

STATE OF MAINE

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

—
H.P. 1319 - L.D. 2057

An Act to Require the State Board of Examiners of Psychologists and the Board of Examiners in Physical Therapy to Obtain Fingerprint-based Federal Bureau of Investigation Criminal Background Checks for Applicants for Licensure

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

Sec. 1. 25 MRSA §1542-A, sub-§1, ¶AA is enacted to read:

AA. Who is an applicant for licensure as a psychologist with the State Board of Examiners of Psychologists as required under Title 32, section 3833-B.

Sec. 2. 25 MRSA §1542-A, sub-§1, ¶BB is enacted to read:

BB. Who is an applicant for licensure as a physical therapist or a physical therapist assistant with the Board of Examiners in Physical Therapy as required under Title 32, section 3114-D.

Sec. 3. 25 MRSA §1542-A, sub-§3, ¶Z is enacted to read:

Z. The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph AA at the request of that person or the State Board of Examiners of Psychologists and upon payment of the fee by that person as required by Title 32, section 3833-B.

Sec. 4. 25 MRSA §1542-A, sub-§3, ¶AA is enacted to read:

AA. The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph BB at the request of that person or the Board of Examiners in Physical Therapy and upon payment of the fee by that person as required by Title 32, section 3114-D.

Sec. 5. 32 MRSA §3114-D is enacted to read:

§3114-D. Criminal history record information; fees

1. Background check. The board shall request a background check for each person who submits an application for initial licensure or licensure by endorsement as a physical therapist or a physical therapist assistant under this chapter. The background check 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.

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. An applicant shall submit to having fingerprints taken. The Department of Public Safety, Bureau of State Police, upon payment by the applicant of a fee established by the board, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification so that the State Bureau of Identification 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 Bureau of State Police for purposes of this paragraph must be paid to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety. Any person who fails to transmit criminal fingerprint records to the State Bureau of Identification pursuant to this paragraph is subject to the provisions of Title 25, section 1550.

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 of an applicant for a physical therapist or physical therapist assistant license may be used by the board for the purpose of screening the applicant. A board action against an applicant under this subsection is subject to the provisions of Title 5, chapter 341.

F. Information obtained pursuant to this subsection is confidential. The results of background checks received by the board are for official use only and may not be disseminated to the physical therapy compact commission, established under section 18708, or to any other person.

G. An applicant whose license has expired and who has not applied for renewal may request in writing that the Department of Public Safety, Bureau of State Police, State Bureau of Identification remove the applicant's fingerprints from the State Bureau of Identification's fingerprint file. In response to a written request, the bureau shall remove the applicant's fingerprints from the fingerprint file and provide written confirmation of that removal.

2. Rules. The board, following consultation with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 32 MRSA §3121, as enacted by PL 2023, c. 317, §10, is repealed.

Sec. 7. 32 MRSA §3833-B is enacted to read:

§3833-B. Criminal history record information; fees

1. Background check. The board shall request a background check for each person who submits an application for initial licensure or licensure by endorsement as a psychologist under this chapter. The background check 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.

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. An applicant shall submit to having fingerprints taken. The Department of Public Safety, Bureau of State Police, upon payment by the applicant of a fee established by the board, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification so that the State Bureau of Identification 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 Bureau of State Police for purposes of this paragraph must be paid to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety. Any person who fails to transmit criminal fingerprint records to the State Bureau of Identification pursuant to this paragraph is subject to the provisions of Title 25, section 1550.

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 of an applicant for a psychologist license may be used by the board for the purpose of screening the applicant. A board action against an applicant under this subsection is subject to the provisions of Title 5, chapter 341.

F. Information obtained pursuant to this subsection is confidential. The results of background checks received by the board are for official use only and may not be disseminated to the Psychology Interjurisdictional Compact Commission, established under section 3850, or to any other person.

G. An applicant whose license has expired and who has not applied for renewal may request in writing that the Department of Public Safety, Bureau of State Police, State Bureau of Identification remove the applicant's fingerprints from the State Bureau of Identification's fingerprint file. In response to a written request, the bureau shall remove the applicant's fingerprints from the fingerprint file and provide written confirmation of that removal.

2. Rules. The board, following consultation with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.