

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3398

By: Nollan

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5  
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2011,  
8 Section 5-142, as last amended by Section 1, Chapter  
199, O.S.L. 2017 (70 O.S. Supp. 2019, Section 5-142),  
9 which relates to criminal background checks;  
10 requiring criminal history record check for current  
school district employees; providing exception;  
11 amending 70 O.S. 2011, Section 6-101, as last amended  
by Section 1, Chapter 323, O.S.L. 2016 (70 O.S. Supp.  
12 2019, Section 6-101), which relates to teacher  
contracts; requiring criminal history record check  
13 for new teacher contracts; and declaring an  
14 emergency.

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

16 SECTION 1. AMENDATORY 70 O.S. 2011, Section 5-142, as  
17 last amended by Section 1, Chapter 199, O.S.L. 2017 (70 O.S. Supp.  
18 2019, Section 5-142), is amended to read as follows:

19 Section 5-142. A. Except as otherwise provided for in  
20 subsection F of this section, for purposes of employment, a board of  
21 education may request in writing to the State Board of Education  
22 that a national criminal history record check be conducted of any  
23 employee of the school and shall request such information for any  
24 person seeking employment with the school; provided that a board of

1 education shall not be required to obtain a new criminal history  
2 record check for an individual who has obtained certification from  
3 the State Department of Education within the previous twelve (12)  
4 months. The Oklahoma State Bureau of Investigation (OSBI) shall  
5 obtain fingerprints of the employee or prospective employee and  
6 require that the person pay a search fee not to exceed Fifty Dollars  
7 (\$50.00) or the cost of the search, whichever is the lesser amount.  
8 The ~~fees~~ fee shall be deposited in the OSBI Revolving Fund. School  
9 districts may reimburse employees for the cost of the search. The  
10 State Board of Education shall contact the Oklahoma State Bureau of  
11 Investigation for any national criminal history record of the person  
12 within fourteen (14) working days of receiving a written request  
13 from the board of education.

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

19 C. The State Board of Education shall provide the information  
20 received from the Oklahoma State Bureau of Investigation to the  
21 board of education within fourteen (14) days from the receipt of the  
22 information. The State Board of Education shall provide any follow-  
23 up information received from the OSBI concerning a person for which  
24

1 a national criminal history record check was requested to the  
2 employing board of education.

3 D. For the purpose of this section:

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

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

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

11 4. "National criminal history record check" means a national  
12 criminal history record check as defined in Section 150.9 of Title  
13 74 of the Oklahoma Statutes; and

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

17 E. Each public board of education within this state shall  
18 promulgate a statement regarding the felony record search policy for  
19 that school district. The policy may permit temporary employment of  
20 prospective employees for a maximum of sixty (60) days pending  
21 receipt of results of national criminal history record check  
22 requests. The temporary employment of the prospective employee  
23 shall terminate after sixty (60) days unless the school district  
24 receives the results of the national criminal history record check.

1 The sixty-day temporary employment period shall begin on the first  
2 day the prospective employee reports for duty at the employing  
3 school district. Prospective employees shall be notified of the  
4 requirement, the fee and the reimbursement policy when first  
5 interviewed concerning employment. The school district's  
6 reimbursement policy shall provide, at ~~the~~ a minimum, that employees  
7 shall be promptly reimbursed in full for the fee if employed by the  
8 district at the time the national criminal history record check  
9 request is made unless the person was employed pending receipt of  
10 results as set forth above.

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

19 2. For any person applying for employment as a substitute  
20 teacher, a national criminal history record check shall be required  
21 for the school year; provided, however, a board of education may  
22 choose whether to require a national criminal history record check  
23 from a prospective substitute teacher who has been employed by the  
24 school district in the last year. Any person applying for

1 employment as a substitute teacher in more than one school district  
2 shall only be required to have one national criminal history record  
3 check, and, upon the request of the substitute teacher, that record  
4 check shall be sent to all other school districts in which the  
5 substitute teacher is applying to teach.

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

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

23 5. Any person employed as a full-time teacher by a school  
24 district in this state for ten (10) or more consecutive years

1 immediately preceding an application for employment as a substitute  
2 teacher in the same school district may not be required to have a  
3 national criminal history record check for as long as the person  
4 remains employed for consecutive years by that school district as a  
5 substitute teacher, if the teacher left full-time employment in good  
6 standing. If the teacher applies for employment as a substitute  
7 teacher in another school district, a national criminal history  
8 record check shall be required.

9 G. Except as otherwise provided by this subsection, any person  
10 employed by an Oklahoma school district prior to the effective date  
11 of this act who does not have an Oklahoma criminal history record  
12 check from the Oklahoma State Bureau of Investigation as well as a  
13 national criminal history record check, as defined in Section 150.9  
14 of Title 74 of the Oklahoma Statutes, on file with his or her  
15 employing district as required by this section shall have until July  
16 1, 2022, to complete the criminal history record checks. This  
17 subsection shall not apply to any person eligible to retire from the  
18 Teachers' Retirement System of Oklahoma.

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

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

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

6       SECTION 2.       AMENDATORY       70 O.S. 2011, Section 6-101, as  
7 last amended by Section 1, Chapter 323, O.S.L. 2016 (70 O.S. Supp.  
8 2019, Section 6-101), is amended to read as follows:

9       Section 6-101. A. Except as provided in subsection E of this  
10 section, no person shall be permitted to teach in any school  
11 district of the state without a written contract, except as provided  
12 herein for substitute teachers and except teachers of classes in  
13 adult education. Except as provided in subsection J of this  
14 section, the board of education of each school district, wherein  
15 school is expected to be conducted for the ensuing year, shall  
16 employ and contract in writing with qualified teachers for and in  
17 the name of the district. One copy of the contract shall be filed  
18 with the clerk of the board of education and one copy shall be  
19 retained by the teacher.

20       B. Except as otherwise provided by subsections J and K of this  
21 section and any other law, no board of education shall have  
22 authority to enter into any written contract with a teacher who does  
23 not hold an Oklahoma criminal history record check as required by  
24 Section 6-190 of this title and who does not hold a valid

1 certificate issued or recognized by the State Board of Education  
2 authorizing said teacher to teach the grades or subject matter for  
3 which the teacher is employed. Any board of education paying or  
4 authorizing the payment of the salary of any teacher not holding a  
5 certificate, as required herein, shall be adjudged to be guilty of a  
6 fraudulent expenditure of public funds and members voting for such  
7 payment shall be held jointly responsible for the return of the  
8 amount of any public monies thus expended, upon suit brought by the  
9 district attorney or by any interested citizen in the district where  
10 such funds have been expended.

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

21 D. Whenever any person shall enter into a contract with any  
22 school district in Oklahoma to teach in such school district the  
23 contract shall be binding on the teacher and on the board of  
24 education until the teacher legally has been discharged from the



1 teaching position or released by the board of education from the  
2 contract. Except as provided in Section 5-106A of this title, until  
3 such teacher has been thus discharged or released, the teacher shall  
4 not have authority to enter into a contract with any other board of  
5 education in Oklahoma for the same time covered by the original  
6 contract. If upon written complaint by the board of education in a  
7 district any teacher is reported to have failed to obey the terms of  
8 the contract previously made and to have entered into a contract  
9 with another board of education without having been released from  
10 the former contract except as provided in Section 5-106A of this  
11 title, the teacher, upon being found guilty of such charge at a  
12 hearing held before the State Board of Education, shall have such  
13 teacher's certificate suspended for the remainder of the term for  
14 which the contract was made.

15 E. A board of education shall have authority to enter into  
16 written contracts with teachers for the ensuing fiscal year prior to  
17 the beginning of such year. If, prior to the first Monday in June,  
18 a board of education has not entered into a written contract with a  
19 regularly employed teacher or notified the teacher in writing by  
20 registered or certified mail that a recommendation has been made not  
21 to reemploy the teacher for the ensuing fiscal year, and if, by  
22 fifteen (15) days after the first Monday in June, such teacher has  
23 not notified the board of education in writing by registered or  
24 certified mail that such teacher does not desire to be reemployed in

1 such school district for the ensuing year, such teacher shall be  
2 considered as employed on a continuing contract basis and on the  
3 same salary schedule used for other teachers in the school district  
4 for the ensuing fiscal year, and such employment and continuing  
5 contract shall be binding on the teacher and on the school district.

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

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

21 H. No school district or any member of a board of education  
22 shall be liable for the payment of compensation to any teacher or  
23 administrator for the unexpired term of any contract if the school  
24 building to which the teacher or administrator has been assigned is

1 destroyed by accident, storm, fire, or otherwise and it becomes  
2 necessary to close the school because of inability to secure a  
3 suitable building or buildings for continuation of school. Teachers  
4 and administrators shall be entitled to pay for any time lost when  
5 school is closed on account of epidemics or otherwise when an order  
6 for such closing has been issued by a health officer authorized by  
7 law to issue the order.

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

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

21 K. A board of education of a school district shall have the  
22 authority to enter into written contracts for employment for the  
23 ensuing fiscal year with persons who are student teachers as defined  
24 in Section 1-116 of this title while such persons are still student

1 teachers. A student teacher shall not be allowed to teach in a  
2 classroom during the ensuing fiscal year until meeting or completing  
3 all of the requirements for certification as provided for in Section  
4 6-190 of this title. If the student teacher has not obtained valid  
5 certification by the first day of the ensuing school year, the  
6 contract shall be terminated. A board of education of a school  
7 district shall have the authority to commit to payment of a stipend  
8 or signing bonus to a student teacher as defined in Section 1-116 of  
9 this title while that person is still a student teacher, if that  
10 person has entered into a written contract for employment for the  
11 ensuing fiscal year. A board of education shall make any such  
12 student teacher stipend or signing bonus conditional on such person  
13 fulfilling the first year of ~~their~~ his or her contract for the  
14 ensuing fiscal year. Any stipend or signing bonus paid under the  
15 terms of this subsection shall not be considered compensation for  
16 purposes of teacher retirement or the minimum salary schedule.

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

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