

HIGHER EDUCATION CRIMINAL

BACKGROUND CHECKS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires the State Board of Regents to make rules providing for criminal background checks of prospective and existing employees of higher education institutions.

Highlighted Provisions:

This bill:

▶ directs the State Board of Regents to make rules requiring:

• an applicant for a position in a higher education institution that involves significant contact with minors or is security sensitive to submit to a criminal background check as a condition of employment; and

• an existing employee of a higher education institution to submit to a criminal background check, where reasonable cause exists;

▶ authorizes higher education institutions to request the Criminal Investigations and Technical Services Division of the Department of Public Safety to conduct criminal background checks;

▶ addresses the payment of the costs of criminal background checks; and

▶ requires notice of criminal background checks to prospective and existing employees and an opportunity for review of information obtained through a criminal background check.



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 ENACTS:

34 **53B-1-110**, Utah Code Annotated 1953



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

37 Section 1. Section **53B-1-110** is enacted to read:

38 **53B-1-110. Criminal background checks of prospective and existing employees of**
39 **higher education institutions -- Board to make rules.**

40 (1) As used in this section:

41 (a) "Institution" means an institution listed in Section 53B-1-102.

42 (b) "Minor" means a person younger than 21 years of age.

43 (2) The board shall make rules providing for criminal background checks of
44 prospective and existing employees of institutions, in accordance with Title 63, Chapter 46a,
45 Utah Administrative Rulemaking Act, and this section.

46 (3) (a) The rules shall require that:

47 (i) an applicant for any position involving significant contact with minors or any
48 position considered to be security sensitive by the board or its designee shall submit to a
49 criminal background check as a condition of employment; and

50 (ii) an existing employee submit to a criminal background check, where reasonable
51 cause exists.

52 (b) The rules may allow or require applicants for positions other than those described
53 in Subsection (3)(a)(i) to submit to a criminal background check as a condition of employment.

54 (4) The applicant or employee shall receive written notice that the background check
55 has been requested.

56 (5) (a) Institutions may request the Criminal Investigations and Technical Services
57 Division of the Department of Public Safety to conduct criminal background checks of
58 prospective and existing employees pursuant to board rules.

59 (b) At the request of an institution, the Criminal Investigations and Technical Services
60 Division of the Department of Public Safety shall:

61 (i) release the individual's full record of criminal convictions to the administrator
62 requesting the information; and

63 (ii) seek additional information from regional or national criminal data files in
64 responding to inquiries under this section.

65 (c) Except as provided in Subsection (6), the institution shall pay the cost of
66 background checks conducted by the Criminal Investigations and Technical Services Division,
67 and the monies collected shall be credited to the Criminal Investigations and Technical
68 Services Division to offset its expenses.

69 (6) The board may by rule require an applicant to pay the costs of a criminal
70 background check as a condition of employment.

71 (7) The applicant or employee shall have an opportunity to respond to any information
72 received as a result of the criminal background check.

73 (8) If a person is denied employment or is dismissed from employment because of
74 information obtained through a criminal background check, the person shall receive written
75 notice of the reasons for denial or dismissal and have an opportunity to respond to the reasons
76 under procedures established by the board in rule.

Legislative Review Note
as of 1-4-07 10:55 AM

Office of Legislative Research and General Counsel

H.B. 196 - Higher Education Criminal Background Checks

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will result in a cost to the Utah System of Higher Education of approximately \$728,000 in FY 2008 and then \$58,700 annually thereafter. This will require a one-time General Fund appropriation of \$728,000 in FY 2008. Dedicated credits is expected to cover the ongoing costs afterwards. This is based on the assumption of requiring the criminal background check on approximately half of current employees in FY 2008, then on half of the new employees that are hired each year due to turnover at the institutions. The bill requires the institutions to pay for the background checks, but also allows the cost to be passed on to the applicant. The fiscal note assumes that the cost for current employees will be borne by the institutions, but the cost for new employees will be passed on to the applicants.

The Department of Public Safety would receive the payments from institutions as dedicated credits and incur the expense of processing the background check.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund, One-Time	\$0	\$728,000	\$0	\$0	\$0	\$0
Dedicated Credits	\$0	\$0	\$58,700	\$0	\$728,000	\$58,700
Total	\$0	\$728,000	\$58,700	\$0	\$728,000	\$58,700

Individual, Business and/or Local Impact

Applicants for some positions at Utah System of Higher Education institutions may be required to pay \$52.00 to cover the costs of a criminal background check as a condition of employment.