

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 26-1143

BY REPRESENTATIVE(S) Ricks and Joseph, Bacon, Boesenecker, Carter, English, Jackson, Nguyen, Rydin;
also SENATOR(S) Weissman and Benavidez, Cutter, Exum, Gonzales J., Jodeh, Kipp, Marchman, Wallace, Coleman.

CONCERNING INFORMATION COLLECTED FOR A BACKGROUND CHECK BY ENTITIES THAT PROVIDE NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITIES.

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) Colorado's prosperity depends on policies that ensure individuals can participate fully in education, training, volunteer service, and civic life while maintaining strong protections for vulnerable populations;

(b) State and federal agencies, including the Colorado bureau of investigation and the federal bureau of investigation, conduct name-based and fingerprint-based background checks that do not require a social security number and are sufficient to identify criminal history and protect

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.

public safety;

(c) Despite this, some public and private entities require a social security number for non-employment-based background checks, preventing otherwise qualified individuals from accessing non-employment-based educational opportunities, such as required clinical placements, internships, apprenticeships, volunteer opportunities, and other educational or training experiences;

(d) These barriers disproportionately affect individuals who lawfully lack a social security number, delaying or preventing completion of educational programs and entry into high-demand professions without advancing public safety;

(e) Allowing the use of an individual taxpayer identification number as an alternative identifier preserves the integrity of background screening processes while expanding access to opportunity; and

(f) Lifting these barriers still maintains existing criminal background screening standards and does not alter employment-related background check requirements.

(2) Therefore, the general assembly declares that:

(a) It is the public policy of the state that safety and not immigration status should determine access to educational and training opportunities; and

(b) Removing unnecessary barriers to non-employment-based educational and training experiences strengthens Colorado's workforce, protects vulnerable populations, and advances the state's commitment to opportunity, dignity, and shared prosperity.

SECTION 2. In Colorado Revised Statutes, **add** 8-2-128.5 as follows:

8-2-128.5. Prohibitions of non-employer - requiring social security number - exceptions - definitions.

(1) (a) AN ENTITY THAT REQUIRES AN APPLICANT TO PROVIDE A

SOCIAL SECURITY NUMBER FOR A BACKGROUND CHECK AS A CONDITION TO PARTICIPATE IN OR OTHERWISE AVAIL THEMSELVES OF A NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY SHALL ALSO ACCEPT AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER IN LIEU OF A SOCIAL SECURITY NUMBER.

(b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, A LICENSED OR CERTIFIED HOSPITAL OR A COVERED SCHOOL THAT REQUIRES AN APPLICANT TO PROVIDE A SOCIAL SECURITY NUMBER FOR A BACKGROUND CHECK AS A CONDITION TO PARTICIPATE IN OR OTHERWISE AVAIL THEMSELVES OF A NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY IS NOT REQUIRED TO ACCEPT AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER, BUT SHALL ACCEPT A FINGERPRINT-BASED BACKGROUND CHECK IN LIEU OF A SOCIAL SECURITY NUMBER.

(c) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, A STATE INSTITUTION OF HIGHER EDUCATION OR A LOCAL DISTRICT COLLEGE THAT REQUIRES AN APPLICANT TO PROVIDE A SOCIAL SECURITY NUMBER FOR A BACKGROUND CHECK AS A CONDITION TO PARTICIPATE IN OR OTHERWISE AVAIL THEMSELVES OF A NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY THAT INVOLVES WORK WITH A VULNERABLE POPULATION SHALL ACCEPT EITHER AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER OR A FINGERPRINT-BASED BACKGROUND CHECK, AS DETERMINED BY THE STATE INSTITUTION OF HIGHER EDUCATION OR LOCAL DISTRICT COLLEGE, IN LIEU OF A SOCIAL SECURITY NUMBER.

(d) NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITIES COVERED BY THIS SECTION INCLUDE, BUT ARE NOT LIMITED TO, AN UNPAID VOLUNTEER ROLE; UNPAID INTERNSHIP; UNPAID PRE-APPRENTICESHIP; AND UNPAID CLINICAL EXPERIENCE IN A HOSPITAL OR CLINIC, INCLUDING NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITIES REQUIRED FOR GRADUATION OR LICENSURE IN A HEALTH-RELATED ACADEMIC PROGRAM.

(e) THIS SECTION DOES NOT APPLY TO POSITIONS THAT CONSTITUTE EMPLOYMENT AS DESCRIBED IN SECTION 8-70-115.

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, AN APPLICANT MAY BE REQUIRED TO DISCLOSE THEIR SOCIAL SECURITY NUMBER:

(a) TO AN ENTITY REQUIRED TO COLLECT THE SOCIAL SECURITY NUMBER:

(I) BY STATE OR FEDERAL LAW OR RULE;

(II) BY A GOVERNMENTAL OR ACCREDITATION ORGANIZATION'S MANDATORY PROGRAM OF LEGAL COMPLIANCE TO CHECK ANY GOVERNMENTAL BACKGROUND CHECK DATABASE;

(III) TO COMPLY WITH REQUIREMENTS FOR A FEDERAL OR STATE GRANT; OR

(IV) TO REIMBURSE AN APPLICANT FOR EXPENSES INCURRED IN THE ACTUAL PERFORMANCE OF THEIR DUTIES ONLY IF THE REIMBURSEMENT CANNOT BE PROCESSED WITH AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER OR EMPLOYER IDENTIFICATION NUMBER IN ACCORDANCE WITH APPLICABLE FEDERAL OR STATE TAX LAW THAT REQUIRES USING THE SOCIAL SECURITY NUMBER; OR

(b) IF THE APPLICANT IS APPLYING FOR A NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY THAT REQUIRES A PERSON TO SIGN CHECKS OR ENGAGE IN OTHER TRANSACTIONS INVOLVING THE ENTITY'S ASSETS OR ACCOUNTS AND THE FINANCIAL INSTITUTION HOLDING THOSE ASSETS OR ACCOUNTS DOES NOT ACCEPT AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER OR EMPLOYER IDENTIFICATION NUMBER IN PLACE OF A SOCIAL SECURITY NUMBER TO VERIFY THE IDENTITY OF AUTHORIZED PERSONS.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COVERED SCHOOL" MEANS A SCHOOL THAT SERVES STUDENTS IN ANY OF GRADES KINDERGARTEN THROUGH TWELVE, BUT ONLY IN RELATION TO STUDENTS IT ENROLLS WHO SEEK A NON-EMPLOYMENT-BASED OPPORTUNITY AT THE SCHOOL OR THROUGH A PARTNERSHIP BETWEEN THE SCHOOL AND ANOTHER ENTITY.

(b) "ENTITY" MEANS A STATE INSTITUTION OF HIGHER EDUCATION; A LOCAL DISTRICT COLLEGE; A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986"; A VOLUNTEER ORGANIZATION; A COVERED

SCHOOL; OR THE FOLLOWING ENTITIES AS LICENSED OR CERTIFIED AS DESCRIBED IN SECTION 25-1.5-103: A CLINIC, CLINICAL PARTNERSHIP, URGENT CARE CENTER, RETAIL HEALTH CLINIC, HOSPITAL, TELEMEDICINE SERVICE, OR CONCIERGE MEDICAL PROVIDER.

(c) "LICENSED OR CERTIFIED HOSPITAL" MEANS A HOSPITAL LICENSED OR CERTIFIED AS DESCRIBED IN SECTION 25-1.5-103, INCLUDING THE UNIVERSITY OF COLORADO ANSCHUTZ MEDICAL CAMPUS.

(d) "LOCAL DISTRICT COLLEGE" MEANS A LOCAL DISTRICT COLLEGE AUTHORIZED PURSUANT TO ARTICLE 71 OF TITLE 23.

(e) "STATE INSTITUTION OF HIGHER EDUCATION" MEANS A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102, NOT INCLUDING THE UNIVERSITY OF COLORADO ANSCHUTZ MEDICAL CAMPUS.

(f) "VULNERABLE POPULATION" MEANS AN INDIVIDUAL WHO IS SUSCEPTIBLE TO ABUSE OR MISTREATMENT BECAUSE OF THE INDIVIDUAL'S:

(I) AGE;

(II) DISABILITY;

(III) FRAILITY;

(IV) BEHAVIORAL OR MENTAL HEALTH;

(V) INTELLECTUAL OR DEVELOPMENTAL DISABILITY; OR

(VI) ILL HEALTH.

(4) THIS SECTION DOES NOT PROHIBIT AN ENTITY FROM COMPLYING WITH 8 U.S.C. SEC. 1621.

(5) (a) AN ENTITY THAT DOES NOT ACCEPT AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER IN VIOLATION OF SUBSECTION (1)(a) OF THIS SECTION OR A FINGERPRINT-BASED BACKGROUND CHECK IN VIOLATION OF SUBSECTION (1)(b) or (1)(c) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF TWO THOUSAND DOLLARS FOR THE FIRST VIOLATION AND FIVE THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.

(b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS SECTION.

(c) A CIVIL PENALTY COLLECTED PURSUANT TO THIS SUBSECTION (5) MUST BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE IMMIGRATION LEGAL DEFENSE FUND ESTABLISHED PURSUANT TO SECTION 8-3.8-101.

(6) AN ENTITY THAT CONDUCTS A FINGERPRINT-BASED BACKGROUND CHECK OF AN APPLICANT FOR A NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY SHALL COMPLY WITH THE REQUIREMENTS FOR EMPLOYERS DESCRIBED IN SECTION 6-1-1314.

(7) (a) (I) AN APPLICANT FOR A NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY WITH ONE OF THE FOLLOWING ENTITIES WHO DECLINES TO PROVIDE THEIR SOCIAL SECURITY NUMBER SHALL SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK:

(A) A LICENSED OR CERTIFIED HOSPITAL;

(B) A COVERED SCHOOL; OR

(C) A STATE INSTITUTION OF HIGHER EDUCATION OR A LOCAL DISTRICT COLLEGE, FOR A NON-EMPLOYMENT-BASED EDUCATION OPPORTUNITY THAT INVOLVES WORK WITH A VULNERABLE POPULATION.

(II) THE ENTITY SHALL DETERMINE WHETHER THE APPLICANT OR THE ENTITY PAYS THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(b) AFTER SUBMITTING AN APPLICATION FOR A NON-EMPLOYMENT-BASED EDUCATIONAL OPPORTUNITY AND DECLINING TO PROVIDE THEIR SOCIAL SECURITY NUMBER, THE APPLICANT SHALL HAVE THE APPLICANT'S FINGERPRINTS TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY, OR A THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION, TO OBTAIN A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE APPLICANT SHALL AUTHORIZE THE THIRD PARTY TAKING THE APPLICANT'S FINGERPRINTS TO SUBMIT, AND THE THIRD PARTY SHALL SUBMIT, THE COMPLETE SET OF THE APPLICANT'S FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION TO CONDUCT A

FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

(c) IF AN APPROVED THIRD PARTY TAKES THE PERSON'S FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED USING LIVESCAN EQUIPMENT APPROVED BY THE COLORADO BUREAU OF INVESTIGATION. THIRD-PARTY VENDORS SHALL NOT KEEP THE APPLICANT'S INFORMATION FOR MORE THAN THIRTY DAYS.

(d) THE COLORADO BUREAU OF INVESTIGATION SHALL USE THE APPLICANT'S FINGERPRINTS TO CONDUCT A CRIMINAL HISTORY RECORD CHECK USING THE BUREAU'S RECORDS. THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR CONDUCTING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE COLORADO BUREAU OF INVESTIGATION, APPLICANT, ENTITY, AND THIRD PARTY TAKING FINGERPRINTS SHALL COMPLY WITH THE FEDERAL BUREAU OF INVESTIGATION'S REQUIREMENTS FOR A CRIMINAL HISTORY RECORD CHECK.

(e) THE COLORADO BUREAU OF INVESTIGATION SHALL RETURN THE RESULTS OF ITS CRIMINAL HISTORY RECORD CHECK TO THE ENTITY, AND THE ENTITY IS AUTHORIZED TO RECEIVE THE RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY RECORD CHECK. THE ENTITY SHALL USE THE INFORMATION RESULTING FROM THE CRIMINAL HISTORY RECORD CHECKS TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED FOR AN OPPORTUNITY PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(f) WHEN THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK OF AN APPLICANT PERFORMED PURSUANT TO THIS SUBSECTION (7) REVEAL A RECORD OF ARREST WITHOUT A DISPOSITION, THE ENTITY SHALL REQUIRE THE APPLICANT TO SUBMIT TO A NAME-BASED JUDICIAL RECORD CHECK, AS DEFINED IN SECTION 22-2-119.3 (6)(d).

SECTION 3. In Colorado Revised Statutes, 24-31-101, **amend** (1)(v) and (1)(w); and **add** (1)(y) as follows:

24-31-101. Powers and duties of attorney general.

(1) The attorney general:

(v) May expend money, manage staff, and perform other administrative functions essential for the operation of a district attorney's office when appointed by executive order of the governor; and

(w) May conduct jail assessments in collaboration with the jail standards advisory committee, created pursuant to section 30-10-530, pursuant to section 24-31-118; AND

(y) MAY BRING A CIVIL ACTION TO ENFORCE SECTION 8-2-128.5.

SECTION 4. Applicability. This act applies to contracts entered into and background checks requested on or after the effective date of this act.

SECTION 5. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO