

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1735

By: Russ

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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
9 12, O.S.L. 2015 (70 O.S. Supp. 2016, Section 5-142),
10 which relates to criminal history record check;
11 adding certain definitions; permitting board of
12 education to request criminal history record check
13 for certain volunteers; permitting higher education
14 institution to request criminal history record check
15 for certain volunteers; providing for compliance with
16 certain act; providing for inapplicability; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 70 O.S. 2011, Section 5-142, as
20 last amended by Section 1, Chapter 12, O.S.L. 2015 (70 O.S. Supp.
21 2016, Section 5-142), is amended to read as follows:

22 Section 5-142. A. Except as otherwise provided for in
23 subsection F of this section, for purposes of employment, a board of
24 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. The Oklahoma State

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

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

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

23 D. For the purpose of this section:
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1 1. "Board of education" includes both public and private boards
2 of education within or outside this state;

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

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

8 4. "National criminal history record check" means a national
9 criminal history record check as defined in Section 150.9 of Title
10 74 of the Oklahoma Statutes; ~~and~~

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

14 6. "Prospective volunteer" means a parent, guardian or any
15 individual who intends to volunteer in a capacity that gives him or
16 her direct contact with students on a regularly scheduled or
17 continuing basis; and

18 7. "Student volunteer" means a student enrolled in an
19 accredited institution of higher education who, in carrying out his
20 or her coursework, will have or is likely to have direct contact
21 with students in public or private schools.

22 E. Each public board of education within this state shall
23 promulgate a statement regarding the felony record search policy for
24 that school district. The policy may permit temporary employment of

1 prospective employees for a maximum of sixty (60) days pending
2 receipt of results of national criminal history record check
3 requests. The temporary employment of the prospective employee
4 shall terminate after sixty (60) days unless the school district
5 receives the results of the national criminal history record check.
6 The sixty-day temporary employment period shall begin on the first
7 day the prospective employee reports for duty at the employing
8 school district. Prospective employees shall be notified of the
9 requirement, the fee and the reimbursement policy when first
10 interviewed concerning employment. The school district's
11 reimbursement policy shall provide, at the minimum, that employees
12 shall be promptly reimbursed in full for the fee if employed by the
13 district at the time the national criminal history record check
14 request is made unless the person was employed pending receipt of
15 results as set forth above.

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

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

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

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

1 national criminal history record check completed within the
2 preceding five (5) years and a letter from the school district in
3 which the teacher was employed as a substitute teacher stating the
4 teacher left in good standing.

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

15 G. Except for extenuating circumstances due to time restraints
16 as determined by the local school district superintendent, a board
17 of education may request in writing to the OSBI that a national
18 criminal history record check be conducted of any prospective
19 volunteer who will have or is likely to have unsupervised access to
20 students at a school site or on a school-sponsored trip. The OSBI
21 shall obtain fingerprints of the prospective volunteer and require
22 that the school district pay a search fee not to exceed Fifty
23 Dollars (\$50.00) or the cost of the search, whichever is the lesser
24 amount. The fees shall be deposited in the OSBI Revolving Fund. At

1 the discretion of the school district, the cost of the search fee
2 may be passed on to the prospective volunteer or to another entity.
3 After a prospective volunteer passes a check, such individual shall
4 not be required to submit to additional checks unless required by a
5 policy adopted by the board of education.

6 H. Except for extenuating circumstances due to the restraints
7 as determined by the local school district superintendent, a board
8 of education may request in writing to the OSBI that an Oklahoma
9 criminal history record check with fingerprint analysis be conducted
10 of any prospective volunteer who will have or is likely to have
11 supervised access to students at a school site or on a school-
12 sponsored trip. The OSBI shall require that the school district pay
13 a search fee not to exceed Nineteen Dollars (\$19.00) or the cost of
14 the search, whichever is the lesser amount. The fees shall be
15 deposited in the OSBI Revolving Fund. At the discretion of the
16 school district, the cost of the search fee may be passed on to the
17 prospective volunteer or to another entity. After a prospective
18 volunteer passes a check, such individual shall not be required to
19 submit to additional checks unless required by a policy adopted by
20 the board of education.

21 I. An accredited institution of higher education may request in
22 writing to the State Department of Education that a national
23 criminal history record check be conducted for a student volunteer.
24 The OSBI shall obtain fingerprints of the student volunteer and

1 require that the student volunteer pay the cost of the search. The
2 fees shall be deposited in the OSBI Revolving Fund. The State
3 Department of Education shall make the results of the check
4 available upon request to any public school district or private
5 school where the student volunteer will have or is likely to have
6 direct contact with students. Unless otherwise required by board of
7 education policy, by law, or for employment or professional
8 certification purposes, a student volunteer shall not be required to
9 submit to additional checks under this section as long as the
10 student volunteer remains continuously enrolled in an accredited
11 institution of higher education, or for a period of five (5) years,
12 whichever is shorter. However, the State Board of Education shall
13 be authorized to accept the results of a national criminal history
14 record check performed pursuant to this subsection to meet the
15 requirements of Section 6-190 of this title if the record check was
16 performed within one (1) year of the person seeking certification.

17 J. The provisions of this section shall comply with the Civil
18 Rights Act of 1964.

19 K. 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. L. The provisions of this section shall not apply to
23 prospective volunteers who have or are likely to have unsupervised
24 access to students and who serve as medical professionals, sports

1 referees, school concession stand volunteers or in similar
2 capacities, as determined by the local board of education.

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

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

11 SECTION 2. This act shall become effective November 1, 2017.

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13 56-1-6078 AM 12/29/16

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