

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0110.01 Jane Ritter

HOUSE BILL 06-1046

HOUSE SPONSORSHIP

Vigil, Coleman, and White

SENATE SPONSORSHIP

Hanna, Takis, and Taylor

House Committees
Education

Senate Committees

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.

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) EXCEPT AS OTHERWISE
6 PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), 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
10 JULY 1, 2006, IN CONJUNCTION WITH HIS OR HER CREDENTIALING
11 APPLICATION MATERIALS, SUBMIT TWO COMPLETE SETS OF HIS OR HER
12 FINGERPRINTS, TAKEN BY A QUALIFIED LAW ENFORCEMENT AGENCY, TO
13 THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL
14 EDUCATION, REFERRED TO IN THIS SECTION AS THE "COMMUNITY COLLEGE
15 BOARD".

16 (b) THE COMMUNITY COLLEGE BOARD SHALL RETAIN ON FILE THE
17 APPLICANT'S FINGERPRINTS SUBMITTED PURSUANT TO PARAGRAPH (a) OF
18 THIS SUBSECTION (1). AN APPLICANT FOR ISSUANCE OR RENEWAL OF AN
19 OCCUPATIONAL CREDENTIAL SHALL NOT BE REQUIRED TO RESUBMIT A SET
20 OF HIS OR HER FINGERPRINTS IF THE APPLICANT PREVIOUSLY SUBMITTED
21 HIS OR HER FINGERPRINTS TO THE COMMUNITY COLLEGE BOARD AND A
22 COMPLETE SET REMAINS ON FILE.

23 (2) THE COMMUNITY COLLEGE BOARD SHALL CONDUCT A REVIEW
24 OF THE CREDENTIALING APPLICATION, WHICH MAY INCLUDE A
25 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF EACH
26 APPLICANT. THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
27 MAY INCLUDE BUT IS NOT LIMITED TO FORWARDING THE FINGERPRINTS TO

1 THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF
2 CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL
3 HISTORY RECORD CHECK UTILIZING THE RECORDS OF THE COLORADO
4 BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION.
5 THE APPLICANT SHALL, AT THE TIME OF APPLICATION, PAY TO THE
6 COLORADO BUREAU OF INVESTIGATION THE COSTS ASSOCIATED WITH THE
7 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE COMMUNITY
8 COLLEGE BOARD SHALL COMMUNICATE THE RESULTS OF THE CRIMINAL
9 HISTORY RECORD CHECK TO THE BOARD FOR USE IN DETERMINING
10 WHETHER TO ISSUE OR RENEW AN OCCUPATIONAL CREDENTIAL. NOTHING
11 IN THIS SECTION SHALL PRECLUDE THE BOARD OR THE COMMUNITY
12 COLLEGE BOARD FROM MAKING FURTHER INQUIRIES INTO THE
13 BACKGROUND OF AN APPLICANT.

14 (3) IN ADDITION TO ANY OTHER REQUIREMENTS ESTABLISHED BY
15 THE BOARD FOR THE ISSUANCE OR RENEWAL OF AN OCCUPATIONAL
16 CREDENTIAL, THE SUBMITTAL OF FINGERPRINTS PURSUANT TO SUBSECTION
17 (1) OF THIS SECTION SHALL BE A PREREQUISITE TO THE ISSUANCE OR
18 RENEWAL OF AN OCCUPATIONAL CREDENTIAL FOR AN APPLICANT WHO
19 MAY BE TEACHING STUDENTS IN A SCHOOL DESIGNATED BY THE BOARD
20 PURSUANT TO SECTION 12-59-105.3 (1) (n).

21 **SECTION 4.** 12-59-125, Colorado Revised Statutes, is amended
22 to read:

23 **12-59-125. Enforcement - injunction - fines.** (1) Whenever it
24 appears to the board that any entity is or has been violating any of the
25 provisions of this article or any of the lawful rules or orders of the board,
26 the board, on its own motion or on the written complaint of any person,
27 may apply for and obtain a temporary restraining order or injunction, or

1 both, in the name of the board in any district court in this state against
2 said entity for the purpose of restraining or enjoining such violation or for
3 an order directing compliance with the provisions of this article and all
4 rules and orders issued pursuant to this article. It shall not be necessary
5 that the board allege or prove that it has no adequate remedy at law. The
6 right of injunction provided in this section shall be in addition to any
7 other legal remedy which the board has and shall be in addition to any
8 right of criminal prosecution provided by law. The existence of board
9 action with respect to alleged violations of this article shall not operate as
10 a bar to any action for injunctive relief pursuant to this section.

11 (2) THE BOARD SHALL HAVE THE AUTHORITY TO PROMULGATE
12 RULES AND ADOPT PROCEDURES TO ESTABLISH, IMPOSE, AND COLLECT
13 FINES FROM AN ENTITY THAT IS IN VIOLATION OF THE PROVISIONS OF THIS
14 ARTICLE OR THE LAWFUL RULES OR ORDERS OF THE BOARD. THE BOARD
15 MAY IMPOSE A FINE, PURSUANT TO SAID RULES, IN ADDITION TO OR IN LIEU
16 OF SEEKING A TEMPORARY RESTRAINING ORDER OR AN INJUNCTION
17 PURSUANT TO SUBSECTION (1) OF THIS SECTION. ALL FINES COLLECTED
18 PURSUANT TO THIS SUBSECTION (2) SHALL BE TRANSFERRED TO THE STATE
19 TREASURER, WHO SHALL CREDIT THE SAME TO THE STATE GENERAL FUND.

20 (3) IN DETERMINING WHETHER TO IMPOSE A FINE OR TO SEEK A
21 TEMPORARY RESTRAINING ORDER OR AN INJUNCTION, THE BOARD SHALL
22 CONSIDER WHETHER THE ENTITY HAS ENGAGED IN A PATTERN OF
23 NONCOMPLIANCE.

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