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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**55th Legislature, 2nd Session, 2022**

<b>Bill Number</b>	<u>HB193</u>	<b>Sponsor</b>	<u>Sariñana/Trujillo/Herrera/Garratt/Matthews</u>
<b>Tracking Number</b>	<u>.221558.2SA</u>	<b>Committee Referrals</b>	<u>HEC/HGEIC</u>
<b>Short Title</b>	<u>School Personnel Background Checks</u>		
<b>Analyst</b>	<u>Hoxie</u>	<b>Original Date</b>	<u>2/7/2022</u>
		<b>Last Updated</b>	<u></u>

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**BILL SUMMARY**

Synopsis of Bill

House Bill 193 (HB193) amends the School Personnel Act to require the Public Education Department (PED) and the Department of Public Safety (DPS) to conduct a criminal history record check on all applicants for licensure, volunteers, or contractor employees. PED is also authorized to conduct criminal background checks on current licensees if the department determines that it is necessary to protect student safety.

HB193 clarifies which educational licenses offered by PED are subject to criminal record check requirements and clarifies the process to conduct criminal history record checks.

HB193 requires applicants or current licensees to pay the cost of obtaining a federal bureau of investigation (FBI) criminal history record check.

HB193 imposes confidentiality requirements and blocks PED from excluding a qualified person from licensure on the sole basis of having been arrested or convicted of a crime, unless it is a qualifying criminal conviction under the Uniform Licensing Act.

The bill has an effective date of July 1, 2022.

**FISCAL IMPACT**

The bill does not contain an appropriation.

**SUBSTANTIVE ISSUES**

**Background Checks for Public School Employees.** Public school employees, including licensed school personnel, are required to undergo a criminal history background check before they can begin employment. Under current law, any school employee providing instructional support services, teaching, or supervising an instructional program must hold a valid license for their respective functions. Section 22-10A-5 NMSA 1978 requires all applicants for initial licensure to

provide two fingerprint cards, or the electronic equivalent to either the PED or their superintendent to obtain the applicant's Federal Bureau of Investigation (FBI) record.

HB193 adds consistency to the criminal history record check procedure by specifying who is subject to a criminal history record check. HB193 specifies that any individual applying for any licensure or certificate from PED shall undergo both a state-level and national-level criminal history record check. HB193 requires PED to consider criminal history record information confidential. HB193 requires applicants or current licensees to pay the cost of obtaining a criminal history record check.

**Criminal History Record Check Procedure.** HB193 amends the School Personnel Act to clarify the criminal history record check procedure. Under the bill, PED is permitted to access record information and requires all applicants for licensure from PED to submit physical or electronic fingerprint cards to DPS to conduct the state-level criminal history record review and DPS shall forward the fingerprints to the FBI for national-level criminal history review. Once the state-level and national-level criminal history record checks are complete, DPS will review information obtained through the background checks and compile the data for PED. PED will then use the compiled information to inform decisions about initial and continuing licensure.

## **OTHER SIGNIFICANT ISSUES**

**Agency Analysis Asserts Statutory Changes Needed.** According to PED and DPS, these statutory changes are required to conform to FBI background criminal history check requirements and in order to continue utilize FBI background check processes. DPS agency analysis noted FBI advised PED to define in specificity who will be subject to the national fingerprint criminal history checks. The agency notes amendments to the School Personnel Act found in HB193 reflect changes required by the FBI so that PED can continue to do background checks on candidates.

## **SOURCES OF INFORMATION**

- LESC Files

**EH/ctf/mb**