

## CHAPTER 202

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**EDUCATION - PUBLIC SCHOOLS**

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**SENATE BILL 06-176**

BY SENATOR(S) Spence, Bacon, Evans, Williams, and Windels;  
also REPRESENTATIVE(S) Massey, Berens, Carroll T., Coleman, Kerr A., Soper, and Todd.

**AN ACT**

**CONCERNING REQUIREMENTS FOR EDUCATORS, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** 22-32-109.7 (1) (c), Colorado Revised Statutes, is amended to read:

**22-32-109.7. Board of education - specific duties - employment of personnel.**

(1) Prior to the employment of any person by a school district, the board of education shall make an inquiry concerning such person to the department of education for the purpose of determining:

(c) If a holder of a license or authorization issued pursuant to the provisions of article 60.5 of this title, whether such person's license or authorization has ever been DENIED, annulled, suspended, or revoked pursuant to the provisions of section 22-60-110 (2) (b), AS IT EXISTED PRIOR TO JULY 1, 1999, OR PURSUANT TO ARTICLE 60.5 OF THIS TITLE, following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

**SECTION 2.** 22-60.5-107 (1), the introductory portion to 22-60.5-107 (2) (b), and 22-60.5-107 (2) (c), (2.5) (a) (II), (4), and (5), Colorado Revised Statutes, are amended, and the said 22-60.5-107 (2) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization.** (1) If any person obtains OR ATTEMPTS TO OBTAIN any license, certificate, endorsement, or authorization

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

pursuant to the provisions of this article through misrepresentation or fraud or through misleading information or AN untruthful statement submitted or offered with the intent to misrepresent or mislead or to conceal the truth, such license, certificate, endorsement, or authorization may be annulled OR DENIED by the department of education in the manner prescribed in section 22-60.5-108.

(2) Any license, certificate, endorsement, or authorization may be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section:

(b) When the applicant or holder is convicted of, pleads nolo contendere to, or receives a deferred sentence for a violation of any ~~law of this state or any counterpart municipal law of this state involving~~ one of the following offenses:

(VIII) A CRIME UNDER THE LAWS OF THE UNITED STATES, ANOTHER STATE, A MUNICIPALITY OF THIS STATE OR ANOTHER STATE, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES, THE ELEMENTS OF WHICH ARE SUBSTANTIALLY SIMILAR TO ONE OF THE OFFENSES DESCRIBED IN SUBPARAGRAPHS (I) TO (VII) OF THIS PARAGRAPH (b).

(c) When the applicant or holder is found guilty of or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a misdemeanor violation of any law of this state OR ANOTHER STATE, any municipality of this state OR ANOTHER STATE, or the United States OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES involving the illegal sale of controlled substances, as defined in section 12-22-303 (7), C.R.S.;

(2.5) (a) A license, certificate, endorsement, or authorization shall be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section to the contrary, in the following circumstances:

(II) When the applicant or holder is convicted of indecent exposure, as described in section 18-7-302, ~~(2)(b)~~; C.R.S., or of a crime under the laws of another state, A MUNICIPALITY OF THIS OR ANOTHER STATE, the United States, or a territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the offense of indecent exposure described in this subparagraph (II);

(4) The department of education may DENY, ANNUL, suspend, or revoke any license, certificate, endorsement, or authorization if the state board finds and determines that the APPLICANT OR holder thereof ~~has become~~ IS professionally incompetent or guilty of unethical behavior.

(5) The state board of education shall promulgate appropriate rules defining the standards of unethical behavior and professional incompetency. ~~including, but not limited to, a violation of section 22-1-123.~~

**SECTION 3.** 22-60.5-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-60.5-107. Grounds for denying, annulling, suspending, or revoking**

**license, certificate, endorsement, or authorization.** (7) IN THE MANNER PRESCRIBED IN SECTION 22-60.5-108, THE DEPARTMENT OF EDUCATION MAY SUSPEND A LICENSE, CERTIFICATE, ENDORSEMENT, OR AUTHORIZATION WHEN THE HOLDER, WITHOUT GOOD CAUSE, RESIGNS OR ABANDONS HIS OR HER CONTRACTED POSITION WITH A SCHOOL DISTRICT WITHOUT GIVING THE WRITTEN NOTICE REQUIRED BY SECTION 22-63-202 (2) (b).

**SECTION 4.** 22-63-202 (2), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**22-63-202. Employment contracts - contracts to be in writing - duration - damage provision.** (2) (a) A TEACHER OR CHIEF ADMINISTRATIVE OFFICER AND THE BOARD MAY MUTUALLY AGREE TO TERMINATE THE TEACHER'S OR CHIEF ADMINISTRATIVE OFFICER'S EMPLOYMENT CONTRACT AT ANY TIME.

(b) EACH EMPLOYMENT CONTRACT EXECUTED PURSUANT TO THIS SECTION SHALL CONTAIN A PROVISION STATING THAT A TEACHER OR CHIEF ADMINISTRATIVE OFFICER SHALL NOT TERMINATE HIS OR HER EMPLOYMENT CONTRACT WITH THE BOARD WITHOUT THE AGREEMENT OF THE BOARD UNLESS:

(I) IF THE TEACHER OR CHIEF ADMINISTRATIVE OFFICER INTENDS TO TERMINATE HIS OR HER EMPLOYMENT CONTRACT FOR THE SUCCEEDING ACADEMIC YEAR, THE TEACHER OR CHIEF ADMINISTRATIVE OFFICER GIVES WRITTEN NOTICE TO THE BOARD OF HIS OR HER INTENT NO LATER THAN THIRTY DAYS PRIOR TO THE COMMENCEMENT OF THE SUCCEEDING ACADEMIC YEAR OR, IF A SCHOOL DISTRICT OPERATES AN ALTERNATIVE YEAR PROGRAM, NOT LESS THAN THIRTY DAYS BEFORE THE COMMENCEMENT OF SERVICES UNDER THE EMPLOYMENT CONTRACT; OR

(II) IF THE TEACHER OR CHIEF ADMINISTRATIVE OFFICER INTENDS TO TERMINATE HIS OR HER EMPLOYMENT CONTRACT FOR THE CURRENT ACADEMIC YEAR AFTER THE BEGINNING OF THE ACADEMIC YEAR, THE TEACHER OR CHIEF ADMINISTRATIVE OFFICER SHALL GIVE WRITTEN NOTICE TO THE BOARD OF HIS OR HER INTENT AT LEAST THIRTY DAYS PRIOR TO THE DATE THAT THE TEACHER OR CHIEF ADMINISTRATIVE OFFICER INTENDS TO STOP PERFORMING THE SERVICES REQUIRED BY THE EMPLOYMENT CONTRACT.

(c) EACH EMPLOYMENT CONTRACT EXECUTED PURSUANT TO THIS SECTION SHALL CONTAIN A DAMAGES PROVISION WHEREBY A TEACHER OR CHIEF ADMINISTRATIVE OFFICER WHO VIOLATES THE PROVISION REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) WITHOUT GOOD CAUSE SHALL AGREE TO PAY DAMAGES TO THE SCHOOL DISTRICT, AND THE BOARD THEREOF SHALL BE AUTHORIZED TO COLLECT OR WITHHOLD DAMAGES FROM COMPENSATION DUE OR PAYABLE TO THE TEACHER OR CHIEF ADMINISTRATIVE OFFICER, IN AN AMOUNT EQUAL TO THE LESSOR OF:

(I) THE ORDINARY AND NECESSARY EXPENSES OF A BOARD TO SECURE THE SERVICES OF A SUITABLE REPLACEMENT TEACHER OR CHIEF ADMINISTRATIVE OFFICER; OR

(II) ONE-TWELFTH OF THE ANNUAL SALARY SPECIFIED IN THE EMPLOYMENT CONTRACT.

(d) THE DEPARTMENT OF EDUCATION MAY SUSPEND THE LICENSE, ENDORSEMENT, OR AUTHORIZATION OF A TEACHER OR CHIEF ADMINISTRATIVE OFFICER WHO FAILS TO PROVIDE THE NOTICE REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) AND WHO ABANDONS, FAILS, OR REFUSES TO PERFORM REQUIRED SERVICES PURSUANT TO AN EMPLOYMENT CONTRACT, WITHOUT GOOD CAUSE.

**SECTION 5.** 22-60.5-103 (1) (a), (4), and (5), Colorado Revised Statutes, are amended to read:

**22-60.5-103. Applicants - licenses - authorizations - submittal of form and fingerprints - failure to comply constitutes grounds for denial.** (1) (a) ~~Any person making~~ 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 ~~department of education at the time of application~~ COLORADO BUREAU OF INVESTIGATION a complete set of fingerprints of such applicant taken by a qualified law enforcement agency, 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. 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.

(4) ~~The department of education shall forward fingerprints submitted pursuant to subsection (1) of this section to the Colorado bureau of investigation 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.~~ To facilitate a criminal history record check conducted pursuant to ~~this subsection (4)~~ (1) OF THIS SECTION, the department of education may conduct a search on the ICON system at the state judicial department, as defined in section 24-33.5-102 (3), C.R.S., and may use any other available source of criminal history information that the department of education determines is appropriate. The department of education may use the specified sources to determine any crime or crimes for which the person was arrested or charged and the disposition of any criminal charges.

(5) ~~The department of education may issue any initial license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or any authorization specified in section 22-60.5-111 prior to receiving the results regarding an applicant's fingerprints from the Colorado bureau of investigation; however, the department of education may annul, pursuant to section 22-60.5-107(1), any license or authorization so issued if such results are inconsistent with the information provided by the applicant in the form submitted pursuant to subsection (1) of this section.~~

**SECTION 6.** 22-1-121 (1.7) (a) and (1.7) (c), Colorado Revised Statutes, are amended to read:

**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 subsection (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 or an authorized school 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 department of education. ~~The department shall forward such fingerprints 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 shall be the authorized agency to receive and disseminate information regarding the result of any national criminal history record check. Any such national check shall be handled in accordance with P.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.

~~(c) The department of education shall transmit any checks received pursuant to this subsection (1.7) to the state treasurer who shall credit the same to the nonpublic school fingerprint fund which fund is hereby created in the state treasury. The moneys in the nonpublic school fingerprint fund shall be used to pay for fingerprint-based criminal history record checks required pursuant to this subsection (1.7) and shall be subject to annual appropriation by the general assembly. Any moneys not appropriated shall remain in the nonpublic school fingerprint fund and shall not be transferred or revert to the general fund at the end of any fiscal year.~~

**SECTION 7. Adjustments to the 2006 long bill.** (1) For implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2006, shall be adjusted as follows:

(a) The cash funds appropriation to the department of education management and administration, office of professional services, for Colorado and federal bureau of investigation record checks, is decreased by seven hundred seventy-five thousand dollars (\$775,000). Said sum shall be from the educator licensure cash fund created in section 22-60.5-112, Colorado Revised Statutes.

(b) The cash funds exempt appropriation to the department of public safety, Colorado bureau of investigation, Colorado crime information center, for fingerprint processing services, is decreased by three hundred thirty-seven thousand eight hundred sixteen dollars (\$337,816). Said sum shall be from fingerprint and name check processing fees transferred from the department of education.

(c) The cash funds appropriation to the department of public safety, Colorado bureau of investigation, Colorado crime information center, for fingerprint processing services, is increased by three hundred thirty-seven thousand eight

hundred sixteen dollars (\$337,816). Said sum shall be from fingerprint and name check processing fees collected by the department.

**SECTION 8. Effective date.** This act shall take effect July 1, 2006.

**SECTION 9. 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: May 11, 2006