

As Amended by House Committee

As Amended by Senate Committee

Session of 2015

SENATE BILL No. 70

By Committee on Corrections and Juvenile Justice

1-26

1 AN ACT concerning ~~teachers~~ **schools**; relating to **employee** background
2 checks ~~and revocation of licensure~~; amending K.S.A. 2014 Supp. 72-
3 1397 and 72-1923 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. **If such**
19 **applicant is employed by a school district, such school district may**
20 **pay such fee on behalf of such applicant.**

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

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

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

1 (b) Each school district shall release fingerprints submitted pursuant
2 to this section to the Kansas bureau of investigation for the purpose of
3 conducting a criminal history records check in accordance with subsection
4 (a) for each employee subject to this section as follows:

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

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

9 (c) **The school district may pay for the cost of the criminal history**
10 **records check or may require** each person subject to the provisions of
11 this section ~~shall to pay a fee for the criminal history records check~~ in an
12 amount necessary to reimburse the school district for the cost of the
13 criminal history records check.

14 *(d) (1) Each person subject to the provisions of this section who has*
15 *been convicted of any offense or act specified in K.S.A. 72-1397(a) or*
16 *(b), and amendments thereto, or who has entered into a criminal*
17 *diversion agreement after having been charged with any offense or act*
18 *specified in K.S.A. 72-1397(b), and amendments thereto, shall file a*
19 *report with the school district indicating the name, address and social*
20 *security number of such person. Such report shall be filed within 30*
21 *days of the date of such conviction or the date such person entered into*
22 *any such diversion agreement.*

23 *(2) Failure to file a report as required by this subsection is a class*
24 *B misdemeanor.*

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

30 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
31 2014 Supp. 21-5503, and amendments thereto;

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

35 (3) aggravated indecent liberties with a child, as defined in K.S.A.
36 21-3504, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-
37 5506(b), and amendments thereto;

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

42 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
43 to its repeal, or ~~subsection (b) of~~ K.S.A. 2014 Supp. 21-5504(b), and

1 amendments thereto;

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

5 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
6 21-3511, prior to its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-~~
7 ~~5508(b)~~, and amendments thereto;

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

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

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

16 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
17 or K.S.A. 2014 Supp. 21-5602, and amendments thereto;

18 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
19 or K.S.A. 2014 Supp. 21-5401, and amendments thereto;

20 (13) murder in the first degree, as defined in K.S.A. 21-3401, prior to
21 its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments thereto;

22 (14) murder in the second degree, as defined in K.S.A. 21-3402, prior
23 to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments thereto;

24 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
25 its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;

26 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
27 its repeal, or K.S.A. 2014 Supp. 21-5405, and amendments thereto;

28 (17) involuntary manslaughter while driving under the influence of
29 alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;

30 (18) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
31 or ~~subsection (a) of K.S.A. 2014 Supp. 21-5505(a)~~, and amendments
32 thereto, when, at the time the crime was committed, the victim was less
33 than 18 years of age or a student of the person committing such crime;

34 (19) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
35 its repeal, or ~~subsection (b) of K.S.A. 2014 Supp. 21-5505(b)~~, and
36 amendments thereto;

37 (20) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2014
38 Supp. 21-5301, and amendments thereto, to commit any act specified in
39 this subsection;

40 (21) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
41 2014 Supp. 21-5302, and amendments thereto, to commit any act specified
42 in this subsection;

43 (22) an act in another state or by the federal government that is

1 comparable to any act described in this subsection; or

2 (23) an offense in effect at any time prior to the effective date of this
3 act that is comparable to an offense as provided in this subsection.

4 (b) Except as provided in subsection (c), the state board of education
5 shall not knowingly issue a license to or renew the license of any person
6 who has been convicted of, or has entered into a criminal diversion
7 agreement after having been charged with *any of the following, and shall*
8 *revoke the license of any such person which has been issued or renewed:*

9 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
10 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
11 Annotated, and amendments thereto, or any felony violation of any
12 provision of the uniform controlled substances act prior to July 1, 2009;

13 (2) a felony described in any section of article 34 of chapter 21 of the
14 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
15 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325,
16 21-6326 or 21-6418, and amendments thereto, other than an act specified
17 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
18 repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5413(a), and
19 amendments thereto, or domestic battery, as described in K.S.A. 21-3412a,
20 prior to its repeal, or K.S.A. 2014 Supp. 21-5414, and amendments
21 thereto, if the victim is a minor or student;

22 (3) a felony described in any section of article 35 of chapter 21 of the
23 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
24 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6419 through
25 21-6421, and amendments thereto, other than an act specified in
26 subsection (a);

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

31 (5) a felony described in article 37 of chapter 21 of the Kansas
32 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
33 Kansas Statutes Annotated, or ~~subsection (a)(6) of~~ K.S.A. 2014 Supp. 21-
34 6412(a)(6), and amendments thereto;

35 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
36 repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-6401(a), and
37 amendments thereto, promoting obscenity to minors, as described in
38 K.S.A. 21-4301a, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2014
39 Supp. 21-6401(b), and amendments thereto, or promoting to minors
40 obscenity harmful to minors, as described in K.S.A. 21-4301c, prior to its
41 repeal, or K.S.A. 2014 Supp. 21-6402, and amendments thereto;

42 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
43 repeal, or ~~subsection (a) of~~ K.S.A. 2014 Supp. 21-5601(a), and

1 amendments thereto;

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

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

8 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
9 2014 Supp. 21-5302, and amendments thereto, to commit any act specified
10 in this subsection; or

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

14 (c) The state board of education may issue a license to ~~or renew the~~
15 ~~license of~~ a person who has been convicted of committing an offense or
16 act described in subsection (b) or who has entered into a criminal diversion
17 agreement after having been charged with an offense or act described in
18 subsection (b) if the state board determines, following a hearing, that the
19 person has been rehabilitated for a period of at least five years from the
20 date of conviction of the offense or commission of the act or, in the case of
21 a person who has entered into a criminal diversion agreement, that the
22 person has satisfied the terms and conditions of the agreement. The state
23 board of education may consider factors including, but not limited to, the
24 following in determining whether to grant a license:

25 (1) The nature and seriousness of the offense or act;

26 (2) the conduct of the person subsequent to commission of the
27 offense or act;

28 (3) the time elapsed since the commission of the offense or act;

29 (4) the age of the person at the time of the offense or act;

30 (5) whether the offense or act was an isolated or recurring incident;
31 and

32 (6) discharge from probation, pardon or expungement.

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

37 (e) ~~(1) The county or district attorney shall file a report with the state~~
38 ~~board of education indicating the name, address and social security~~
39 ~~number of Any person~~ **Each person subject to the provisions of this**
40 **section** who has been ~~determined to have committed~~ *convicted of* any
41 offense or act specified in subsection (a) or (b) or ~~to have~~ *who has* entered
42 into a criminal diversion agreement after having been charged with any
43 offense or act specified in subsection (b) *shall file a report with the state*

1 board of education indicating the name, address and social security
2 number of such person. Such report shall be filed within 30 days of the
3 date of ~~the determination that the person has committed any such act or~~
4 ~~such conviction or the date such person entered into any such diversion~~
5 ~~agreement.~~

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

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

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

16 Sec. 4. K.S.A. 2014 Supp. 72-1923 is hereby amended to read as
17 follows: 72-1923. (a) Except as provided in K.S.A. 2014 Supp. 72-1925,
18 and amendments thereto, the board of education of any school district may
19 apply to the state board for a grant of authority to operate such school
20 district as a public innovative district. The application shall be submitted in
21 the form and manner prescribed by the state board, and shall be submitted
22 not later than December 1 of the school year preceding the school year in
23 which the school district intends to operate as a public innovative district.

24 (b) The application shall include the following:

25 (1) A description of the educational programs of the public innovative
26 district;

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

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

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

33 (c) (1) Within 90 days from the date such application is submitted, the
34 state board shall review the application to determine compliance with this
35 section, and shall approve or deny such application on or before the
36 conclusion of such 90-day period. If the application is determined to be in
37 compliance with this section, the state board shall approve such
38 application and grant the school district authority to operate as a public
39 innovative district. Notification of such approval shall be sent to the board
40 of education of such school district within 10 days after such decision.

41 (2) If the state board determines such application is not in compliance
42 with either this section, or K.S.A. 2014 Supp. 72-1925, and amendments
43 thereto, the state board shall deny such application. Notification of such

1 denial shall be sent to the board of education of such school district within
2 10 days after such decision and shall specify the reasons therefor. Within
3 30 days from the date such notification is sent, the board of education of
4 such school district may submit a request to the state board for
5 reconsideration of the application and may submit an amended application
6 with such request. The state board shall act on the request for
7 reconsideration within 60 days of receipt of such request.

8 (d) A public innovative district shall:

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

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

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

17 (4) comply with all applicable health, safety and access laws; and

18 (5) comply with all statements set forth in the application submitted
19 pursuant to subsection (a).

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

25 (2) A public innovative district shall be subject to the special
26 education for exceptional children act, the virtual school act, the school
27 district finance and quality performance act, the provisions of K.S.A. 72-
28 8801 et seq., and amendments thereto, all laws governing the issuance of
29 general obligation bonds by school districts, the provisions of K.S.A. 74-
30 4901 et seq., and amendments thereto, and all laws governing the election
31 of members of the board of education, the open meetings act as provided
32 in K.S.A. 75-4317 et seq., and amendments thereto, and the open records
33 act as provided in K.S.A. 45-215 et seq., and amendments thereto.

34 (f) *A public innovative district shall require any person employed in a*
35 *position with direct contact with students to submit a complete set of*
36 *legible fingerprints of such person taken by a qualified law enforcement*
37 *agency prior to commencing any work involving students. Fingerprints*
38 *submitted pursuant to this subsection shall be released by the public*
39 *innovative district to the Kansas bureau of investigation for the purpose of*
40 *conducting criminal history records checks, **utilizing the files and records***
41 ***of the Kansas bureau of investigation and the federal bureau of***
42 ***investigation.** ~~The cost of any such criminal history record check shall be~~*
43 *~~borne by the public innovative district~~ **The public innovative district***

1 may pay for the cost of the criminal history records check or may
2 require each person subject to the provisions of this subsection to pay
3 a fee in an amount necessary to reimburse the public innovative
4 district for the cost of the criminal history records check. *Each district*
5 *also shall release fingerprints submitted pursuant to this subsection to the*
6 *Kansas bureau of investigation for the purpose of conducting a criminal*
7 *history records check as follows:*

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

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

12 (g) (1) *Each person subject to the provisions of subsection (f) who*
13 *has been convicted of any offense or act specified in K.S.A. 72-1397(a)*
14 *or (b), and amendments thereto, or who has entered into a criminal*
15 *diversion agreement after having been charged with any offense or act*
16 *specified in K.S.A. 72-1397(b), and amendments thereto, shall file a*
17 *report with the public innovative district indicating the name, address*
18 *and social security number of such person. Such report shall be filed*
19 *within 30 days of the date of such conviction or the date such person*
20 *entered into any such diversion agreement.*

21 (2) *Failure to file a report as required by this subsection is a class*
22 *B misdemeanor.*

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

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