

**Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 06-0110.01 Jane Ritter

**HOUSE BILL 06-1046**

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**HOUSE SPONSORSHIP**

**Vigil**, Coleman, and White

**SENATE SPONSORSHIP**

**Hanna**, Takis, and Taylor

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**House Committees**

Education

Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING REGULATION OF PRIVATE OCCUPATIONAL SCHOOLS.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Legislative Audit Committee.** Authorizes the private occupational school board ("board") to prescribe uniform reporting policies and procedures for private occupational schools ("schools") to obtain unit record data ("data"). Makes violation of the confidentiality of the data a class 1 misdemeanor, and requires the perpetrator to be removed or dismissed from public service.

Authorizes the board to issue rules concerning the minimum criteria that an applicant for an occupational credential shall meet before

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.*

an occupational credential is issued or renewed. Further authorizes the board to designate, by category of instruction, schools that teach students under 16 years of age for which an applicant for an occupational credential shall be required to submit fingerprints for a criminal history record check prior to the issuance or renewal of an occupational credential.

Requires all applicants for the issuance or renewal of an occupational credential who may be teaching in a school designated by the board to submit a complete set of fingerprints along with their credentialing application materials to the state board for community colleges and occupational education ("community college board"). Mandates that the community college board keep the fingerprints on file for future applications for issuance or renewal of an occupational credential by a given applicant. Requires the community college board to use the fingerprints to conduct a criminal history record check of each applicant through both the Colorado bureau of investigation and the federal bureau of investigation.

Allows the board to establish and impose fines, in addition to requesting a temporary restraining order or an injunction, on entities that violate the provisions of the act. Requires the board to consider any pattern of noncompliance when assessing penalties.

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

2 **SECTION 1.** 12-59-103, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **12-59-103. Definitions.** As used in this article, unless the context  
5 otherwise requires:

6 (2.3) "APPLICANT" MEANS A PERSON WHO APPLIES FOR ISSUANCE  
7 OR RENEWAL OF AN OCCUPATIONAL CREDENTIAL.

8 **SECTION 2.** 12-59-105.3 (1), Colorado Revised Statutes, is  
9 amended BY THE ADDITION OF THE FOLLOWING NEW  
10 PARAGRAPHS to read:

11 **12-59-105.3. Powers and duties of board.** (1) The board shall  
12 have the following powers and duties:

13 (m) TO ISSUE OR RENEW AN OCCUPATIONAL CREDENTIAL FOR AN

1 INSTRUCTOR OR ADMINISTRATOR OF A PRIVATE OCCUPATIONAL SCHOOL  
2 AND, IN CONJUNCTION THEREWITH, TO ESTABLISH BY RULE MINIMUM  
3 CRITERIA, IN CONFORMITY WITH SECTIONS 12-59-105.5, 12-59-105.7, AND  
4 12-59-106, THAT AN APPLICANT SHALL MEET BEFORE THE BOARD MAY  
5 ISSUE OR RENEW AN OCCUPATIONAL CREDENTIAL;

6 (n) TO DESIGNATE, BY CATEGORY OF INSTRUCTION, THOSE  
7 SCHOOLS THAT TEACH STUDENTS UNDER SIXTEEN YEARS OF AGE FOR  
8 WHICH AN APPLICANT FOR ISSUANCE OR RENEWAL OF AN OCCUPATIONAL  
9 CREDENTIAL SHALL BE REQUIRED TO SUBMIT A COMPLETE SET OF  
10 FINGERPRINTS WITH HIS OR HER CREDENTIALING APPLICATION MATERIALS,  
11 PURSUANT TO SECTION 12-59-105.7;

12 (o) TO PRESCRIBE UNIFORM ACADEMIC REPORTING POLICIES AND  
13 PROCEDURES TO WHICH A PRIVATE OCCUPATIONAL SCHOOL SHALL  
14 ADHERE.

15 **SECTION 3.** Article 59 of title 12, Colorado Revised Statutes, is  
16 amended BY THE ADDITION OF THE FOLLOWING NEW  
17 SECTIONS to read:

18 **12-59-105.4. Duties of private occupational schools.** A PRIVATE  
19 OCCUPATIONAL SCHOOL SHALL PROVIDE THE DIVISION WITH SUCH DATA  
20 AS THE BOARD DEEMS NECESSARY UPON WRITTEN REQUEST OF THE BOARD.  
21 DATA PERTAINING TO INDIVIDUAL STUDENTS OR PERSONNEL SHALL NOT  
22 BE DIVULGED OR MADE KNOWN IN ANY WAY BY A MEMBER OF THE BOARD,  
23 BY THE DIRECTOR, OR BY ANY DIVISION OR SCHOOL EMPLOYEE, EXCEPT IN  
24 ACCORDANCE WITH JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY LAW.  
25 A PERSON WHO VIOLATES THIS SECTION COMMITS A CLASS 1  
26 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION  
27 18-1.3-501, C.R.S. IN ADDITION, SUCH PERSON SHALL BE SUBJECT TO

1 REMOVAL OR DISMISSAL FROM PUBLIC SERVICE ON GROUNDS OF  
2 MALFEASANCE IN OFFICE.

3 **12-59-105.7. Occupational credentials for persons teaching at**  
4 **designated schools - submittal of fingerprints - criminal history**  
5 **record check - grounds for denial. (1) (a)**

6 A PERSON WHO  
7 APPLIES FOR ISSUANCE OR RENEWAL OF AN OCCUPATIONAL CREDENTIAL  
8 AND WHO MAY BE TEACHING STUDENTS IN A SCHOOL DESIGNATED BY THE  
9 BOARD PURSUANT TO SECTION 12-59-105.3 (1)(n) SHALL, BEGINNING JULY  
10 1, 2006, IN CONJUNCTION WITH HIS OR HER CREDENTIALING APPLICATION  
11 MATERIALS, SUBMIT A SET OF HIS OR HER FINGERPRINTS TO THE  
12 COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING  
13 A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD  
14 CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION  
15 AND THE FEDERAL BUREAU OF INVESTIGATION. NOTHING IN THIS SECTION  
16 SHALL PRECLUDE THE BOARD FROM MAKING FURTHER INQUIRIES INTO THE  
17 BACKGROUND OF THE APPLICANT. THE APPLICANT SHALL PAY THE FEE  
18 ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR  
19 CONDUCTING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.  
20 UPON COMPLETION OF THE CRIMINAL HISTORY RECORD CHECK, THE  
21 BUREAU SHALL FORWARD THE RESULTS TO THE BOARD. THE BOARD SHALL  
22 CONDUCT A REVIEW OF THE CREDENTIALING APPLICATION, INCLUDING A  
23 REVIEW OF THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK  
24 FORWARDED BY THE BUREAU.

25 (b) AN APPLICANT FOR ISSUANCE OR RENEWAL OF AN  
26 OCCUPATIONAL CREDENTIAL SHALL BE REQUIRED TO RESUBMIT A SET OF  
27 HIS OR HER FINGERPRINTS PURSUANT TO PARAGRAPH (a) OF THIS  
SUBSECTION (1) EVEN IF THE APPLICANT PREVIOUSLY SUBMITTED HIS OR

1 HER FINGERPRINTS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1).

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3 (2) IN ADDITION TO ANY OTHER REQUIREMENTS ESTABLISHED BY  
4 THE BOARD FOR THE ISSUANCE OR RENEWAL OF AN OCCUPATIONAL  
5 CREDENTIAL, THE SUBMITTAL OF FINGERPRINTS PURSUANT TO SUBSECTION  
6 (1) OF THIS SECTION SHALL BE A PREREQUISITE TO THE ISSUANCE OR  
7 RENEWAL OF AN OCCUPATIONAL CREDENTIAL FOR AN APPLICANT WHO  
8 MAY BE TEACHING STUDENTS IN A SCHOOL DESIGNATED BY THE BOARD  
9 PURSUANT TO SECTION 12-59-105.3 (1) (n).

10 SECTION 4. 12-59-125, Colorado Revised Statutes, is amended  
11 to read:

12 **12-59-125. Enforcement - injunction - fines.** (1) Whenever it  
13 appears to the board that any entity is or has been violating any of the  
14 provisions of this article or any of the lawful rules or orders of the board,  
15 the board, on its own motion or on the written complaint of any person,  
16 may apply for and obtain a temporary restraining order or injunction, or  
17 both, in the name of the board in any district court in this state against  
18 said entity for the purpose of restraining or enjoining such violation or for  
19 an order directing compliance with the provisions of this article and all  
20 rules and orders issued pursuant to this article. It shall not be necessary  
21 that the board allege or prove that it has no adequate remedy at law. The  
22 right of injunction provided in this section shall be in addition to any  
23 other legal remedy which the board has and shall be in addition to any  
24 right of criminal prosecution provided by law. The existence of board  
25 action with respect to alleged violations of this article shall not operate as  
26 a bar to any action for injunctive relief pursuant to this section.

27 (2) THE BOARD SHALL HAVE THE AUTHORITY TO PROMULGATE

1 RULES AND ADOPT PROCEDURES TO ESTABLISH, IMPOSE, AND COLLECT  
2 FINES FROM AN ENTITY THAT IS IN VIOLATION OF THE PROVISIONS OF THIS  
3 ARTICLE OR THE LAWFUL RULES OR ORDERS OF THE BOARD. THE BOARD  
4 MAY IMPOSE A FINE, PURSUANT TO SAID RULES, IN ADDITION TO OR IN LIEU  
5 OF SEEKING A TEMPORARY RESTRAINING ORDER OR AN INJUNCTION  
6 PURSUANT TO SUBSECTION (1) OF THIS SECTION. ALL FINES COLLECTED  
7 PURSUANT TO THIS SUBSECTION (2) SHALL BE TRANSFERRED TO THE STATE  
8 TREASURER, WHO SHALL CREDIT THE SAME TO THE STATE GENERAL FUND.

9 (3) IN DETERMINING WHETHER TO IMPOSE A FINE OR TO SEEK A  
10 TEMPORARY RESTRAINING ORDER OR AN INJUNCTION, THE BOARD SHALL  
11 CONSIDER WHETHER THE ENTITY HAS ENGAGED IN A PATTERN OF  
12 NONCOMPLIANCE.

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