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Legislative Document

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H.P. 418

House of Representatives, February 24, 2021

An Act Concerning Records of the Employment of Law Enforcement Officers and Corrections Officers

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ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative COREY of Windham.
Cosponsored by Senator ROSEN of Hancock and
Representatives: BRYANT of Windham, COSTAIN of Plymouth, FAY of Raymond,
PICKETT of Dixfield, WARREN of Hallowell.

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

Sec. 1. 25 MRSA §2805-B, sub-§4 is enacted to read:

- 4. Application for employment with a law enforcement agency, correctional facility or county or regional jail. This subsection applies when a law enforcement officer or corrections officer who is employed by a law enforcement agency, correctional facility or county or regional jail, or who was employed by a law enforcement agency, correctional facility or county or regional jail within 90 days prior to making an application for employment, applies for employment as a law enforcement officer or corrections officer with a different law enforcement agency, correctional facility or county or regional jail.
 - A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.
 - (1) "Applicant" means the law enforcement officer or corrections officer who is applying for employment at a hiring agency.
 - (2) "Employing agency" means the law enforcement agency, correctional facility or county or regional jail that employs the applicant at the time that a request is made pursuant to paragraph B or that employed the applicant within 90 days prior to the applicant making an employment application to the hiring agency.
 - (3) "Hiring agency" means the law enforcement agency, correctional facility or county or regional jail to which the applicant is applying for employment.
 - B. The applicant shall sign a request that an employing agency release all personnel and employment records, internal investigation records and any other records pertaining to the applicant's employment and the job performance of the applicant to a hiring agency. For the purposes of the employment application, the request form must include a waiver of any rights that the applicant has to the privacy of the personnel and employment records, internal investigation records and any other records pertaining to the applicant's employment and the job performance of the applicant. The request form must be signed by the applicant and the signature must be witnessed. The board shall adopt rules establishing a standard request and waiver form. Rules adopted pursuant to this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.
 - C. An employing agency that receives a request pursuant to paragraph B shall promptly release all personnel and employment records, internal investigation records and any other records pertaining to the employment and job performance of the applicant to the hiring agency.
 - D. An employing agency that responds to a request pursuant to paragraph B and releases information pursuant to paragraph C is immune from civil or criminal liability for releasing the requested information to a hiring agency.
 - E. A hiring agency that receives information pursuant to paragraph C from an employing agency shall treat that information in the same manner as it treats personnel and employment records of the employees of the hiring agency. A hiring agency is immune from civil or criminal liability for receiving the requested information.
 - Sec. 2. 25 MRSA §2805-B, sub-§5 is enacted to read:

5. Release of the results of a polygraph examination. When a polygraph examination has been performed on a law enforcement officer or corrections officer and the results indicate probable cause to believe that the officer is or has been involved in criminal activity, the law enforcement agency, correctional facility or county or regional jail that conducted the examination or for whom the examination was performed shall release the results of the examination to the head of the law enforcement agency, correctional facility or county or regional jail that employs the law enforcement officer or corrections officer.

SUMMARY

This bill requires a law enforcement officer or corrections officer who applies for employment with a law enforcement agency, correctional facility or county or regional jail, when the applicant is employed by or within 90 days prior to the application employed by another law enforcement agency, correctional facility or county or regional jail, to request that the officer's personnel records, employment records, internal investigation records and any other records pertaining to the applicant's employment and the job performance of the applicant be released to the other agency, facility or jail. The request form, which must be signed and witnessed, must include a waiver of any rights that the applicant has to the privacy of the personnel and employment records, internal investigation records and any other records pertaining to the employment and job performance of the applicant. The bill directs the Board of Trustees of the Maine Criminal Justice Academy to adopt routine technical rules to establish the request and waiver form. The bill requires the agency, facility or jail to which the request was made to promptly release the requested information. The bill provides civil and criminal immunity to both the sending and the receiving agency, facility or jail.

The bill requires an agency, facility or jail that performs a polygraph examination on a law enforcement officer or corrections officer to notify the head of the agency, facility or jail that employs the officer if the results indicate probable cause to believe that the officer is or has been involved in criminal activity.