

**HOUSE . . . . . No. 01936**

The Commonwealth of Massachusetts

PRESENTED BY:

***Bradley H. Jones, Jr.***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Ensuring Teacher Quality for Teacher Licensure Applicants.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Angelo D'Emilia</i>	<i>8th Plymouth</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Donald Wong</i>	<i>9th Essex</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>Sheila Harrington</i>	<i>1st Middlesex</i>
<i>Matthew Beaton</i>	<i>11th Worcester</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>

*Bradford Hill*

*4th Essex*

*Elizabeth Poirier*

*14th Bristol*

*Viriato Manuel deMacedo*

*1st Plymouth*

# HOUSE . . . . . No. 01936

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 1936) of Frost and others relative to background checks for teacher licensure applicants Joint Committee on Education.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act Relative to Ensuring Teacher Quality for Teacher Licensure Applicants.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is
- 2 hereby amended by inserting, after section 38G, the following section:-
- 3 Section 38G 1/2. State and National Criminal History Background Check for Teacher Licensure
- 4 Applicants and Other School Personnel
- 5 (a) For the purposes of this section, the following words shall have the following meanings:-
- 6 "Applicant", an individual who: applies for an initial educator license, as defined in section 38G;
- 7 who applies for a recertification of an educator license, as defined in section 38G, after the
- 8 effective date of this act; or who applies for any full-time or part-time employment in a local
- 9 school department that will expose the individual to unsupervised access to children in an
- 10 educational setting.

11 "Department", the department of education, as defined in section 1 of chapter 15.

12 "Educational setting", any vehicle, building, structure, location or other area, whether public or  
13 private property, utilized for or involved in the education, training, instruction, or supervision of  
14 children by a local, regional or charter school district, or the transportation of children to, from or  
15 in connection with any such activity.

16 "Unbecoming behavior", an offense established in sections 13B, 13H, 13J, 22A, 23, 24B, 26A,  
17 and 27A of chapter 265 or, sections 4, 4A and 29A-29C, inclusive, of chapter 272. "State and  
18 national criminal history background check", an investigation of the criminal record of an  
19 applicant, based on the criminal history record systems maintained by the Massachusetts state  
20 police and the Federal Bureau of Investigation and based on fingerprint identification or any  
21 other method of positive identification.

22 "Satisfactorily pass a state and national criminal history background check", a situation where  
23 the results or information generated by a state and national criminal history background check of  
24 an applicant do not indicate that the applicant has been convicted of a violent crime, a sex crime  
25 other than a sex crime classified as a misdemeanor or unbecoming behavior, as defined in  
26 subsection (a), or under a similar law of another state or the United States.

27 (b) (1) Beginning January 1, 2013 the department, or the superintendent of a school district  
28 where an applicant seeks any employment position in an educational setting, shall conduct a state  
29 and national criminal history background check on all applicants, as defined in this section.  
30 Each applicant shall provide written consent authorizing the release of any criminal history  
31 background information to the department or superintendent, as applicable. The department or

32 superintendent, as applicable, shall receive the results of the state and national criminal history  
33 background check and use those results to comply with subsections (c) and (d) of this section.

34 (2) All fingerprints requested under this section shall be on an applicant fingerprint card  
35 provided by the Massachusetts state police. The fingerprint cards shall be forwarded to the  
36 Federal Bureau of Investigation by the Massachusetts state police after a state criminal  
37 background check is conducted. The results of the state and federal background check shall be  
38 sent to the department.

39 (c) (1) No superintendent shall employ, in any part-time or full-time employment position in the  
40 district, any person who fails to satisfactorily pass a state and national criminal history  
41 background check.

42 (2) Upon receiving a certified copy of a conviction showing that any district employee in  
43 an educational setting has been convicted of a violent crime, sex crime other than a sex crime  
44 classified as a misdemeanor or unbecoming behavior, as defined in subsection (a), or under a  
45 similar law of another state or the United States, the superintendent shall immediately discharge  
46 the district employee from his position of employment.

47 (3) This section shall apply to every teacher, teacher candidate, trade, vocational,  
48 temporary substitute teacher, exchange teacher, regionally-licensed or certified teacher, teaching  
49 administrative intern, and other full-time or part-time employee of any school district in an  
50 educational setting.

51 (d) The commissioner of education shall not issue an educator license, as defined in section  
52 38G, or recertify any such educator license, as defined in section 38G, to any applicant, and a  
53 superintendent shall not hire an applicant for any full-time or part-time employment position in

54 an educational setting in the district, unless and until the applicant satisfactorily passes a state  
55 and national criminal history background check.

56 (e) (1) All criminal history background information received by the department shall be  
57 confidential and marked as such and not further disclosed or made available for public  
58 inspection.

59 (2) Any reports and other information generated by state and national criminal history  
60 background checks under this section shall not be classified as public records and shall not be  
61 subject to the provisions of chapter 66.

62 (3) Notwithstanding subdivisions (1) and (2) of this subsection, the following actions shall not be  
63 considered violations of this section: (A) disclosing reports and other information generated by a  
64 state and national criminal background check to the applicant or his representative, to give that  
65 applicant an opportunity to question and challenge the results of that background check; (B)  
66 releasing reports and other information generated by a state and national criminal background  
67 check to a court of this commonwealth in litigation pending before that court brought by the  
68 applicant to challenge the results of the state and national criminal background check; (C) use of  
69 reports and information generated by a state and national criminal background check for the  
70 preparation, investigation, and presentation of administrative proceedings involving the denial of  
71 certification or a restriction on unsupervised access to children in an educational setting.

72 (4) The commissioner shall promulgate regulations for a process to appeal a decision of the  
73 department to deny certification of an applicant or to restrict unsupervised access to children in  
74 an educational setting for an applicant due to the results of a state and national criminal  
75 background check conducted according to this section.

76 (f) The fee for the state and national criminal background check shall be paid by the applicant  
77 and shall not be greater than the actual cost of processing the request and conducting the state  
78 and national criminal background check. The fee may be included in the cost of the teacher  
79 licensure application charged by the department.

80 (g) A school committee shall report to the department when any teacher, employee or  
81 administrator in its district is discharged under subdivision (2) or resigns from employment after  
82 a charge is filed with the school board for unbecoming behavior, or after charges are filed that  
83 are grounds for discharge under section subsection (a) or when a teacher, employee or  
84 administrator is suspended or resigns while an investigation is pending for unbecoming behavior  
85 under subsection (a). The report must be made to the department within 10 days of the  
86 discharge, suspension, or resignation has occurred. In the case of a teacher, upon receiving such  
87 a report the department shall immediately revoke the individual's license to teach.

88 SECTION 2. Section 38G of chapter 71, as so appearing, is amended by inserting in line 58,  
89 after the word "application" the following :- and satisfactory completion of the state and national  
90 criminal history background check, as established in section 38G1/2.

91 SECTION 3. Said section 38G of chapter 71 as so appearing is amended by striking out, in  
92 lines 71 and 72, the words "(3) be of sound moral character" and inserting in place thereof the  
93 following:-(3) pass a state and national criminal history background check as established by  
94 section 38G1/2".

95 SECTION 4. Said section 38G of chapter 71 as so appearing is amended by striking out, in line  
96 155, the words "(4) is of sound moral character" and inserting in place thereof the following:- (4)  
97 pass a state and national criminal history background check, as established by section 38G1/2.

98 SECTION 5. Said section 38G of chapter 71 is amended by inserting, in line 205, after the word  
99 "responsibilities" the following:-, including the fee for the national and state criminal history  
100 background check as established in section 38G1/2 of this chapter.

101 SECTION 6. Said section 38G of chapter 71 is amended by inserting in line 221, after the words  
102 "employment" the following:- and has satisfactorily completed state and national criminal  
103 history background checks.

104 SECTION 7. Section 38R of chapter 71, as most recently amended by Section 62 of Chapter 256  
105 of the Acts of 2010, is repealed.