

Representative Ronda Rudd Menlove proposes the following substitute bill:

HIGHER EDUCATION CRIMINAL

BACKGROUND CHECKS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill requires the State Board of Regents to adopt a policy providing for criminal background checks of certain prospective and existing employees of higher education institutions.

Highlighted Provisions:

This bill:

- ▶ directs the State Board of Regents to adopt a policy requiring:
 - an applicant for a position in a higher education institution that involves significant contact with a minor or a position that 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 Utah Bureau of Criminal Identification 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



26 background check.

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **53B-1-110**, Utah Code Annotated 1953



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

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

37 **53B-1-110. Criminal background checks of prospective and existing employees of**
38 **higher education institutions -- Board to adopt policy.**

39 (1) As used in this section:

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

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

42 (2) The board shall adopt a policy providing for criminal background checks of:

43 (a) prospective employees of institutions; and

44 (b) existing employees of institutions, where reasonable cause exists.

45 (3) (a) The policy shall require that:

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

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

51 (b) Subsection (3)(a)(i) does not apply to adjunct faculty positions.

52 (c) The policy 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 (d) The policy may allow criminal background checks for new employees to be phased
55 in over a two-year period.

56 (4) The applicant or employee shall receive written notice that the background check

57 has been requested.

58 (5) Each applicant or employee subject to a criminal background check under this
59 section shall, if required by the institution:

60 (a) be fingerprinted; and

61 (b) consent to a fingerprint background check by:

62 (i) the Utah Bureau of Criminal Identification; and

63 (ii) the Federal Bureau of Investigation.

64 (6) (a) Institutions may request the Utah Bureau of Criminal Identification to conduct
65 criminal background checks of prospective employees and, where reasonable cause exists,
66 existing employees pursuant to board policy.

67 (b) At the request of an institution, the Utah Bureau of Criminal Identification shall:

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

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

72 (c) Information received by the Utah Bureau of Criminal Identification from entities
73 other than agencies or political subdivisions of the state may not be released to a private entity
74 unless the release is permissible under applicable laws or regulations of the entity providing the
75 information.

76 (d) Except as provided in Subsection (6), the institution shall pay the cost of
77 background checks conducted by the Utah Bureau of Criminal Identification, and the monies
78 collected shall be credited to the Utah Bureau of Criminal Identification to offset its expenses.

79 (6) The board may by policy require an applicant to pay the costs of a criminal
80 background check as a condition of employment.

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

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

H.B. 196 1st Sub. (Buff) - 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 \$690,400 in FY 2008 and then \$54,200 annually thereafter. This will require a one-time General Fund appropriation of \$690,400 in FY 2008. Dedicated credits are expected to cover the ongoing costs thereafter. These amounts are 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	\$690,400	\$0	\$0	\$0	\$0
Dedicated Credits	\$0	\$0	\$0	\$0	\$690,400	\$54,200
Total	\$0	\$690,400	\$0	\$0	\$690,400	\$54,200

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.