

EDUCATOR BACKGROUND CHECK AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Jeff Alexander

AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING THAT THE LAW ENFORCEMENT AND TECHNICAL SERVICES DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY RELEASE TO THE STATE OFFICE OF EDUCATION INFORMATION RECEIVED IN RESPONSE TO REQUESTS FOR CRIMINAL BACKGROUND CHECKS ON APPLICANTS FOR CERTIFICATION; AND MAKING CERTAIN TECHNICAL CHANGES.

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

AMENDS:

53A-6-103, as last amended by Chapter 234, Laws of Utah 1993

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

Section 1. Section **53A-6-103** is amended to read:

53A-6-103. Qualifications of applicants for certificates -- Changes in qualifications -- Criminal background check.

(1) The State Board of Education shall establish the scholarship, training, and experience required of applicants for certificates.

(2) (a) The board shall announce any increase in the requirements when made~~[-, and they]~~.

(b) The requirements shall become effective not less than one year from the date of the announcement.

(3) The board may determine by examination or otherwise the qualifications of applicants for certificates.

(4) (a) (i) The State Office of Education, hereafter referred to as "office," shall require an applicant for certification to submit to a criminal background check as a condition for certification.

(ii) As used in ~~[this section]~~ Subsection (4)(a)(i), certification includes reinstatement of a lapsed, suspended, or revoked certificate.

(b) (i) The office shall establish a procedure for fingerprinting the applicant and submitting

the prints to the Law Enforcement and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(ii) The Law Enforcement and Technical Services Division shall release to the office the ~~[applicant's record of all criminal convictions]~~ information received in response.

(c) An applicant shall have opportunity to respond to any information received as a result of the background check.

(d) (i) In preparing recommendations concerning certification for submission to the state board, the office shall consider only ~~[those convictions which are relevant to the level of]~~ the following matters to the extent that they are relevant to the certification sought by the applicant[-];

(A) convictions;

(B) any matters involving an alleged sexual offense;

(C) any matters involving an alleged felony or class A misdemeanor drug offense;

(D) any matters involving an alleged offense against the person under Title 76, Chapter 5;

(E) any matters involving a felony or class A misdemeanor property offense alleged to have occurred within the previous three years; and

(F) any matters involving any other type of criminal offense if more than one occurrence of the same type of offense is alleged to have taken place within the previous eight years.

(ii) This Subsection ~~(4)(d)~~ applies to ~~[convictions]~~ matters occurring both before and after the effective date of this Subsection ~~(4)(d)~~.

(e) If a recommendation is made for denial of certification because of information obtained through a criminal background check, the person shall receive written notice of the reasons for the recommendation and have an opportunity to respond in accordance with procedures set forth ~~[in Title 63, Chapter 46b, Administrative Procedures Act]~~ under rules of the Professional Practices Advisory Commission.

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

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