

SENATE No. 2513

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

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 relative to elder protection.

PETITION OF:

NAME:

Julian Cyr

DISTRICT/ADDRESS:

Cape and Islands

SENATE No. 2513

By Mr. Cyr, a petition (accompanied by bill) (subject to Joint Rule 12) of Julian Cyr for legislation relative to elder protection. Health Care Financing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to elder protection.

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 12 of chapter 118E of the General Laws, as appearing in the 2016 Official
2 Edition, is hereby amended by inserting after paragraph 5 the following 4 paragraphs:

3 Such rules and regulations shall include provisions requiring fingerprint-based
4 background checks of all persons regularly on the premises of a nursing home or long term care
5 facility with the potential for unsupervised contact with elderly persons. Fingerprints shall be
6 submitted to the identification section of the department of state police for a state criminal
7 history check and forwarded to the Federal Bureau of Investigation for a national criminal
8 history check, according to the policies and procedures established by the identification section
9 and by the department of criminal justice information services. Fingerprint submissions may be
10 retained by the Federal Bureau of Investigation, the state identification section and the
11 department of criminal justice information services to assist employers authorized under this
12 chapter to ensure the continued suitability of for licensure, certification, approval or employment
13 of those individuals, provided that said department is authorized to disseminate the results of a

14 national criminal history check to the department of mental health for the purpose of determining
15 the suitability of current and prospective employees in any department licensed or funded
16 program and for all persons with the potential for unsupervised contact with elderly persons, and
17 persons regularly on the premises at a nursing home or long term care facility.

18 The department, with approval from the board, shall amend its Background Record
19 Check regulations in a manner necessary to carry out the provisions of this section, provided that
20 the regulations may reflect a phased-in schedule for the fingerprint-based background check.

21 Employers of persons required to submit fingerprints under this section shall pay a fee,
22 equivalent to the fee established under section 38R of chapter 71, to be established by the
23 secretary of the executive office of administration and finance, in consultation with the secretary
24 of public safety and the department, to offset the costs of operating and administering a
25 fingerprint-based criminal background check system. The secretary of administration and
26 finance, in consultation with the secretary of public safety and the department, may increase the
27 fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check
28 service fee. The department may pay the fee on behalf of applicants or reimburse applicants for
29 all or part of the fee on the grounds of financial hardship. Any fees collected from fingerprinting
30 activity under this chapter shall be deposited into the Fingerprint-Based Background Check Trust
31 Fund, established in section 2HHHH of chapter 29 of the General Laws.

32 The department of criminal justice information services shall disseminate the results of
33 the criminal background check to the department. Said department of criminal justice
34 information services shall only disseminate information under this section that would otherwise
35 be available to requesting entities under the provisions of sections 167 through 178, inclusive, of

36 chapter 6 and the regulations thereto, regarding criminal offender record information. The
37 department of criminal justice information services may disseminate the results of a state and
38 national criminal history check to the department to determine the suitability of: (i) all current
39 and prospective employees in any department program or any department contracted agency
40 vendor programs, who have the potential for unsupervised contact with persons with an
41 intellectual or developmental disability; (ii) all household members, age 15 or older, or all
42 persons regularly on the premises, age 15 or older, of current residential care providers that are
43 funded by the department or its contracted agency vendor programs; (iii) all sub-contractors,
44 interns, volunteers or any other individual employed or retained by the department or its
45 contracted agency vendor programs who has the potential for unsupervised contact with persons
46 with an intellectual or developmental disability; (iv) any individual who provides transportation
47 services on behalf of the department or its contracted agency vendor programs; and (v) any
48 applicant seeking a license from the department for a residential or day care facility that serves
49 the department's population. If the department receives information from a fingerprint-based
50 check that does not include any final disposition or is otherwise incomplete, the department may
51 request that an applicant, either new or renewing, provide additional information to assist the
52 department in determining the suitability of the individual for licensure, certification, approval,
53 funding or employment.