

CHAPTER 232

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 18-229

BY SENATOR(S) Martinez Humenik, Aguilar, Court, Fields, Holbert, Jahn, Jones, Kefalas, Kerr, Merrifield, Neville T., Priola, Tate, Todd, Williams A., Zenzinger;
also REPRESENTATIVE(S) Ransom and McLachlan, Beckman, Bridges, Buckner, Coleman, Covarrubias, Exum, Gray, Hamner, Humphrey, Kraft-Tharp, Lee, Lontine, Michaelson Jenet, Pettersen, Reyher, Salazar, Valdez, Van Winkle, Young, Duran.

AN ACT

CONCERNING CRIMINAL HISTORY RECORD CHECKS FOR EDUCATOR PREPARATION PROGRAM STUDENTS SEEKING FIELD EXPERIENCES IN SCHOOLS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add 22-2-119.3** as follows:

22-2-119.3. Department of education - educator preparation program students - criminal history record check - fee - definitions. (1) A STUDENT REQUESTING A CRIMINAL HISTORY RECORD CHECK MUST SUBMIT TO THE COLORADO BUREAU OF INVESTIGATION A COMPLETE SET OF HIS OR HER FINGERPRINTS TAKEN BY A QUALIFIED LAW ENFORCEMENT AGENCY, AN AUTHORIZED EMPLOYEE OF THE DEPARTMENT AND NOTARIZED, OR ANY THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION. IF AN APPROVED THIRD PARTY TAKES THE PERSON'S FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED USING COLORADO BUREAU OF INVESTIGATION-APPROVED LIVESCAN EQUIPMENT. THIRD-PARTY VENDORS SHALL NOT KEEP THE STUDENT INFORMATION FOR MORE THAN THIRTY DAYS UNLESS REQUESTED TO DO SO BY THE STUDENT. THE STUDENT SHALL SUBMIT THE FINGERPRINTS FOR THE PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION TO DETERMINE WHETHER THE STUDENT HAS A CRIMINAL HISTORY. THE STUDENT SHALL PAY TO THE COLORADO BUREAU OF INVESTIGATION THE FEE ESTABLISHED BY THE BUREAU FOR CONDUCTING THE CRIMINAL HISTORY RECORD CHECK. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE DEPARTMENT.

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) ON A FORM PROVIDED BY THE DEPARTMENT, THE STUDENT SHALL:

(a) CERTIFY, UNDER PENALTY OF PERJURY, EITHER:

(I) THAT HE OR SHE HAS NEVER BEEN CONVICTED OF COMMITTING ANY FELONY OR MISDEMEANOR, BUT NOT INCLUDING ANY MISDEMEANOR TRAFFIC OFFENSE OR TRAFFIC INFRACTION; OR

(II) THAT HE OR SHE HAS BEEN CONVICTED OF COMMITTING ANY FELONY OR MISDEMEANOR, BUT NOT INCLUDING ANY MISDEMEANOR TRAFFIC OFFENSE OR TRAFFIC INFRACTION. SUCH CERTIFICATION SHALL SPECIFY SUCH FELONY OR MISDEMEANOR FOR WHICH CONVICTED, THE DATE OF SUCH CONVICTION, AND THE COURT ENTERING THE JUDGMENT OF CONVICTION.

(b) FURNISH THE FOLLOWING INFORMATION TO THE DEPARTMENT:

(I) THE EDUCATOR PREPARATION PROGRAM IN WHICH THE STUDENT IS ENROLLED;

(II) THE SCHOOL DISTRICTS OR CHARTER SCHOOLS IN WHICH THE STUDENT HAS BEEN PLACED FOR FIELD EXPERIENCES; AND

(III) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT TO RELEASE THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK PURSUANT TO THIS SECTION.

(3) WHEN THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF A STUDENT PERFORMED PURSUANT TO THIS SECTION REVEALS A RECORD OF ARREST WITHOUT A DISPOSITION, THE DEPARTMENT SHALL PERFORM A NAME-BASED CRIMINAL HISTORY RECORD CHECK OF THAT STUDENT.

(4)(a) WITHIN SEVEN DAYS OF RECEIVING THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK CONDUCTED PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL PROVIDE THE RESULTS OF SUCH CRIMINAL HISTORY RECORD CHECK, TO THE EXTENT PERMITTED BY STATE OR FEDERAL LAW OR REGULATION, TO THE EDUCATOR PREPARATION PROGRAM IN WHICH THE STUDENT IS ENROLLED AND TO ANY SCHOOL DISTRICT OR CHARTER SCHOOL THAT HAS MADE AN INQUIRY TO THE DEPARTMENT CONCERNING THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK OF A STUDENT WHO HAS BEEN PLACED IN THE SCHOOL DISTRICT OR CHARTER SCHOOL FOR FIELD EXPERIENCES.

(b) THE STUDENT SHALL PROVIDE, ON A FORM APPROVED BY THE DEPARTMENT, ADDITIONAL SCHOOL DISTRICTS OR CHARTER SCHOOLS IN WHICH THE STUDENT HAS BEEN PLACED FOR FIELD EXPERIENCES.

(c) WHEN THE COLORADO BUREAU OF INVESTIGATION PROVIDES THE DEPARTMENT WITH AN UPDATE REGARDING A STUDENT WHO WAS PREVIOUSLY SUBJECT TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK, THE DEPARTMENT SHALL PROVIDE THAT UPDATE TO EACH EDUCATION PREPARATION PROGRAM, SCHOOL DISTRICT, AND CHARTER SCHOOL IDENTIFIED BY THE STUDENT AS A SCHOOL DISTRICT OR CHARTER SCHOOL IN WHICH THE STUDENT HAS BEEN PLACED FOR FIELD EXPERIENCES PURSUANT TO THIS SECTION.

(5) THE DEPARTMENT MAY ESTABLISH AND COLLECT A FEE THAT IS BASED ON THE DEPARTMENT'S ACTUAL COSTS ASSOCIATED WITH ADMINISTRATION OF THIS SECTION.

(6) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE 22 OR A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

(b) "CONVICTED" OR "CONVICTION" MEANS A CONVICTION BY A JURY VERDICT OR BY ENTRY OF A VERDICT OR ACCEPTANCE OF A GUILTY PLEA BY A COURT AND ALSO INCLUDES THE FORFEITURE OF ANY BAIL, BOND, OR OTHER SECURITY DEPOSITED TO SECURE THE APPEARANCE BY A PERSON CHARGED WITH HAVING COMMITTED A FELONY OR MISDEMEANOR, THE PAYMENT OF A FINE, A PLEA OF NOLO CONTENDERE, THE IMPOSITION OF A DEFERRED OR SUSPENDED SENTENCE BY THE COURT, OR AN AGREEMENT FOR A DEFERRED PROSECUTION APPROVED BY THE COURT.

(c) "EDUCATOR PREPARATION PROGRAM" MEANS AN APPROVED EDUCATOR PREPARATION PROGRAM AS DEFINED IN SECTION 23-1-121.

(d) "NAME-BASED CRIMINAL HISTORY RECORD CHECK" MEANS A BACKGROUND CHECK PERFORMED USING JUDICIAL DEPARTMENT RECORDS THAT INCLUDES AN INDIVIDUAL'S CONVICTION AND FINAL DISPOSITION OF CASE RECORDS.

(e) "STUDENT" MEANS A STUDENT ENROLLED IN AN EDUCATOR PREPARATION PROGRAM WHO HAS BEEN PLACED IN A SCHOOL DISTRICT OR CHARTER SCHOOL FOR A POSITION THAT WILL PROVIDE FIELD EXPERIENCES TO PREPARE THE STUDENT TO BE A TEACHER OR OTHER SCHOOL PROFESSIONAL.

SECTION 2. In Colorado Revised Statutes, 22-30.5-110.7, **add** (10) as follows:

22-30.5-110.7. Fingerprint-based criminal history record checks - charter school employees - procedures - definitions - exceptions. (10) SUBSECTIONS (1) TO (4) OF THIS SECTION DO NOT APPLY TO A PERSON WHO HAS SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK PURSUANT TO SECTION 22-2-119.3.

SECTION 3. In Colorado Revised Statutes, 22-32-109.8, **amend** (1); and **add** (10)(c) as follows:

22-32-109.8. Applicants selected for nonlicensed positions - submittal of form and fingerprints - prohibition against employing persons - department database. (1) Except as otherwise provided in ~~subsection (10)(a)~~ SUBSECTION (10) of this section, any person applying to any school district for any position of employment for which a license issued pursuant to article 60.5 of this title 22 is not required and who is selected for such position of employment by such school district shall submit a complete set of fingerprints of such applicant taken by a qualified law enforcement agency, authorized employee of such school district and notarized, or any third party approved by the Colorado bureau of investigation, in a completed form as specified in subsection (2) of this section. If an approved third party takes

the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant information for more than thirty days unless requested to do so by the applicant. The fingerprints and form ~~shall~~ MUST be submitted to the school district at the time requested by such school district.

(10) (c) SUBSECTIONS (1) TO (4) OF THIS SECTION DO NOT APPLY TO A PERSON WHO HAS SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK PURSUANT TO SECTION 22-2-119.3.

SECTION 4. In Colorado Revised Statutes, 22-60.5-103, **amend** (1)(a) as follows:

22-60.5-103. Applicants - licenses - authorizations - submittal of form and fingerprints - failure to comply constitutes grounds for denial. (1) (a) Prior to submitting to the department of education an application for any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or for any authorization specified in section 22-60.5-111, each applicant shall submit to the Colorado bureau of investigation a complete set of fingerprints of such applicant, taken by a qualified law enforcement agency or any third party approved by the Colorado bureau of investigation, unless the applicant previously submitted a complete set of his or her fingerprints to the department of education or the Colorado bureau of investigation in connection with an application for a license or authorization specified in this article 60.5 OR, IF THE APPLICANT HAS CONTINUOUSLY RESIDED IN COLORADO SINCE SUBMITTING FINGERPRINTS TO THE BUREAU, HAS PREVIOUSLY SUBMITTED FINGERPRINTS PURSUANT TO SECTION 22-2-119.3. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant information for more than thirty days unless requested to do so by the applicant. The applicant shall submit the fingerprints for the purpose of obtaining a fingerprint-based criminal history record check through the Colorado bureau of investigation and the federal bureau of investigation to determine whether the applicant for licensure or authorization has a criminal history. The applicant shall pay to the Colorado bureau of investigation the fee established by the bureau for conducting the criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the department of education.

SECTION 5. In Colorado Revised Statutes, **add** 22-62-103.5 as follows:

22-62-103.5. Criminal history record checks - definition. (1) A SCHOOL DISTRICT OR CHARTER SCHOOL THAT REQUIRES A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OR A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR A STUDENT ENROLLED IN AN EDUCATOR PREPARATION PROGRAM WHO APPLIES FOR FIELD EXPERIENCES WITHIN THE SCHOOL DISTRICT OR CHARTER SCHOOL MUST ACCEPT THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OR A NAME-BASED CRIMINAL HISTORY RECORD CHECK PERFORMED PURSUANT TO SECTION 22-2-119.3 AS SATISFACTION OF THE REQUIREMENT.

(2) FOR THE PURPOSE OF THIS SECTION, "CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5

OF THIS TITLE 22 OR A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

SECTION 6. Appropriation. For the 2018-19 state fiscal year, \$34,065 is appropriated to the department of public safety for use by the biometric identification and records unit. This appropriation is from the Colorado bureau of investigation identification unit fund created in section 24-33.5-426, C.R.S., and is based on an assumption that the unit will require an additional 0.2 FTE. To implement this act, the unit may use this appropriation for criminal history record checks.

SECTION 7. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 24, 2018