

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-1135.01 Conrad Imel x2313

SENATE BILL 18-229

SENATE SPONSORSHIP

Martinez Humenik,

HOUSE SPONSORSHIP

Ransom and McLachlan,

Senate Committees

Education
Finance
Appropriations

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, AND, IN CONNECTION THEREWITH,**
104 **MAKING AN APPROPRIATION.**

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

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.

SENATE
Amended 2nd Reading
April 26, 2018

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

1 FEE ESTABLISHED BY THE BUREAU FOR CONDUCTING THE CRIMINAL
2 HISTORY RECORD CHECK. UPON COMPLETION OF THE CRIMINAL HISTORY
3 RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE
4 DEPARTMENT.

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

7 (a) CERTIFY, UNDER PENALTY OF PERJURY, EITHER:
8 (I) THAT HE OR SHE HAS NEVER BEEN CONVICTED OF COMMITTING
9 ANY FELONY OR MISDEMEANOR, BUT NOT INCLUDING ANY MISDEMEANOR
10 TRAFFIC OFFENSE OR TRAFFIC INFRACTION; OR

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

17 (b) FURNISH THE FOLLOWING INFORMATION TO THE DEPARTMENT:
18 (I) THE EDUCATOR PREPARATION PROGRAM IN WHICH THE
19 STUDENT IS ENROLLED;

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

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

25 (3) WHEN THE RESULTS OF A FINGERPRINT-BASED CRIMINAL
26 HISTORY RECORD CHECK OF A STUDENT PERFORMED PURSUANT TO THIS
27 SECTION REVEALS A RECORD OF ARREST WITHOUT A DISPOSITION, THE

1 DEPARTMENT SHALL PERFORM A NAME-BASED CRIMINAL HISTORY RECORD
2 CHECK OF THAT STUDENT.

3

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

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

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 IDENTIFIED BY THE STUDENT AS A SCHOOL DISTRICT OR CHARTER
23 SCHOOL IN WHICH THE STUDENT HAS BEEN PLACED FOR FIELD
24 EXPERIENCES PURSUANT TO THIS SECTION.

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

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

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

27 **SECTION 2.** In Colorado Revised Statutes, 22-30.5-110.7, **add**

1 (10) as follows:

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

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

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

27 (10) (c) SUBSECTIONS (1) TO (4) OF THIS SECTION DO NOT APPLY

1 TO A PERSON WHO HAS SUBMITTED TO A FINGERPRINT-BASED CRIMINAL
2 HISTORY RECORD CHECK PURSUANT TO SECTION 22-2-119.3.

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

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

1 criminal history. The applicant shall pay to the Colorado bureau of
2 investigation the fee established by the bureau for conducting the criminal
3 history record check. Upon completion of the criminal history record
4 check, the bureau shall forward the results to the department of education.

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

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

17 (2) FOR THE PURPOSE OF THIS SECTION, "CHARTER SCHOOL" MEANS
18 A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO
19 PART 1 OF ARTICLE 30.5 OF THIS TITLE 22 OR A CHARTER SCHOOL
20 AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO
21 PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

22 **SECTION 6. Appropriation.** For the 2018-19 state fiscal year,
23 \$34,065 is appropriated to the department of public safety for use by the
24 biometric identification and records unit. This appropriation is from the
25 Colorado bureau of investigation identification unit fund created in
26 section 24-33.5-426, C.R.S., and is based on an assumption that the unit
27 will require an additional 0.2 FTE. To implement this act, the unit may

1 use this appropriation for criminal history record checks.

2 **SECTION 7. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2018 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.