

# HOUSE . . . . . No. 523

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Martin J. Walsh***

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*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 adoption of the accompanying bill:

**An Act to require national background checks.**

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	<i>1/19/2011</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>	<i>1/31/2011</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>2/1/2011</i>
<i>John D. Keenan</i>	<i>7th Essex</i>	<i>2/4/2011</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>2/4/2011</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>	<i>1/24/2011</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>2/1/2011</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>	<i>2/4/2011</i>

# HOUSE . . . . . No. 523

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By Mr. Walsh of Boston, a petition (accompanied by bill, House, No. 523) of Martin J. Walsh and others relative to national criminal offender record information checks for persons working with individuals served by the Department of Mental Retardation. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1780 OF 2009-2010.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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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, as appearing in the 2008  
2   Official Edition, is amended by inserting the following new section 172J as follows:-

3           Notwithstanding any other provision of law, any person seeking employment or a  
4   position as a regular volunteer or trainee to provide services for, or, on behalf of the Department  
5   of Developmental Services or its vendor agency programs where such employment or position  
6   involves potential unsupervised contact with individuals with an intellectual disability (or other  
7   individuals determined to be eligible clients of the Department of Developmental Services) shall  
8   be required to have a national criminal background check prior to assuming said employment or  
9   position. Said criminal background check will be determined by using the Integrated Automated

Fingerprint Identification System maintained by the Federal Bureau of Investigation's Criminal Justice Information Services Division.

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

Any person who willfully requests, obtains or seeks to obtain criminal offender record information or the equivalent from other jurisdictions under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information or the equivalent from other jurisdictions to any agency or person except in accordance with the provisions of sections one hundred and sixty-eight to one hundred and seventy-five, inclusive, or any member, officer, employee or agency of the board or any participating agency, or any person connected with any authorized research program, who willfully falsifies criminal offender record information, or the equivalent from other jurisdictions, or any records relating thereto, shall be in violation of this provision.

The Criminal History Systems Board, the Disabled Persons Protection Commission, and the State Police shall collaborate and jointly oversee the participation by all Department of Developmental Services providers in any interstate system for the exchange of criminal offender record information or the equivalent from other jurisdictions and shall be responsible to assure the consistency of such participation including redacting information so that criminal offender record information or the equivalent from other jurisdictions is limited to convictions and open cases, and, that juvenile records are not made available. Any provider of services to individuals pursuant to a contract with the Department that hires, retains or supervises an employee,

volunteer or trainee whom the provider knows or should know, will potentially come into unsupervised contact with such individuals, and, because of a criminal conviction or pending criminal charge of a nature that would pose a unacceptable risk of physical harm to or financial exploitation of such individuals shall be in violation of this provision. The hiring authority shall use, when making a determination of unacceptable risk, the guidelines as provided by existing Department of Developmental Services regulations.

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