

CHAPTER 275—S.F.No. 2369

An act relating to education; requiring criminal history background checks; amending Minnesota Statutes 2006, section 123B.03.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 123B.03, is amended to read:

123B.03 BACKGROUND CHECK.

Subdivision 1. **Background check required.** (a) A school hiring authority, ~~as defined in subdivision 3,~~ shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all individuals who are offered employment in ~~the a school, as defined in subdivision 3 and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular services to a school, regardless of whether any compensation is paid.~~ In order for an individual to be eligible for employment or to provide the services, an the individual who is offered employment must provide an executed criminal history consent form and a money order or check payable to either the Bureau of Criminal Apprehension or the school hiring authority, at the ~~election~~ discretion of the school hiring authority, in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. A school hiring authority ~~electing~~ deciding to receive payment may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and shall pay the superintendent of the Bureau of Criminal Apprehension directly to conduct the background check. The superintendent of the Bureau of Criminal Apprehension shall conduct the background check by retrieving criminal history data maintained in the criminal justice information system computers. A school hiring authority, at its discretion, may ~~elect~~ decide not to request a criminal history background check on an individual who holds an initial entrance license issued by the State Board of Teaching or the commissioner of education within the 12 months preceding an offer of employment.

(b) A school hiring authority may use the results of a criminal background check conducted at the request of another school hiring authority if:

- (1) the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;
- (2) the other school hiring authority conducted a criminal background check within the previous 12 months;
- (3) the individual who is the subject of the criminal background check executes a written consent form giving a school hiring authority access to the results of the check; and
- (4) there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment.

(c) A school hiring authority may, at its discretion, request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on any individual who seeks to enter a school or its grounds for the purpose of serving as a school volunteer or working as an independent contractor or student employee. In order for an individual to enter a school or its grounds under this paragraph when the school hiring authority ~~effects~~ decides to request a criminal history background check on the individual, the individual first must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school district in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

(d) For all nonstate residents who are offered employment in a school, a school hiring authority shall request a criminal history background check on such individuals from the superintendent of the Bureau of Criminal Apprehension and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. Such individuals must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school hiring authority in an amount equal to the actual cost to the government agencies and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

(e) At the beginning of each school year or when a student enrolls, a school hiring authority must notify parents and guardians about the school hiring authority's policy requiring a criminal history background check on employees and other individuals who provide services to the school, and identify those positions subject to a background check and the extent of the hiring authority's discretion in requiring a background check. The school hiring authority may include the notice in the student handbook, a school policy guide, or other similar communication. Nothing in this paragraph affects a school hiring authority's ability to request a criminal history background check on an individual under paragraph (c).

Subd. 2. **Conditional hiring and services; discharge.** A school hiring authority may hire or otherwise allow an individual to provide a service to a school pending completion of a background check under subdivision 1 but shall notify the individual that the individual's employment or other service may be terminated based on the result of the background check. A school hiring authority is not liable for failing to hire or for terminating an individual's employment or other service based on the result of a background check under this section.

Subd. 3. **Definitions.** For purposes of this section:

(a) "School" means a school as defined in section 120A.22, subdivision 4, except a home school, and includes a school receiving tribal contract or grant school aid under section 124D.83; school, for the purposes of this section, also means a service cooperative, a special education cooperative, or an education district under Minnesota Statutes 1997 Supplement, section 123.35, a charter school under section 124D.10, and a joint powers district under section 471.59.

(b) "School hiring authority" means the school board, or in the case of a nonpublic school, the school principal or other person having general control and supervision of the school.

EFFECTIVE DATE. This section is effective September 1, 2008.

Presented to the governor May 5, 2008

Signed by the governor May 8, 2008, 9:47 a.m.