

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 528

An Act to amend and reenact § 22.1-296.3 of the Code of Virginia, relating to criminal record checks for private school employees.

[H 435]

Approved April 5, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-296.3 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-296.3. Certain private school employees subject to fingerprinting and criminal records checks.

A. As a condition of employment, the governing boards or administrators of private or parochial elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education shall require any applicant who accepts employment for the first time after July 1, 1998, whether full-time or part-time, permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the governing board or administrator, or to a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment based on whether or not the applicant has ever been convicted of the following crimes or their equivalent if from another jurisdiction: ~~murder, abduction for immoral purposes as set out in § 18.2-48, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, failing to secure medical attention for an injured child, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, neglect of children as set out in § 18.2-371.1, or obscenity offenses as set out in § 18.2-374.1 or § 18.2-379, possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, any offense set forth in § 63.1-198.1 or § 63.1-248.7:2, use of a firearm in the commission of a felony as set out in § 18.2-53.1, or an equivalent offense in another state.~~

B. The Central Criminal Records Exchange shall not disclose information to such governing board, administrator, or private organization coordinating such records regarding charges or convictions of any crimes. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the governing board, administrator, or private organization coordinating such records shall not be disseminated except as provided in this section. A governing board or administrator employing or previously employing a temporary teacher or a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police may disseminate, at the written request of such temporary teacher, whether such teacher meets the criteria or does not meet the criteria for employment pursuant to subsection A to the governing board or administrator of another accredited private or parochial elementary or secondary school in which such teacher has accepted employment. Such governing board, administrator, or private organization transferring criminal records information pursuant to this section shall be immune from civil liability for any official act, decision or omission done or made in the performance of such transfer, when such acts or omissions are taken in good faith and are not the result of gross negligence or willful misconduct.

In addition to the fees assessed by the Federal Bureau of Investigation, the Department of State Police may assess a fee for responding to requests required by this section which shall not exceed fifteen dollars per request for a criminal records check.

For purposes of this section, "governing board" or "administrator" means the unit or board or person designated to supervise operations of a system of private or parochial schools or a private or parochial school accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education.

Nothing in this section or § 19.2-389 shall be construed to require any private or parochial school which is not so accredited to comply with this section.