

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REGULATION OF PRIVATE OCCUPATIONAL SCHOOLS, AND**
102 **MAKING AN APPROPRIATION THEREFOR.**

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

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.

HOUSE
Amended 2nd Reading
March 13, 2006

criteria that an applicant for an occupational credential shall meet before 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)**

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. Appropriation.** (1) In addition to any other
14 appropriation, there is hereby appropriated, out of any moneys in the
15 private occupational schools fund created in section 12-59-116, Colorado
16 Revised Statutes, not otherwise appropriated, to the department of higher
17 education, division of private occupational schools, for the fiscal year
18 beginning July 1, 2006, the sum of ten thousand nine hundred fifty-seven
19 dollars (\$10,957) cash funds, or so much thereof as may be necessary, for
20 the implementation of this act.

21 (2) In addition to any other appropriation, there is hereby
22 appropriated to the department of law, for the fiscal year beginning July
23 1, 2006, the sum of ten thousand nine hundred fifty-seven dollars
24 (\$10,957) and 0.1 FTE, or so much thereof as may be necessary, for the
25 provision of legal services to the division of private occupational schools
26 related to the implementation of this act. Said sum shall be from cash
27 funds exempt received from the division of private occupational schools

1 out of the appropriation made in subsection (1) of this section.

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