

By Mr. Brennan, a petition (accompanied by bill, Senate, No. 532) of John A. Brennan, Jr., for legislation to require background checks on certain child care workers. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT REQUIRING BACKGROUND CHECKS OF CERTAIN CHILD CARE WORKERS.

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 10 of chapter 28A of the General Laws, as most recently
2 amended by section 1 of chapter 766 of the acts of 1985, is hereby
3 further amended by inserting after paragraph (f) the following
4 paragraph:

5 For all programs subject to licensure by the Office, the Office
6 shall include a review of criminal offender record information as
7 defined in section one hundred sixty-seven of chapter six as a
8 condition of licensure. This review may include information
9 contained in criminal records of other states if such information
10 is relevant to the health or welfare of children in the care of such
11 applicant or licensee. The filing of a complaint against or the
12 indictment of or the conviction of any applicant, licensee,
13 approved assistant, paid or unpaid staff, or a person regularly on
14 the premises and having access to children in care, of a violation
15 of sections one, thirteen, thirteen B, thirteen F, thirteen G, thirteen
16 H, fifteen, sixteen, twenty-two, twenty-two A, twenty-three,
17 twenty-four, twenty-four B, and twenty-six of chapter two
18 hundred and sixty-five, or sections two, three, four A, four B, six,
19 seven, twelve, thirteen, seventeen, twenty-nine A, twenty-nine B,
20 and thirty-five A of chapter two hundred and seventy-two, or
21 sections thirty-two, thirty-two A, thirty-two B, thirty-two C,
22 thirty-two D, thirty-two E, thirty-two F, thirty-two G, thirty-two

23 I, and forty of chapter ninety-four C, or for any such offenses shall
24 result in the disqualification of an applicant or licensee to receive,
25 retain or have renewed a license or certificate of registration or
26 approval, unless, in the opinion of the director, sufficient miti-
27 gating circumstances exist demonstrating that the applicant or
28 licensee should not be disqualified. In the case of licensure or
29 approval of a family day care home, the conviction of any
30 applicant, licensee, approved assistant, a household member or
31 other person regularly on the premises and having access to
32 children in care for any other criminal offense, or charge pending
33 for such offenses, may result in disqualification if the Office
34 determines that approval would be detrimental to the health or
35 welfare of children in the care of said applicant or licensee. For
36 all other programs subject to licensure, OFC shall require as a
37 condition of licensure, that the licensee review convictions or
38 pending charges for any other criminal offenses of staff and other
39 persons regularly on the premises and having access to children
40 in the care of said applicant or licensee which OFC, in conjunc-
41 tion with the Criminal History Systems Board, determines may be
42 detrimental to the health or welfare of children in care.
43 Notwithstanding the provisions of any other law to the contrary,
44 a conviction for such offenses or charges pending on such offenses
45 may be grounds for a licensee to refuse to hire or to discharge
46 said individual.

47 The Office and the Criminal History Systems Board shall
48 promulgate such rules and regulations and shall adopt such
49 procedures as are necessary to carry out the provisions of this
50 section.