

HOUSE No. 1674

The Commonwealth of Massachusetts

PRESENTED BY:

Martin J. Walsh and John Hart, Jr.

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.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martin J. Walsh	13th Suffolk
John Hart, Jr.	First Suffolk
Denise C. Garlick	13th Norfolk
Josh S. Cutler	6th Plymouth
Paul McMurtry	11th Norfolk
Sean Garballey	23rd Middlesex
Jerald A. Parisella	6th Essex
Tom Sannicandro	7th Middlesex
David T. Vieira	3rd Barnstable
Jason M. Lewis	Fifth Middlesex
David Paul Linsky	5th Middlesex
Dennis A. Rosa	4th Worcester
Louis L. Kafka	8th Norfolk
Mark J. Cusack	5th Norfolk
John H. Rogers	12th Norfolk
Ruth B. Balsler	12th Middlesex
Stephen L. DiNatale	3rd Worcester
Kay Khan	11th Middlesex

<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Robert F. Fennell</i>	<i>10th Essex</i>
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Kevin J. Murphy</i>	<i>18th Middlesex</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Donald Humason</i>	
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>

<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>

HOUSE No. 1674

By Representative Walsh of Boston and Senator Hart, a joint petition (accompanied by bill, House, No. 1674) of Martin J. Walsh, John A. Hart and others relative to national criminal offender record information checks for persons working with individuals served by the Department of Mental Retardation. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 523 OF 2011-2012.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen
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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
10 Fingerprint Identification System maintained by the Federal Bureau of Investigation’s Criminal
11 Justice Information Services Division.

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

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

24 The Criminal History Systems Board, the Disabled Persons Protection Commission, and
25 the State Police shall collaborate and jointly oversee the participation by all Department of
26 Developmental Services providers in any interstate system for the exchange of criminal offender
27 record information or the equivalent from other jurisdictions and shall be responsible to assure
28 the consistency of such participation including redacting information so that criminal offender
29 record information or the equivalent from other jurisdictions is limited to convictions and open
30 cases, and, that juvenile records are not made available. Any provider of services to individuals
31 pursuant to a contract with the Department that hires, retains or supervises an employee,
32 volunteer or trainee whom the provider knows or should know, will potentially come into
33 unsupervised contact with such individuals, and, because of a criminal conviction or pending
34 criminal charge of a nature that would pose a unacceptable risk of physical harm to or financial
35 exploitation of such individuals shall be in violation of this provision. The hiring authority shall
36 use, when making a determination of unacceptable risk, the guidelines as provided by existing
37 Department of Developmental Services regulations.

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