

SENATE BILL No. 70

By Committee on Corrections and Juvenile Justice

1-26

1 AN ACT concerning teachers; relating to background checks and
2 revocation of licensure; amending K.S.A. 2014 Supp. 72-1397 and 72-
3 1923 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) Each person making an initial application for a
7 Kansas teaching certificate or teaching license, for renewal of such
8 certificate or license or for the renewal of an expired certificate or license
9 shall submit, at the time of application, a complete set of legible
10 fingerprints of the person taken by a qualified law enforcement agency.
11 Fingerprints submitted pursuant to this section shall be released by the
12 state department of education to the Kansas bureau of investigation for the
13 purpose of conducting criminal history records checks, utilizing the files
14 and records of the Kansas bureau of investigation and the federal bureau of
15 investigation.

16 (b) Each applicant shall pay a fee for the criminal history records
17 check in an amount necessary to reimburse the state department of
18 education for the cost of the criminal history records check.

19 (c) Any person applying for a Kansas teaching license, or the renewal
20 thereof, who does not comply with the provisions of this section shall not
21 be issued a license by the state board of education.

22 (d) The state board of education may adopt rules and regulations to
23 implement and enforce the provisions of this section.

24 New Sec. 2. (a) Any person not subject to the provisions of section 1,
25 and amendments thereto, who is employed by a school district in a
26 position with direct contact with students shall submit a complete set of
27 legible fingerprints of such person taken by a qualified law enforcement
28 agency prior to commencing any work involving students. Fingerprints
29 submitted pursuant to this section shall be released by the school district to
30 the Kansas bureau of investigation for the purpose of conducting criminal
31 history records checks, utilizing the files and records of the Kansas bureau
32 of investigation and the federal bureau of investigation.

33 (b) Each school district shall release fingerprints submitted pursuant
34 to this section to the Kansas bureau of investigation for the purpose of
35 conducting a criminal history records check in accordance with subsection

36 (a) for each employee subject to this section as follows:

1 (1) For employees hired prior to July 1, 2015, every five years from
2 and after July 1, 2015; and

3 (2) for employees hired on and after July 1, 2015, every five years
4 from the first day of such employee's employment.

5 (c) Each person subject to the provisions of this section shall pay a
6 fee for the criminal history records check in an amount necessary to
7 reimburse the school district for the cost of the criminal history records
8 check.

9 Sec. 3. K.S.A. 2014 Supp. 72-1397 is hereby amended to read as
10 follows: 72-1397. (a) The state board of education shall not knowingly
11 issue a license to or renew the license of any person who has been
12 convicted of *any of the following, and shall revoke the license of any such*
13 *person which has been issued or renewed:*

14 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
15 2014 Supp. 21-5503, and amendments thereto;

16 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
17 to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5506(a)~~, and
18 amendments thereto;

19 (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-
20 3504, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-~~
21 ~~5506(b)~~, and amendments thereto;

22 (4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~
23 ~~K.S.A. 21-3505(a)(2) or (a)(3)~~, prior to its repeal, or ~~subsection (a)(3) or~~
24 ~~(a)(4) of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4)~~, and amendments
25 thereto;

26 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
27 to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5504(b)~~, and
28 amendments thereto;

29 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
30 prior to its repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5508(a)~~, and
31 amendments thereto;

32 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
33 21-3511, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-~~
34 ~~5508(b)~~, and amendments thereto;

35 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
36 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;

37 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
38 repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5604(b)~~, and
39 amendments thereto;

40 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
41 prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5601(b)~~, and
42 amendments thereto;

43 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,

- 1 or K.S.A. 2014 Supp. 21-5602, and amendments thereto;
- 2 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
3 or K.S.A. 2014 Supp. 21-5401, and amendments thereto;
- 4 (13) murder in the first degree, as defined in K.S.A. 21-3401, prior to
5 its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments thereto;
- 6 (14) murder in the second degree, as defined in K.S.A. 21-3402, prior
7 to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments thereto;
- 8 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
9 its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;
- 10 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
11 its repeal, or K.S.A. 2014 Supp. 21-5405, and amendments thereto;
- 12 (17) involuntary manslaughter while driving under the influence of
13 alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 14 (18) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
15 or ~~subsection (a) of K.S.A. 2014 Supp. 21-5505(a)~~, and amendments
16 thereto, when, at the time the crime was committed, the victim was less
17 than 18 years of age or a student of the person committing such crime;
- 18 (19) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
19 its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5505(b)~~, and
20 amendments thereto;
- 21 (20) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2014
22 Supp. 21-5301, and amendments thereto, to commit any act specified in
23 this subsection;
- 24 (21) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
25 2014 Supp. 21-5302, and amendments thereto, to commit any act specified
26 in this subsection;
- 27 (22) an act in another state or by the federal government that is
28 comparable to any act described in this subsection; or
- 29 (23) an offense in effect at any time prior to the effective date of this
30 act that is comparable to an offense as provided in this subsection.
- 31 (b) Except as provided in subsection (c), the state board of education
32 shall not knowingly issue a license to or renew the license of any person
33 who has been convicted of, or has entered into a criminal diversion
34 agreement after having been charged with *any of the following, and shall*
35 *revoke the license of any such person which has been issued or renewed:*
- 36 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
37 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
38 Annotated, and amendments thereto, or any felony violation of any
39 provision of the uniform controlled substances act prior to July 1, 2009;
- 40 (2) a felony described in any section of article 34 of chapter 21 of the
41 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
42 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325,
43 21-6326 or 21-6418, and amendments thereto, other than an act specified

1 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
2 repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5413(a)~~, and
3 amendments thereto, or domestic battery, as described in K.S.A. 21-3412a,
4 prior to its repeal, or K.S.A. 2014 Supp. 21-5414, and amendments
5 thereto, if the victim is a minor or student;

6 (3) a felony described in any section of article 35 of chapter 21 of the
7 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
8 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through
9 21-6421, and amendments thereto, other than an act specified in
10 subsection (a);

11 (4) any act described in any section of article 36 of chapter 21 of the
12 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21
13 of the Kansas Statutes Annotated, and amendments thereto, other than an
14 act specified in subsection (a);

15 (5) a felony described in article 37 of chapter 21 of the Kansas
16 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
17 Kansas Statutes Annotated, or ~~subsection (a)(6) of K.S.A. 2014 Supp. 21-~~
18 ~~6412(a)(6)~~, and amendments thereto;

19 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
20 repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-6401(a)~~, and
21 amendments thereto, promoting obscenity to minors, as described in
22 K.S.A. 21-4301a, prior to its repeal, or ~~subsection (b) of K.S.A. 2014~~
23 ~~Supp. 21-6401(b)~~, and amendments thereto, or promoting to minors
24 obscenity harmful to minors, as described in K.S.A. 21-4301c, prior to its
25 repeal, or K.S.A. 2014 Supp. 21-6402, and amendments thereto;

26 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
27 repeal, or ~~subsection (a) of K.S.A. 2014 Supp. 21-5601(a)~~, and
28 amendments thereto;

29 (8) driving under the influence of alcohol or drugs in violation of
30 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
31 punishable as a felony;

32 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2014
33 Supp. 21-5301, and amendments thereto, to commit any act specified in
34 this subsection;

35 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
36 2014 Supp. 21-5302, and amendments thereto, to commit any act specified
37 in this subsection; or

38 (11) an act committed in violation of a federal law or in violation of
39 another state's law that is comparable to any act described in this
40 subsection.

41 (c) The state board of education may issue a license to ~~or renew the~~
42 ~~license of~~ a person who has been convicted of committing an offense or
43 act described in subsection (b) or who has entered into a criminal diversion

1 agreement after having been charged with an offense or act described in
2 subsection (b) if the state board determines, following a hearing, that the
3 person has been rehabilitated for a period of at least five years from the
4 date of conviction of the offense or commission of the act or, in the case of
5 a person who has entered into a criminal diversion agreement, that the
6 person has satisfied the terms and conditions of the agreement. The state
7 board of education may consider factors including, but not limited to, the
8 following in determining whether to grant a license:

- 9 (1) The nature and seriousness of the offense or act;
- 10 (2) the conduct of the person subsequent to commission of the offense
11 or act;
- 12 (3) the time elapsed since the commission of the offense or act;
- 13 (4) the age of the person at the time of the offense or act;
- 14 (5) whether the offense or act was an isolated or recurring incident;
15 and
- 16 (6) discharge from probation, pardon or expungement.

17 (d) Before any license is *revoked or* denied by the state board of
18 education for any of the offenses or acts specified in subsections (a) and
19 (b), the person shall be given notice and an opportunity for a hearing in
20 accordance with the provisions of the Kansas administrative procedure act.

21 (e) ~~(1) The county or district attorney shall file a report with the state~~
22 ~~board of education indicating the name, address and social security~~
23 ~~number of~~ Any person who has been determined to have committed
24 ~~convicted of~~ any offense or act specified in subsection (a) or (b) or ~~to have~~
25 ~~who has~~ entered into a criminal diversion agreement after having been
26 charged with any offense or act specified in subsection (b) *shall file a*
27 *report with the state board of education indicating the name, address and*
28 *social security number of such person.* Such report shall be filed within 30
29 days of the date of ~~the determination that the person has committed any~~
30 ~~such act or such conviction or the date such person~~ entered into any such
31 diversion agreement.

32 (2) *If any person reported pursuant to paragraph (1) is a licensed*
33 *employee of a unified school district, the state board of education shall*
34 *notify such unified school district within 30 days that such report has been*
35 *received, and upon request by such unified school district shall provide a*
36 *copy of such report to the unified school district.*

37 (3) *Failure to file a report as required by subsection (e)(1) is a class*
38 *B misdemeanor.*

39 (f) The state board of education shall not be liable for civil damages
40 to any person refused issuance or renewal of a license by reason of the
41 state board's compliance, in good faith, with the provisions of this section.

42 Sec. 4. K.S.A. 2014 Supp. 72-1923 is hereby amended to read as
43 follows: 72-1923. (a) Except as provided in K.S.A. 2014 Supp. 72-1925,

1 and amendments thereto, the board of education of any school district may
2 apply to the state board for a grant of authority to operate such school
3 district as a public innovative district. The application shall be submitted
4 in the form and manner prescribed by the state board, and shall be
5 submitted not later than December 1 of the school year preceding the
6 school year in which the school district intends to operate as a public
7 innovative district.

8 (b) The application shall include the following:

9 (1) A description of the educational programs of the public innovative
10 district;

11 (2) a description of the interest and support for partnerships between
12 the public innovative district, parents and the community;

13 (3) the specific goals and the measurable pupil outcomes to be
14 obtained by operating as a public innovative district; and

15 (4) an explanation of how pupil performance in achieving the
16 specified outcomes will be measured, evaluated and reported.

17 (c) (1) Within 90 days from the date such application is submitted, the
18 state board shall review the application to determine compliance with this
19 section, and shall approve or deny such application on or before the
20 conclusion of such 90-day period. If the application is determined to be in
21 compliance with this section, the state board shall approve such
22 application and grant the school district authority to operate as a public
23 innovative district. Notification of such approval shall be sent to the board
24 of education of such school district within 10 days after such decision.

25 (2) If the state board determines such application is not in compliance
26 with either this section, or K.S.A. 2014 Supp. 72-1925, and amendments
27 thereto, the state board shall deny such application. Notification of such
28 denial shall be sent to the board of education of such school district within
29 10 days after such decision and shall specify the reasons therefor. Within
30 30 days from the date such notification is sent, the board of education of
31 such school district may submit a request to the state board for
32 reconsideration of the application and may submit an amended application
33 with such request. The state board shall act on the request for
34 reconsideration within 60 days of receipt of such request.

35 (d) A public innovative district shall:

36 (1) Not charge tuition for any of the pupils residing within the public
37 innovative district;

38 (2) participate in all Kansas math and reading assessments applicable
39 to such public innovative district, or an alternative assessment program for
40 measuring student progress as determined by the board of education;

41 (3) abide by all financial and auditing requirements that are
42 applicable to school districts, except that a public innovative district may
43 use generally accepted accounting principles;

1 (4) comply with all applicable health, safety and access laws; and
2 (5) comply with all statements set forth in the application submitted
3 pursuant to subsection (a).

4 (e) (1) Except as otherwise provided in K.S.A. 2014 Supp. 72-1921
5 through 72-1930, and amendments thereto, or as required by the board of
6 education of the public innovative district, a public innovative district shall
7 be exempt from all laws and rules and regulations that are applicable to
8 school districts.

9 (2) A public innovative district shall be subject to the special
10 education for exceptional children act, the virtual school act, the school
11 district finance and quality performance act, the provisions of K.S.A. 72-
12 8801 et seq., and amendments thereto, all laws governing the issuance of
13 general obligation bonds by school districts, the provisions of K.S.A. 74-
14 4901 et seq., and amendments thereto, and all laws governing the election
15 of members of the board of education, the open meetings act as provided
16 in K.S.A. 75-4317 et seq., and amendments thereto, and the open records
17 act as provided in K.S.A. 45-215 et seq., and amendments thereto.

18 (f) *A public innovative district shall require any person employed in a*
19 *position with direct contact with students to submit a complete set of*
20 *legible fingerprints of such person taken by a qualified law enforcement*
21 *agency prior to commencing any work involving students. Fingerprints*
22 *submitted pursuant to this subsection shall be released by the public*
23 *innovative district to the Kansas bureau of investigation for the purpose of*
24 *conducting criminal history records checks. The cost of any such criminal*
25 *history record check shall be borne by the public innovative district. Each*
26 *district also shall release fingerprints submitted pursuant to this*
27 *subsection to the Kansas bureau of investigation for the purpose of*
28 *conducting a criminal history records check as follows:*

29 (1) *For employees hired prior to July 1, 2015, every five years from*
30 *and after July 1, 2015; and*

31 (2) *for employees hired on and after July 1, 2015, every five years*
32 *from the first day of such employee's employment.*

33 Sec. 5. K.S.A. 2014 Supp. 72-1397 and 72-1923 are hereby repealed.

34 Sec. 6. This act shall take effect and be in force from and after its
35 publication in the statute book.