

BACKGROUND CHECKS FOR MINOR EMPLOYEES

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Carol Spackman Moss

LONG TITLE

General Description:

This bill modifies provisions related to background checks.

Highlighted Provisions:

This bill:

► provides an exception to certain background check requirements for an individual who is younger than 18 years old.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-11-402, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section **53G-11-402** is amended to read:

53G-11-402. Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.

(1) An LEA or qualifying private school shall:

(a) require each of the following individuals who is 18 years old or older to submit to a nationwide criminal background check and ongoing monitoring as a condition for employment or appointment:

- 30 (i) a non-licensed employee;
- 31 (ii) a contract employee;
- 32 (iii) a volunteer who will be given significant unsupervised access to a student in
33 connection with the volunteer's assignment; and
- 34 (iv) a charter school governing board member;
- 35 (b) collect the following from an individual required to submit to a background check
36 under Subsection (1)(a):
 - 37 (i) personal identifying information;
 - 38 (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and
 - 39 (iii) consent, on a form specified by the LEA or qualifying private school, for:
 - 40 (A) an initial fingerprint-based background check by the FBI and the bureau upon
41 submission of the application; and
 - 42 (B) retention of personal identifying information for ongoing monitoring through
43 registration with the systems described in Section 53G-11-404;
 - 44 (c) submit the individual's personal identifying information to the bureau for:
 - 45 (i) an initial fingerprint-based background check by the FBI and the bureau; and
 - 46 (ii) ongoing monitoring through registration with the systems described in Section
47 53G-11-404 if the results of the initial background check do not contain disqualifying criminal
48 history information as determined by the LEA or qualifying private school in accordance with
49 Section 53G-11-405; and
 - 50 (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure
51 that the LEA or qualifying private school only receives notifications for individuals with whom
52 the LEA or qualifying private school maintains an authorizing relationship.
- 53 (2) An LEA or qualifying private school may not require an individual to pay the fee
54 described in Subsection (1)(b)(ii) unless the individual:
 - 55 (a) has passed an initial review; and
 - 56 (b) is one of a pool of no more than five candidates for the position.
- 57 (3) By September 1, 2018, an LEA or qualifying private school shall:

- 58 (a) collect the information described in Subsection (1)(b) from individuals:
59 (i) who were employed or appointed prior to July 1, 2015; and
60 (ii) with whom the LEA or qualifying private school currently maintains an authorizing
61 relationship; and
62 (b) submit the information to the bureau for ongoing monitoring through registration
63 with the systems described in Section 53G-11-404.
64 (4) An LEA or qualifying private school that receives criminal history information
65 about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status
66 of the licensed educator as provided in Section 53G-11-405.
67 (5) An LEA or qualifying private school may establish a policy to exempt an individual
68 described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if
69 the individual is being temporarily employed or appointed.