

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0014.01 Brita Darling

HOUSE BILL 10-1082

HOUSE SPONSORSHIP

McNulty,

SENATE SPONSORSHIP

Penry,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING DISQUALIFICATION FROM SCHOOL EMPLOYMENT FOR
102 CONVICTION OF CERTAIN OFFENSES, AND, IN CONNECTION
103 THEREWITH, ENACTING THE "FELON-FREE SCHOOLS ACT OF
104 2010".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill enacts the "Felon-free Schools Act of 2010" (the act), which prohibits a school district or public school from employing as a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

nonlicensed employee a person who has a conviction for certain enumerated criminal offenses. The act also amends existing mandatory disqualifications for licensed educators to include any conviction for a felony drug offense.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Felon-free Schools Act of 2010".

4 **SECTION 2.** 22-32-109.8 (5), (6), (7), and (8) (a), Colorado
5 Revised Statutes, are amended, and the said 22-32-109.8 is further
6 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

7 **22-32-109.8. Applicants selected for nonlicensed positions -**
8 **submittal of form and fingerprints - prohibition against employing**
9 **persons - department database.** (5) (a) A school district may employ
10 ~~any~~ A person in a ~~noncertificated~~ NONLICENSED position in ~~such~~ THE
11 school district prior to receiving the results regarding ~~such~~ THE selected
12 applicant's fingerprints; however:

13 (I) The school district may terminate the PERSON'S employment ~~of~~
14 ~~such person~~ if the results are inconsistent with the information provided
15 by the person in the form submitted pursuant to subsection (1) of this
16 section; AND

17 (II) THE SCHOOL DISTRICT SHALL TERMINATE THE PERSON'S
18 EMPLOYMENT IF THE RESULTS DISCLOSE A CONVICTION FOR AN OFFENSE
19 DESCRIBED IN SUBSECTION (6.5) OF THIS SECTION.

20 (b) The school district shall notify the proper district attorney of
21 ~~such~~ inconsistent results AS DESCRIBED IN SUBPARAGRAPH (I) OF
22 PARAGRAPH (a) OF THIS SUBSECTION (5) for purposes of action or possible
23 prosecution.

1 (6) (a) When ~~any~~ A school district finds good cause to believe that
2 ~~any nonlicensed personnel~~ A NONLICENSED PERSON employed by ~~such~~ THE
3 school district has been convicted of ~~any~~ A felony or misdemeanor other
4 than a misdemeanor traffic offense or traffic infraction subsequent to ~~such~~
5 HIS OR HER employment, ~~such~~ THE school district shall require ~~such~~ THE
6 person to submit to the school district a complete set of his or her
7 fingerprints taken by a qualified law enforcement agency. ~~Said~~ THE
8 fingerprints shall be submitted within twenty days ~~of~~ AFTER receipt of
9 written notification from the school district. The school district shall
10 forward the fingerprints of ~~such~~ THE person to the Colorado bureau of
11 investigation for the purpose of conducting a state and national
12 fingerprint-based criminal history record check utilizing the records of the
13 Colorado bureau of investigation and the federal bureau of investigation.
14 IF THE RESULTS OF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD
15 CHECK DISCLOSE A CONVICTION FOR AN OFFENSE DESCRIBED IN
16 SUBSECTION (6.5) OF THIS SECTION, THE EMPLOYING SCHOOL DISTRICT
17 SHALL TERMINATE THE PERSON'S EMPLOYMENT.

18 (b) School districts shall not charge ~~noncertificated~~ NONLICENSED
19 personnel any fees for the direct and indirect costs of ~~such~~ THE school
20 district for fingerprint processing performed pursuant to the provisions of
21 this subsection (6).

22 (6.5) A PERSON APPLYING TO A SCHOOL DISTRICT FOR, OR
23 EMPLOYED IN, A POSITION OF EMPLOYMENT THAT DOES NOT REQUIRE A
24 LICENSE ISSUED PURSUANT TO ARTICLE 60.5 OF THIS TITLE SHALL BE
25 DISQUALIFIED FROM EMPLOYMENT IF:

26 (a) THE APPLICANT OR EMPLOYEE HAS BEEN CONVICTED OF, OR
27 CONVICTED OF ATTEMPT, SOLICITATION, OR CONSPIRACY TO COMMIT, ONE

1 OF THE FOLLOWING OFFENSES:

2 (I) FELONY CHILD ABUSE, AS SPECIFIED IN SECTION 18-6-401,
3 C.R.S.;

4 (II) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2),
5 C.R.S.;

6 (III) A FELONY INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS
7 DEFINED IN SECTION 16-22-102 (9), C.R.S.;

8 (IV) A FELONY, THE UNDERLYING FACTUAL BASIS OF WHICH HAS
9 BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF
10 DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3, C.R.S.;

11 (V) A FELONY DRUG OFFENSE DESCRIBED IN PART 4 OF ARTICLE 18
12 OF TITLE 18, C.R.S.;

13 (VI) INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302,
14 C.R.S.; OR

15 (VII) AN OFFENSE IN ANY OTHER STATE, THE UNITED STATES, OR
16 ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES,
17 WHICH, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE AN OFFENSE
18 DESCRIBED IN SUBPARAGRAPHS (I) TO (VI) OF THIS PARAGRAPH (a);

19 (b) THE APPLICANT OR EMPLOYEE, AS A JUVENILE, PLEADED NOLO
20 CONTENDERE OR GUILTY TO OR WAS FOUND GUILTY OF AN OFFENSE THAT
21 WOULD CONSTITUTE UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN
22 SECTION 16-22-102 (9), C.R.S., IF COMMITTED BY AN ADULT; OR

23 (c) THE APPLICANT OR EMPLOYEE FAILS TO SUBMIT FINGERPRINTS
24 ON A TIMELY BASIS FOLLOWING RECEIPT OF THE WRITTEN REQUEST FROM
25 THE SCHOOL DISTRICT PURSUANT TO SUBSECTION (1) OR (6) OF THIS
26 SECTION.

27 (7) For purposes of this section, a person is deemed to be

1 convicted of committing a felony or misdemeanor AS DESCRIBED IN THIS
2 SECTION if ~~such~~ THE person has been convicted under the laws of any
3 other state, the United States, or any territory subject to the jurisdiction of
4 the United States of an unlawful act which, if committed within this state,
5 would be a felony or misdemeanor.

6 (8) For purposes of this section:

7 (a) "Convicted" means a conviction by a jury or by a court and
8 shall also include the forfeiture of any bail, bond, or other security
9 deposited to secure appearance by a person charged with a felony or
10 misdemeanor, the payment of a fine, A GUILTY PLEA ACCEPTED BY A
11 COURT, a plea of nolo contendere, and the imposition of a deferred or
12 suspended sentence by the court.

13 **SECTION 3.** 22-30.5-110.7 (5), Colorado Revised Statutes, is
14 amended to read:

15 **22-30.5-110.7. Fingerprint-based criminal history record**
16 **checks - charter school employees - procedures - definitions.**

17 (5) (a) A charter school may employ a person in the charter school prior
18 to receiving the results of the person's fingerprint-based criminal history
19 record check; except that:

20 (I) The charter school may terminate the employment of the
21 person if the results are inconsistent with the information provided by the
22 person in the form submitted pursuant to subsection (2) of this section;
23 AND

24 (II) THE CHARTER SCHOOL SHALL TERMINATE THE PERSON'S
25 EMPLOYMENT IF THE RESULTS DISCLOSE A CONVICTION FOR AN OFFENSE
26 DESCRIBED IN SECTION 22-32-109.8 (6.5).

27 (b) The charter school shall notify the proper district attorney of

1 such inconsistent results AS DESCRIBED IN SUBPARAGRAPH (I) OF
2 PARAGRAPH (a) OF THIS SUBSECTION (5) for purposes of action or possible
3 prosecution.

4 **SECTION 4.** 22-30.5-511.5, Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW SUBSECTION to read:

6 **22-30.5-511.5. Background investigation - prohibition against**
7 **employing persons - institute charter school employees' information**
8 **provided to department.** (2.5) AN APPLICANT FOR EMPLOYMENT WITH,
9 OR AN EMPLOYEE OF, AN INSTITUTE CHARTER SCHOOL SHALL BE
10 DISQUALIFIED FROM EMPLOYMENT IF THE RESULTS OF A
11 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK DISCLOSE A
12 CONVICTION FOR AN OFFENSE DESCRIBED IN SECTION 22-32-109.8 (6.5).

13 **SECTION 5.** 22-60.5-107 (2.5) (a) (I) (E), Colorado Revised
14 Statutes, is amended, and the said 22-60.5-107 (2.5) (a) (I) is further
15 amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH,
16 to read:

17 **22-60.5-107. Grounds for denying, annulling, suspending, or**
18 **revoking license, certificate, endorsement, or authorization.**

19 (2.5) (a) A license, certificate, endorsement, or authorization shall be
20 denied, annulled, suspended, or revoked in the manner prescribed in
21 section 22-60.5-108, notwithstanding the provisions of subsection (1) of
22 this section to the contrary, in the following circumstances:

23 (I) When the applicant or holder is convicted of one of the
24 following offenses:

25 (D.5) A FELONY DRUG OFFENSE DESCRIBED IN PART 4 OF ARTICLE
26 18 OF TITLE 18, C.R.S.;

27 (E) A felony offense in another state, the United States, or

1 territory subject to the jurisdiction of the United States, the elements of
2 which are substantially similar to the elements of one of the offenses
3 described in sub-subparagraphs (A) to ~~(D)~~ (D.5) of this subparagraph (I);

4 **SECTION 6. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.