

CHAPTER 94

**EDUCATION - PUBLIC SCHOOLS**

**HOUSE BILL 19-1186**

BY REPRESENTATIVE(S) McLachlan and Exum, Bird, Buckner, Buentello, Caraveo, Cutter, Duran, Galindo, Gonzales-Gutierrez, Jackson, Kipp, McCluskie, Michaelson Jenet, Snyder, Titone, Wilson, Becker; also SENATOR(S) Bridges and Cooke, Crowder, Danielson, Gardner, Ginal, Holbert, Lundeen, Marble, Moreno, Scott, Story, Tate, Todd, Winter, Woodward.

**AN ACT**

**CONCERNING FINGERPRINTING OPTIONS FOR BACKGROUND CHECKS FOR SCHOOL EMPLOYEES.**

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

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

(a) The general assembly passed Senate Bill 17-189, enacted in 2017, to allow third-party vendors approved by the Colorado bureau of investigation to take fingerprints for the purpose of submitting those fingerprints for statutorily required criminal background checks. Under the law, a local law enforcement agency was also authorized to take fingerprints;

(b) In the summer of 2018, the Colorado bureau of investigation selected two third-party vendors, pursuant to Senate Bill 17-189, and asked law enforcement to opt in or opt out of taking fingerprints for the purpose of submitting those fingerprints for statutorily required criminal background checks. This request was ultimately reversed, but many law enforcement agencies remain closed for fingerprinting.

(c) The two vendors are not meeting the considerable demand for fingerprints throughout the state and, as a result, educators, classified staff, and volunteers are forced to travel significant distances to have their statutorily required fingerprints taken; take time off of work and away from the school building to make the limited appointments available with the vendors; and spend considerable time navigating complex administrative and financial processes established by the vendors.

))))

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

(2) Therefore, the general assembly finds it necessary to provide additional alternatives for school employees and applicants for school employment to easily and conveniently have their fingerprints taken.

**SECTION 2.** In Colorado Revised Statutes, 22-1-121, **amend** (1.7)(a) as follows:

**22-1-121. Nonpublic schools - employment of personnel - notification by department of education.** (1.7) (a) To facilitate the inquiry permitted by subsection (1) or (1.5) of this section, the governing board of a participating nonpublic school shall require an applicant or employee to submit to the governing board of the school a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized ~~school~~ employee, or any third party approved by the Colorado bureau of investigation. AT THE REQUEST OF A NONPUBLIC SCHOOL, A LAW ENFORCEMENT AGENCY THAT HAS FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS SHALL TAKE THE FINGERPRINTS OF AN APPLICANT OR EMPLOYEE PURSUANT TO THIS SECTION IF AN APPROVED THIRD-PARTY VENDOR IS NOT OPERATING WITHIN TWENTY MILES OF THE NONPUBLIC SCHOOL WITHIN THE LAW ENFORCEMENT AGENCY'S JURISDICTION. A SCHOOL EMPLOYEE MAY USE ANY FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS. 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's or employee's information for more than thirty days unless requested to do so by the applicant or employee. The governing board shall forward the set of fingerprints together with a check to cover the direct and indirect costs of conducting a fingerprint-based criminal history record check of the applicant or employee to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The department is the authorized agency to receive and disseminate information regarding the result of any national criminal history record check. Any such national check must be handled in accordance with Pub.L. 92-544, as amended. The department shall notify the governing board whether a fingerprint-based criminal history record check has identified any conviction, plea of nolo contendere, deferred sentence, or deferred prosecution described in subsection (1) of this section.

**SECTION 3.** In Colorado Revised Statutes, 22-30.5-110.7, **amend** (1) and (6) as follows:

**22-30.5-110.7. Fingerprint-based criminal history record checks - charter school employees - procedures - exceptions - definitions.** (1) A person applying for employment with a charter school to whom an offer of employment is extended shall submit to the charter school a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of the charter school and notarized, or any third party approved by the Colorado bureau of investigation. AT THE REQUEST OF A CHARTER SCHOOL, A LAW ENFORCEMENT AGENCY THAT HAS FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS SHALL TAKE THE FINGERPRINTS OF AN APPLICANT PURSUANT TO THIS SECTION IF AN APPROVED THIRD-PARTY VENDOR IS NOT

OPERATING WITHIN TWENTY MILES OF THE CHARTER SCHOOL WITHIN THE LAW ENFORCEMENT AGENCY'S JURISDICTION. A SCHOOL EMPLOYEE MAY USE ANY FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS. 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.

(6) When a charter school finds good cause to believe that a person employed by the charter school has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to such employment, the charter school shall require the person to submit to the charter school a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of the charter school, or any third party approved by the Colorado bureau of investigation. AT THE REQUEST OF THE CHARTER SCHOOL, A LAW ENFORCEMENT AGENCY THAT HAS FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS SHALL TAKE THE FINGERPRINTS OF A PERSON PURSUANT TO THIS SECTION IF AN APPROVED THIRD-PARTY VENDOR IS NOT OPERATING WITHIN TWENTY MILES OF THE CHARTER SCHOOL WITHIN THE LAW ENFORCEMENT AGENCY'S JURISDICTION. A SCHOOL EMPLOYEE MAY USE ANY FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS. 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 employee shall submit his or her fingerprints within twenty days after receipt of written notification from the charter school. The charter school shall forward the employee's fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

**SECTION 4.** In Colorado Revised Statutes, 22-32-109.8, **amend** (1) and (6)(a) 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) 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~~ A school district OR BOARD OF COOPERATIVE SERVICES 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. AT THE REQUEST OF A SCHOOL DISTRICT, A LAW ENFORCEMENT AGENCY THAT HAS FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS SHALL TAKE THE FINGERPRINTS OF AN APPLICANT PURSUANT TO THIS SECTION IF AN APPROVED THIRD-PARTY VENDOR IS NOT OPERATING WITHIN TWENTY MILES OF THE SCHOOL DISTRICT WITHIN THE LAW

ENFORCEMENT AGENCY'S JURISDICTION. A SCHOOL DISTRICT EMPLOYEE OR BOARD OF COOPERATIVE SERVICES EMPLOYEE MAY USE ANY FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS. 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 must be submitted to the school district at the time requested by such school district.

(6) (a) When a school district finds good cause to believe that a nonlicensed person employed by the school district has been convicted of a felony or misdemeanor other than a misdemeanor traffic offense or traffic infraction subsequent to his or her employment, the school district shall require the person to submit to the school district a complete set of his or her fingerprints taken by a qualified law enforcement agency, AN AUTHORIZED EMPLOYEE OF THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES, or any third party approved by the Colorado bureau of investigation. AT THE REQUEST OF A SCHOOL DISTRICT, A LAW ENFORCEMENT AGENCY THAT HAS FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS SHALL TAKE THE FINGERPRINTS OF AN EMPLOYEE PURSUANT TO THIS SECTION IF AN APPROVED THIRD-PARTY VENDOR IS NOT OPERATING WITHIN TWENTY MILES OF THE SCHOOL DISTRICT WITHIN THE LAW ENFORCEMENT AGENCY'S JURISDICTION. A SCHOOL DISTRICT EMPLOYEE OR BOARD OF COOPERATIVE SERVICES EMPLOYEE MAY USE ANY FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS. 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 shall be submitted within twenty days after receipt of written notification from the school district. The school district shall forward the fingerprints of the person to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation. If the results of the fingerprint-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in subsection (6.5) of this section, the school district shall terminate the person's employment.

**SECTION 5.** In Colorado Revised Statutes, 22-32-109.9, **amend** (1)(a) as follows:

**22-32-109.9. Licensed personnel - submittal of fingerprints.** (1) (a) When any school district finds good cause to believe that any licensed personnel employed by such school district has been convicted of any felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to such employment, such school district shall require such person to submit a complete set of his or her fingerprints taken by a qualified law enforcement agency, AN AUTHORIZED EMPLOYEE OF THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES, or any third party approved by the Colorado bureau of investigation. AT THE REQUEST OF A SCHOOL DISTRICT, A LAW ENFORCEMENT AGENCY THAT HAS FINGERPRINTING

EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS SHALL TAKE THE FINGERPRINTS OF AN EMPLOYEE PURSUANT TO THIS SECTION IF AN APPROVED THIRD-PARTY VENDOR IS NOT OPERATING WITHIN TWENTY MILES OF THE SCHOOL DISTRICT WITHIN THE LAW ENFORCEMENT AGENCY'S JURISDICTION. A SCHOOL DISTRICT EMPLOYEE OR BOARD OF COOPERATIVE SERVICES EMPLOYEE MAY USE ANY FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS. 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 must be submitted within twenty days of receipt of written notification from the school district.

**SECTION 6.** In Colorado Revised Statutes, 22-60.5-103, **amend** (1)(a) and (6)(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, AN AUTHORIZED EMPLOYEE OF A SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES, 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. AT THE REQUEST OF A SCHOOL DISTRICT, A LAW ENFORCEMENT AGENCY THAT HAS FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS SHALL TAKE THE FINGERPRINTS OF AN APPLICANT PURSUANT TO THIS SECTION IF AN APPROVED THIRD-PARTY VENDOR IS NOT OPERATING WITHIN TWENTY MILES OF THE SCHOOL DISTRICT WITHIN THE LAW ENFORCEMENT AGENCY'S JURISDICTION. A SCHOOL DISTRICT EMPLOYEE OR BOARD OF COOPERATIVE SERVICES EMPLOYEE MAY USE ANY FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS. 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.

(6) (a) When the department of education finds probable cause to believe that an

educator licensed or authorized pursuant to this article 60.5 has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to the educator's licensure or authorization, the department of education shall require the educator to submit a complete set of the educator's fingerprints taken by a qualified law enforcement agency, AN AUTHORIZED EMPLOYEE OF THE LICENSEE'S EMPLOYING SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES, or any third party approved by the Colorado bureau of investigation. AT THE REQUEST OF A SCHOOL DISTRICT, A LAW ENFORCEMENT AGENCY THAT HAS FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS SHALL TAKE THE FINGERPRINTS OF AN EDUCATOR PURSUANT TO THIS SECTION IF AN APPROVED THIRD-PARTY VENDOR IS NOT OPERATING WITHIN TWENTY MILES OF THE SCHOOL DISTRICT WITHIN THE LAW ENFORCEMENT AGENCY'S JURISDICTION. A SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES EMPLOYEE MAY USE ANY FINGERPRINTING EQUIPMENT THAT MEETS THE FEDERAL BUREAU OF INVESTIGATION IMAGE QUALITY STANDARDS. 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 educator's information for more than thirty days unless requested to do so by the educator. The educator shall submit the fingerprints within thirty days after receipt of the written request for fingerprints from the department of education. The department of education shall deny, suspend, annul, or revoke, pursuant to section 22-60.5-107 (2.5), the educator's license or authorization if he or she fails to submit fingerprints on a timely basis pursuant to this subsection (6).

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 10, 2019