

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0055.03 Owen Hatch x2698

HOUSE BILL 26-1143

HOUSE SPONSORSHIP

Ricks and Joseph,

SENATE SPONSORSHIP

Weissman,

House Committees

State, Civic, Military, & Veterans Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING INFORMATION COLLECTED FOR A BACKGROUND CHECK**
102 **BY ENTITIES THAT PROVIDE NON-EMPLOYMENT-BASED**
103 **EDUCATIONAL OPPORTUNITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits an entity from requiring an individual to provide a social security number for a background check for a non-employment-based educational opportunity unless the entity also accepts an individual taxpayer identification number in lieu of a social security number, including in clinical educational experiences for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

health-related academic programs, subject to certain exceptions.

The attorney general is authorized to bring a civil action to enforce the provisions of the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Colorado's prosperity depends on policies that ensure
5 individuals can participate fully in education, training, volunteer service,
6 and civic life while maintaining strong protections for vulnerable
7 populations;

8 (b) State and federal agencies, including the Colorado bureau of
9 investigation and the federal bureau of investigation, conduct name-based
10 and fingerprint-based background checks that do not require a social
11 security number and are sufficient to identify criminal history and protect
12 public safety;

13 (c) Despite this, some public and private entities require a social
14 security number for non-employment-based background checks,
15 preventing otherwise qualified individuals from accessing
16 non-employment-based educational opportunities, such as required
17 clinical placements, internships, apprenticeships, volunteer opportunities,
18 and other educational or training experiences;

19 (d) These barriers disproportionately affect individuals who
20 lawfully lack a social security number, delaying or preventing completion
21 of educational programs and entry into high-demand professions without
22 advancing public safety;

23 (e) Allowing the use of an individual taxpayer identification
24 number as an alternative identifier preserves the integrity of background

1 screening processes while expanding access to opportunity; and

2 (f) Lifting these barriers still maintains existing criminal
3 background screening standards and does not alter employment-related
4 background check requirements.

5 (2) Therefore, the general assembly declares that:

6 (a) It is the public policy of the state that safety and not
7 immigration status should determine access to educational and training
8 opportunities; and

9 (b) Removing unnecessary barriers to non-employment-based
10 educational and training experiences strengthens Colorado's workforce,
11 protects vulnerable populations, and advances the state's commitment to
12 opportunity, dignity, and shared prosperity.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 8-2-128.5 as
14 follows:

15 **8-2-128.5. Prohibitions of non-employer - requiring social**
16 **security number - exceptions - definitions.**

17 (1) (a) AN ENTITY THAT REQUIRES AN APPLICANT TO PROVIDE A
18 SOCIAL SECURITY NUMBER FOR A BACKGROUND CHECK AS A CONDITION TO
19 PARTICIPATE IN OR OTHERWISE AVAIL THEMSELF OF A
20 NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY SHALL ALSO
21 ACCEPT AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER IN LIEU OF A
22 SOCIAL SECURITY NUMBER.

23 (b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, A
24 LICENSED OR CERTIFIED HOSPITAL OR A COVERED SCHOOL THAT REQUIRES
25 AN APPLICANT TO PROVIDE A SOCIAL SECURITY NUMBER FOR A
26 BACKGROUND CHECK AS A CONDITION TO PARTICIPATE IN OR OTHERWISE
27 AVAIL THEMSELF OF A NON-EMPLOYMENT-BASED EDUCATIONAL

1 OPPORTUNITY IS NOT REQUIRED TO ACCEPT AN INDIVIDUAL TAXPAYER
2 IDENTIFICATION NUMBER, BUT SHALL ACCEPT A FINGERPRINT-BASED
3 BACKGROUND CHECK IN LIEU OF A SOCIAL SECURITY NUMBER.

4 (c) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, A
5 STATE INSTITUTION OF HIGHER EDUCATION OR A LOCAL DISTRICT COLLEGE
6 THAT REQUIRES AN APPLICANT TO PROVIDE A SOCIAL SECURITY NUMBER
7 FOR A BACKGROUND CHECK AS A CONDITION TO PARTICIPATE IN OR
8 OTHERWISE AVAIL THEMSELF OF A NON-EMPLOYMENT-BASED EDUCATION
9 OPPORTUNITY THAT INVOLVES WORK WITH A VULNERABLE POPULATION
10 SHALL ACCEPT EITHER AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER
11 OR A FINGERPRINT-BASED BACKGROUND CHECK, AS DETERMINED BY THE
12 STATE INSTITUTION OF HIGHER EDUCATION OR LOCAL DISTRICT COLLEGE,
13 IN LIEU OF A SOCIAL SECURITY NUMBER.

14 (d) NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITIES
15 COVERED BY THIS SECTION INCLUDE, BUT ARE NOT LIMITED TO, AN UNPAID
16 VOLUNTEER ROLE; UNPAID INTERNSHIP; UNPAID PRE-APPRENTICESHIP; AND
17 UNPAID CLINICAL EXPERIENCE IN A HOSPITAL OR CLINIC, INCLUDING
18 NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITIES REQUIRED FOR
19 GRADUATION OR LICENSURE IN A HEALTH-RELATED ACADEMIC PROGRAM.

20 (e) THIS SECTION DOES NOT APPLY TO POSITIONS THAT CONSTITUTE
21 EMPLOYMENT AS DESCRIBED IN SECTION 8-70-115.

22 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, AN
23 APPLICANT MAY BE REQUIRED TO DISCLOSE THEIR SOCIAL SECURITY
24 NUMBER:

25 (a) TO AN ENTITY REQUIRED TO COLLECT THE SOCIAL SECURITY
26 NUMBER:

27 (I) BY STATE OR FEDERAL LAW OR RULE;

1 (II) BY A GOVERNMENTAL OR ACCREDITATION ORGANIZATION'S
2 MANDATORY PROGRAM OF LEGAL COMPLIANCE TO CHECK ANY
3 GOVERNMENTAL BACKGROUND CHECK DATABASE;

4 (III) TO COMPLY WITH REQUIREMENTS FOR A FEDERAL OR STATE
5 GRANT; OR

6 (IV) TO REIMBURSE AN APPLICANT FOR EXPENSES INCURRED IN
7 THE ACTUAL PERFORMANCE OF THEIR DUTIES ONLY IF THE
8 REIMBURSEMENT CANNOT BE PROCESSED WITH AN INDIVIDUAL TAXPAYER
9 IDENTIFICATION NUMBER OR EMPLOYER IDENTIFICATION NUMBER IN
10 ACCORDANCE WITH APPLICABLE FEDERAL OR STATE TAX LAW THAT
11 REQUIRES USING THE SOCIAL SECURITY NUMBER; OR

12 (b) IF THE APPLICANT IS APPLYING FOR A
13 NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY THAT REQUIRES
14 A PERSON TO SIGN CHECKS OR ENGAGE IN OTHER TRANSACTIONS
15 INVOLVING THE ENTITY'S ASSETS OR ACCOUNTS AND THE FINANCIAL
16 INSTITUTION HOLDING THOSE ASSETS OR ACCOUNTS DOES NOT ACCEPT AN
17 INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER OR EMPLOYER
18 IDENTIFICATION NUMBER IN PLACE OF A SOCIAL SECURITY NUMBER TO
19 VERIFY THE IDENTITY OF AUTHORIZED PERSONS.

20 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
21 REQUIRES:

22 (a) "COVERED SCHOOL" MEANS A SCHOOL THAT SERVES STUDENTS
23 IN ANY OF GRADES KINDERGARTEN THROUGH TWELVE, BUT ONLY IN
24 RELATION TO STUDENTS IT ENROLLS WHO SEEK A
25 NON-EMPLOYMENT-BASED OPPORTUNITY AT THE SCHOOL OR THROUGH A
26 PARTNERSHIP BETWEEN THE SCHOOL AND ANOTHER ENTITY.

27 (b) "ENTITY" MEANS A STATE INSTITUTION OF HIGHER EDUCATION;

1 A LOCAL DISTRICT COLLEGE; A NONPROFIT ORGANIZATION THAT IS EXEMPT
2 FROM TAXATION UNDER SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL
3 REVENUE CODE OF 1986"; A VOLUNTEER ORGANIZATION; A COVERED
4 SCHOOL; OR THE FOLLOWING ENTITIES AS LICENSED OR CERTIFIED AS
5 DESCRIBED IN SECTION 25-1.5-103: A CLINIC, CLINICAL PARTNERSHIP,
6 URGENT CARE CENTER, RETAIL HEALTH CLINIC, HOSPITAL, TELEMEDICINE
7 SERVICE, OR CONCIERGE MEDICAL PROVIDER.

8 (c) "LICENSED OR CERTIFIED HOSPITAL" MEANS A HOSPITAL
9 LICENSED OR CERTIFIED AS DESCRIBED IN SECTION 25-1.5-103, INCLUDING
10 THE UNIVERSITY OF COLORADO ANSCHUTZ MEDICAL CAMPUS.

11 (d) "LOCAL DISTRICT COLLEGE" MEANS A LOCAL DISTRICT
12 COLLEGE AUTHORIZED PURSUANT TO ARTICLE 71 OF TITLE 23

13 (e) "STATE INSTITUTION OF HIGHER EDUCATION" MEANS A STATE
14 INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102,
15 NOT INCLUDING THE UNIVERSITY OF COLORADO ANSCHUTZ MEDICAL
16 CAMPUS.

17 (f) "VULNERABLE POPULATION" MEANS AN INDIVIDUAL WHO IS
18 SUSCEPTIBLE TO ABUSE OR MISTREATMENT BECAUSE OF THE INDIVIDUAL'S:

19 (I) AGE;

20 (II) DISABILITY;

21 (III) FRAILITY;

22 (IV) BEHAVIORAL OR MENTAL HEALTH;

23 (V) INTELLECTUAL OR DEVELOPMENTAL DISABILITY; OR

24 (VI) ILL HEALTH.

25 (4) THIS SECTION DOES NOT PROHIBIT AN ENTITY FROM COMPLYING
26 WITH 8 U.S.C. SEC. 1621.

27 (5) (a) AN ENTITY THAT DOES NOT ACCEPT AN INDIVIDUAL

1 TAXPAYER IDENTIFICATION NUMBER IN VIOLATION OF SUBSECTION (1)(a)
2 OF THIS SECTION OR A FINGERPRINT-BASED BACKGROUND CHECK IN
3 VIOLATION OF SUBSECTION (1)(b) or (1)(c) OF THIS SECTION IS SUBJECT TO
4 A CIVIL PENALTY OF TWO THOUSAND DOLLARS FOR THE FIRST VIOLATION
5 AND FIVE THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.

6 (b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS
7 SECTION.

8 (c) A CIVIL PENALTY COLLECTED PURSUANT TO THIS SUBSECTION
9 (5) MUST BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT
10 IT TO THE IMMIGRATION LEGAL DEFENSE FUND ESTABLISHED PURSUANT TO
11 SECTION 8-3.8-101.

12 (6) AN ENTITY THAT CONDUCTS A FINGERPRINT-BASED
13 BACKGROUND CHECK OF AN APPLICANT FOR A NON-EMPLOYMENT-BASED
14 EDUCATIONAL OPPORTUNITY SHALL COMPLY WITH THE REQUIREMENTS
15 FOR EMPLOYERS DESCRIBED IN SECTION 6-1-1314.

16 (7) (a) (I) AN APPLICANT FOR A NON-EMPLOYMENT-BASED
17 EDUCATIONAL OPPORTUNITY WITH ONE OF THE FOLLOWING ENTITIES WHO
18 DECLINES TO PROVIDE THEIR SOCIAL SECURITY NUMBER SHALL SUBMIT TO
19 A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK:

20 (A) A LICENSED OR CERTIFIED HOSPITAL;

21 (B) A COVERED SCHOOL; OR

22 (C) A STATE INSTITUTION OF HIGHER EDUCATION OR A LOCAL
23 DISTRICT COLLEGE, FOR A NON-EMPLOYMENT-BASED EDUCATION
24 OPPORTUNITY THAT INVOLVES WORK WITH A VULNERABLE POPULATION.

25 (II) THE ENTITY SHALL DETERMINE WHETHER THE APPLICANT OR
26 THE ENTITY PAYS THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED
27 CRIMINAL HISTORY RECORD CHECK.

1 (b) AFTER SUBMITTING AN APPLICATION FOR A
2 NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY AND DECLINING
3 TO PROVIDE THEIR SOCIAL SECURITY NUMBER, THE APPLICANT SHALL
4 HAVE THE APPLICANT'S FINGERPRINTS TAKEN BY A LOCAL LAW
5 ENFORCEMENT AGENCY, OR A THIRD PARTY APPROVED BY THE COLORADO
6 BUREAU OF INVESTIGATION, TO OBTAIN A FINGERPRINT-BASED CRIMINAL
7 HISTORY RECORD CHECK. THE APPLICANT SHALL AUTHORIZE THE THIRD
8 PARTY TAKING THE APPLICANT'S FINGERPRINTS TO SUBMIT, AND THE THIRD
9 PARTY SHALL SUBMIT, THE COMPLETE SET OF THE APPLICANT'S
10 FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION TO CONDUCT
11 A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

12 (c) IF AN APPROVED THIRD PARTY TAKES THE PERSON'S
13 FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED
14 USING LIVSCAN EQUIPMENT APPROVED BY THE COLORADO BUREAU OF
15 INVESTIGATION. THIRD-PARTY VENDORS SHALL NOT KEEP THE
16 APPLICANT'S INFORMATION FOR MORE THAN THIRTY DAYS.

17 (d) THE COLORADO BUREAU OF INVESTIGATION SHALL USE THE
18 APPLICANT'S FINGERPRINTS TO CONDUCT A CRIMINAL HISTORY RECORD
19 CHECK USING THE BUREAU'S RECORDS. THE COLORADO BUREAU OF
20 INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL
21 BUREAU OF INVESTIGATION FOR CONDUCTING A FINGERPRINT-BASED
22 CRIMINAL HISTORY RECORD CHECK. THE COLORADO BUREAU OF
23 INVESTIGATION, APPLICANT, ENTITY, AND THIRD PARTY TAKING
24 FINGERPRINTS SHALL COMPLY WITH THE FEDERAL BUREAU OF
25 INVESTIGATION'S REQUIREMENTS FOR A CRIMINAL HISTORY RECORD
26 CHECK.

27 (e) THE COLORADO BUREAU OF INVESTIGATION SHALL RETURN THE

1 RESULTS OF ITS CRIMINAL HISTORY RECORD CHECK TO THE ENTITY, AND
2 THE ENTITY IS AUTHORIZED TO RECEIVE THE RESULTS OF THE FEDERAL
3 BUREAU OF INVESTIGATION'S CRIMINAL HISTORY RECORD CHECK. THE
4 ENTITY SHALL USE THE INFORMATION RESULTING FROM THE CRIMINAL
5 HISTORY RECORD CHECKS TO INVESTIGATE AND DETERMINE WHETHER AN
6 APPLICANT IS QUALIFIED FOR AN OPPORTUNITY PURSUANT TO SUBSECTION
7 (2) OF THIS SECTION.

8 (f) WHEN THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK OF
9 AN APPLICANT PERFORMED PURSUANT TO THIS SUBSECTION (7) REVEAL A
10 RECORD OF ARREST WITHOUT A DISPOSITION, THE ENTITY SHALL REQUIRE
11 THE APPLICANT TO SUBMIT TO A NAME-BASED JUDICIAL RECORD CHECK,
12 AS DEFINED IN SECTION 22-2-119.3 (6)(d).

13 **SECTION 3.** In Colorado Revised Statutes, 24-31-101, **amend**
14 (1)(v) and (1)(w); and **add** (1)(x) as follows:

15 **24-31-101. Powers and duties of attorney general.**

16 (1) The attorney general:

17 (v) May expend money, manage staff, and perform other
18 administrative functions essential for the operation of a district attorney's
19 office when appointed by executive order of the governor; **and**

20 (w) May conduct jail assessments in collaboration with the jail
21 standards advisory committee, created pursuant to section 30-10-530,
22 pursuant to section 24-31-118; AND

23 (x) MAY BRING A CIVIL ACTION TO ENFORCE SECTION 8-2-128.5.

24 **SECTION 4. Applicability.** This act applies to contracts entered
25 into and background checks requested on or after the effective date of this
26 act.

27 **SECTION 5. Safety clause.** The general assembly finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety or for appropriations for
3 the support and maintenance of the departments of the state and state
4 institutions.