

1                                   **EDUCATOR BACKGROUND CHECK**

2   **AMENDMENTS**

3   2000 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Richard M. Siddoway**

6 AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING THE CRIMINAL  
7 INVESTIGATIONS AND TECHNICAL SERVICES DIVISION MAINTAIN A SEPARATE  
8 FINGERPRINTS FILE FOR APPLICANTS APPLYING FOR AN EDUCATOR'S LICENSE;  
9 AND REQUIRING THE DIVISION TO NOTIFY THE STATE OFFICE OF EDUCATION  
10 WHEN NEW ENTRIES ARE MADE AGAINST PERSONS WHOSE FINGERPRINTS ARE IN  
11 THE FILE REGARDING SPECIFIC ALLEGED OFFENSES.

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14                   **53A-6-401**, as repealed and reenacted by Chapter 108, Laws of Utah 1999

15 *Be it enacted by the Legislature of the state of Utah:*

16                   Section 1. Section **53A-6-401** is amended to read:

17                   **53A-6-401. Background checks.**

18                   (1) (a) A license applicant shall submit to a background check as a condition for licensing.

19                   (b) As used in this section, licensing includes reinstatement of a lapsed, suspended, or  
20 revoked license.

21                   (2) (a) The office shall establish a procedure for obtaining and evaluating relevant  
22 information concerning license applicants, including fingerprinting the applicant and submitting  
23 the prints to the Criminal Investigations and Technical Services Division of the Department of  
24 Public Safety for checking against applicable state, regional, and national criminal records files.

25                   (b) The Criminal Investigations and Technical Services Division shall release to the office  
26 all information received in response to the office's request.

27                   (c) The Criminal Investigations and Technical Services Division shall maintain a separate

28 file of fingerprints submitted under Subsection (2)(a) and notify the office when a new entry is  
29 made against a person whose fingerprints are held in the file regarding any matters involving an  
30 alleged:

- 31 (i) sexual offense;
- 32 (ii) felony or class A misdemeanor drug offense; or
- 33 (iii) offense against the person under Title 76, Chapter 5, Offenses Against the Person.
- 34 (d) The cost of maintaining the separate file shall be paid by the office from fees charged  
35 to those submitting fingerprints.

36 (3) An applicant shall have opportunity to respond to any information received by the  
37 office as a result of the background check.

38 (4) In preparing recommendations concerning licensing for submission to the board, the  
39 office shall consider only the following matters obtained through fingerprint checks to the extent  
40 that they are relevant to the license sought by the applicant:

- 41 (a) convictions;
- 42 (b) any matters involving an alleged sexual offense;
- 43 (c) any matters involving an alleged felony or class A misdemeanor drug offense;
- 44 (d) any matters involving an alleged offense against the person under Title 76, Chapter 5;
- 45 (e) any matters involving a felony;
- 46 (f) any matters involving a class A misdemeanor property offense alleged to have occurred  
47 within the previous three years; and
- 48 (g) any matters involving any other type of criminal offense, if more than one occurrence  
49 of the same type of offense is alleged to have taken place within the previous eight years.

50 (5) If a recommendation is made for denial of licensure because of information obtained  
51 through a background check, the person shall receive written notice of the reasons for the  
52 recommendation and have an opportunity to respond in accordance with procedures set forth under  
53 board rules.

54 (6) Information obtained under this section is confidential and may only be disclosed as  
55 provided in this part.

56 (7) The applicant shall pay the costs of conducting the background check.

57 (8) This section applies to matters occurring both before and after the effective date of this  
58 section.

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**Legislative Review Note**  
**as of 9-7-99 3:07 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**