

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 210

Approved May 13, 2004

RESOLVED, That the Members of the Providence City Council hereby Endorse and Urge Passage by the General Assembly of House Bill 2004-H 8263, Relative to Criminal Offenses and Procedures—Criminal Background Checks.

IN CITY COUNCIL,
MAY 6 2004
READ AND PASSED

[Signature]
PRES.

[Signature]
CLERK *[Initials]*

APPROVED

[Signature]
MAYOR

5/13/04

IN CITY COUNCIL
APR 15 2004
FIRST READING
REFERRED TO COMMITTEE ON
STATE LEGISLATION

Michael H. Clemen CLERK
②

THE COMMITTEE ON
STATE LEGISLATION
Recommends Approval

Craig B. Burt
April 21, 2004 CLERK

Councilmembers Sponte, Jackson, Luna, Mancini and Councilwoman Honard (By Request)

2004 -- H 8263

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LC02236
=====**STATE OF RHODE ISLAND**

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

A N A C T**RELATING TO CRIMINAL OFFENSES AND PROCEDURES -- CRIMINAL
BACKGROUND CHECKS****Introduced By:** Representatives Moura, and DeSimone**Date Introduced:** March 09, 2004**Referred To:** House Judiciary

It is enacted by the General Assembly as follows:

- 1-1 SECTION 1. Sections 11-47-35 and 11-47-35.2 of the General Laws in Chapter 11-47
1-2 entitled "Weapons" are hereby amended to read as follows:
- 1-3 **11-47-35. Sale of concealable weapons -- Safety courses and tests -- Review board --**
1-4 **Issuance of permits to certain government officers. --** (a) (1) No person shall deliver a pistol
1-5 or revolver to a purchaser until seven (7) days shall have elapsed from twelve o'clock (12:00)
1-6 noon of the day following the day of application for the purchase, and when delivered, the pistol
1-7 or revolver shall be unloaded and securely wrapped, with the bill of sale to be enclosed within the
1-8 wrapper with the pistol or revolver. Any citizen of the United States and/or lawful resident of this
1-9 state who is twenty-one (21) years of age or older, and any nonresident member of the armed
1-10 forces of the United States who is stationed in this state and who is twenty-one (21) years of age
1-11 or older, may upon application purchase or acquire a pistol or revolver. At the time of applying
1-12 for the purchase of a concealable firearm, the purchaser shall: (i) complete and sign in triplicate
1-13 and deliver to the person selling the pistol or revolver the application form described in this
1-14 section, and in no case shall it contain the serial number of the pistol or revolver; and (ii) shall

1-15 present to the person selling the pistol or revolver a pistol/revolver safety certificate issued by the
 1-16 department of environmental management. The certificate shall be retained in the possession of
 1-17 the buyer. The pistol/revolver safety certificate shall certify that the purchaser has completed a
 1-18 basic pistol/revolver safety course as shall be administered by the department of environmental
 2-1 management.

2-2 (Face of application form)

2-3 Application to Purchase Pistol or Revolver

2-4 Date Hour A.M. P.M.

2-5 Name

2-6 Address

2-7 (Street and number) (City or town) (State)

2-8 Date of Birth Place of Birth

2-9 Height Weight Color hair

2-10 Color eyes

2-11 Scars

2-12 Tattoos

2-13 Other identifying marks

2-14 Are you a citizen of the United States

2-15 Are you a citizen of Rhode Island

2-16 How long

2-17 Where stationed

2-18 (Armed Forces only)

2-19 Have you ever been convicted of a crime of violence

2-20 (See section 11-47-2)

2-21 Have you ever been adjudicated or under confinement as addicted to a controlled

2-22 substance

2-23 Have you ever been adjudicated or under confinement for alcoholism

2-24 Have you ever been confined or treated for mental illness

2-25 From whom is pistol or revolver being purchased

2-26 Seller's address

2-27 Seller's signature

2-28 Applicant's signature

2-29 (See section 11-47-23 for penalty for false information on this application)

2-30 (Reverse side of application form)

2-31 AFFIDAVIT: I certify that I have read and am familiar with the provisions of sections

2-32 11-47-1 - 11-47-55, inclusive, of the general laws of the State of Rhode Island and

2-33 Providence Plantations, and that I am aware of the penalties for violation of the

2-34 provisions of the cited sections. I further certify that I have completed the required basic

3-1 pistol/revolver safety course. Signed

3-2 (over)

3-3 County of

3-4 State of Rhode Island Subscribed and sworn before me this.... day of.... A.D. 20..

3-5 Notary Public

3-6 (2) The person selling the pistol or revolver shall on the date of application sign and
3-7 forward by registered mail or by delivery in person the original and duplicate copies of the
3-8 application to the superintendent of the Rhode Island state police or the chief of police in the city
3-9 or town in which the person has his or her residence or place of business. The superintendent of
3-10 the Rhode Island state police or the chief of police in the city or town in which the person has his
3-11 or her residence or place of business shall mark or stamp the original copy of the application form
3-12 with the date and the time of receipt and return it by the most expeditious means to the person
3-13 who is selling the pistol or revolver. The triplicate copy duly signed by the person who is selling
3-14 the pistol or revolver shall within seven (7) days be sent by him or her by registered mail to the
3-15 attorney general. The person who is selling the pistol or revolver shall retain the original copy
3-16 duly receipted by the police authority to whom sent or delivered for a period of six (6) years with
3-17 other records of the sale. It shall be the duty of the police authority to whom the duplicate copy of
3-18 the application form is sent or delivered to make a background check of the applicant to ascertain
3-19 whether he or she falls under the provisions of section 11-47-5, 11-47-6, 11-47-7, or 11-47-23. If,
3-20 after the lapse of seven (7) days from twelve o'clock (12:00) noon of the day following
3-21 application, no disqualifying information has been received from the investigating police
3-22 authority by the person who is selling the pistol or revolver, he or she will deliver the firearm
3-23 applied for to the applicant. Upon the finding of no disqualifying information under the
3-24 provisions of the above cited sections of this chapter, and in no case later than thirty (30) days

3-25 after the date of application, the duplicate and triplicate copies of the application will be
3-26 destroyed. Retention of the duplicate and triplicate copies in violation of this section or any
3-27 unauthorized use of the information contained in the copies by a person or agency shall be
3-28 punishable by a fine of not more than one thousand dollars (\$1,000). The provisions of this
3-29 section shall not apply to bona fide sales at wholesale to duly licensed retail dealers, nor to
3-30 purchases by retail dealers duly licensed under the provisions of section 11-47-39. In no event
3-31 shall the cost to conduct the background check be charged to the local police department in that
3-32 city or town where the applicant has his or her residence or place of business.

3-33 (b) (1) The department of environmental management shall establish the basic
3-34 pistol/revolver safety course required by this section. The safety course shall consist of not less
4-1 than two (2) hours of instruction in the safe use and handling of pistols and revolvers and the
4-2 course shall be available to buyers continually throughout the year at convenient times and places
4-3 but at least monthly at locations throughout the state, or more frequently as required. Proficiency
4-4 in the use of pistols or revolvers shall not be prerequisite to the issuance of the safety certificate.
4-5 No person shall be required to complete the course more than once; provided, that any person
4-6 completing the course who is unable to produce the safety certificate issued by the department of
4-7 environmental management shall be required to take the course again unless the person provides
4-8 evidence to the department that he or she has successfully completed the course.

4-9 (2) The administration of the basic pistol/revolver safety course required by this section
4-10 shall not exceed the cost of thirty-five thousand dollars (\$35,000) in any fiscal year.

4-11 (c) Proof of passage of the department of environmental management's basic hunter
4-12 safety course will be equivalent to the pistol/revolver safety certificate mandated by this section.

4-13 (d) Any person who has reason to believe that he or she does not need the required
4-14 handgun safety course may apply by any written means to the department of environmental
4-15 management to take an objective test on the subject of matter of the handgun safety course. The
4-16 test shall be prepared, as well as an instruction manual upon which the test shall be based, by the
4-17 department. The manual shall be made available by any means to the applicant who may, within
4-18 the time limits for application, take the objective test at the department or at any location where
4-19 the handgun safety course is being given. Any person receiving a passing grade on the test shall
4-20 be issued a pistol/revolver safety certificate by the department.

4-21 (e) (1) There is established within the department of environmental management a review

4-22 board which shall consist of five (5) members as follows: one member from the Rhode Island
4-23 house of representatives to be appointed by the speaker, one member from the Rhode Island
4-24 senate to be appointed by the president of the senate, two (2) members who are residents of the
4-25 state representing the public, to be appointed by the governor, one of whom shall be from the
4-26 Rhode Island Rifle and Revolver Association, and the director of the department of
4-27 environmental management or his or her designee. The legislative members of the review board
4-28 shall serve so long as they shall remain members of the house from which they were appointed
4-29 and until their successors are duly appointed and qualified. The board members representing the
4-30 public shall serve at the pleasure of the governor. Vacancies shall be filled in like manner as the
4-31 original appointments.

4-32 (2) It shall be the duty of the review board to monitor and evaluate the development of
4-33 the basic pistol/revolver safety course required by this section, to ensure compliance with the
4-34 provisions of subsection (b) of this section, and to periodically make or recommend any changes
5-1 in the safety course that the review board deems advisable, not inconsistent with the provisions of
5-2 this section. It shall further be the duty of the review board to decide all appeals from any
5-3 decisions of the department of environmental management rendered pursuant to its
5-4 responsibilities as set forth in subsection (b) of this section.

5-5 (3) There shall be no civil liability incurred and no cause of action of any nature shall
5-6 arise against any member of the review board or its agents, servants, or employees as a result of
5-7 any decisions made by the board or for any action taken by the board or its members, agents,
5-8 servants, or employees.

5-9 (f) The following persons shall be issued basic pistol/revolver permits by the department
5-10 of environmental management: sheriffs, deputy sheriffs, the superintendent and members of the
5-11 state police, prison or jail wardens or their deputies, members of the city or town police force,
5-12 members of the park police, conservation officers, and officers of the United States government
5-13 authorized by law to carry a concealed firearm and, at the discretion of the department of
5-14 environmental management, any person who can satisfactorily establish that he or she formerly
5-15 held one of these offices or were so authorized.

5-16 (g) Any person who is serving in the Army, Navy, Air Force, Marine Corps or Coast
5-17 Guard on active duty shall not be required to obtain a basic pistol/revolver safety certificate or
5-18 basic pistol/revolver permit under this section so long as he or she remains on active duty.

5-19 (h) Any person who is serving in the active reserve components of the Army, Navy, Air
 5-20 Force, Marine Corps or Coast Guard, or any person in an active duty paid status in the Rhode
 5-21 Island National Guard, shall not be required to obtain a basic pistol/revolver safety certificate
 5-22 under this section so long as he or she remains in active status.

5-23 **11-47-35.2. Sale of rifles/shotguns.** -- (a) No person shall deliver a rifle or shotgun to a
 5-24 purchaser until seven (7) days shall have elapsed from twelve o'clock (12:00) noon of the day
 5-25 following the day of application for the purchase, and when delivered, the rifle or shotgun shall
 5-26 be unloaded and securely wrapped, with the bill of sale for it to be enclosed within the wrapper
 5-27 with the rifle or shotgun. Any citizen of the United States and/or lawful resident of this state who
 5-28 is eighteen (18) years of age or older, and any non-resident member of the armed forces of the
 5-29 United States who is stationed in this state and who is eighteen (18) years of age or older, may,
 5-30 upon application, purchase or acquire a rifle or shotgun. At the time of applying for the purchase
 5-31 of a shotgun or rifle the purchaser shall complete and sign in triplicate and deliver to the seller the
 5-32 application form described in this section, and in no case shall it contain the serial number of the
 5-33 rifle or shotgun.

5-34 (Face of application form)

6-1 Application to Purchase Shotgun or Rifle

6-2 Date Hour A.M. P.M.

6-3 Name

6-4 Address

6-5 (Street and number) (City or town) (State)

6-6 Date of Birth Place of Birth

6-7 Height Weight Color hair

6-8 Color eyes

6-9 Scars

6-10 Tattoos

6-11 Other identifying marks

6-12 Are you a citizen of the United States

6-13 Are you a citizen of Rhode Island

6-14 How long

6-15 Where stationed

- 6-16 (Armed Forces only)
- 6-17 Have you ever been convicted of a crime of violence
- 6-18 (See section 11-47-2 General Laws of Rhode Island)
- 6-19 Have you ever been adjudicated or under confinement as addicted to a controlled
- 6-20 substance
- 6-21 Have you ever been adjudicated or under confinement for alcoholism
- 6-22 Have you ever been confined or treated for mental illness
- 6-23 From whom is shotgun or rifle being purchased
- 6-24 Seller's address
- 6-25 Seller's signature
- 6-26 Applicant's signature
- 6-27 (See section 11-47-23 for penalty for false information on this application)
- 6-28 (Reverse side of application form)
- 6-29 AFFIDAVIT: I certify that I have read and am familiar with the provisions of sections
- 6-30 11-47-1 - 11-47-59, inclusive, of the general laws of the State of Rhode Island and
- 6-31 Providence Plantations, and that I am aware of the penalties for violation of the
- 6-32 provisions of the cited sections.
- 6-33 Signed
- 6-34 County of
- 7-1 State of Rhode Island Subscribed and sworn before me this.... day of.... A.D. 20...
- 7-2 Notary Public
- 7-3 (b) The person who is selling the rifle or shotgun shall, on the date of application, sign
- 7-4 and forward by registered mail or by delivery in person, the original and duplicate copies of the
- 7-5 application to the superintendent of the Rhode Island state police or the chief of police in the city
- 7-6 or town in which the seller has his or her residence or place of business. The superintendent of the
- 7-7 Rhode Island state police or the chief of police in the city or town in which the person has his or
- 7-8 her residence or place of business shall mark or stamp the original copy of the application form
- 7-9 with the date and time of receipt and return it by the most expeditious means to the seller. The
- 7-10 triplicate copy duly signed by the seller shall within seven (7) days be sent by him or her by
- 7-11 registered mail to the attorney general. The person shall retain the original copy duly received by
- 7-12 the police authority to whom sent or delivered for a period of six (6) years with other records of

7-13 the sale. It shall be the duty of the police authority to whom the duplicate copy of the application
7-14 form is sent or delivered to make a background check of the applicant to ascertain whether he or
7-15 she falls under the provisions of section 11-47-5, 11-47-6, 11-47-7, or 11-47-23. If, after the lapse
7-16 of seven (7) days from twelve o'clock (12:00) noon of the day following application, no
7-17 disqualifying information has been received from the investigating police authority by the person
7-18 who is selling the rifle or shotgun, he or she will deliver the firearm applied for to the applicant.
7-19 Upon the finding of no disqualifying information under the provisions of the above cited sections
7-20 of this chapter, and in no case later than thirty (30) days after the date of application, the duplicate
7-21 and triplicate copies of the application will be destroyed. Retention of the duplicate and triplicate
7-22 copies in violation of this chapter or any unauthorized use of the information contained in them
7-23 by a person or agency shall be punishable by a fine of not more than one thousand dollars
7-24 (\$1,000). The provisions of this section shall not apply to bona fide sales at wholesale to duly
7-25 licensed retail dealers, nor to purchases by retail dealers duly licensed under the provisions of
7-26 section 11-47-39. In no event shall the cost to conduct the background check be charged to the
7-27 local police department in that city or town where the applicant has his or her residence or place
7-28 of business.

7-29 (c) The provisions of this section shall not apply to full-time members of the state police,
7-30 full-time members of city or town police departments, persons licensed under sections 11-47-9
7-31 and 11-47-11, or to sales of air rifles or "BB guns" or to sales of antique firearms as defined in
7-32 section 11-47-2.

7-33 SECTION 2. Section 16-48.1-4 and 16-48.1-5 of the General Laws in Chapter 16-48.1
7-34 entitled "Certification of Personnel Providing Educational Services to Very Young Children" are
8-1 hereby amended to read as follows:

8-2 **16-48.1-4. Criminal records checks -- Operations.** -- Any person seeking to operate a
8-3 facility covered under section 16-48-1 shall apply to the bureau of criminal identification of the
8-4 state police or the local police department for a nationwide criminal records check. The check
8-5 will conform to the applicable federal standards including the taking of fingerprints to identify the
8-6 applicant. The commissioner will determine by rule those items of information appearing on a
8-7 criminal records check which constitute disqualifying information because the information would
8-8 indicate that the operation or, in the case of an employee, the employment could endanger the
8-9 health or welfare of a child or children. Upon the discovery of any disqualifying information with

8-10 respect to a proposed operator, the bureau of criminal identification of the state police or the local
8-11 police department will inform the commissioner in writing of the nature of the disqualifying
8-12 information. In no event shall the cost to conduct the background check be charged to the local
8-13 police department in that city or town where the applicant has his or her residence or place of
8-14 business.

8-15 **16-48.1-5. Criminal records check -- Employee.** -- Any person seeking employment, if
8-16 the employment involves supervisory or disciplinary power over a child or children or involves
8-17 routine contact with a child or children without the presence of other employees, in any facility
8-18 covered under section 16-48-1 shall, after acceptance by the employer of the affidavit required by
8-19 section 16-48.1-3, apply to the bureau of criminal identification of the state police or the local
8-20 police department for a nationwide criminal records check. The check will conform to applicable
8-21 federal standards including the taking of fingerprints to identify the applicant. Upon the discovery
8-22 of any disqualifying information as defined in accordance with the rule promulgated by the
8-23 commissioner, the bureau of criminal identification of the state police or the local police
8-24 department will inform the applicant, in writing, of the nature of the disqualifying information. In
8-25 addition, the bureau of criminal identification of the state police or the local police department
8-26 will inform the employer, in writing, without disclosing the nature of the disqualifying
8-27 information, that an item of disqualifying information has been discovered. In those situations in
8-28 which no disqualifying information has been found, the bureau of criminal identification of the
8-29 state police or the local police department will inform both the applicant and the employer, in
8-30 writing, of this fact. The employer will maintain on file, subject to inspection by the
8-31 commissioner, evidence that the criminal records checks have been initiated on all employees
8-32 seeking employment after August 1, 1985, and the results of the checks. Failure to maintain that
8-33 evidence on file will be prima facie grounds to revoke the license or registration of the operator of
8-34 the facility. It will be the responsibility of the bureau of criminal identification of the state police
9-1 or the local police department to conduct the nationwide criminal records check pursuant to this
9-2 section. The nationwide criminal records check will be provided to the applicant for employment
9-3 without charge to the applicant and without charge to the prospective employer if the employer is
9-4 a tax exempt corporation or an unincorporated nonprofit organization qualified under section
9-5 501(c) of the United States Internal Revenue Code, 26 U.S.C. section 501(c). In no event shall
9-6 the cost to conduct the background check be charged to the local police department in that city or

9-7 town where the applicant has his or her residence or place of business.

9-8 SECTION 3. Section 23-17-34 of the General Laws in Chapter 23-17 entitled "Licensing
9-9 of Health Care Facilities" is hereby amended to read as follows:

9-10 **23-17-34. Criminal records review -- Nursing facilities -- Home nursing care**

9-11 **providers and home care providers.** -- (a) Any person seeking employment in a nursing facility,
9-12 a home nursing care provider, or a home care provider which is or is required to be licensed,
9-13 registered or certified with the department of health if that employment involves routine contact
9-14 with a patient or resident without the presence of other employees, shall undergo a criminal
9-15 background check to be initiated prior to or within one week of employment. All employees hired
9-16 prior to the enactment of this section shall be exempted from the requirements of this section.

9-17 (b) The director of the department of health may by rule identify those positions
9-18 requiring criminal background checks. The identified employee, through the employer, shall
9-19 apply to the bureau of criminal identification of the state police or local police department for a
9-20 statewide criminal records check. Fingerprinting shall not be required. Upon the discovery of any
9-21 disqualifying information as defined in section 23-17-37 and in accordance with the rule
9-22 promulgated by the director of health, the bureau of criminal identification of the state police or
9-23 the local police department will inform the applicant, in writing, of the nature of the disqualifying
9-24 information; and, without disclosing the nature of the disqualifying information, will notify the
9-25 employer, in writing, that disqualifying information has been discovered.

9-26 (c) An employee against whom disqualifying information has been found may request
9-27 that a copy of the criminal background report be sent to the employer who shall make a judgment
9-28 regarding the continued employment of the employee.

9-29 (d) In those situations in which no disqualifying information has been found, the bureau
9-30 of criminal identification of the state police or the local police shall inform the applicant and the
9-31 employer, in writing, of this fact.

9-32 (e) The employer shall maintain on file, subject to inspection by the department of
9-33 health, evidence that criminal records checks have been initiated on all employees seeking
9-34 employment after October 1, 1991, and the results of the checks. Failure to maintain that evidence
10-1 would be grounds to revoke the license or registration of the employer.

10-2 (f) It shall be the responsibility of the bureau of criminal identification of the state police
10-3 or the local police department to conduct the criminal records check to the applicant for

10-4 employment without charge to either the employee or the employer.

10-5 (g) In no event shall the cost to conduct the background check be charged to the local
10-6 police department in that city or town where the applicant has his or her residence or place of
10-7 business.

10-8 SECTION 4. Section 23-17.4-27 of the General Laws in Chapter 23-17.4 entitled
10-9 "Assisted Living Residence Licensing Act" is hereby amended to read as follows:

10-10 **23-17.4-27. Criminal records review.** -- (a) Any person seeking employment in any
10-11 assisted living residence licensed under this act and having routine contact with a resident or
10-12 having access to a resident's belongings or funds shall undergo a criminal background check to be
10-13 processed prior to or within one week of employment. All employees hired prior to the enactment
10-14 of this section shall be exempted from the requirements of this section.

10-15 (b) The director of the department of health may by rule identify those positions
10-16 requiring criminal background checks. The employee, through the employer, shall apply to the
10-17 bureau of criminal identification of the state police or local police department for a statewide
10-18 criminal records check. Fingerprinting shall not be required. Upon the discovery of any
10-19 disqualifying information as defined in section 23-17.4-30 and in accordance with the rule
10-20 promulgated by the director of health, the bureau of criminal identification of the state police or
10-21 the local police department will inform the applicant in writing of the nature of the disqualifying
10-22 information; and, without disclosing the nature of the disqualifying information, will notify the
10-23 employer in writing that disqualifying information has been discovered.

10-24 (c) An employee against whom disqualifying information has been found may request
10-25 that a copy of the criminal background report be sent to the employer. The administrator shall
10-26 make a judgment regarding the continued employment of the employee.

10-27 (d) In those situations in which no disqualifying information has been found, the bureau
10-28 of criminal identification (BCI) of the state police or the local police shall inform the applicant
10-29 and the employer in writing of this fact.

10-30 (e) The employer shall maintain on file, subject to inspection by the department of
10-31 health, evidence that criminal records checks have been initiated on all employees seeking
10-32 employment after October 1, 1991, and the results of the checks. Failure to maintain that evidence
10-33 would be grounds to revoke the license or registration of the employer.

10-34 (f) It shall be the responsibility of the bureau of criminal identification (BCI) of the state

11-1 police or the local police department to conduct the criminal records check to the applicant for
11-2 employment without charge to either the employee or employer.

11-3 (g) In no event shall the cost to conduct the background check be charged to the local
11-4 police department in that city or town where the applicant has his or her residence or place of
11-5 business.

11-6 SECTION 5. Sections 40-13.2-4, 40-13.2-4.1, 40-13.2-5 and 40-13.2-5.1 of the General
11-7 Laws in Chapter 40-13.2 entitled "Certification of Child Care and Youth Serving Agency
11-8 Workers" are hereby amended to read as follows:

11-9 **40-13.2-4. Criminal records check -- Operators of child care facilities which must be**
11-10 **licensed or registered with the department.** -- Any person seeking to operate a facility which
11-11 is, or is required to be, licensed or registered with the department shall apply to the bureau of
11-12 criminal identification of the state police or the local police department for a nationwide criminal
11-13 records check. The check will conform to the applicable federal standards, including the taking of
11-14 fingerprints to identify the applicant. The director will determine by rule those items of
11-15 information appearing on a criminal records check which constitute disqualifying information
11-16 because that information would indicate that the employment could endanger the health or
11-17 welfare of a child or children. Upon the discovery of any disqualifying information with respect
11-18 to a proposed operator, the bureau of criminal identification of the state police or the local police
11-19 department will inform the director in writing of the nature of the disqualifying information. In
11-20 no event shall the cost to conduct the background check be charged to the local police department
11-21 in that city or town where the applicant has his or her residence or place of business.

11-22 **40-13.2-4.1. Criminal records check -- Operators of youth serving agencies.** -- Any
11-23 person seeking to operate a facility or program which is a youth serving agency shall apply to the
11-24 bureau of criminal identification of the attorney general's office for a criminal records check.
11-25 Those items of information appearing on a criminal records check which have been determined to
11-26 constitute disqualifying information by the director pursuant to section 40-13.2-4 of this chapter
11-27 shall also constitute items of disqualifying information pursuant to this section. Upon the
11-28 discovery of any disqualifying information as defined in accordance with the rule promulgated by
11-29 the director, the bureau of criminal identification of the attorney general's office will inform the
11-30 applicant in writing of the nature of the disqualifying information. In addition, the bureau of
11-31 criminal identification of the attorney general's office will inform the applicant in writing, without

11-32 disclosing the nature of the disqualifying information, that an item of disqualifying information
11-33 has been discovered. In those situations in which no disqualifying information has been found,
11-34 the bureau of criminal identification of the attorney general's office will inform the applicant in
12-1 writing of this fact. The operator or proposed operator of the youth serving agency will maintain
12-2 on file a document issued by the bureau of criminal identification of the attorney general's office
12-3 stating that no disqualifying information has been discovered as regards the operator or proposed
12-4 operator of the youth serving agency and this document shall be made available for inspection by
12-5 the parent(s)/guardian(s) of any child enrolled in the programs of the youth serving agency. The
12-6 operator will also maintain on file, and make available for inspection by the parent(s)/guardian(s)
12-7 of any child enrolled in the programs of the youth serving agency, evidence that criminal records
12-8 checks have been obtained on all employees of the youth serving agency pursuant to section 40-
12-9 13.2-5.1, and the results of the checks. In no event shall the cost to conduct the background
12-10 check be charged to the local police department in that city or town where the applicant has his or
12-11 her residence or place of business.

12-12 **40-13.2-5. Criminal records check -- Employee of child care facilities which must be**
12-13 **licensed by the department.** -- Any person seeking employment, if that employment involves
12-14 supervisory or disciplinary power over a child or children or involves routine contact with a child
12-15 or children without the presence of other employees, in any facility which is, or is required to be,
12-16 licensed or registered with the department or seeking that employment at the training school for
12-17 youth shall, after acceptance by the employer of the affidavit required by section 40-13.2-3, apply
12-18 to the bureau of criminal identification of the state police or the local police department for a
12-19 nationwide criminal records check. The check will conform to applicable federal standards
12-20 including the taking of fingerprints to identify the applicant. Upon the discovery of any
12-21 disqualifying information as defined in accordance with the rule promulgated by the director, the
12-22 bureau of criminal identification of the state police or the local police department will inform the
12-23 applicant in writing of the nature of the disqualifying information. In addition, the bureau of
12-24 criminal identification of the state police or the local police department will inform the applicant
12-25 in writing, without disclosing the nature of the disqualifying information, that an item of
12-26 disqualifying information has been discovered. In those situations in which no disqualifying
12-27 information has been found, the bureau of criminal identification of the state police or the local
12-28 police department will inform both the applicant and the employer in writing of this fact. The

12-29 employer will maintain on file, subject to inspection by the department, evidence that criminal
12-30 records checks have been initiated on all employees seeking employment after August 1, 1985,
12-31 and the results of the checks. Failure to maintain that evidence on file will be prima facie grounds
12-32 to revoke the license or registration of the operator of the facility. It will be the responsibility of
12-33 the bureau of criminal identification of the state police or the local police department to conduct
12-34 the nationwide criminal records check pursuant to this section. The nationwide criminal records
13-1 check will be provided to the applicant for employment without charge. In no event shall the cost
13-2 to conduct the background check be charged to the local police department in that city or town
13-3 where the applicant has his or her residence or place of business.

13-4 **40-13.2-5.1. Criminal records check -- Employee of youth serving agency.** -- Any
13-5 person seeking employment, if that employment involves supervisory or disciplinary power over
13-6 a child or children or involves routine contact with a child or children without the presence of
13-7 other employees, in any facility or program which is a youth serving agency shall file with the
13-8 employer the affidavit required by section 40-13.2-3. Said affidavit shall be maintained on file by
13-9 the employer and shall be made available for inspection by the parent(s)/guardian(s) of any child
13-10 who is enrolled in the programs of the youth serving agency. Any person seeking employment, if
13-11 that employment involves supervisory or disciplinary authority over a child or children or
13-12 involves routine contact with a child or children without the presence of other employees, in any
13-13 youth serving agency, shall apply to the bureau of criminal identification of the attorney general's
13-14 office for a criminal records check. Those items of information appearing on a criminal records
13-15 check which have been determined to constitute disqualifying information by the director
13-16 pursuant to section 40-13.2-4 of this chapter shall also be items of disqualifying information
13-17 pursuant to this section. Upon the discovery of any disqualifying information as defined in
13-18 accordance with the rule promulgated by the director, the bureau of criminal identification of the
13-19 attorney general's office will inform the applicant in writing of the nature of the disqualifying
13-20 information. In addition, the bureau of criminal identification of the attorney general's office will
13-21 inform the applicant in writing, without disclosing the nature of the disqualifying information,
13-22 that an item of disqualifying information has been discovered. In those situations in which no
13-23 disqualifying information has been found, the bureau of criminal identification of the attorney
13-24 general's office will inform both the applicant and the employer in writing of this fact. The
13-25 employer will maintain on file, and make available for inspection by the parent(s)/guardian(s) of

- 13-26 any child enrolled in the programs of the youth serving agency, evidence that criminal records
13-27 checks have been obtained on all employees of the youth serving agency pursuant to section 40-
13-28 13.2-5.1, and the results of the checks. The criminal records checks will be provided to the
13-29 applicant for employment without charge. In no event shall the cost to conduct the background
13-30 check be charged to the local police department in that city or town where the applicant has his or
13-31 her residence or place of business.
- 13-32 SECTION 6. This act shall take effect upon passage.

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**EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF**

A N A C T

**RELATING TO CRIMINAL OFFENSES AND PROCEDURES -- CRIMINAL
BACKGROUND CHECKS**

- 14-1 This act would amend various applicable sections to establish that local police
14-2 departments are not responsible for the cost associated with conducting background checks.
14-3 This act would take effect upon passage.

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