



129th MAINE LEGISLATURE

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Legislative Document

No. 1340

H.P. 968

House of Representatives, March 21, 2019

**An Act To Require Criminal History Record Checks for All
Prospective and Current Staff Members of the Office of the State
Auditor**

Submitted by the Office of the State Auditor pursuant to Joint Rule 204.
Reference to the Committee on State and Local Government suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative MARTIN of Sinclair.
Cosponsored by Senator CLAXTON of Androscoggin.

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

2 **Sec. 1. 5 MRSA §247** is enacted to read:

3 **§247. Criminal history background checks for State Auditor employees**

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

6 A. "Department" means the Department of Public Safety.

7 B. "Federal Bureau of Investigation" means the United States Department of Justice,
8 Federal Bureau of Investigation.

9 C. "Office" means the Office of the State Auditor.

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

11 **2. Criminal history; information about criminal records and data obtained.**
12 Notwithstanding any other provision of law, the office shall obtain the fingerprints and, in
13 print or electronic format, criminal history record information as defined in Title 16,
14 section 703, subsection 3 of a person employed by or who may be offered employment by
15 the office.

16 **3. Fingerprint-based criminal history obtained.** A person employed by the office
17 shall consent to having the person's fingerprints taken pursuant to subsection 2. A person
18 who may be offered employment by the office shall consent to and have the person's
19 fingerprints taken pursuant to subsection 2 prior to being employed by the office. The
20 State Police shall take or cause to be taken the fingerprints of a person who has consented
21 under this subsection and shall forward the fingerprints to the State Bureau of
22 Identification for the department to conduct a criminal background check on the person
23 pursuant to subsection 2 including criminal history record information and national
24 criminal history record information obtained from the Federal Bureau of Investigation.
25 The national criminal history record information obtained from the Federal Bureau of
26 Investigation must include, if available, other state and national criminal history record
27 checks. The department shall forward a report of all information obtained pursuant to
28 this subsection to the office. The fee charged to the office by the State Police must be
29 consistent with the fee charged to executive branch agencies receiving similar services.
30 Except for the portion of the payment that constitutes the processing fee charged by the
31 Federal Bureau of Investigation, all money received by the State Police under this
32 subsection must be paid to the Treasurer of State, who shall apply the money to the
33 expenses of administration of this section by the department.

34 **4. Reliance on criminal history record information.** The office may rely on the
35 information from the department under subsection 3 for 24 months after receiving the
36 information.

37 **5. Updates to information.** The office may request a subsequent criminal
38 background check under subsection 3 on an employee or a person who may be offered
39 employment by the office as the office determines appropriate, including receiving

1 continuous notifications of updated criminal history record information if a service
2 providing notifications of updated criminal history record information becomes available.

3 **6. Confidentiality.** Information obtained pursuant to this section is confidential and
4 may not be disseminated for purposes other than as provided in subsection 7.

5 **7. Use of information obtained.** Criminal history record and fingerprint
6 information obtained pursuant to this section may be used by the office to screen an
7 employee and a person who may be offered employment by the office for employment
8 purposes. The subject of any criminal background check search under subsection 3 may
9 contest any negative decision made by the office based upon the information received
10 pursuant to the criminal background check.

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

18 **9. Right of subject to remove fingerprints from record.** Upon request from an
19 applicant for employment by the office who was fingerprinted but not hired or a former
20 employee of the office, the department shall remove the applicant's or former employee's
21 fingerprints from the department's records and provide written confirmation of the
22 removal to the applicant or former employee.

23 SUMMARY

24 This bill requires all employees of and persons who may be offered employment by
25 the Office of the State Auditor to consent to having their fingerprints taken for criminal
26 background checks conducted by the Department of Public Safety, which include state
27 and federal criminal history record information from the United States Department of
28 Justice, Federal Bureau of Investigation. This bill allows the Office of the State Auditor
29 to request subsequent criminal background checks as the office determines appropriate
30 and establishes provisions relating to confidentiality and use of the information and the
31 rights of the subjects of the fingerprinting and criminal background checks.