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SENATE BILL 434

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Dianna J. Duran

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR BACKGROUND CHECKS ON VOLUNTEERS WITH UNSUPERVISED ACCESS TO STUDENTS; AMENDING A SECTION OF THE SCHOOL PERSONNEL ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-10-3.3 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended) is amended to read:

"22-10-3.3. BACKGROUND CHECKS. --

A. An applicant for initial certification shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department of education to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment

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1 Act. Other information contained in the federal bureau of
2 investigation record, if supported by independent evidence,
3 may form the basis for the denial, suspension or revocation of
4 a certificate for good and just cause. Records and any
5 related information shall be privileged and shall not be
6 disclosed to a person not directly involved in the
7 certification or employment decisions affecting the specific
8 applicant. The applicant for initial certification shall pay
9 for the cost of obtaining the federal bureau of investigation
10 record.

11 B. Local school boards shall develop policies and
12 procedures to require background checks on an applicant who
13 has been offered employment, a contractor, or a contractor's
14 employee with unsupervised access to students. An applicant
15 for employment who has been initially certified within twelve
16 months of applying for employment with a local school board
17 shall not be required to submit to another background check if
18 the department of education has copies of his federal bureau
19 of investigation records on file. An applicant who has been
20 offered employment, a contractor, or a contractor's employee
21 with unsupervised access to students shall provide two
22 fingerprint cards or the equivalent electronic fingerprints to
23 the local school board to obtain his federal bureau of
24 investigation record. The applicant who has been offered
25 employment, contractor or contractor's employee may be

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1 required to pay for the cost of obtaining a background check.

2 C. Local school boards may develop policies and
3 procedures to require background checks on volunteers with
4 unsupervised access to students. If the local school board
5 develops policies and procedures requiring background checks
6 on volunteers, the volunteer shall provide two fingerprint
7 cards or the equivalent electronic fingerprints to the local
8 school board to obtain the volunteer's federal bureau of
9 investigation record. Background checks on volunteers with
10 unsupervised access to students shall be conducted at the
11 expense of the local school district or through cooperative
12 agreements with law enforcement.

13 D. At the request of a local school board, the
14 department of education is authorized to release copies of
15 federal bureau of investigation records that are on file with
16 the department of education and that are not more than twelve
17 months old. Convictions of felonies or misdemeanors contained
18 in the federal bureau of investigation record shall be used in
19 accordance with the Criminal Offender Employment Act; provided
20 that other information contained in the federal bureau of
21 investigation record, if supported by independent evidence,
22 may form the basis for the employment decisions for good and
23 just cause. Records and any related information shall be
24 privileged and shall not be disclosed to a person not directly
25 involved in the [employment] decision affecting the specific

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1 applicant who has been offered employment, contractor, [~~or~~]
2 contractor's employee or volunteer with unsupervised access to
3 students.

4 [~~C. The department of education shall implement~~
5 ~~the provisions of Subsection A of this section on or before~~
6 ~~July 1, 1998.~~] "

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 2, 1999

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8 Mr. President:

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10 Your EDUCATION COMMITTEE, to whom has been referred

11
12 SENATE BILL 434

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14 has had it under consideration and reports same WITHOUT
15 RECOMMENDATION, and thence referred to the JUDICIARY
16 COMMITTEE.

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18 Respectfully submitted,
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24 Cynthia Nava, Chairman
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1 Adopted _____ Not

2 Adopted _____

3 (Chief Clerk)

(Chief Clerk)

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6 Date _____

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9 The roll call vote was 5 For 2 Against

10 Yes: 5

11 No: Adair, Gorham

12 Excused: Boitano, Duran, Lopez

13 Absent: None

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