

1 S.9

2 Introduced by Senator Baruth

3 Referred to Committee on

4 Date:

5 Subject: Education; home study programs; background checks

6 Statement of purpose of bill as introduced: This bill proposes to extend the  
7 requirement for conducting criminal and child abuse background checks to an  
8 operator of a home study program and to any person who will have ongoing  
9 contact with students in a home study program.

10 An act relating to conducting background checks for home study programs

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 16 V.S.A. § 252 is amended to read:

13 § 252. DEFINITIONS

14 As used in this subchapter:

15 \* \* \*

16 (6) “Operator of a home study program” means, if any, the person or  
17 persons who oversees the person or persons who provide ongoing instruction  
18 to students, but excludes a student’s parent or guardian if the home study  
19 program is limited to providing instruction solely a child or children of the  
20 parent or guardian.

1           (7) "Person who will have ongoing contact with students in a home  
2           study program" means any person who provides ongoing instruction to  
3           students in the program and any other person who engages with the students as  
4           part of the program on an ongoing basis, but excludes a student's parent or  
5           guardian if the home study program is limited to providing instruction solely a  
6           child or children of the parent or guardian.

7           Sec. 2. 16 V.S.A. § 255 is amended to read:

8           § 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;

9                   CONTRACTORS; OPERATORS AND STAFF OF HOME STUDY

10                   PROGRAMS

11           (a) Superintendents, headmasters of recognized or approved independent  
12           schools, and their contractors shall request criminal record information for the  
13           following:

14                   (1) the person a superintendent or headmaster is prepared to recommend  
15           for any full-time, part-time, or temporary employment;

16                   (2) any person directly under contract to an independent school or  
17           school district who may have unsupervised contact with school children;

18                   (3) any employee of a contractor under contract to an independent  
19           school or school district who is in a position that may result in unsupervised  
20           contact with school children;

1           (4) any student working toward a degree in teaching who is a student  
2 teacher in a school within the superintendent's or headmaster's jurisdiction;  
3 and

4           (5) subject to subsection (m) of this section, the operator of a home  
5 study program and any person who will have ongoing contact with students in  
6 a home study program.

7           (b) After signing a user agreement, a superintendent or a headmaster shall  
8 make a request directly to the Vermont Crime Information Center. A  
9 contractor shall make a request through a superintendent or headmaster.

10          (c) A request made under subsection (b) of this section shall be  
11 accompanied by a set of the person's fingerprints and a fee established by the  
12 Vermont Crime Information Center that shall reflect the cost of obtaining the  
13 record from the FBI. The fee shall be paid in accordance with adopted school  
14 board policy; provided, however, that the operator of a home study program  
15 shall be responsible for the fee for background check on the operator and on  
16 any person who will have ongoing contact with students in the home study  
17 program.

18          (d)(1) Upon completion of a criminal record check, the Vermont Crime  
19 Information Center shall send to the superintendent a notice that no record  
20 exists or, if a record exists, a copy of any criminal record.

1           (2) Upon completion of a criminal record check, the Vermont Crime  
2 Information Center shall send to the headmaster a notice that no record exists  
3 or, if a record exists:

4           (A) A copy of Vermont criminal convictions.

5           (B) A notice of any criminal record that is located in either another  
6 state repository or FBI records, but not a record of the specific convictions.

7 However, if there is a record relating to any crimes of a sexual nature involving  
8 children, the Vermont Crime Information Center shall send this record to the  
9 Secretary who shall notify the headmaster in writing, with a copy to the person  
10 about whom the request was made, that the record includes one or more  
11 convictions for a crime of a sexual nature involving children.

12          (e) Information received by a superintendent or headmaster under  
13 subsection (d) of this section shall be forwarded as follows:

14           (1) In the case of a request other than one made on behalf of a  
15 contractor, the superintendent or headmaster shall forward a copy of the  
16 information to the person about whom the request was made.

17           (2) In the case of a request made on behalf of a contractor, the  
18 superintendent or headmaster shall inform the contractor in writing either that  
19 no record exists or that a record does exist but shall not reveal the content of  
20 the record to the contractor. The contractor shall then forward a copy of the  
21 information received to the person about whom the request was made.

1           (3) In the case of a request made about a person who will have ongoing  
2           contact with students in a home study program, the superintendent also shall  
3           inform the person who operates the program in writing either that no record  
4           exists or that a record does exist but shall not reveal the content of the record to  
5           the person who operates the program.

6           (f) Information sent to a person by the Secretary, a headmaster, a  
7           superintendent, or a contractor under subsection (e) of this section shall be  
8           accompanied by a written notice of the person's rights under subsection (g) of  
9           this section, a description of the policy regarding maintenance and destruction  
10          of records, and the person's right to request that the notice of no record or  
11          record be maintained for purposes of using it to comply with future criminal  
12          record check requests pursuant to section 256 of this title.

13          (g)(1) Following notice that a headmaster was notified that a criminal  
14          record which is located in either another state repository or FBI records exists,  
15          a person may:

16                 (A) sign a form authorizing the Vermont Crime Information Center  
17                 to release a detailed copy of the criminal record to the person; or

18                 (B) decline or resign employment.

19          (2) Any person subject to a criminal record check pursuant to this  
20          section may challenge the accuracy of the record by appealing to the Vermont

1 Crime Information Center pursuant to rules adopted by the Commissioner of  
2 Public Safety.

3 (h) A superintendent or headmaster shall request and obtain information  
4 from the Child Protection Registry maintained by the Department for Children  
5 and Families and from the Vulnerable Adult Abuse, Neglect, and Exploitation  
6 Registry maintained by the Department of Disabilities, Aging, and Independent  
7 Living (collectively, the Registries) for any person for whom a criminal record  
8 check is required under subsection (a) of this section. The Department for  
9 Children and Families and the Department of Disabilities, Aging, and  
10 Independent Living shall adopt rules governing the process for obtaining  
11 information from the Registries and for disseminating and maintaining records  
12 of that information under this subsection.

13 (i) A person convicted of a sex offense that requires registration pursuant to  
14 13 V.S.A. chapter 167, subchapter 3 shall not be eligible for employment  
15 under this section, to operate a home study program, or to have ongoing  
16 contact with students in a home study program.

17 (j) The board of trustees of a recognized or approved independent school  
18 shall request a criminal record check and a check of the Registries pursuant to  
19 the provisions of this section prior to offering employment to a headmaster.

20 (k) The requirements of this section shall not apply to superintendents and  
21 headmasters with respect to persons operating or employed by a child care

1 facility, as defined under 33 V.S.A. § 3511, that provides prekindergarten  
2 education pursuant to section 829 of this title and that is required to be licensed  
3 by the Department for Children and Families pursuant to 33 V.S.A. § 3502.

4 Superintendents and headmasters are not prohibited from conducting a  
5 criminal record check as a condition of hiring an employee to work in a child  
6 care facility that provides prekindergarten education operated by the school.

7 (l) The requirements of this section shall not apply with respect to a school  
8 district's partners in any program authorized or student placement created by  
9 chapter 23, subchapter 2 of this title; provided, however, that superintendents  
10 are not prohibited from requiring a fingerprint-supported record check pursuant  
11 to district policy with respect to its partners in such programs.

12 (m) The superintendent of the region in which a home study program  
13 operates shall conduct the background checks required under this section on  
14 the operator of the program and any person who will have ongoing contact  
15 with students in the program.

16 Sec. 3. 16 V.S.A. § 256 is amended to read:

17 § 256. CONTINUED VALIDITY OF CRIMINAL RECORD CHECK;

18 MAINTENANCE OF RECORDS

19 (a)(1) Anyone required to request a criminal record check under this  
20 subchapter about a person who previously has undergone a check, regardless  
21 of whether the check was for student teaching, licensure, or employment

1 purposes, or was about the operator of a home study program or a person who  
2 had ongoing contact with students in a home study program, shall comply with  
3 that requirement by acquiring the results of the previous criminal record check  
4 unless:

5 (A) the person refuses to authorize release of the information;

6 (B) the record no longer exists;

7 (C) since the record check, there has been a period of one year or  
8 more during which the person has not worked for a Vermont school district or  
9 a recognized or an approved independent school or has not operated a home  
10 study program or had ongoing contact with students in a home study program;

11 or

12 (D) as otherwise required by this chapter.

13 (2) Anyone required to request a criminal record check under this  
14 subchapter about a person who has previously undergone a check may request  
15 a name and date of birth or fingerprint-supported recheck of the criminal  
16 record at any time during the course of the record subject's employment status  
17 in the capacity for which the original check was required. Rechecking criminal  
18 records may be accomplished through a subscription service.

19 (b) A superintendent or headmaster who receives criminal record or  
20 registry information under this subchapter shall maintain the record or  
21 information pursuant to the user agreement for maintenance of records. At the



1 end of the time required by the user agreement for maintenance of the  
2 information, the superintendent or headmaster shall destroy the information in  
3 accordance with the user agreement unless the person authorizes maintenance  
4 of the record. If authorized by the person, the superintendent or headmaster  
5 shall:

6 (1) if the information is a notice of no criminal record, securely maintain  
7 the information indefinitely; or

8 (2) if the information is a criminal record or notice of the existence of a  
9 criminal record, send it to the Secretary for secure maintenance in a central  
10 records repository.

11 (c) Upon authorization by the person, the Secretary shall release  
12 information maintained in the central records repository to a requesting  
13 superintendent or, in the case of a requesting headmaster, to the person. The  
14 Secretary shall maintain the notice or record in the repository at least until the  
15 person ceases working for a Vermont school district or independent school, or  
16 ceases to operate a home study program or have ongoing contact with students  
17 in a home study program, for a period of one year or more or until the person  
18 requests that the record be destroyed.

19 (d) The State Board may adopt rules regarding maintenance of records.

1       Sec. 4. RULEMAKING

2           The State Board of Education shall adopt rules to implement the  
3       requirement in Sec. 3 of this act for superintendents to conduct background  
4       checks on the operator of a home study program and any person who will have  
5       ongoing contact with students in a home study program.

6       Sec. 5. EFFECTIVE DATE

7           This act shall take effect on July 1, 2020.