HOUSE BILL 383

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

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING 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   <u>C. Local school boards shall develop policies and</u>

3 <u>procedures to require background checks on volunteers with</u>

4 <u>unsupervised access to students. If the local school board so</u>

5 <u>requires, the volunteer shall provide two fingerprint cards or</u>

6 <u>the equivalent electronic fingerprints to the local school</u>

7 <u>board to obtain the volunteer's federal bureau of</u>

8 <u>investigation record. Background checks on volunteers with</u>

9 <u>unsupervised access to students shall be conducted at the</u>

10 <u>expense of the local school district or through cooperative</u>

11 <u>agreements with law enforcement.</u>

12   <u>D.</u> At the request of a local school board, the

13 department of education is authorized to release copies of

14 federal bureau of investigation records that are on file with

15 the department of education and that are not more than twelve

16 months old. Convictions of felonies or misdemeanors contained

17 in the federal bureau of investigation record shall be used in

18 accordance with the Criminal Offender Employment Act; provided

19 that other information contained in the federal bureau of

20 investigation record, if supported by independent evidence,

21 may form the basis for the employment decisions for good and

22 just cause. Records and any related information shall be

23 privileged and shall not be disclosed to a person not directly

24 involved in the [employment] decision affecting the specific

25 applicant who has been offered employment, contractor, [or]

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1   contractor's employee <u>or volunteer</u> with unsupervised access to

2   students.

3   [C. The department of education shall implement

4   the provisions of Subsection A of this section on or before

5   July 1, 1998.]"

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