



# *The Commonwealth of Massachusetts*

Executive Office of Health and Human Services

## Department of Youth Services

600 Washington Street, 4<sup>th</sup> floor

Boston, MA 02111

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

PETER J. FORBES  
Commissioner

617-727-7575  
FAX#: 617-727-0696  
[www.mass.gov](http://www.mass.gov)

### MEMORANDUM

**TO:** Whitney Ferguson, Deputy Chief of Staff  
Office of Speaker of the House of Representatives

**FROM:** Margaret Chow-Menzer, Deputy Commissioner  
Department of Youth Services

**DATE:** July 10, 2018

**RE:** H4104 – DYS Fingerprint Background Check

The Department of Youth Services (“DYS”) is seeking statutory authority to fingerprint individuals who are currently or applying to be a DYS state employee, subcontractor, volunteer or intern (hereafter referred to as “DYS staff”) and have unsupervised contact with DYS youth. DYS needs the statutory authority in order for the FBI to give DYS access to fingerprint background check information.

H4104 enhances DYS’ ability to perform the screening necessary to ensure that appropriate candidates are hired in a timely fashion. This is important to protect the safety of the youth in DYS care and custody. Fingerprint information provides certainty that the criminal background information to be reviewed belongs to the job applicant/DYS employee.

Although by statute, the Department of Early Education and Care (“DEEC”) is responsible for conducting background checks of staff working in DYS programs that it licenses, DEEC has permitted DYS for the past 10 years to conduct the background checks because DYS, as a criminal justice agency, has had greater access to CORI, Triple I, SORB, DCF and RMV records than DEEC.

As a criminal justice agency, DYS is subject to the federal Prison Rape Elimination Act (“PREA”) which requires criminal background checks of DYS staff be conducted every 3 years. Without the enactment of H4104, DEEC would bear the additional responsibility for conducting the PREA background checks.

DYS already has the infrastructure in place to perform fingerprint back checks. No additional funding would be required to implement H4104.

H4104 will reduce confusion and potential redundancy in the required background check reviews. Its enactment will promote consistency and efficiency in the operations and staffing of the DYS residential and community programs.

The Department of Criminal Justice Information System, the Executive Office of Public Safety and Security and the DEEC have reviewed this bill and have communicated to DYS that they had no concerns with the proposed legislation.

Cecely Reardon, General Counsel and I would be happy to meet with you to provide any clarification and answer any questions you may have about this bill. We, together with Rep. Khan and DEEC General Counsel Felicia Sullivan, have met and reviewed the bill with the House Ways and Means staff. With the assistance and support of the Speaker, the Department of Youth Services hopes to see H4104 passed this legislative session. Thank you.

Att. H4104 – DYS Fingerprint Background Check

cc: Rep. Kay Khan, Co-Chair, Joint Committee on Children, Families & Persons with Disabilities

Lisa Rosenfeld, Legal Counsel, Office of Rep. Khan

Peter J. Forbes, DYS Commissioner

Cecely Reardon, DYS General Counsel