

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3398

By: Nollan

7  
8                                   COMMITTEE SUBSTITUTE

9                   An Act relating to schools; amending 70 O.S. 2011,  
10                   Section 5-142, as last amended by Section 1, Chapter  
11                   199, O.S.L. 2017 (70 O.S. Supp. 2019, Section 5-142),  
12                   which relates to criminal background checks;  
13                   requiring criminal history record check for current  
14                   school district employees; providing exception;  
15                   amending 70 O.S. 2011, Section 6-101, as last amended  
16                   by Section 1, Chapter 323, O.S.L. 2016 (70 O.S. Supp.  
17                   2019, Section 6-101), which relates to teacher  
18                   contracts; requiring criminal history record check  
19                   for new teacher contracts; and declaring an  
20                   emergency.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22                   SECTION 1.           AMENDATORY           70 O.S. 2011, Section 5-142, as  
23                   last amended by Section 1, Chapter 199, O.S.L. 2017 (70 O.S. Supp.  
24                   2019, Section 5-142), is amended to read as follows:

                  Section 5-142. A. Except as otherwise provided for in  
                  subsection F of this section, for purposes of employment, a board of  
                  education may request in writing to the State Board of Education

1 that a national criminal history record check be conducted of any  
2 employee of the school and shall request such information for any  
3 person seeking employment with the school; provided that a board of  
4 education shall not be required to obtain a new criminal history  
5 record check for an individual who has obtained certification from  
6 the State Department of Education within the previous twelve (12)  
7 months. The Oklahoma State Bureau of Investigation (OSBI) shall  
8 obtain fingerprints of the employee or prospective employee and  
9 require that the person pay a search fee not to exceed Fifty Dollars  
10 (\$50.00) or the cost of the search, whichever is the lesser amount.  
11 The ~~fees~~ fee shall be deposited in the OSBI Revolving Fund. School  
12 districts may reimburse employees for the cost of the search. The  
13 State Board of Education shall contact the Oklahoma State Bureau of  
14 Investigation for any national criminal history record of the person  
15 within fourteen (14) working days of receiving a written request  
16 from the board of education.

17 B. The Oklahoma State Bureau of Investigation shall provide the  
18 national criminal history record check requested by the State Board  
19 of Education within fourteen (14) working days from the receipt of  
20 the request. The Bureau may contact the Federal Bureau of  
21 Investigation to obtain the information requested.

22 C. The State Board of Education shall provide the information  
23 received from the Oklahoma State Bureau of Investigation to the  
24 board of education within fourteen (14) days from the receipt of the

1 information. The State Board of Education shall provide any follow-  
2 up information received from the OSBI concerning a person for which  
3 a national criminal history record check was requested to the  
4 employing board of education.

5 D. For the purpose of this section:

6 1. "Board of education" includes both public and private boards  
7 of education within or outside this state;

8 2. "Employing agency" means a political subdivision or law  
9 enforcement agency in this state;

10 3. "Law enforcement officer" means a peace or police officer  
11 who is certified by the Council on Law Enforcement Education and  
12 Training;

13 4. "National criminal history record check" means a national  
14 criminal history record check as defined in Section 150.9 of Title  
15 74 of the Oklahoma Statutes; and

16 5. "Prospective employee" means an individual who has received  
17 an offer of temporary employment ~~by~~ from a school district pending  
18 the results of the national criminal history record check.

19 E. Each public board of education within this state shall  
20 promulgate a statement regarding the felony record search policy for  
21 that school district. The policy may permit temporary employment of  
22 prospective employees for a maximum of sixty (60) days pending  
23 receipt of results of national criminal history record check  
24 requests. The temporary employment of the prospective employee

1 shall terminate after sixty (60) days unless the school district  
2 receives the results of the national criminal history record check.  
3 The sixty-day temporary employment period shall begin on the first  
4 day the prospective employee reports for duty at the employing  
5 school district. Prospective employees shall be notified of the  
6 requirement, the fee and the reimbursement policy when first  
7 interviewed concerning employment. The school district's  
8 reimbursement policy shall provide, at ~~the~~ a minimum, that employees  
9 shall be promptly reimbursed in full for the fee if employed by the  
10 district at the time the national criminal history record check  
11 request is made unless the person was employed pending receipt of  
12 results as set forth above.

13 F. 1. Any person who has been employed as a full-time teacher  
14 by a school district in this state and applies for employment as a  
15 full-time teacher in another school district in this state may not  
16 be required to have a national criminal history record check if the  
17 teacher produces a copy of a national criminal history record check  
18 completed within the preceding five (5) years and a letter from the  
19 school district in which the teacher was employed stating the  
20 teacher left in good standing.

21 2. For any person applying for employment as a substitute  
22 teacher, a national criminal history record check shall be required  
23 for the school year; provided, however, a board of education may  
24 choose whether to require a national criminal history record check

1 from a prospective substitute teacher who has been employed by the  
2 school district in the last year. Any person applying for  
3 employment as a substitute teacher in more than one school district  
4 shall only be required to have one national criminal history record  
5 check, and, upon the request of the substitute teacher, that record  
6 check shall be sent to all other school districts in which the  
7 substitute teacher is applying to teach.

8 3. Any person employed as a full-time teacher by a school  
9 district in this state in the five (5) years immediately preceding  
10 an application for employment as a substitute teacher may not be  
11 required to have a national criminal history record check, if the  
12 teacher produces a copy of a national criminal history record check  
13 completed within the preceding five (5) years and a letter from the  
14 school district in which the teacher was last employed stating the  
15 teacher left in good standing.

16 4. Any person employed as a substitute teacher by a school  
17 district in this state for a minimum of five (5) years immediately  
18 preceding an application for employment as a full-time teacher in a  
19 school district in this state may not be required to have a national  
20 criminal history record check if the teacher produces a copy of a  
21 national criminal history record check completed within the  
22 preceding five (5) years and a letter from the school district in  
23 which the teacher was employed as a substitute teacher stating the  
24 teacher left in good standing.

1           5. Any person employed as a full-time teacher by a school  
2 district in this state for ten (10) or more consecutive years  
3 immediately preceding an application for employment as a substitute  
4 teacher in the same school district may not be required to have a  
5 national criminal history record check for as long as the person  
6 remains employed for consecutive years by that school district as a  
7 substitute teacher, if the teacher left full-time employment in good  
8 standing. If the teacher applies for employment as a substitute  
9 teacher in another school district, a national criminal history  
10 record check shall be required.

11           G. 1. Except as otherwise provided by this subsection, any  
12 teacher employed by an Oklahoma school district prior to the  
13 effective date of this act who does not have an Oklahoma criminal  
14 history record check from the Oklahoma State Bureau of Investigation  
15 as well as a national criminal history record check, as defined in  
16 Section 150.9 of Title 74 of the Oklahoma Statutes, on file with his  
17 or her employing district as required by this section shall complete  
18 the criminal history record checks upon the next renewal of his or  
19 her Standard Teaching Certificate as required by Section 6-154.1 of  
20 this title or State Board of Education administrative rules  
21 promulgated thereto.

22           2. Except as otherwise provided by this subsection, any other  
23 person employed by an Oklahoma school district prior to the  
24 effective date of this act who does not have an Oklahoma criminal

1 history record check from the Oklahoma State Bureau of Investigation  
2 as well as a national criminal history record check, as defined in  
3 Section 150.9 of Title 74 of the Oklahoma Statutes, on file with his  
4 or her employing district as required by this section shall have  
5 until July 1, 2022, to complete the criminal history record checks.

6 3. This subsection shall not apply to any person eligible to  
7 retire from the Teachers' Retirement System of Oklahoma.

8 H. The provisions of this section shall not apply to technology  
9 center employees hired on a part-time or temporary basis for the  
10 instruction of adult students only.

11 ~~H.~~ I. The provisions of this section shall not apply to law  
12 enforcement officers who are employed by an employing agency at the  
13 time of application for employment at a public school district.

14 ~~H.~~ J. Nothing in this section shall be construed to impose  
15 liability on school districts, except in negligence, for employing  
16 prospective employees within the sixty-day temporary employment  
17 window pending the results of the national criminal history record  
18 check.

19 SECTION 2. AMENDATORY 70 O.S. 2011, Section 6-101, as  
20 last amended by Section 1, Chapter 323, O.S.L. 2016 (70 O.S. Supp.  
21 2019, Section 6-101), is amended to read as follows:

22 Section 6-101. A. Except as provided in subsection E of this  
23 section, no person shall be permitted to teach in any school  
24 district of the state without a written contract, except as provided

1 herein for substitute teachers and except teachers of classes in  
2 adult education. Except as provided in subsection J of this  
3 section, the board of education of each school district, wherein  
4 school is expected to be conducted for the ensuing year, shall  
5 employ and contract in writing with qualified teachers for and in  
6 the name of the district. One copy of the contract shall be filed  
7 with the clerk of the board of education and one copy shall be  
8 retained by the teacher.

9 B. Except as otherwise provided by subsections J and K of this  
10 section and any other law, no board of education shall have  
11 authority to enter into any written contract with a teacher who does  
12 not hold an Oklahoma criminal history record check as required by  
13 Section 6-190 of this title and who does not hold a valid  
14 certificate issued or recognized by the State Board of Education  
15 authorizing said teacher to teach the grades or subject matter for  
16 which the teacher is employed. Any board of education paying or  
17 authorizing the payment of the salary of any teacher not holding a  
18 certificate, as required herein, shall be adjudged to be guilty of a  
19 fraudulent expenditure of public funds and members voting for such  
20 payment shall be held jointly responsible for the return of the  
21 amount of any public monies thus expended, upon suit brought by the  
22 district attorney or by any interested citizen in the district where  
23 such funds have been expended.

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1 C. It shall be the duty of the superintendent of schools under  
2 whose supervision teachers have been contracted to teach to certify  
3 to the treasurer of the contracting district the names of the  
4 teachers holding valid certificates and student teachers with whom  
5 contracts have been made and the names of substitute teachers  
6 employed in accordance with law. The treasurer shall not register  
7 any warrant issued in payment of salary to any teacher whose name is  
8 not included in such list and shall be liable on the official bond  
9 for the treasurer for the amount of any warrant registered in  
10 violation of the provisions of this section.

11 D. Whenever any person shall enter into a contract with any  
12 school district in Oklahoma to teach in such school district the  
13 contract shall be binding on the teacher and on the board of  
14 education until the teacher legally has been discharged from the  
15 teaching position or released by the board of education from the  
16 contract. Except as provided in Section 5-106A of this title, until  
17 such teacher has been thus discharged or released, the teacher shall  
18 not have authority to enter into a contract with any other board of  
19 education in Oklahoma for the same time covered by the original  
20 contract. If upon written complaint by the board of education in a  
21 district any teacher is reported to have failed to obey the terms of  
22 the contract previously made and to have entered into a contract  
23 with another board of education without having been released from  
24 the former contract except as provided in Section 5-106A of this

1 title, the teacher, upon being found guilty of such charge at a  
2 hearing held before the State Board of Education, shall have such  
3 teacher's certificate suspended for the remainder of the term for  
4 which the contract was made.

5 E. A board of education shall have authority to enter into  
6 written contracts with teachers for the ensuing fiscal year prior to  
7 the beginning of such year. If, prior to the first Monday in June,  
8 a board of education has not entered into a written contract with a  
9 regularly employed teacher or notified the teacher in writing by  
10 registered or certified mail that a recommendation has been made not  
11 to reemploy the teacher for the ensuing fiscal year, and if, by  
12 fifteen (15) days after the first Monday in June, such teacher has  
13 not notified the board of education in writing by registered or  
14 certified mail that such teacher does not desire to be reemployed in  
15 such school district for the ensuing year, such teacher shall be  
16 considered as employed on a continuing contract basis and on the  
17 same salary schedule used for other teachers in the school district  
18 for the ensuing fiscal year, and such employment and continuing  
19 contract shall be binding on the teacher and on the school district.

20 F. Whenever a school district is engaged in contract  
21 negotiations with teachers employed by that school district after  
22 the school year has begun and the teachers are employed on a  
23 continuing contract basis, the school district shall, beginning at  
24 the first of the school year, pay the teachers any state-mandated

1 salary increases and salary schedule increases to which each teacher  
2 is otherwise entitled.

3 G. No school district or any member of the board of education  
4 of a district shall be liable for the payment of compensation to a  
5 teacher or administrator under the provisions of any contract for  
6 the ensuing year, if it becomes necessary to close the school  
7 because of insufficient attendance, disorganization, annexation,  
8 consolidation, or by dispensing with the school according to law,  
9 provided, such cause is known or action is taken prior to July 1 of  
10 such ensuing year.

11 H. No school district or any member of a board of education  
12 shall be liable for the payment of compensation to any teacher or  
13 administrator for the unexpired term of any contract if the school  
14 building to which the teacher or administrator has been assigned is  
15 destroyed by accident, storm, fire, or otherwise and it becomes  
16 necessary to close the school because of inability to secure a  
17 suitable building or buildings for continuation of school. Teachers  
18 and administrators shall be entitled to pay for any time lost when  
19 school is closed on account of epidemics or otherwise when an order  
20 for such closing has been issued by a health officer authorized by  
21 law to issue the order.

22 I. A teacher may contract with more than one school district  
23 for the same school year as provided in Section 5-106A of this  
24 title.

1 J. A board of education shall have authority to enter into  
2 written contracts for the ensuing fiscal year prior to the beginning  
3 of the year with persons who are not certified to teach by the State  
4 Board of Education as long as the person is actively in the process  
5 of securing certification. The person shall not be allowed to teach  
6 in a classroom until the person has met or completed all of the  
7 requirements for certification as provided for in Section 6-190 of  
8 this title. If the person has not obtained valid certification by  
9 the first day of the ensuing school year, the contract shall be  
10 terminated.

11 K. A board of education of a school district shall have the  
12 authority to enter into written contracts for employment for the  
13 ensuing fiscal year with persons who are student teachers as defined  
14 in Section 1-116 of this title while such persons are still student  
15 teachers. A student teacher shall not be allowed to teach in a  
16 classroom during the ensuing fiscal year until meeting or completing  
17 all of the requirements for certification as provided for in Section  
18 6-190 of this title. If the student teacher has not obtained valid  
19 certification by the first day of the ensuing school year, the  
20 contract shall be terminated. A board of education of a school  
21 district shall have the authority to commit to payment of a stipend  
22 or signing bonus to a student teacher as defined in Section 1-116 of  
23 this title while that person is still a student teacher, if that  
24 person has entered into a written contract for employment for the

1 ensuing fiscal year. A board of education shall make any such  
2 student teacher stipend or signing bonus conditional on such person  
3 fulfilling the first year of ~~their~~ his or her contract for the  
4 ensuing fiscal year. Any stipend or signing bonus paid under the  
5 terms of this subsection shall not be considered compensation for  
6 purposes of teacher retirement or the minimum salary schedule.

7 SECTION 3. It being immediately necessary for the preservation  
8 of the public peace, health or safety, an emergency is hereby  
9 declared to exist, by reason whereof this act shall take effect and  
10 be in full force from and after its passage and approval.

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12 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02/19/2020  
13 - DO PASS, As Amended.  
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