

LEGISLATIVE BILL 754

Approved by the Governor April 12, 1996

Introduced by Bohlke, 33; Hilgert, 7

AN ACT relating to criminal history record information; to amend section 79-1247.06, Reissue Revised Statutes of Nebraska; to require fingerprints from applicants for certain teaching and administrative certificates and permits; to provide for criminal history record information checks; to change provisions for issuance of such certificates and permits; to provide powers and duties; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. All applicants for the first issuance of any certificate or permit to teach, counsel, supervise, or administer in elementary or secondary schools in this state shall file a complete set of his or her legible fingerprints with the Commissioner of Education or the Nebraska State Patrol unless the applicant has been a resident of Nebraska for at least five years immediately preceding such application.

Sec. 2. Upon request by the Commissioner of Education, the Nebraska State Patrol shall undertake a search for criminal history record information relating to an applicant described in section 1 of this act, including transmittal of the applicant's fingerprints to the Identification Division of the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states if authorized by federal law. The Nebraska State Patrol shall issue a report to the Commissioner of Education and to the applicant which shall include the criminal history record information concerning the applicant.

Sec. 3. The Commissioner of Education may deny issuance of a certificate or permit to any applicant who has a felony conviction or any misdemeanor conviction involving abuse, neglect, or sexual misconduct. In reviewing a conviction of an applicant, the Commissioner of Education shall take into consideration, prior to denial, any information submitted by the applicant regarding (1) the facts and circumstances surrounding a conviction, (2) the type of offense and the sentence imposed, (3) whether the act resulting in the conviction would constitute a crime in Nebraska, (4) the date of the offense, (5) the age of the applicant at the time of the offense, and (6) the applicant's conduct and positive social contributions since the offense.

Sec. 4. Criminal history record information subject to federal confidentiality requirements shall remain confidential and may be released only upon the written authorization by the applicant, except that if the applicant appeals the denial of a certificate or permit by the Commissioner of Education, the filing of an administrative appeal shall constitute a release of the information for the limited purpose of the appeal. If the applicant requests a closed hearing, such request shall be subject to sections 84-1408 to 84-1414.

Sec. 5. The State Department of Education shall adopt and promulgate rules and regulations to carry out sections 1 to 4 of this act.

Sec. 6. The State Board of Education shall determine and set the costs for processing criminal history record information checks under sections 1 to 7 of this act which shall be borne by the applicant for a certificate or permit described in section 1 of this act. The costs shall be limited to the actual direct costs arising from the processing of the criminal history record information checks.

Sec. 7. An applicant subject to sections 1 to 7 of this act shall be issued a conditional certificate or permit prior to receipt by the Commissioner of Education of the criminal history record information check if the applicant signs a statement that identifies all crimes of which the applicant has been convicted and the Commissioner of Education determines the applicant to be of suitable character and meets all other certification requirements. An applicant's conditional certificate or permit is void upon a final determination that the applicant does not meet the requirements for issuance of a certificate or permit. The applicant may request a hearing regarding the denial of a certificate or permit as provided by the rules and regulations adopted pursuant to section 438, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996. For purposes of this

section, a determination is final upon issuance of a final decision on appeal or upon expiration of the time in which the applicant may request a hearing without such hearing being requested.

Sec. 8. Section 79-1247.06, Reissue Revised Statutes of Nebraska, is amended to read:

79-1247.06. The maximum which the board may require for the first issuance of any certificate or permit, valid for teaching only in all schools for a term of not less than three years, shall be that the applicant is of sound mental and physical health and of good moral character and a statement countersigned by an authorized official of a standard institution of higher education which certifies the grade levels and subject fields or areas of specialization and that the applicant (1) has a baccalaureate degree, except that a master's degree shall be required for the first issuance of any teaching certificate with a speech-language pathologist endorsement, (2) has filed a complete set of his or her legible fingerprints for a criminal history record information check if required by section 1 of this act, (3) in the case of any person who matriculates in a teacher training program, has satisfactorily completed, within two years of the date of application, the institution's regular approved or accredited program of preparation for teaching and has met all other appropriate requirements of the institution as a teacher, ~~(3)~~ (4) has achieved a satisfactory score on the basic skills competency examinations established or designated by the State Board of Education pursuant to section 79-1247.05 prior to (a) admission into a Nebraska teacher training program or (b) certification in the case of individuals recommended for certification by a postsecondary institution outside of Nebraska or individuals not matriculating in a teacher training program, and ~~(4)~~ (5) has performed at a satisfactory level, as determined by the State Board of Education, on a subject area examination established or designated by the State Board of Education in each area for which endorsement is sought.

Sec. 9. Original section 79-1247.06, Reissue Revised Statutes of Nebraska, is repealed.