

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-SIX

—  
H.P. 1063 - L.D. 1609

**An Act Regarding Background Checks for Medical Cannabis Providers**

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

**Sec. 1. 22 MRSA §2421-A, sub-§16, ¶B,** as enacted by PL 2023, c. 679, Pt. A, §3, is amended to read:

B. If required by the office pursuant to this chapter, the applicant has submitted to a criminal history record check pursuant to section 2425-B;

**Sec. 2. 22 MRSA §2423-A, sub-§4,** as amended by PL 2019, c. 501, §12 and PL 2021, c. 669, §5, is further amended to read:

**4. Long-term care facility.** A qualifying patient may designate a long-term care facility to assist with the qualifying patient's medical use of cannabis if that use is consistent with the facility's policy and is pursuant to subsection 1, paragraph F-1, subparagraph (2). If a long-term care facility is designated, the facility shall complete the registration process with the department and obtain a registration certificate for the facility. For a long-term care facility to be issued a registration certificate, staff persons of the facility who will be assisting a qualifying patient with the patient's medical use of cannabis in accordance with this chapter must be at least 21 years of age, must submit to a criminal history record check pursuant to section 2425-B and may not have been convicted of a disqualifying drug offense. The long-term care facility and the staff of the facility may not cultivate cannabis plants for the patient.

**Sec. 3. 22 MRSA §2423-A, sub-§10, ¶A,** as repealed and replaced by PL 2019, c. 331, §13 and amended by PL 2021, c. 669, §5, is amended to read:

A. A cannabis testing facility that meets the requirements of this subsection and any rules adopted under paragraph D and submits to a criminal history record check pursuant to section 2425-B may receive and possess samples from qualifying patients, caregivers, dispensaries and manufacturing facilities to provide testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including but not limited to mold, mildew, heavy metals, plant regulators and illegal pesticides. For the purposes of this paragraph, "plant regulator" has the same meaning as in Title 7, section 604, subsection 26.

**Sec. 4. 22 MRSA §2423-F, sub-§8, ¶B**, as repealed and replaced by PL 2019, c. 331, §17 and amended by PL 2021, c. 669, §5, is further amended by amending the first blocked paragraph to read:

The department may not issue a registry identification card to an officer or director or assistant of a registered manufacturing facility or person authorized to engage in cannabis extraction using inherently hazardous substances who has been convicted of a disqualifying drug offense. The department shall conduct a criminal history record check pursuant to section 2425-B of each person, officer or director or assistant subject to this subsection on an annual basis.

**Sec. 5. 22 MRSA §2425-A, sub-§3**, as amended by PL 2023, c. 679, Pt. A, §§10 and 11, is further amended by amending the first blocked paragraph to read:

The department shall conduct a criminal history record check pursuant to section 2425-B for any applicant for a registry identification card, except that an assistant is not required to submit to a criminal history record check. The criminal history record check is valid for 2 years from the date it was conducted, regardless of the person's employment status. Except as provided in subsection 3-A, the department may not issue a registry identification card to an applicant who is not permitted under this chapter to have a disqualifying drug offense.

**Sec. 6. 22 MRSA §2425-A, sub-§3-A**, as amended by PL 2021, c. 387, §8 and c. 669, §5, is further amended to read:

**3-A. Criminal history record check for caregivers administering medical cannabis on school grounds.** The department shall request a criminal history record check pursuant to section 2425-B for a caregiver designated under section 2423-A, subsection 1, paragraph F-1, subparagraph (4), except for a caregiver who is a parent, a legal guardian or a person having legal custody of the qualifying patient. The department may not issue a registry identification card to an applicant who is not permitted to have a disqualifying drug offense or who would be denied an approval, credential, certification, authorization or renewal under Title 20-A, section 6103 or 13011 based on that criminal history record check.

~~The criminal history record check requested under this subsection must include criminal history record information obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the Federal Bureau of Investigation. The following provisions apply:~~

~~A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.~~

~~B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.~~

~~C. A person subject to a criminal history record check under this section shall submit to having fingerprints taken. The State Police, upon payment of the fee, shall take or cause to be taken the person's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received~~

~~by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.~~

~~D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.~~

~~E. State and federal criminal history record information may be used by the department for the purpose of screening a person in accordance with this chapter.~~

~~F. Information obtained pursuant to this subsection is confidential. The results of criminal history record checks received by the department are for official use only and may not be disseminated to any other person.~~

~~G. If a person is no longer subject to this chapter that person may request in writing that the State Bureau of Identification remove the person's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the person's fingerprints from the fingerprint file and provide written confirmation of that removal.~~

~~The department, with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**Sec. 7. 22 MRSA §2425-A, sub-§6**, as enacted by PL 2017, c. 452, §12, is amended to read:

**6. Application for registration certificate; qualifications.** The department shall register and issue a registration certificate to an applicant who submits a complete application that meets the requirements of this subsection. ~~An application must include, as applicable:~~

The department shall conduct a criminal history record check pursuant to section 2425-B for each officer or director of the applicant for a registration certificate. The department may not issue a registration certificate to an applicant if any officer or director of the applicant has been convicted of a disqualifying drug offense.

An application must include, as applicable:

- A. The annual fee required pursuant to subsection 10;
- B. Evidence of the applicant's registration with the Secretary of State and evidence that the applicant is in good standing with the Secretary of State; and
- C. The name, address and date of birth of each officer or director of the applicant.

**Sec. 8. 22 MRSA §2425-A, sub-§10, ¶J**, as amended by PL 2023, c. 679, Pt. A, §13, is repealed.

**Sec. 9. 22 MRSA §2425-B** is enacted to read:

## **§2425-B. Criminal history record check**

The department shall request a criminal history record check for each applicant for an initial registry identification card and registration certificate as required under this chapter and for each registrant or registrant agent, except that an assistant is not required to submit to a criminal history record check, and every 2 years thereafter, unless a different period is specified in this chapter. If the applicant or registrant is a business entity, every officer or director of the business entity is required to submit to a criminal history record check in accordance with this section. If the applicant or registrant is a long-term care facility under section 2423-A, subsection 4, any staff person of the facility who will be assisting a qualifying patient with the patient's medical use of cannabis is required to submit to a criminal history record check in accordance with this section. A criminal history record check conducted pursuant to this section must include criminal history record information as defined in Title 16, section 703, subsection 3 and obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the United States Department of Justice, Federal Bureau of Investigation.

**1. Record of public criminal history record information required.** Criminal history record information obtained from the Maine Criminal Justice Information System pursuant to this section must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

**2. Other state and national criminal history record information required.** Criminal history record information obtained from the Federal Bureau of Investigation pursuant to this section must include other state and national criminal history record information.

**3. Fingerprinting.** A person required to submit to a criminal history record check under this section shall submit to having fingerprints taken. The Department of Public Safety, Bureau of State Police, upon payment of the fee required under subsection 4, shall take or cause to be taken the person's fingerprints and shall forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The State Bureau of Identification shall conduct the state and national criminal history record checks required under this section. Except for the portion of a payment, if any, that constitutes the processing fee for a criminal history record check charged by the Federal Bureau of Investigation, all money received by the Department of Public Safety, Bureau of State Police under this section must be paid to the Treasurer of State, who shall apply the money to the expenses incurred by the Department of Public Safety in the administration of this section.

**4. Fees.** The fee for a criminal history record check under this section may not be less than \$31 or more than \$60. The fee must be paid by the applicant, registrant or registrant agent, except that if the applicant, registrant or registrant agent is a business entity, the fee must be paid by the business entity for any officer or director required to submit to a criminal history record check under this section.

**5. Availability of criminal history record information.** The subject of a Federal Bureau of Investigation criminal history record check pursuant to this section may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history

record check pursuant to this section may inspect and review the criminal history record information pursuant to Title 16, section 709.

**6. Use of criminal history record information.** State and national criminal history record information obtained by the department under this section may be used only for the purpose of screening an applicant for a registry identification card or registration certificate, a registrant or a registrant agent under this chapter.

**7. Confidentiality.** All criminal history record information obtained by the department pursuant to this section is confidential, is for the official use of the department only and may not be disseminated outside of the department or disclosed to any other person or entity except as provided in subsection 5.

**8. Rules.** The department, after consultation with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 10. 25 MRSA §1542-A, sub-§1, ¶S,** as repealed and replaced by PL 2021, c. 293, Pt. A, §31, is amended to read:

S. Who is required to have a criminal history record check under Title 22, section ~~2425-A, subsection 3-A~~ 2425-B.

**Sec. 11. 25 MRSA §1542-A, sub-§3, ¶R,** as enacted by PL 2019, c. 343, Pt. G, §9; c. 399, §6; c. 402, §6; and c. 416, §6, is amended to read:

R. The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph S at the request of that person or the Department of Administrative and Financial Services under Title 22, section ~~2425-A, subsection 3-A~~ 2425-B.