

By Mr. O'Sullivan of Worcester, petition of Kevin O'Sullivan relative to requests for criminal history record information by employment agencies which provide child care employees. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT REGULATING EMPLOYMENT AGENCIES WHICH PROVIDE CHILD CARE EMPLOYEES.

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. The first paragraph of section 172 of chapter 6
2 of the General Laws, as amended by chapter 321 of the acts of
3 1987, is hereby further amended by inserting after the first
4 sentence the following sentence: — For purposes of clause (c),
5 the public interest in disseminating such information shall be
6 deemed to clearly outweigh the interest in security and privacy
7 when a child care employment agency requests criminal history
8 record information pursuant to the provisions of section forty-
9 six S of chapter one hundred and forty.

1 SECTION 2. Section 46A of chapter 140 of the General Laws
2 is hereby amended by striking out the introductory paragraph and
3 inserting in place thereof the following: —

4 As used in this section and in sections forty-six B to forty-six S,
5 inclusive, the following words shall have the following meanings: —
6 “Child care employment agency”, any agency which, for a fee
7 procures or attempts to procure employees to care for children
8 in another's household.

1 SECTION 3. The definition of “Employment Agency” in said
2 section 46A of said chapter 140 is hereby amended by inserting
3 after the word “employees”, in line 16, the words: — or child care
4 employees.

1 SECTION 4. Said chapter 140 is hereby further amended by
2 inserting after section 46R, the following section: —

3 Section 46S. Each child care employment agency shall conduct
4 a complete and extensive investigation of each applicant for
5 employment, including but not limited to, communicating with
6 at least one of the persons given as a reference by the applicant
7 and with at least one of the persons given as a former employer
8 of the applicant, a background review and a request for criminal
9 history record information. Such information shall be kept on file
10 by the agency for a period of at least three years.

11 The commissioner shall promulgate rules and regulations
12 necessary to carry out the provisions of this section.

13 A child care employment agency shall be liable to an employer
14 in a civil action for failure to comply with the provisions of this
15 section. Any disclaimer of such liability shall be void and
16 unenforceable as contrary to public policy.

17 The bond required to be deposited under section forty-six F
18 shall secure performance of the provisions of this section.