

SENATE BILL No. 335

By Senators Smith, Arpke, Denning, Olson and Pilcher-Cook

1-30

1 AN ACT concerning school districts; relating to drug screening of
2 employees; relating to background checks of teachers; relating to
3 revocation of teaching licenses; amending K.S.A. 2013 Supp. 72-1397
4 and 72-1923 and repealing the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) On or before January 1, 2015, the board of
8 education of each school district shall adopt policies and procedures to
9 establish and implement a drug screening program for employees of the
10 school district. Such policies and procedures shall be adopted in
11 accordance with the provisions of this section. A drug screening program
12 established pursuant to this section shall be based upon a reasonable
13 suspicion of illegal drug use by any employee of the school district.

14 (b) (1) No employee shall be terminated solely due to positive results
15 of a test administered as a part of a drug screening program established
16 pursuant to this section if:

17 (A) The employee has not previously had a valid positive test result;
18 and

19 (B) the employee undergoes a drug evaluation and successfully
20 completes any education or treatment program recommended as a result of
21 the evaluation.

22 (2) Nothing herein shall be construed as prohibiting demotions,
23 suspensions or terminations pursuant to article 54 of chapter 72 of the
24 Kansas Statutes Annotated, and amendments thereto.

25 (c) The results of any test administered as a part of a drug screening
26 program established pursuant to this section shall be reported to the state
27 board of education, and the state board of education shall maintain a
28 record of any such results that are reported. Except as provided in
29 subsection (d), the results of any test administered as a part of a drug
30 screening program established pursuant to this section and the records of
31 the state board of education on such results shall be confidential and shall
32 not be disclosed publicly.

33 (d) Prior to any final decision to hire an individual, a school district
34 may request from the state board of education the record of such
35 individual, if any exists, maintained by the state board of education
36 pursuant to subsection (c). Upon receipt of each such request, the state

1 board of education shall provide such record, if such record exists, to the
2 school district. In order to ensure the confidentiality of the record, the
3 school district, in its request to the state board of education, shall identify
4 the specific person or persons to whom the record may be disclosed. The
5 record shall not be disclosed to any other individuals other than those
6 persons specifically named in the school district's request.

7 (e) Pursuant to K.S.A. 45-229, and amendments thereto, the
8 exception to the Kansas open records act contained in subsections (c) and
9 (d) shall expire on June 30, 2019, unless the legislature reviews and
10 reenacts these provisions prior to June 30, 2019.

11 (f) The state board of education may adopt rules and regulations as
12 necessary to carry out the provisions of this section.

13 New Sec. 2. (a) Each person making an initial application for a
14 Kansas teaching certificate or teaching license, for renewal of such
15 certificate or license or for the renewal of an expired certificate or license
16 shall submit, at the time of application, a complete set of legible
17 fingerprints of the person taken by a qualified law enforcement agency.
18 Fingerprints submitted pursuant to this regulation shall be released by the
19 state department of education to the Kansas bureau of investigation for the
20 purpose of conducting criminal history records checks, utilizing the files
21 and records of the Kansas bureau of investigation and the federal bureau of
22 investigation.

23 (b) Each applicant shall pay a fee for the criminal history records
24 check in an amount necessary to reimburse the state department of
25 education for the cost of the criminal history records check.

26 (c) Any person applying for a Kansas teaching license, or the renewal
27 thereof, who does not comply with the provisions of this section shall not
28 be issued a license by the state board of education.

29 (d) The state board of education may adopt rules and regulations to
30 implement and enforce the provisions of this section.

31 Sec. 3. K.S.A. 2013 Supp. 72-1397 is hereby amended to read as
32 follows: 72-1397. (a) The state board of education shall not knowingly
33 issue a license to or renew the license of any person who has been
34 convicted of *any of the following, and shall revoke the license of any such*
35 *person which has been issued or renewed:*

36 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
37 2013 Supp. 21-5503, and amendments thereto;

38 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
39 to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5506, and
40 amendments thereto;

41 (3) aggravated indecent liberties with a child, as defined in K.S.A.
42 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-
43 5506, and amendments thereto;

- 1 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
2 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
3 2013 Supp. 21-5504, and amendments thereto;
- 4 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
5 to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and
6 amendments thereto;
- 7 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
8 prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5508, and
9 amendments thereto;
- 10 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
11 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-
12 5508, and amendments thereto;
- 13 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
14 to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto;
- 15 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
16 repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5604, and amendments
17 thereto;
- 18 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
19 prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5601, and
20 amendments thereto;
- 21 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
22 or K.S.A. 2013 Supp. 21-5602, and amendments thereto;
- 23 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
24 or K.S.A. 2013 Supp. 21-5401, and amendments thereto;
- 25 (13) murder in the first degree, as defined in K.S.A. 21-3401, prior to
26 its repeal, or K.S.A. 2013 Supp. 21-5402, and amendments thereto;
- 27 (14) murder in the second degree, as defined in K.S.A. 21-3402, prior
28 to its repeal, or K.S.A. 2013 Supp. 21-5403, and amendments thereto;
- 29 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
30 its repeal, or K.S.A. 2013 Supp. 21-5404, and amendments thereto;
- 31 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
32 its repeal, or K.S.A. 2013 Supp. 21-5405, and amendments thereto;
- 33 (17) involuntary manslaughter while driving under the influence of
34 alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
- 35 (18) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
36 or subsection (a) of K.S.A. 2013 Supp. 21-5505, and amendments thereto,
37 when, at the time the crime was committed, the victim was less than 18
38 years of age or a student of the person committing such crime;
- 39 (19) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
40 its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5505, and
41 amendments thereto;
- 42 (20) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013
43 Supp. 21-5301, and amendments thereto, to commit any act specified in

1 this subsection;

2 (21) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
3 2013 Supp. 21-5302, and amendments thereto, to commit any act specified
4 in this subsection;

5 (22) an act in another state or by the federal government that is
6 comparable to any act described in this subsection; or

7 (23) an offense in effect at any time prior to the effective date of this
8 act that is comparable to an offense as provided in this subsection.

9 (b) Except as provided in subsection (c), the state board of education
10 shall not knowingly issue a license to or renew the license of any person
11 who has been convicted of, or has entered into a criminal diversion
12 agreement after having been charged with *any of the following, and shall*
13 *revoke the license of any such person which has been issued or renewed:*

14 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
15 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes
16 Annotated, and amendments thereto, or any felony violation of any
17 provision of the uniform controlled substances act prior to July 1, 2009;

18 (2) a felony described in any section of article 34 of chapter 21 of the
19 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
20 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325,
21 21-6326 or 21-6418, and amendments thereto, other than an act specified
22 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
23 repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5413, and amendments
24 thereto, or domestic battery, as described in K.S.A. 21-3412a, prior to its
25 repeal, or K.S.A. 2013 Supp. 21-5414, and amendments thereto, if the
26 victim is a minor or student;

27 (3) a felony described in any section of article 35 of chapter 21 of the
28 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
29 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6419 through
30 21-6421, and amendments thereto, other than an act specified in
31 subsection (a);

32 (4) any act described in any section of article 36 of chapter 21 of the
33 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21
34 of the Kansas Statutes Annotated, and amendments thereto, other than an
35 act specified in subsection (a);

36 (5) a felony described in article 37 of chapter 21 of the Kansas
37 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
38 Kansas Statutes Annotated, or subsection (a)(6) of K.S.A. 2013 Supp. 21-
39 6412, and amendments thereto;

40 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
41 repeal, or subsection (a) of K.S.A. 2013 Supp. 21-6401, and amendments
42 thereto, promoting obscenity to minors, as described in K.S.A. 21-4301a,
43 prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-6401, and

1 amendments thereto, or promoting to minors obscenity harmful to minors,
2 as described in K.S.A. 21-4301c, prior to its repeal, or K.S.A. 2013 Supp.
3 21-6402, and amendments thereto;

4 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
5 repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5601, and amendments
6 thereto;

7 (8) driving under the influence of alcohol or drugs in violation of
8 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
9 punishable as a felony;

10 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013
11 Supp. 21-5301, and amendments thereto, to commit any act specified in
12 this subsection;

13 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
14 2013 Supp. 21-5302, and amendments thereto, to commit any act specified
15 in this subsection; or

16 (11) an act committed in violation of a federal law or in violation of
17 another state's law that is comparable to any act described in this
18 subsection.

19 (c) The state board of education may issue a license to ~~or renew the~~
20 ~~license of~~ a person who has been convicted of committing an offense or
21 act described in subsection (b) or who has entered into a criminal diversion
22 agreement after having been charged with an offense or act described in
23 subsection (b) if the state board determines, following a hearing, that the
24 person has been rehabilitated for a period of at least five years from the
25 date of conviction of the offense or commission of the act or, in the case of
26 a person who has entered into a criminal diversion agreement, that the
27 person has satisfied the terms and conditions of the agreement. The state
28 board of education may consider factors including, but not limited to, the
29 following in determining whether to grant a license:

30 (1) The nature and seriousness of the offense or act;

31 (2) the conduct of the person subsequent to commission of the
32 offense or act;

33 (3) the time elapsed since the commission of the offense or act;

34 (4) the age of the person at the time of the offense or act;

35 (5) whether the offense or act was an isolated or recurring incident;
36 and

37 (6) discharge from probation, pardon or expungement.

38 (d) Before any license is *revoked or* denied by the state board of
39 education for any of the offenses or acts specified in subsections (a) and
40 (b), the person shall be given notice and an opportunity for a hearing in
41 accordance with the provisions of the Kansas administrative procedure act.

42 (e) (1) The county or district attorney shall file a report with the state
43 board of education indicating the name, address and social security

1 number of any person who has been determined to have committed any
2 offense or act specified in subsection (a) or (b) or to have entered into a
3 criminal diversion agreement after having been charged with any offense
4 or act specified in subsection (b). Such report shall be filed within 30 days
5 of the date of the determination that the person has committed any such act
6 or entered into any such diversion agreement.

7 *(2) If any person reported pursuant to paragraph (1) is a licensed*
8 *employee of a unified school district, the state board of education shall*
9 *notify such unified school district within 30 days that such report has been*
10 *received, and upon request by such unified school district shall provide a*
11 *copy of such report to the unified school district.*

12 (f) The state board of education shall not be liable for civil damages
13 to any person refused issuance or renewal of a license by reason of the
14 state board's compliance, in good faith, with the provisions of this section.

15 Sec. 4. K.S.A. 2013 Supp. 72-1923 is hereby amended to read as
16 follows: 72-1923. (a) Except as provided in K.S.A. 2013 Supp. 72-1925,
17 and amendments thereto, the board of education of any school district may
18 apply to the state board for a grant of authority to operate such school
19 district as a public innovative district. The application shall be submitted in
20 the form and manner prescribed by the state board, and shall be submitted
21 not later than December 1 of the school year preceding the school year in
22 which the school district intends to operate as a public innovative district.

23 (b) The application shall include the following:

24 (1) A description of the educational programs of the public innovative
25 district;

26 (2) a description of the interest and support for partnerships between
27 the public innovative district, parents and the community;

28 (3) the specific goals and the measurable pupil outcomes to be
29 obtained by operating as a public innovative district; and

30 (4) an explanation of how pupil performance in achieving the
31 specified outcomes will be measured, evaluated and reported.

32 (c) (1) Within 90 days from the date such application is submitted, the
33 state board shall review the application to determine compliance with this
34 section, and shall approve or deny such application on or before the
35 conclusion of such 90-day period. If the application is determined to be in
36 compliance with this section, the state board shall approve such
37 application and grant the school district authority to operate as a public
38 innovative district. Notification of such approval shall be sent to the board
39 of education of such school district within 10 days after such decision.

40 (2) If the state board determines such application is not in compliance
41 with either this section, or K.S.A. 2013 Supp. 72-1925, and amendments
42 thereto, the state board shall deny such application. Notification of such
43 denial shall be sent to the board of education of such school district within

1 10 days after such decision and shall specify the reasons therefor. Within
2 30 days from the date such notification is sent, the board of education of
3 such school district may submit a request to the state board for
4 reconsideration of the application and may submit an amended application
5 with such request. The state board shall act on the request for
6 reconsideration within 60 days of receipt of such request.

7 (d) A public innovative district shall:

8 (1) Not charge tuition for any of the pupils residing within the public
9 innovative district;

10 (2) participate in all Kansas math and reading assessments applicable
11 to such public innovative district, or an alternative assessment program for
12 measuring student progress as determined by the board of education;

13 (3) abide by all financial and auditing requirements that are
14 applicable to school districts, except that a public innovative district may
15 use generally accepted accounting principles;

16 (4) comply with all applicable health, safety and access laws; ~~and~~

17 (5) *comply with the provisions of section 1, and amendments thereto;*
18 *and*

19 (6) comply with all statements set forth in the application submitted
20 pursuant to subsection (a).

21 (e) (1) Except as otherwise provided in K.S.A. 2013 Supp. 72-1921
22 through 72-1930, and amendments thereto, or as required by the board of
23 education of the public innovative district, a public innovative district shall
24 be exempt from all laws and rules and regulations that are applicable to
25 school districts.

26 (2) A public innovative district shall be subject to the special
27 education for exceptional children act, the virtual school act, the school
28 district finance and quality performance act, the provisions of K.S.A. 72-
29 8801 et seq., and amendments thereto, all laws governing the issuance of
30 general obligation bonds by school districts, the provisions of K.S.A. 74-
31 4901 et seq., and amendments thereto, and all laws governing the election
32 of members of the board of education, the open meetings act as provided
33 in K.S.A. 75-4317 et seq., and amendments thereto, and the open records
34 act as provided in K.S.A. 45-215 et seq., and amendments thereto.

35 (f) *Prior to hiring any person for a teaching position who does not*
36 *hold a valid teaching certificate or license issued by the state board, a*
37 *public innovative district shall require such person to submit a complete*
38 *set of legible fingerprints of such person taken by a qualified law*
39 *enforcement agency. Fingerprints submitted pursuant to this subsection*
40 *shall be released by the public innovative district to the Kansas bureau of*
41 *investigation for the purpose of conducting criminal history records*
42 *checks. The cost of any such criminal history record check shall be borne*
43 *by the public innovative district.*

- 1 Sec. 5. K.S.A. 2013 Supp. 72-1397 and 72-1923 are hereby repealed.
- 2 Sec. 6. This act shall take effect and be in force from and after its
- 3 publication in the statute book.