

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1135.01 Conrad Imel x2313

SENATE BILL 18-229

SENATE SPONSORSHIP

Martinez Humenik,

HOUSE SPONSORSHIP

Ransom and McLachlan,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING CRIMINAL HISTORY RECORD CHECKS FOR EDUCATOR
102 PREPARATION PROGRAM STUDENTS SEEKING FIELD
103 EXPERIENCES IN SCHOOLS.

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 requires the department of education (department) to perform a fingerprint-based criminal history record check (record check) for a student in an educator preparation program seeking field experiences in a school (student), if requested by the student. The student may authorize the department to release the results of the record check to

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

school districts or charter schools. The department may charge a fee to cover the actual costs of completing the record check.

School districts or charter schools that require a record check for students are required to accept the results of the record check performed by the department. The fingerprints may be used by the student to satisfy the existing fingerprint submission requirements for teacher licensure.

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

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

4 **22-2-119.3. Department of education - educator preparation**
5 **program students - criminal history record check - fee - definitions.**

6 (1) THE DEPARTMENT SHALL PERFORM A FINGERPRINT-BASED CRIMINAL
7 HISTORY RECORD CHECK FOR ANY STUDENT WHO HAS SUBMITTED AN
8 APPLICATION AND FINGERPRINTS TO THE DEPARTMENT PURSUANT TO THIS
9 SECTION.

10 (2) A STUDENT REQUESTING A CRIMINAL HISTORY RECORD CHECK
11 MUST SUBMIT TO THE DEPARTMENT A COMPLETE SET OF HIS OR HER
12 FINGERPRINTS TAKEN BY A QUALIFIED LAW ENFORCEMENT AGENCY, AN
13 AUTHORIZED EMPLOYEE OF THE DEPARTMENT AND NOTARIZED, OR ANY
14 THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION.
15 IF AN APPROVED THIRD PARTY TAKES THE PERSON'S FINGERPRINTS, THE
16 FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED USING COLORADO
17 BUREAU OF INVESTIGATION-APPROVED LIVESCAN EQUIPMENT.
18 THIRD-PARTY VENDORS SHALL NOT KEEP THE STUDENT INFORMATION FOR
19 MORE THAN THIRTY DAYS UNLESS REQUESTED TO DO SO BY THE STUDENT.

20 (3) ON A FORM PROVIDED BY THE DEPARTMENT, THE STUDENT
21 SHALL:

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

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

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

10 (b) FURNISH THE FOLLOWING INFORMATION TO THE DEPARTMENT:

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

13 (II) THE SCHOOL DISTRICTS OR CHARTER SCHOOLS IN WHICH THE
14 STUDENT HAS BEEN PLACED FOR FIELD EXPERIENCES AND TO WHICH THE
15 DEPARTMENT IS AUTHORIZED TO RELEASE THE RESULTS OF THE CRIMINAL
16 HISTORY RECORD CHECK PURSUANT TO SUBSECTION (5)(a) OF THIS
17 SECTION; AND

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

21 (4) THE DEPARTMENT SHALL FORWARD THE FINGERPRINTS
22 SUBMITTED PURSUANT TO THIS SECTION TO THE COLORADO BUREAU OF
23 INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL
24 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING THE
25 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
26 FEDERAL BUREAU OF INVESTIGATION.

27 (5) (a) THE DEPARTMENT SHALL PROVIDE THE RESULTS OF A

1 CRIMINAL HISTORY RECORD CHECK PERFORMED PURSUANT TO THIS
2 SECTION, TO THE EXTENT PERMITTED BY STATE OR FEDERAL LAW OR
3 REGULATION, TO THE EDUCATOR PREPARATION PROGRAM IN WHICH THE
4 STUDENT IS ENROLLED AND TO THE SCHOOL DISTRICTS OR CHARTER
5 SCHOOLS AUTHORIZED BY THE STUDENT PURSUANT TO SUBSECTION
6 (3)(b)(II) OF THIS SECTION.

7 (b) FOR A PERIOD OF THREE YEARS FROM THE DATE OF THE INITIAL
8 APPLICATION, THE STUDENT MAY PROVIDE, ON A FORM APPROVED BY THE
9 DEPARTMENT, ADDITIONAL SCHOOL DISTRICTS OR CHARTER SCHOOLS IN
10 WHICH THE STUDENT HAS BEEN PLACED FOR FIELD EXPERIENCES AND TO
11 WHICH THE DEPARTMENT IS AUTHORIZED TO RELEASE THE RESULTS OF THE
12 CRIMINAL HISTORY RECORD CHECK. THE DEPARTMENT SHALL PROVIDE THE
13 RESULTS OF A CRIMINAL HISTORY RECORD CHECK PERFORMED PURSUANT
14 TO THIS SECTION, TO THE EXTENT PERMITTED BY STATE OR FEDERAL LAW
15 OR REGULATION, TO THE SCHOOL DISTRICTS OR CHARTER SCHOOLS
16 AUTHORIZED BY THE STUDENT PURSUANT TO THIS SUBSECTION (5)(b).

17 (c) WHEN THE COLORADO BUREAU OF INVESTIGATION PROVIDES
18 THE DEPARTMENT WITH AN UPDATE REGARDING A STUDENT WHO WAS
19 PREVIOUSLY SUBJECT TO A FINGERPRINT-BASED CRIMINAL HISTORY
20 RECORD CHECK, THE DEPARTMENT SHALL PROVIDE THAT UPDATE TO EACH
21 EDUCATION PREPARATION PROGRAM, SCHOOL DISTRICT, AND CHARTER
22 SCHOOL TO WHICH IT HAS PREVIOUSLY PROVIDED THE RESULTS OF A
23 CRIMINAL HISTORY RECORD CHECK PURSUANT TO THIS SECTION.

24 (6) THE DEPARTMENT MAY ESTABLISH AND COLLECT A FEE THAT
25 IS BASED ON THE DEPARTMENT'S ACTUAL COSTS ASSOCIATED WITH
26 PERFORMING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
27 PURSUANT TO THIS SECTION.

1 (7) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
2 OTHERWISE REQUIRES:

3 (a) "CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED
4 BY A SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS
5 TITLE 22 OR A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER
6 SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE
7 22.

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

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

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

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

25 **22-30.5-110.7. Fingerprint-based criminal history record**
26 **checks - charter school employees - procedures - definitions -**
27 **exceptions.** (10) SUBSECTIONS (1) TO (4) OF THIS SECTION DO NOT APPLY

1 TO A PERSON WHO HAS PROVIDED TO THE CHARTER SCHOOL THE RESULTS
2 OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK PURSUANT
3 TO SECTION 22-2-119.3.

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

6 **22-32-109.8. Applicants selected for nonlicensed positions -**
7 **submittal of form and fingerprints - prohibition against employing**
8 **persons - department database.** (1) Except as otherwise provided in
9 ~~subsection (10)(a)~~ SUBSECTION (10) of this section, any person applying
10 to any school district for any position of employment for which a license
11 issued pursuant to article 60.5 of this title 22 is not required and who is
12 selected for such position of employment by such school district shall
13 submit a complete set of fingerprints of such applicant taken by a
14 qualified law enforcement agency, authorized employee of such school
15 district and notarized, or any third party approved by the Colorado bureau
16 of investigation, in a completed form as specified in subsection (2) of this
17 section. If an approved third party takes the person's fingerprints, the
18 fingerprints may be electronically captured using Colorado bureau of
19 investigation-approved livescan equipment. Third-party vendors shall not
20 keep the applicant information for more than thirty days unless requested
21 to do so by the applicant. The fingerprints and form ~~shall~~ **MUST** be
22 submitted to the school district at the time requested by such school
23 district.

24 (10) (c) SUBSECTIONS (1) TO (4) OF THIS SECTION DO NOT APPLY
25 TO A PERSON WHO HAS PROVIDED TO THE SCHOOL DISTRICT THE RESULTS
26 OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK PURSUANT
27 TO SECTION 22-2-119.3.

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

3 **22-60.5-103. Applicants - licenses - authorizations - submittal**
4 **of form and fingerprints - failure to comply constitutes grounds for**
5 **denial.** (1) (a) Prior to submitting to the department of education an
6 application for any license specified in section 22-60.5-201, 22-60.5-210,
7 22-60.5-301, or 22-60.5-306 or for any authorization specified in section
8 22-60.5-111, each applicant shall submit to the Colorado bureau of
9 investigation a complete set of fingerprints of such applicant, taken by a
10 qualified law enforcement agency or any third party approved by the
11 Colorado bureau of investigation, unless the applicant previously
12 submitted a complete set of his or her fingerprints to the department of
13 education or the Colorado bureau of investigation in connection with an
14 application for a license or authorization specified in this article 60.5 OR
15 PURSUANT TO SECTION 22-2-119.3. If an approved third party takes the
16 person's fingerprints, the fingerprints may be electronically captured using
17 Colorado bureau of investigation-approved livescan equipment.
18 Third-party vendors shall not keep the applicant information for more
19 than thirty days unless requested to do so by the applicant. The applicant
20 shall submit the fingerprints for the purpose of obtaining a
21 fingerprint-based criminal history record check through the Colorado
22 bureau of investigation and the federal bureau of investigation to
23 determine whether the applicant for licensure or authorization has a
24 criminal history. The applicant shall pay to the Colorado bureau of
25 investigation the fee established by the bureau for conducting the criminal
26 history record check. Upon completion of the criminal history record
27 check, the bureau shall forward the results to the department of education.

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

3 **22-62-103.5. Criminal history record checks - definition.** (1) A
4 SCHOOL DISTRICT OR CHARTER SCHOOL THAT REQUIRES A
5 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK FOR A STUDENT
6 ENROLLED IN AN EDUCATOR PREPARATION PROGRAM WHO APPLIES FOR
7 FIELD EXPERIENCES WITHIN THE SCHOOL DISTRICT OR CHARTER SCHOOL
8 MUST ACCEPT THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY
9 RECORD CHECK PERFORMED PURSUANT TO SECTION 22-2-119.3 AS
10 SATISFACTION OF THE REQUIREMENT.

11 (2) FOR THE PURPOSE OF THIS SECTION, "CHARTER SCHOOL" MEANS
12 A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO
13 PART 1 OF ARTICLE 30.5 OF THIS TITLE 22 OR A CHARTER SCHOOL
14 AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO
15 PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

16 **SECTION 6. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2018 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.