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Governor Patrick Signs Background Check Bill

On January 10, 2013, Governor Patrick signed “An Act Relative to Background Checks,” requiring Massachusetts educators, school bus drivers, child-care workers, and others who may have “direct and unmonitored contact with children,” to undergo national background checks and fingerprinting.

Aimed at closing a loophole in existing state law, the new law requires that fingerprints be submitted to the state police for a state criminal history check and forwarded to the FBI for a national background check. Under the previous law, fingerprints were not required and educators and child-care employees were only screened through the state’s Criminal Offender Record Information (CORI) system, which is limited to crimes committed within the Commonwealth.

Who is Impacted by the New Law?

- K-12 employees at public and private schools
- School bus drivers
- School volunteers and employees of after-school programs
- Subcontractors/Laborers commissioned to perform work on school grounds
- Early educators/providers at Department of Early Education and Care (EEC) licensed facilities
- In-home non-relative caregivers, household members (age 15 or older) and individuals regularly on the premises of in-home family child care programs
- Prospective foster or adoptive parent(s)

Requirements and Implementation for School Districts

New and Prospective Employees: the new law takes effect for the 2013-2014 school year for all newly hired teachers, bus drivers and other school employees covered by the law.

Current Employees: the new law provides a three year phase-in process beginning September 1, 2013, for all current employees hired prior to the 2013-2014 school year. Under the law, current employees must be checked prior to the beginning of the 2016-2017 school year.

Fees: the law includes a one-time fee, which is capped at \$35 for early educators and K-12 employees not required to be licensed by the Department of Elementary and Secondary Education (DESE), and at \$55 for K-12 employees licensed by DESE. Under the law, the employee/applicant is responsible for the fee associated with the background check, although a school district or EEC program may reimburse individuals for all or part of the fee “on grounds of financial hardship.”

New background checks must be conducted in a manner consistent with CORI requirements. The Department of Criminal Justice Information Services (DCJIS) may retain fingerprints so that if an individual who has been checked goes to work for another school district, that individual does not have to be checked again; the new employer may obtain the background check results from DCJIS.

If you have questions, please contact one of our attorneys at Collins, Loughran & Pelouquin, P.C.

The above is provided for informational purposes only and does not constitute legal advice.