Bureau of Investigation,
for any staff member of a children's residential care fa-
cility, an emergency children's shelter, a shelter for
homeless children or ~~any group home that provides care
for children~~ a transitional living program in order to
comply with the federal Family First Prevention Ser-
vices Act. For purposes of this section, "staff member"
means an individual who is employed by, or has applied
for and may be offered employment at, a children's re-
sidential care facility, an emergency children's shelter, ~~or
a shelter for homeless children or any group home that
provides care for children~~ with a transitional living pro-
gram, including a contract employee or self-employed
individual, whether or not the individual has direct con-
tact with children. "Staff member" does not include a
contractor performing maintenance or repairs at the
children's residential care facility, emergency children's
shelter, ~~or shelter for homeless children or group home
that provides care for children~~ for a transitional living
program who does not have unsupervised access to chil-
dren at the facility; ~~or shelter or group home in the tran-
sitional living program.~~

3. Fingerprint-based criminal history obtained.
A staff member shall consent to and have the staff mem-
ber's fingerprints taken. The State Police shall take or
cause to be taken the fingerprints of a staff member who
has consented under this subsection and shall forward
the fingerprints to the Department of Public Safety so
that the Department of Public Safety may conduct a
state and national criminal history record check on the
person. The Department of Public Safety shall forward
the results obtained to the department. The State Police
shall assess a fee set annually by the Department of Pub-
lic Safety to be paid by the children's residential care
facility, emergency children's shelter, shelter for home-
less children or ~~group home that provides care for chil-
dren~~ transitional living program or the staff member for
each criminal history record check required to be per-
formed under this section. Except for the portion of the
payment that constitutes the processing fee charged by
the Federal Bureau of Investigation, all money received
by the State Police under this subsection must be paid
to the Treasurer of State, who shall apply the money to
the expenses of administration of this section by the De-
partment of Public Safety.

4. Updates to information. The department may
request a subsequent criminal history record check un-
der subsection 3 on a staff member as the department
determines appropriate, including continuous notifica-
tions of updated criminal history record information if
a service providing notifications of updated criminal
history record information becomes available.

5. Confidentiality. Information obtained pursuant
to this section is confidential and may not be dissemi-
nated for purposes other than as provided in subsections
6 and 7.

6. **Use of information obtained.** Criminal history record information obtained pursuant to this section may be used by the department for employment purposes to screen a staff member. The subject of any criminal history record check under subsection 3 may contest any negative decision made by the department based upon the information received pursuant to the criminal history record check.

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

8. **Right of subject to remove fingerprints from record.** Upon request from a person subject to a criminal history record check pursuant to subsection 3, the Department of Public Safety shall remove the person's fingerprints from the Department of Public Safety's records and provide written confirmation of the removal to the person.

See title page for effective date.

CHAPTER 40

H.P. 145 - L.D. 224

**An Act to Strengthen Maine's
Health Care Workforce by
Preventing Discrimination by
Requiring Maintenance of
Certification for Insurance
Reimbursement**

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

Sec. 1. 24-A MRS §4303-G is enacted to read:

§4303-G. Provider maintenance of certification requirements

The following provisions govern maintenance of certification requirements.

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

A. "Hospital" means a hospital licensed and operating under Title 22, chapter 404 or 405 or the parent of such institution, or a hospital subsidiary or hospital affiliate in this State that provides medical

services or medically related diagnostic and laboratory services or engages in ancillary activities supporting those services.

B. "Maintenance of certification program" means satisfactory participation in a program beyond the continuing medical education requirements currently in place by the Board of Licensure in Medicine or Board of Osteopathic Licensure, or initial board certification by a national or regional medical specialty board.

C. "Outpatient clinical practice" means any medical practice, home care or hospice organization or other nonhospital entity providing medical care through physicians.

D. "Physician" means an individual licensed under Title 32, chapter 36 or 48.

2. Discrimination prohibited. A carrier offering a health plan in this State may not:

A. Deny reimbursement to a physician, hospital or outpatient clinical practice for services rendered because a physician does not participate in a maintenance of certification program;

B. Provide lower reimbursement for services rendered by a physician, hospital or outpatient clinical practice because a physician does not participate in a maintenance of certification program;

C. Prohibit a physician, hospital or outpatient clinical practice from participating in any of the carrier's provider networks because a physician does not participate in a maintenance of certification program; or

D. Determine credentialing of a physician, hospital or outpatient clinical practice based on the status of a physician's, hospital's or outpatient clinical practice's participation in a maintenance of certification program.

3. Repeal. This section is repealed April 1, 2029.

Sec. 2. Application. The requirements of this Act apply to a carrier as defined in the Maine Revised Statutes, Title 24-A, section 4301-A that executes, delivers, issues for delivery, continues or renews an individual or group policy, contract or certificate in this State on or after January 1, 2024.

See title page for effective date.
