

MAINE STATE LEGISLATURE

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**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

In Senate Chamber
Thursday
June 21, 2001

Senate called to order by President Michael H. Michaud of Penobscot County.

Prayer by Senator Marge L. Kilkelly of Lincoln County.

SENATOR KILKELLY: Good morning. Some folks clip coupons, I happen to clip prayers. This is a Franciscan blessing that I've found and would like to share. I think it fits very well with our work here at the end of the session. Let us pray.

May God bless us with discomfort, uneasy answers, half-truths, and superficial relationships so that we may live deep within our hearts. May God bless us with anger at injustice, oppression, and exploitation of people so that we may work for justice, freedom, and peace. May God bless us with tears to shed for those who suffer from pain, rejection, starvation, and war so that we may reach out our hands to comfort them and to turn their pain into joy. May God bless us with enough foolishness to believe that we can make a difference in this world so that we can do what others claim cannot be done. Amen.

Reading of the Journal of Wednesday, June 20, 2001.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.C. 391

**STATE OF MAINE
OFFICE OF THE GOVERNOR**

June 20, 2001

Dear Members of the 120th Legislature,

Enclosed please find S.P. 322, L.D. 1090, "An Act to Repeal the Requirement that School Employees Be Fingerprinted," which I am returning without my signature or approval.

This bill repeals the existing law requiring all school employees, both current and future, to undergo background checks for criminal history, based on fingerprints, at the time of licensing or renewal by the Department of Education.

As a parent who has had children in Maine's public schools for over 25 years, I can attest to the fact that we have an

outstanding, dedicated faculty and staff. Our schools, K-12, are arguably the best in America, and a prime reason for this quality rests with the thousands of fine Maine people who work in our schools.

Let there be no doubt that the overwhelming majority of these extraordinary people who serve our children are of outstanding and unblemished character. Unfortunately, however, tragic experience has also taught us that in any large group of individuals, there are likely to be a small minority who pose a threat to society, in this case, to the very children entrusted to their care. The law which this bill would repeal is in no way an accusation or indictment of any individual or group; it is instead a simple recognition of our responsibility to take cognizance of this unfortunate, but compelling, statistical fact.

The damage that even a handful of the wrong people can do to children is immeasurable and the victims of such damage will be scarred for life.

Let's be clear about the facts surrounding this law. The background check is a device for prevention, not accusation, and is a uniformly applied requirement for all school employees. The Attorney General has unequivocally opined that the law is constitutional. Many other professions require background checks. Until 1972, all Maine school children were fingerprinted for safety reasons. Numerous other Maine residents have been fingerprinted, including more than 150,000 who were printed during military service. Mary and I were fingerprinted in 1994 as part of the adoption process – after I had been a parent for 24 years - and I did not view this in any way as an accusation, but rather as a reasonable precaution where a child's life and welfare was at stake.

I cannot support L.D. 1090 because it removes a sensible safeguard to protect our children and our educational resources from individuals with proven criminal convictions. For many years, the Department of Education has had common sense rules prohibiting individuals with dangerous convictions from being licensed to work in our schools. To my knowledge, there has never been any objection to this rule. Criminal history records checks, based upon fingerprinting, are simply a systematic, consistent, and accurate means to enforce this prohibition. Importantly, the law sends a strong message that should deter individuals with serious convictions from seeking or continuing employment in Maine schools.

Unfortunately, some individuals have stated their intention to resign from school employment rather than comply with the requirement for background checks, based on the view that these checks are unconstitutional, burdensome, or imply an accusation of personal wrongdoing. The existing law for background checks is in fact none of these things, and the personal belief of some individuals to the contrary, no matter how sincerely held, is no rationale to undo reasonable and appropriate policy.

I should mention that I have talked at length to a number of those educators most passionately opposed to the law, and count some of them as old friends. I am fully convinced of the utter sincerity of their beliefs with regard to this issue and categorically reject the argument that their position is based in any way upon a desire to obscure anything in their past. But try as I might, I cannot find a principle – constitutional, ethical, or

moral – that outweighs the benefit to society generally, and to our children in particular, that this law can and will bestow.

L.D. 1090 would erase a law that was carefully crafted and studied extensively by all stakeholders prior to enactment by the Legislature in 1997. The process for conducting background checks is designed to be constitutional, to be consistent, to ensure confidentiality of all individual criminal records, and to be narrowly tailored to focus on recent, serious criminal convictions which show that an individual poses a threat to children.

Regrettably, L.D. 1090 would move Maine away from the national standard. At present, 38 states, plus New York City and Washington, D.C., require records checks based in varying ways on fingerprinting, and 4 states permit this as a local option. Passage of L.D. 1090 would place Maine with just 8 other states with no fingerprinting requirement.

The most compelling argument to me, and the ultimate reason I cannot sign this bill, is the stark fact that if we take this step and eliminate this sensible and non-intrusive requirement, some day - two, five, or ten years from now - we will awaken to news of a horrendous case which could have been prevented had the law remained in place – and all of us who supported the bill – including me if I sign it – will bear a measure of responsibility. This I cannot and will not do.

For the reasons outlined above, I believe that background checks using fingerprinting as a means should be required for all school employees as a safeguard for children. I am in firm opposition to L.D. 1090, and I respectfully urge you to sustain my veto.

Sincerely,

S/ Angus S. King, Jr.
Governor

READ and ORDERED PLACED ON FILE.

The Accompanying Bill:

An Act to Repeal the Requirement that School Employees Be Fingerprinted

S.P. 322 L.D. 1090

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor?"

On motion by Senator **SMALL** of Sagadahoc, **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act to Make Supplemental Highway Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2001, June 30, 2002 and June 30, 2003

S.P. 388 L.D. 1285
(C "A" S-344)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with no Senators having voted in the negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials

H.P. 1085 L.D. 1454
(S "A" S-376 to C "A" H-445)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with no Senators having voted in the negative, and 27 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$7,000,000 to Fund Improvements to Equipment and Technology at Vocational High Schools Statewide

S.P. 437 L.D. 1439
(C "A" S-352)

The Chair ordered a Division.

On motion by Senator **DAGGETT** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#156)

YEAS: Senators: BROMLEY, CARPENTER, CATHCART, DAGGETT, DOUGLASS, EDMONDS, GOLDTHWAIT, KILKELLY, LAFOUNTAIN, LONGLEY, O'GARA, PENDLETON, ROTUNDO, TREAT, THE PRESIDENT - MICHAEL H. MICHAUD