

**CHAPTER 111****(HB 447)**

AN ACT relating to private, parochial, and church schools.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 160.151 is amended to read as follows:

- (1) (a) ~~Beginning with the 2002-2003 school year, a~~ private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with the provisions of KRS 156.160(3) may require a national and state criminal background check on all new certified hires in the school and student teachers assigned to the school ***and may require a new national and state criminal background check on each certified teacher once every five (5) years of employment.*** Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check for previous employment may be excluded from ~~the initial, further~~ national or state criminal background checks.
- (b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Department of Kentucky State Police or the Administrative Office of the Courts.
- (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Department of Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Department of Kentucky State Police, the Administrative Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (2) If a school requires a criminal background check for a new hire, the school shall conspicuously include the following disclosure statement on each application or renewal form provided by the employer to an applicant for a certified position: "STATE LAW AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."
  - (a) For purposes of this subsection, "contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.
  - (b) The school or school board may require a contractor, volunteer, or visitor to submit to a national criminal history check by the Federal Bureau of Investigation and state criminal history background check by the Department of Kentucky State Police or Administrative Office of the Courts. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter may choose not to employ any person who is a violent offender as defined by KRS 17.165(2), has been convicted of a sex crime which is classified as a felony as defined by KRS 17.165(1), or has committed a violent crime as defined in KRS 17.165(3). A nonpublic school may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor.
- (b) If a school term has begun and a certified position remains unfilled or if a vacancy occurs during a school term, a nonpublic school implementing the provisions of this chapter may employ an individual who will have supervisory or disciplinary authority over minors on probationary status pending receipt of a criminal history background check.

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- (c) Employment at a nonpublic school implementing the provisions of this chapter may be contingent on the receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165.
- (d) Nonpublic schools implementing the provisions of this chapter may terminate probationary employment under this section upon receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165.

**Signed by Governor April 12, 2010.**