

**2022 -- S 2221 SUBSTITUTE A AS AMENDED**

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LC004247/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2022**

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND  
HOSPITALS -- EMPLOYEE CRIMINAL RECORDS CHECK

Introduced By: Senator Joshua Miller

Date Introduced: February 08, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40.1-25.1-3 of the General Laws in Chapter 40.1-25.1 entitled  
2 "Employee Criminal Records Check" is hereby amended to read as follows:

3 **40.1-25.1-3. Criminal records check requirement.**

4 (a) Any facility or program licensed by the department pursuant to § 40.1-24-1 et seq. and  
5 any facility or program operated by the department shall require all applicants for employment, if  
6 that employment involves routine contact with patients, residents, or clients without the presence  
7 of other employees, to apply to the bureau of criminal identification of the state police or the local  
8 police department or, for organizations employing two hundred fifty (250) or more employees only,  
9 the office of the attorney general for a nationwide criminal records check. The check will conform  
10 to the applicable state and federal standards, including the taking of fingerprints of the applicant.  
11 Fingerprints shall be initially submitted to the office of the attorney general for a check of state  
12 records and thereafter forwarded to the Federal Bureau of Investigation ("FBI") for a national  
13 criminal history check. The criminal records checks as required by this section shall be conducted  
14 for every five (5) years of continuous employment from the date of the previous criminal  
15 background check.

16 (b) If any disqualifying information is discovered with respect to the applicant, the bureau  
17 of criminal identification of the state police or the local police department or the office of attorney  
18 general will inform the employer, in writing, without disclosing the nature of the disqualifying

1 information, that an item of disqualifying nature has been discovered. In addition, the bureau of  
2 criminal identification of the state police or the local police department or the office of the attorney  
3 general will inform the applicant, in writing, of the nature of the disqualifying information. ~~An~~  
4 ~~applicant against whom disqualifying information has been found may request that a copy of the~~  
5 ~~criminal background report be sent to the employer who shall make a judgment regarding the~~  
6 ~~employment of the applicant.~~ The results of the national criminal records check shall be made  
7 available to the applicant undergoing a record check and submitting fingerprints.

8 (c) In those situations in which no disqualifying information has been found, the bureau of  
9 criminal identification of the state police or the local police department or the office of the attorney  
10 general shall inform both the applicant and the employer of this fact.

11 (d) The employer will maintain on file, subject to investigation by the department, evidence  
12 that criminal records checks in accordance with this statute have been initiated on all employees  
13 seeking employment after August 1, 2001, and the results of the checks. Failure to maintain the  
14 evidence on file will be prima facie grounds to revoke the license or certification of the operator of  
15 any facility or program licensed or certified by the department.

16 (e) It shall be the responsibility of the bureau of criminal identification of the state police  
17 or the local police department or the office of the attorney general to conduct the national criminal  
18 records check for the applicant. Any expense associated with obtaining the criminal records check  
19 required pursuant to subsection (a) of this section with respect to organizations employing two  
20 hundred fifty (250) or more employees, including the taking of fingerprints of the applicant, shall  
21 be paid by the organization requiring the criminal records check.

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND  
HOSPITALS -- EMPLOYEE CRIMINAL RECORDS CHECK

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1           This act would require nationwide criminal records checks for all applicants for  
2 employment with the department of behavioral healthcare, developmental disabilities and hospitals  
3 (BHDDH) or any facility or program operated by the department involving routine contact with  
4 patients, residents or clients without the presence of other employees or organizations employing  
5 two hundred fifty (250) or more employees with follow up checks every five (5) years thereafter  
6 of continuous employment.

7           This act would take effect upon passage.

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