

CHAPTER 206

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 06-1046

BY REPRESENTATIVE(S) Vigil, Coleman, White, Borodkin, Jahn, and Solano;
also SENATOR(S) Hanna, Takis, Taylor, Jones, Spence, Tupa, and Williams.

AN ACT

CONCERNING REGULATION OF PRIVATE OCCUPATIONAL SCHOOLS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 12-59-105.3 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

12-59-105.3. Powers and duties of board. (1) The board shall have the following powers and duties:

(m) TO DESIGNATE, BY CATEGORY OF INSTRUCTION, THOSE SCHOOLS THAT TEACH STUDENTS UNDER SIXTEEN YEARS OF AGE FOR WHICH INSTRUCTIONAL STAFF AND PROSPECTIVE INSTRUCTIONAL STAFF, AS DEFINED BY BOARD RULE, SHALL BE REQUIRED TO SUBMIT A COMPLETE SET OF FINGERPRINTS PURSUANT TO SECTION 12-59-105.7;

(n) TO PRESCRIBE UNIFORM ACADEMIC REPORTING POLICIES AND PROCEDURES TO WHICH A PRIVATE OCCUPATIONAL SCHOOL SHALL ADHERE.

SECTION 2. Article 59 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

12-59-105.4. Duties of private occupational schools. A PRIVATE OCCUPATIONAL SCHOOL SHALL PROVIDE THE DIVISION WITH SUCH DATA AS THE BOARD DEEMS NECESSARY UPON WRITTEN REQUEST OF THE BOARD. DATA PERTAINING TO INDIVIDUAL STUDENTS OR PERSONNEL SHALL NOT BE DIVULGED OR MADE KNOWN IN ANY WAY BY A MEMBER OF THE BOARD, BY THE DIRECTOR, OR BY ANY DIVISION OR SCHOOL EMPLOYEE, EXCEPT IN ACCORDANCE WITH JUDICIAL

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

ORDER OR AS OTHERWISE PROVIDED BY LAW. A PERSON WHO VIOLATES THIS SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S. IN ADDITION, SUCH PERSON SHALL BE SUBJECT TO REMOVAL OR DISMISSAL FROM PUBLIC SERVICE ON GROUNDS OF MALFEASANCE IN OFFICE.

12-59-105.7. Submittal of fingerprints for persons teaching at designated schools - criminal history record check - prerequisite for commencing or continuing employment. (1) (a) INSTRUCTIONAL STAFF OR PROSPECTIVE INSTRUCTIONAL STAFF WHO MAY BE TEACHING STUDENTS IN A SCHOOL DESIGNATED BY THE BOARD PURSUANT TO SECTION 12-59-105.3 (1) (m) SHALL, BEGINNING JULY 1, 2006, IN ORDER TO COMMENCE OR CONTINUE EMPLOYMENT AT A DESIGNATED SCHOOL, SUBMIT A SET OF HIS OR HER 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. NOTHING IN THIS SECTION SHALL PRECLUDE THE BOARD FROM MAKING FURTHER INQUIRIES INTO THE BACKGROUND OF INSTRUCTIONAL STAFF OR PROSPECTIVE INSTRUCTIONAL STAFF. INSTRUCTIONAL STAFF OR PROSPECTIVE INSTRUCTIONAL STAFF SHALL PAY THE FEE ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR CONDUCTING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE BOARD. THE BOARD SHALL CONDUCT A REVIEW OF THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK FORWARDED BY THE BUREAU AND CONSIDER THE RESULTS IN ASSESSING WHETHER INSTRUCTIONAL STAFF OR PROSPECTIVE INSTRUCTIONAL STAFF MEET MINIMUM STANDARDS OF QUALIFICATION, AS ESTABLISHED BY THE BOARD PURSUANT TO SECTION 12-59-106, NECESSARY TO COMMENCE OR CONTINUE EMPLOYMENT AT THE DESIGNATED SCHOOL.

(b) INSTRUCTIONAL STAFF OR PROSPECTIVE INSTRUCTIONAL STAFF SHALL BE REQUIRED TO RESUBMIT A SET OF HIS OR HER FINGERPRINTS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) EVEN IF HE OR SHE PREVIOUSLY SUBMITTED HIS OR HER FINGERPRINTS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1).

(2) IN ADDITION TO ANY OTHER REQUIREMENTS ESTABLISHED BY THE BOARD FOR THE NECESSARY QUALIFICATIONS OF INSTRUCTIONAL STAFF OR PROSPECTIVE INSTRUCTIONAL STAFF, THE SUBMITTAL OF FINGERPRINTS PURSUANT TO SUBSECTION (1) OF THIS SECTION AND RESULTS CONSISTENT WITH THE MINIMUM STANDARDS OF QUALIFICATION ESTABLISHED BY THE BOARD PURSUANT TO SECTION 12-59-106 SHALL BE A PREREQUISITE TO COMMENCING OR CONTINUING EMPLOYMENT AS INSTRUCTIONAL STAFF WHO MAY BE TEACHING STUDENTS IN A SCHOOL DESIGNATED BY THE BOARD PURSUANT TO SECTION 12-59-105.3 (1) (m).

SECTION 3. 12-59-125, Colorado Revised Statutes, is amended to read:

12-59-125. Enforcement - injunction - fines. (1) Whenever it appears to the board that any entity is or has been violating any of the provisions of this article or any of the lawful rules or orders of the board, the board, on its own motion or on the written complaint of any person, may apply for and obtain a temporary restraining order or injunction, or both, in the name of the board in any district court in this

state against said entity for the purpose of restraining or enjoining such violation or for an order directing compliance with the provisions of this article and all rules and orders issued pursuant to this article. It shall not be necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section shall be in addition to any other legal remedy which the board has and shall be in addition to any right of criminal prosecution provided by law. The existence of board action with respect to alleged violations of this article shall not operate as a bar to any action for injunctive relief pursuant to this section.

(2) THE BOARD SHALL HAVE THE AUTHORITY TO PROMULGATE RULES AND ADOPT PROCEDURES TO ESTABLISH, IMPOSE, AND COLLECT FINES FROM AN ENTITY THAT IS IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE OR THE LAWFUL RULES OR ORDERS OF THE BOARD. THE BOARD MAY IMPOSE A FINE, PURSUANT TO SAID RULES, IN ADDITION TO OR IN LIEU OF SEEKING A TEMPORARY RESTRAINING ORDER OR AN INJUNCTION PURSUANT TO SUBSECTION (1) OF THIS SECTION. ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (2) SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE STATE GENERAL FUND.

(3) IN DETERMINING WHETHER TO IMPOSE A FINE OR TO SEEK A TEMPORARY RESTRAINING ORDER OR AN INJUNCTION, THE BOARD SHALL CONSIDER WHETHER THE ENTITY HAS ENGAGED IN A PATTERN OF NONCOMPLIANCE.

SECTION 4. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the private occupational schools fund created in section 12-59-116, Colorado Revised Statutes, not otherwise appropriated, to the department of higher education, division of private occupational schools, for the fiscal year beginning July 1, 2006, the sum of ten thousand nine hundred fifty-seven dollars (\$10,957) cash funds, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2006, the sum of ten thousand nine hundred fifty-seven dollars (\$10,957) and 0.1 FTE, or so much thereof as may be necessary, for the provision of legal services to the division of private occupational schools related to the implementation of this act. Said sum shall be from cash funds exempt received from the division of private occupational schools out of the appropriation made in subsection (1) of this section.

SECTION 5. 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 17, 2006