

1 **SENATE FLOOR VERSION**

2 February 28, 2023

3 SENATE BILL NO. 362

By: Pugh of the Senate

4 and

5 Baker of the House

6  
7  
8 An Act relating to schools; amending 70 O.S. 2021,  
9 Section 5-142, which relates to criminal history  
10 record checks for school employment; removing certain  
11 exemption from obtaining new criminal history record  
12 check; updating statutory language; providing  
13 exemption from obtaining new criminal history record  
14 check to certain persons who have obtained a record  
15 check for certain purposes within certain time  
16 period; directing certain persons seeking employment  
17 as a full-time teacher to include certain letter;  
18 removing certain exemptions from obtaining new  
19 criminal history record check; providing an effective  
20 date; and declaring an emergency.

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

22 SECTION 1. AMENDATORY 70 O.S. 2021, Section 5-142, is  
23 amended to read as follows:

24 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  
that a national criminal history record check be conducted of any  
employee of the school and shall request such information for any

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

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

20 C. The State Board of Education shall provide the information  
21 received from the Oklahoma State Bureau of Investigation to the  
22 board of education within fourteen (14) days from the receipt of the  
23 information. The State Board of Education shall provide any follow-  
24 up information received from the OSBI concerning a person for which

1 whom a national criminal history record check was requested to the  
2 employing board of education.

3 D. For the purpose of this section:

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

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

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

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

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

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

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

11 F. ~~1.~~ Any person who has ~~been employed as a full-time teacher~~  
12 ~~by a school district in this state~~ obtained a criminal history  
13 record check for certification, as required by Section 6-190 of this  
14 title, or for employment with a school as required by this section  
15 in the immediately preceding five (5) years and applies for  
16 employment as a full-time teacher or substitute teacher in ~~another a~~  
17 school district in this state may not be required to have a national  
18 criminal history record check if the teacher produces a copy of a  
19 the national criminal history record check completed within the  
20 preceding five (5) years and. Any person who has been employed as a  
21 full-time teacher by a school district in this state who applies for  
22 employment as a full-time teacher in another school district in this  
23 state shall also provide a letter from the school district in which  
24 the teacher was employed stating the teacher left in good standing.

1       ~~2. For any person applying for employment as a substitute~~  
2 ~~teacher, a national criminal history record check shall be required~~  
3 ~~for the school year; provided, however, a board of education may~~  
4 ~~choose whether to require a national criminal history record check~~  
5 ~~from a prospective substitute teacher who has been employed by the~~  
6 ~~school district in the last year. Any person applying for~~  
7 ~~employment as a substitute teacher in more than one school district~~  
8 ~~shall only be required to have one national criminal history record~~  
9 ~~check, and, upon the request of the substitute teacher, that record~~  
10 ~~check shall be sent to all other school districts in which the~~  
11 ~~substitute teacher is applying to teach.~~

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

20       ~~4. Any person employed as a substitute teacher by a school~~  
21 ~~district in this state for a minimum of five (5) years immediately~~  
22 ~~preceding an application for employment as a full-time teacher in a~~  
23 ~~school district in this state may not be required to have a national~~  
24 ~~criminal history record check if the teacher produces a copy of a~~

1 ~~national criminal history record check completed within the~~  
2 ~~preceding five (5) years and a letter from the school district in~~  
3 ~~which the teacher was employed as a substitute teacher stating the~~  
4 ~~teacher left in good standing.~~

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

15 G. 1. Except as otherwise provided by this subsection, any  
16 teacher employed by an Oklahoma school district prior to ~~the~~  
17 ~~effective date of this act~~ May 19, 2020, who does not have an  
18 Oklahoma criminal history record check from the Oklahoma State  
19 Bureau of Investigation as well as a national criminal history  
20 record check, as defined in Section 150.9 of Title 74 of the  
21 Oklahoma Statutes, on file with his or her employing district as  
22 required by this section shall complete the criminal history record  
23 checks upon the next renewal of his or her ~~Standard Teaching~~  
24 ~~Certificate~~ standard teaching certificate as required by Section 6-

1 154.1 of this title or State Board of Education administrative rules  
2 promulgated thereto.

3 2. Except as otherwise provided by this subsection, any other  
4 person employed by an Oklahoma school district prior to ~~the~~  
5 ~~effective date of this act~~ May 20, 2020, who does not have an  
6 Oklahoma criminal history record check from the Oklahoma State  
7 Bureau of Investigation as well as a national criminal history  
8 record check, as defined in Section 150.9 of Title 74 of the  
9 Oklahoma Statutes, on file with his or her employing district as  
10 required by this section shall have until July 1, 2022, to complete  
11 the criminal history record checks.

12 3. Any teacher eligible to retire from the Teachers' Retirement  
13 System of Oklahoma who does not have an Oklahoma criminal history  
14 record check from the Oklahoma State Bureau of Investigation as well  
15 as a national criminal history record check, as defined in Section  
16 150.9 of Title 74 of the Oklahoma Statutes, on file with his or her  
17 employing district as required by this section shall complete the  
18 criminal history record checks by the earlier of the following  
19 dates:

- 20 a. July 1, 2022, or  
21 b. at the next renewal of his or her ~~Standard Teaching~~  
22 ~~Certificate~~ standard teaching certificate as required  
23 by Section 6-154.1 of this title or State Board of  
24 Education administrative rules promulgated thereto.

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

4 I. The provisions of this section shall not apply to law  
5 enforcement officers who are employed by an employing agency at the  
6 time of application for employment at a public school district.

7 J. Nothing in this section shall be construed to impose  
8 liability on school districts, except in negligence, for employing  
9 prospective employees within the sixty-day temporary employment  
10 window pending the results of the national criminal history record  
11 check.

12 SECTION 2. This act shall become effective July 1, 2023.

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

17 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION  
18 February 28, 2023 - DO PASS

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