

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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

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) 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
22 FEE ESTABLISHED BY THE BUREAU FOR CONDUCTING THE CRIMINAL

1 HISTORY RECORD CHECK. UPON COMPLETION OF THE CRIMINAL HISTORY
2 RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE
3 DEPARTMENT.

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

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

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

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

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

17 (I) THE EDUCATOR PREPARATION PROGRAM IN WHICH THE
18 STUDENT IS ENROLLED;

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

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

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

1 CHECK OF THAT STUDENT.

2

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

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

16 (c) WHEN THE COLORADO BUREAU OF INVESTIGATION PROVIDES
17 THE DEPARTMENT WITH AN UPDATE REGARDING A STUDENT WHO WAS
18 PREVIOUSLY SUBJECT TO A FINGERPRINT-BASED CRIMINAL HISTORY
19 RECORD CHECK, THE DEPARTMENT SHALL PROVIDE THAT UPDATE TO EACH
20 EDUCATION PREPARATION PROGRAM, SCHOOL DISTRICT, AND CHARTER
21 SCHOOL IDENTIFIED BY THE STUDENT AS A SCHOOL DISTRICT OR CHARTER
22 SCHOOL IN WHICH THE STUDENT HAS BEEN PLACED FOR FIELD
23 EXPERIENCES PURSUANT TO THIS SECTION.

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

27 (6) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

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

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

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

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

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

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

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

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

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

26 (10) (c) SUBSECTIONS (1) TO (4) OF THIS SECTION DO NOT APPLY
27 TO A PERSON WHO HAS SUBMITTED TO A FINGERPRINT-BASED CRIMINAL

1 HISTORY RECORD CHECK PURSUANT TO SECTION 22-2-119.3.

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

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

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

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

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

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

21 **SECTION 6. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2018 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.