An Act

ENROLLED HOUSE
BILL NO. 3398

By: Nollan and Davis of the House

and

Pemberton and Sharp of the Senate

An Act relating to schools; amending 70 O.S. 2011, Section 5-142, as last amended by Section 1, Chapter 199, O.S.L. 2017 (70 O.S. Supp. 2019, Section 5-142), which relates to criminal background checks; requiring criminal history record check for current school district employees; amending 70 O.S. 2011, Section 6-101, as last amended by Section 1, Chapter 323, O.S.L. 2016 (70 O.S. Supp. 2019, Section 6-101), which relates to teacher contracts; requiring criminal history record check for new teacher contracts; and declaring an emergency.

SUBJECT: Education criminal history record checks

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2011, Section 5-142, as last amended by Section 1, Chapter 199, O.S.L. 2017 (70 O.S. Supp. 2019, Section 5-142), is amended to read as follows:

Section 5-142. A. Except as otherwise provided for in subsection F of this section, for purposes of employment, a board of education may request in writing to the State Board of Education that a national criminal history record check be conducted of any employee of the school and shall request such information for any person seeking employment with the school; provided that a board of education shall not be required to obtain a new criminal history record check for an individual who has obtained certification from the State Department of Education within the previous twelve (12) months. The Oklahoma State Bureau of Investigation (OSBI) shall

obtain fingerprints of the employee or prospective employee and require that the person pay a search fee not to exceed Fifty Dollars ($50.00) or the cost of the search, whichever is the lesser amount. The ~~fees~~ fee shall be deposited in the OSBI Revolving Fund. School districts may reimburse employees for the cost of the search. The State Board of Education shall contact the Oklahoma State Bureau of Investigation for any national criminal history record of the person within fourteen (14) working days of receiving a written request from the board of education.

B. The Oklahoma State Bureau of Investigation shall provide the national criminal history record check requested by the State Board of Education within fourteen (14) working days from the receipt of the request. The Bureau may contact the Federal Bureau of Investigation to obtain the information requested.

C. The State Board of Education shall provide the information received from the Oklahoma State Bureau of Investigation to the board of education within fourteen (14) days from the receipt of the information. The State Board of Education shall provide any follow-up information received from the OSBI concerning a person for which a national criminal history record check was requested to the employing board of education.

D. For the purpose of this section:

1. "Board of education" includes both public and private boards of education within or outside this state;

2. "Employing agency" means a political subdivision or law enforcement agency in this state;

3. "Law enforcement officer" means a peace or police officer who is certified by the Council on Law Enforcement Education and Training;

4. "National criminal history record check" means a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes; and

5. "Prospective employee" means an individual who has received an offer of temporary employment ~~by~~ from a school district pending the results of the national criminal history record check.

E. Each public board of education within this state shall promulgate a statement regarding the felony record search policy for that school district. The policy may permit temporary employment of prospective employees for a maximum of sixty (60) days pending receipt of results of national criminal history record check requests. The temporary employment of the prospective employee shall terminate after sixty (60) days unless the school district receives the results of the national criminal history record check. The sixty-day temporary employment period shall begin on the first day the prospective employee reports for duty at the employing school district. Prospective employees shall be notified of the requirement, the fee and the reimbursement policy when first interviewed concerning employment. The school district's reimbursement policy shall provide, at ~~the~~ a minimum, that employees shall be promptly reimbursed in full for the fee if employed by the district at the time the national criminal history record check request is made unless the person was employed pending receipt of results as set forth above.

F. 1. Any person who has been employed as a full-time teacher by a school district in this state and applies for employment as a full-time teacher in another school district in this state may not be required to have a national criminal history record check if the teacher produces a copy of a national criminal history record check completed within the preceding five (5) years and a letter from the school district in which the teacher was employed stating the teacher left in good standing.

2. For any person applying for employment as a substitute teacher, a national criminal history record check shall be required for the school year; provided, however, a board of education may choose whether to require a national criminal history record check from a prospective substitute teacher who has been employed by the school district in the last year. Any person applying for employment as a substitute teacher in more than one school district shall only be required to have one national criminal history record check, and, upon the request of the substitute teacher, that record check shall be sent to all other school districts in which the substitute teacher is applying to teach.

3. Any person employed as a full-time teacher by a school district in this state in the five (5) years immediately preceding an application for employment as a substitute teacher may not be required to have a national criminal history record check, if the teacher produces a copy of a national criminal history record check

completed within the preceding five (5) years and a letter from the school district in which the teacher was last employed stating the teacher left in good standing.

4. Any person employed as a substitute teacher by a school district in this state for a minimum of five (5) years immediately preceding an application for employment as a full-time teacher in a school district in this state may not be required to have a national criminal history record check if the teacher produces a copy of a national criminal history record check completed within the preceding five (5) years and a letter from the school district in which the teacher was employed as a substitute teacher stating the teacher left in good standing.

5. Any person employed as a full-time teacher by a school district in this state for ten (10) or more consecutive years immediately preceding an application for employment as a substitute teacher in the same school district may not be required to have a national criminal history record check for as long as the person remains employed for consecutive years by that school district as a substitute teacher, if the teacher left full-time employment in good standing. If the teacher applies for employment as a substitute teacher in another school district, a national criminal history record check shall be required.

G. 1. Except as otherwise provided by this subsection, any teacher employed by an Oklahoma school district prior to the effective date of this act who does not have an Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation as well as a national criminal history record check, as defined in Section 150.9 of Title 74 of the Oklahoma Statutes, on file with his or her employing district as required by this section shall complete the criminal history record checks upon the next renewal of his or her Standard Teaching Certificate as required by Section 6-154.1 of this title or State Board of Education administrative rules promulgated thereto.

2. Except as otherwise provided by this subsection, any other person employed by an Oklahoma school district prior to the effective date of this act who does not have an Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation as well as a national criminal history record check, as defined in Section 150.9 of Title 74 of the Oklahoma Statutes, on file with his or her employing district as required by this section shall have until July 1, 2022, to complete the criminal history record checks.

3. Any teacher eligible to retire from the Teachers' Retirement System of Oklahoma who does not have an Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation as well as a national criminal history record check, as defined in Section 150.9 of Title 74 of the Oklahoma Statutes, on file with his or her employing district as required by this section shall complete the criminal history record checks by the earlier of the following dates:

a. July 1, 2022, or

b. at the next renewal of his or her Standard Teaching Certificate as required by Section 6-154.1 of this title or State Board of Education administrative rules promulgated thereto.

H. The provisions of this section shall not apply to technology center employees hired on a part-time or temporary basis for the instruction of adult students only.

~~H.~~ I. The provisions of this section shall not apply to law enforcement officers who are employed by an employing agency at the time of application for employment at a public school district.

~~I.~~ J. Nothing in this section shall be construed to impose liability on school districts, except in negligence, for employing prospective employees within the sixty-day temporary employment window pending the results of the national criminal history record check.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 6-101, as last amended by Section 1, Chapter 323, O.S.L. 2016 (70 O.S. Supp. 2019, Section 6-101), is amended to read as follows:

Section 6-101. A. Except as provided in subsection E of this section, no person shall be permitted to teach in any school district of the state without a written contract, except as provided herein for substitute teachers and except teachers of classes in adult education. Except as provided in subsection J of this section, the board of education of each school district, wherein school is expected to be conducted for the ensuing year, shall employ and contract in writing with qualified teachers for and in the name of the district. One copy of the contract shall be filed

with the clerk of the board of education and one copy shall be retained by the teacher.

B. Except as otherwise provided by subsections J and K of this section and any other law, no board of education shall have authority to enter into any written contract with a teacher who does not hold an Oklahoma criminal history record check as required by Section 6-190 of this title and who does not hold a valid certificate issued or recognized by the State Board of Education authorizing said teacher to teach the grades or subject matter for which the teacher is employed. Any board of education paying or authorizing the payment of the salary of any teacher not holding a certificate, as required herein, shall be adjudged to be guilty of a fraudulent expenditure of public funds and members voting for such payment shall be held jointly responsible for the return of the amount of any public monies thus expended, upon suit brought by the district attorney or by any interested citizen in the district where such funds have been expended.

C. It shall be the duty of the superintendent of schools under whose supervision teachers have been contracted to teach to certify to the treasurer of the contracting district the names of the teachers holding valid certificates and student teachers with whom contracts have been made and the names of substitute teachers employed in accordance with law. The treasurer shall not register any warrant issued in payment of salary to any teacher whose name is not included in such list and shall be liable on the official bond for the treasurer for the amount of any warrant registered in violation of the provisions of this section.

D. Whenever any person shall enter into a contract with any school district in Oklahoma to teach in such school district the contract shall be binding on the teacher and on the board of education until the teacher legally has been discharged from the teaching position or released by the board of education from the contract. Except as provided in Section 5-106A of this title, until such teacher has been thus discharged or released, the teacher shall not have authority to enter into a contract with any other board of education in Oklahoma for the same time covered by the original contract. If upon written complaint by the board of education in a district any teacher is reported to have failed to obey the terms of the contract previously made and to have entered into a contract with another board of education without having been released from the former contract except as provided in Section 5-106A of this title, the teacher, upon being found guilty of such charge at a

hearing held before the State Board of Education, shall have such teacher's certificate suspended for the remainder of the term for which the contract was made.

E. A board of education shall have authority to enter into written contracts with teachers for the ensuing fiscal year prior to the beginning of such year. If, prior to the first Monday in June, a board of education has not entered into a written contract with a regularly employed teacher or notified the teacher in writing by registered or certified mail that a recommendation has been made not to reemploy the teacher for the ensuing fiscal year, and if, by fifteen (15) days after the first Monday in June, such teacher has not notified the board of education in writing by registered or certified mail that such teacher does not desire to be reemployed in such school district for the ensuing year, such teacher shall be considered as employed on a continuing contract basis and on the same salary schedule used for other teachers in the school district for the ensuing fiscal year, and such employment and continuing contract shall be binding on the teacher and on the school district.

F. Whenever a school district is engaged in contract negotiations with teachers employed by that school district after the school year has begun and the teachers are employed on a continuing contract basis, the school district shall, beginning at the first of the school year, pay the teachers any state-mandated salary increases and salary schedule increases to which each teacher is otherwise entitled.

G. No school district or any member of the board of education of a district shall be liable for the payment of compensation to a teacher or administrator under the provisions of any contract for the ensuing year, if it becomes necessary to close the school because of insufficient attendance, disorganization, annexation, consolidation, or by dispensing with the school according to law, provided, such cause is known or action is taken prior to July 1 of such ensuing year.

H. No school district or any member of a board of education shall be liable for the payment of compensation to any teacher or administrator for the unexpired term of any contract if the school building to which the teacher or administrator has been assigned is destroyed by accident, storm, fire, or otherwise and it becomes necessary to close the school because of inability to secure a suitable building or buildings for continuation of school. Teachers and administrators shall be entitled to pay for any time lost when

school is closed on account of epidemics or otherwise when an order for such closing has been issued by a health officer authorized by law to issue the order.

I. A teacher may contract with more than one school district for the same school year as provided in Section 5-106A of this title.

J. A board of education shall have authority to enter into written contracts for the ensuing fiscal year prior to the beginning of the year with persons who are not certified to teach by the State Board of Education as long as the person is actively in the process of securing certification. The person shall not be allowed to teach in a classroom until the person has met or completed all of the requirements for certification as provided for in Section 6-190 of this title. If the person has not obtained valid certification by the first day of the ensuing school year, the contract shall be terminated.

K. A board of education of a school district shall have the authority to enter into written contracts for employment for the ensuing fiscal year with persons who are student teachers as defined in Section 1-116 of this title while such persons are still student teachers. A student teacher shall not be allowed to teach in a classroom during the ensuing fiscal year until meeting or completing all of the requirements for certification as provided for in Section 6-190 of this title. If the student teacher has not obtained valid certification by the first day of the ensuing school year, the contract shall be terminated. A board of education of a school district shall have the authority to commit to payment of a stipend or signing bonus to a student teacher as defined in Section 1-116 of this title while that person is still a student teacher, if that person has entered into a written contract for employment for the ensuing fiscal year. A board of education shall make any such student teacher stipend or signing bonus conditional on such person fulfilling the first year of ~~their~~ his or her contract for the ensuing fiscal year. Any stipend or signing bonus paid under the terms of this subsection shall not be considered compensation for purposes of teacher retirement or the minimum salary schedule.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 4th day of March, 2020.

Presiding Officer of the House of Representatives

Passed the Senate the 13th day of May, 2020.

Brent Howard
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 13th day of May, 2020, at 7:12 o'clock p. M.

By: Summer Berry

Approved by the Governor of the State of Oklahoma this 19th day of May, 2020, at 9:53 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 19th day of May, 2020, at 12:18 o'clock P. M.

By: Nicole Rogers