

**CHAPTER 369—S.F.No. 2597**

*An act relating to education; modifying school background check provisions; amending Minnesota Statutes 2006, section 123B.03, subdivisions 1, as amended, 2, as amended, by adding a subdivision.*

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

Section 1. Minnesota Statutes 2006, section 123B.03, subdivision 1, as amended by Laws 2008, chapter 275, section 1, is amended to read:

Subdivision 1. **Background check required.** (a) A school hiring authority shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all individuals who are offered employment in a school and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching 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, the individual 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 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 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 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 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).

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

Sec. 2. Minnesota Statutes 2006, section 123B.03, is amended by adding a subdivision to read:

Subd. 1a. **Investigation of disciplinary actions taken against prospective teachers.** At the time a school board or other hiring authority conducts the criminal history background check required under subdivision 1 on an individual offered employment as a teacher, the school board or other hiring authority must contact the Board of Teaching to determine whether the board has taken disciplinary action against the teacher based on a board determination that sexual misconduct or attempted sexual misconduct occurred between the teacher and a student. If disciplinary action has been taken based on this type of misconduct, the school board or other hiring authority must obtain access to data that are public under section 13.41, subdivision 5, that relate to the substance of the disciplinary action. In addition, the school board or other hiring authority must require the individual to provide information in the employment application regarding all current and

previous disciplinary actions in Minnesota and other states taken against the individual's teaching license as a result of sexual misconduct or attempted sexual misconduct with a student and indicate to the applicant that intentionally submitting false or incomplete information is a ground for dismissal.

**EFFECTIVE DATE.** This section is effective May 1, 2009.

Sec. 3. Minnesota Statutes 2006, section 123B.03, subdivision 2, as amended by Laws 2008, chapter 275, section 1, and 2008 S.F. 3235, section 12, if enacted, is amended to read:

Subd. 2. **Effect of background check or Board of Teaching action.** (a) 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 or obtaining notice of a Board of Teaching action under subdivision 1a but shall notify the individual that the individual's employment or other service may be terminated based on the result of the background check or Board of Teaching action. 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 or Board of Teaching action under this section.

(b) ~~An individual must be informed by the~~ For purposes of this paragraph, a school hiring authority must inform an individual if the individual's application to be an employee or volunteer in the district has been denied as a result of a background check conducted under this section. The school hiring authority must also inform an individual who is a current employee or volunteer if the individual's employment or volunteer status in the district is being terminated as a result of a background check conducted under ~~this section~~ subdivision 4.

Presented to the governor May 19, 2008

Signed by the governor May 27, 2008, 12:50 p.m.