

1 SENATE BILL 241

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Leo Jaramillo

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10 AN ACT

11 RELATING TO CRIMINAL HISTORY RECORDS CHECKS; ENACTING A NEW
12 SECTION OF THE AGING AND LONG-TERM SERVICES DEPARTMENT ACT
13 REQUIRING CRIMINAL HISTORY RECORDS CHECKS FOR CERTAIN
14 DEPARTMENT EMPLOYEES, APPLICANTS OR VOLUNTEERS; PROVIDING FOR
15 PROCEDURES FOR CONDUCTING CRIMINAL HISTORY RECORDS CHECKS;
16 ENSURING THE CONFIDENTIALITY OF THE CRIMINAL HISTORY RECORDS;
17 PROVIDING PENALTIES; DECLARING AN EMERGENCY.

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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. Section 9-23-1 NMSA 1978 (being Laws 2004,
21 Chapter 23, Section 1) is amended to read:

22 "9-23-1. SHORT TITLE.--~~[Sections 1 through 11 of this~~
23 ~~act]~~ Chapter 9, Article 23 NMSA 1978 may be cited as the "Aging
24 and Long-Term Services Department Act"."

25 SECTION 2. A new section of the Aging and Long-Term

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1 Services Department Act is enacted to read:

2 "[NEW MATERIAL] CRIMINAL HISTORY RECORDS CHECKS--
3 PROCEDURES--CONFIDENTIALITY--VIOLATION--PENALTY.--

4 A. For the purposes of this section:

5 (1) "employee" means a person working for the
6 department in one of the following areas:

7 (a) the adult protective services
8 division;

9 (b) the long-term care ombudsman
10 program; or

11 (c) the consumer and elder rights
12 division;

13 (2) "selected applicant" means a person who
14 has completed the interview process, was selected as a
15 candidate for employment and has conditionally accepted a
16 position with the department pending a criminal history records
17 check; and

18 (3) "volunteer" means a person who:

19 (a) performs work or who has been
20 identified by the department to perform work in: 1) the adult
21 protective services division; 2) the long-term care ombudsman
22 program; or 3) the consumer and elder rights division;

23 (b) is not an employee; and

24 (c) does not receive compensation for
25 the person's work.

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1 B. State and national criminal history records
2 checks shall be conducted on employees, selected applicants and
3 volunteers.

4 C. As directed by the department, an employee, a
5 selected applicant or a volunteer shall submit a set of
6 electronic fingerprints to the department of public safety.
7 The department of public safety shall conduct a state criminal
8 history records check and forward the fingerprints to the
9 federal bureau of investigation for a national criminal history
10 records check to determine the existence and content of records
11 of convictions and arrests in this state or other law
12 enforcement jurisdictions and to generate a criminal history
13 records check in accordance with rules of the department of
14 public safety and regulations of the federal bureau of
15 investigation.

16 D. The department of public safety shall review the
17 information returned from the criminal history records checks
18 and compile and disseminate the information to the department,
19 which shall use the information to investigate and determine
20 whether an employee, selected applicant or volunteer is
21 qualified.

22 E. Criminal history records obtained pursuant to
23 the provisions of this section shall:
24 (1) be confidential;
25 (2) not be a public record for purposes of the

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1 Inspection of Public Records Act;

2 (3) not be used for any purpose other than
3 determining the eligibility of employees, selected applicants
4 or volunteers; and

5 (4) not be released or disclosed to any other
6 person, except pursuant to a court order or with the written
7 consent of the person who is the subject of the records.

8 F. A person who releases or discloses criminal
9 history records in violation of this section is guilty of a
10 misdemeanor and shall be sentenced in accordance with the
11 provisions of Section 31-19-1 NMSA 1978.

12 G. The department shall promulgate rules for the
13 investigation and determination of qualifications; provided
14 that the department shall not exclude an otherwise selected
15 applicant, employee or volunteer on the sole basis that the
16 person has been previously arrested or convicted of a crime,
17 unless that person has a disqualifying criminal conviction
18 pursuant to the Criminal Offender Employment Act."

19 SECTION 3. APPLICABILITY.--The provisions of Section 2 of
20 this act apply to selected applicants of, employees employed by
21 or volunteers of the aging and long-term services department on
22 or after the effective date of this act.

23 SECTION 4. EMERGENCY.--It is necessary for the public
24 peace, health and safety that this act take effect immediately.

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