

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Martin J. Walsh**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to require national background checks.

PETITION OF:

NAME:

Martin J. Walsh

DISTRICT/ADDRESS:

13th Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 144 OF 2007-2008.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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**AN ACT TO REQUIRE NATIONAL BACKGROUND CHECKS.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 172 of chapter 6 of the General Laws is amended by inserting the following  
2 new section 172J as follows:-

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4       Notwithstanding any other provision of law, any person seeking employment or a position as a regular  
5 volunteer or trainee to provide services for, or, on behalf of the Department of Mental Retardation or its  
6 vendor agency programs where such employment or position involves potential unsupervised contact with  
7 individuals with mental retardation shall be required to have a national criminal background check prior  
8 to assuming said employment or position.<sup>1</sup> Said criminal background check will be determined by using  
9 the Integrated Automated Fingerprint Identification System maintained by the Federal Bureau of  
10 Investigation's Criminal Justice Information Services Division.

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12       It shall be the responsibility of the Commonwealth to ensure that said criminal background checks are  
13 processed for review prior to such time that an individual seeking employment or a position as a volunteer  
14 or trainee assumes said employment or position.

15       Any person who willfully requests, obtains or seeks to obtain criminal offender record  
16 information or the equivalent from other jurisdictions under false pretenses, or who willfully  
17 communicates or seeks to communicate criminal offender record information or the equivalent  
18 from other jurisdictions to any agency or person except in accordance with the provisions of  
19 sections one hundred and sixty-eight to one hundred and seventy-five, inclusive, or any member,

20 officer, employee or agency of the board or any participating agency, or any person connected  
21 with any authorized research program, who willfully falsifies criminal offender record  
22 information, or the equivalent from other jurisdictions, or any records relating thereto, shall be in  
23 violation of this provision.

24 The Criminal History Systems Board, the Disabled Persons Protection Commission, and the State Police  
25 has cooperate and supervise the participation by all Department of Mental Retardation providers in any  
26 interstate system for the exchange of criminal offender record information or the equivalent from other  
27 jurisdictions<sup>ii</sup> and shall be responsible to assure the consistency of such participation including redacting  
28 information so that criminal offender record information or the equivalent from other jurisdictions is  
29 limited to convictions and open cases, and, that juvenile records are-not made available.

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31 Any provider of services to individuals pursuant to a contract with the Department that hires, retains or  
32 supervises an employee, volunteer or trainee whom the provider knows or should know, will potentially  
33 come into unsupervised contact with such individuals, and, because of a criminal conviction or pending  
34 criminal charge of a nature that would pose a unacceptable risk of physical harm to or financial  
35 exploitation of such individuals shall be in violation of this provision. The hiring authority shall use,  
36 when making a determination of unacceptable risk, the guidelines as provided by existing Department of  
37 Mental Retardation regulations.

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39 The Board shall afford an individual who may be wrongly associated with a record or whose record may  
40 contain errors, the opportunity to contest the accuracy of an out-of-state record. Each individual shall  
41 have the right to inspect, and if practicable, copy, criminal offender record information or the equivalent  
42 from other jurisdictions which refers to him. If an individual believes such information to be inaccurate or  
43 incomplete, the Criminal Systems History Board shall notify the state whose record is contested and assist  
44 the individual in following the process for correcting inaccuracies in that state, as well as notify the  
45 agency to whom the record was disseminated that the record is being contested and that no adverse action  
46 can be taken by that agency pending a resolution of the dispute.<sup>iii</sup> This matter should be resolved as soon  
47 as practicable but no later than 30 days after notification. Agencies at which criminal offender records or  
48 the equivalent from other jurisdictions are sought to be inspected shall prescribe reasonable hours and  
49 places of inspection, and shall impose such additional restrictions as may be approved by the board, as are  
50 reasonably necessary both to assure the record's security and to verify the identities of those who seek to  
51 inspect them.

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