



H.B. 488

125th General Assembly
(As Introduced)

**Reps. Woodard, Brown, Cirelli, Key, Redfern, Allen, DeBose, S. Patton,
Barrett, Price, Hartnett, Slaby, Carano**

BILL SUMMARY

- Requires the State Board of Education to request a criminal records check of an applicant prior to issuing or renewing an educator license.
- Permits the State Board to waive the requirement for a criminal records check if the applicant provides proof of having been the subject of a check in the previous year.

CONTENT AND OPERATION

Background

In exercising its power to license educators, the State Board of Education may refuse to issue a license to an applicant, limit a license it issues to an applicant, or suspend, revoke, or limit a license it has previously issued for any of several statutorily specified reasons. Specifically, the State Board may take one of these actions if it determines the applicant or license holder has done any of the following:

(1) Engaged in an immoral act, incompetence, negligence, or conduct unbecoming to the person's position; or

(2) Pled guilty to, been found guilty by a jury or court of, or been convicted of any of the following:

(a) A felony;

(b) Unlawful sexual conduct with a minor, sexual imposition, or sexual importuning;

(c) An offense of violence;

- (d) Any of several prescribed theft offenses;
- (e) A drug abuse offense that is not a minor misdemeanor; or
- (f) A violation of a municipal ordinance substantively comparable to an offense listed in (a) through (e) above.¹

The State Board, or the Superintendent of Public Instruction on behalf of the Board, may investigate any information that reasonably appears to be a basis for denying, revoking, or limiting a license. The Superintendent must review the results of each investigation to determine whether the results warrant initiating an action against the applicant or licensee.² If the Superintendent recommends action, the State Board must provide the applicant or licensee with written notice of the charges and an opportunity for a hearing in accordance with the Administrative Procedure Act, codified in R.C. Chapter 119.³

Current law

Current law authorizes, but does not require, the State Board of Education to request criminal records checks of all first-time applicants for educator licenses. Information revealed about an applicant in a criminal records check may be used by the State Board to determine whether to deny a license or otherwise limit its application. When a person initially applies for an educator license, the person must submit two sets of fingerprints and written permission for the Superintendent of Public Instruction to forward the fingerprints to the Bureau of Criminal Identification and Investigation (BCII) and the Federal Bureau of Investigation (FBI). The State Board, or the Superintendent on the Board's behalf, may then request BCII or the FBI, or both, to conduct a criminal records check of the applicant prior to issuing a license.⁴

¹ R.C. 3319.31, not in the bill.

² All information obtained during an investigation is confidential and is not a public record. In addition, if an investigation is conducted and no action is taken against the person within two years of the completion of the investigation, all records of the investigation must be expunged. (R.C. 3319.311(A), not in the bill.)

³ R.C. 3319.311, not in the bill. The State Board "automatically" may suspend a license without a prior hearing if the license holder is convicted of or pleads guilty to aggravated murder, murder, aggravated arson, aggravated robbery, aggravated burglary, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, or unlawful sexual conduct with a minor (R.C. 3319.311(F)).

⁴ R.C. 3319.291. A BCII criminal records check will show Ohio convictions for felonies and certain misdemeanors that are considered escalating misdemeanors. Escalating

The bill

The bill makes it mandatory for the State Board to request a criminal records check from BCII prior to issuing any educator license. Therefore, under the bill, a BCII check must be performed for all first-time applicants for educator licenses *and* for all applicants seeking to renew their licenses. For this purpose, applicants must submit fingerprints and consent to a criminal records check each time they apply for a new license or for a renewal of an expiring license.

Additionally, if an applicant for an initial license or a license renewal cannot prove Ohio residency for the five years prior to the date the State Board requests the BCII check, or provide evidence that the applicant has been the subject of a criminal records check by the FBI during that time, the State Board must also request an FBI check of the applicant. If an applicant has resided in Ohio for the five-year period prior to application, an FBI check is optional. A criminal records check may be waived by the State Board if the applicant has undergone a check in the past year as a condition of employment or if the applicant presents a certified copy of the results of a check issued by BCII within the past year.⁵

The bill's requirements apply to all positions for which the State Board issues licenses. These positions include teachers, administrators, counselors, school nurses, school psychologists, educational aides and paraprofessionals, superintendents, and school district treasurers and business managers (see **COMMENT**).⁶

misdemeanors typically are crimes that are a misdemeanor on the first offense and a felony on subsequent offenses or when committed in certain contexts. (R.C. 109.57(A)(1).) An FBI check will report all convictions, both felony and misdemeanor, in all states. Continuing law requires BCII to complete a criminal records check and return the results to the State Board within 30 days of the request. BCII must forward any FBI report to the State Board within 30 days after receipt of the report. (R.C. 109.57(F)(2)(a) and (4).)

⁵ *Under continuing law, school districts, educational service centers, and chartered nonpublic schools must request a criminal records check of all applicants under final consideration for employment in a position responsible for the care, custody, or control of a child. If the check uncovers any of a list of statutorily designated offenses, the applicant cannot be hired for a position involving the care, custody, or control of a child. (R.C. 3319.39, not in the bill.)*

⁶ *See Ohio Administrative Code Chapter 3301-23. The State Board also issues educator licenses for persons working in chartered nonpublic schools under R.C. 3301.071 (not in the bill).*



COMMENT

Under the State Board of Education's current licensing rules for teachers, a provisional license is valid for two years and is upgraded to a professional license upon its expiration. Professional licenses must be renewed every five years. Therefore, the bill generally would require a criminal records check at the following stages of a teacher's career: (1) upon initial application for a provisional educator license, (2) upon transition from a provisional license to a professional educator license, and (3) at five-year intervals thereafter. Licenses for nonteaching positions may be renewable on other cycles.

A somewhat different timeline would apply to persons who were issued a teacher's certificate on or before September 1, 1998, when the current teacher licensing standards took effect. Many of those persons must transition to the five-year professional educator license when their current four- or eight-year certificate expires and would be subject to a criminal records check under the bill when they do so. However, a person who was issued a *permanent* teacher's certificate by the State Board on or before September 1, 1998, or who upgraded to a permanent teacher's certificate under the old standards on or before September 1, 2003, may work under that certificate for the remainder of the person's career without ever having to renew it. Under the bill, those persons holding permanent teachers' certificates would not be subject to a criminal records check unless they sought employment in a different school district, educational service center, or chartered nonpublic school.⁷

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-06-04	p. 1867

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The bill corrects an apparent oversight in the list of State Board-issued licenses in current law by adding to that list references to R.C. 3319.301, which creates a permit for certain qualified individuals to teach for up to 12 hours per week, and R.C. 3319.302, which establishes the one-year conditional teaching permit. Therefore, under the bill, applicants for these permits must undergo a criminal records check in the same manner as applicants for all other educator licenses. The bill also eliminates a reference to the internship certificates issued under R.C. 3319.281, which was repealed by Am. Sub. S.B. 2 of the 125th General Assembly (effective June 9, 2004). (R.C. 3319.291(A).)

⁷ See footnote 5.