

HOUSE No. 5008

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to background checks by the Department of Youth Services.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to require forthwith background checks for certain persons who have contact with children in the custody of the department of youth services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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 18A of the General Laws is hereby amended by adding the
2 following section:-

3 Section 10. (a) All current or prospective department employees, interns, volunteers or
4 subcontractors providing residential or support services with the potential for unsupervised
5 contact with youths committed to the care or custody of the department shall be subject to a
6 background check that shall include: (i) a fingerprint-based check of the state and national
7 criminal history databases pursuant to Public Law 92-544; (ii) a criminal offender record
8 information check pursuant to section 172 of chapter 6; (iii) a check for supported findings of
9 abuse or neglect pursuant to section 51B and 51E of chapter 119; (iv) a sex offender registry
10 information check pursuant to section 178K of chapter said 6; and (v) where relevant to the
11 employee’s duties, a registry of motor vehicles information check.

12 (b) Fingerprints shall be submitted to the identification section of the department of state
13 police for a state criminal history check and forwarded to the Federal Bureau of Investigation for
14 a national criminal history check, pursuant to the policies and procedures established by the
15 identification section of the department of state police and the department of criminal justice
16 information services. Fingerprint submissions may be retained by the Federal Bureau of
17 Investigation, the identification section of the department of state police and the department of
18 criminal justice information services to assist the department in its review of suitability for initial
19 or continued employment, licensure, certification or approval. The department of criminal justice
20 information services may disseminate the results of a state and national criminal history check to
21 authorized staff of the department to determine the suitability of current and prospective
22 employees who have the potential for unsupervised contact with youths referred or committed to
23 the care or custody of the department and subcontractors, interns, volunteers or other individuals
24 employed or retained by the department who have the potential for unsupervised contact with
25 youths referred or committed to the care or custody of the department.

26 Notwithstanding subsections 9 and 9½ of section 4 of chapter 151B, if the department
27 receives information from a fingerprint-based check that does not include a final disposition or is
28 otherwise incomplete, the department may request that an applicant, including new and renewing
29 applicants, provide additional information to assist the department in determining the suitability
30 of the individual for licensure, certification, approval, funding or employment.

31 (c) The department of criminal justice information services shall disseminate the results
32 of the criminal background check to authorized staff of the department. The department of
33 criminal justice information services shall only disseminate information under this section that
34 would otherwise be available to the department by law. When the department receives the results

35 of the national criminal background checks, it shall treat the information according to the
36 department's background check procedures regarding criminal offender record information.

37 (d) A person required to submit fingerprints under this section including, but not limited
38 to, current and prospective employees, interns, subcontractors and volunteers in a department
39 program who have the potential for unsupervised contact with youth referred or committed to the
40 care or custody of the department, may be charged a fee to be established by the secretary of
41 administration and finance, in consultation with the secretary of public safety and the
42 commissioner of youth services, to offset the costs of operating and administering a fingerprint
43 based criminal background check system. The fee shall not exceed \$45 per person. The secretary
44 of administration and finance, in consultation with the secretary of public safety and the
45 commissioner of youth services, may increase the fee accordingly if the Federal Bureau of
46 Investigation increases its fingerprint background check service fee. The department may
47 reimburse employees and applicants for employment, internship or volunteer positions, for all or
48 a portion of the fee. Fees collected from fingerprinting activity under this chapter shall be
49 deposited into the Fingerprint-Based Background Check Trust Fund established in section
50 2HHHH of chapter 29.

51 (e) The department shall promulgate regulations necessary to carry out this section.