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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 2955

February 14, 2008

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The bill was read for the first time and referred to the Committee on E-12 Education

March 11, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Public Safety and Civil Justice

March 19, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to education; amending school background check requirements;
1.3 amending Minnesota Statutes 2006, section 123B.03, subdivisions 2, 3, by
1.4 adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 123B.03, subdivision 2, is amended to read:

1.7 Subd. 2. ~~Conditional hiring; discharge~~ Effect of background check. (a) A school
1.8 hiring authority may hire an individual pending completion of a background check under
1.9 subdivision 1 but shall notify the individual that the individual's employment may be
1.10 terminated based on the result of the background check. A school hiring authority is not
1.11 liable for failing to hire or for terminating an individual's employment based on the result
1.12 of a background check under this section.

1.13 (b) An individual must be informed by the school hiring authority if the individual's
1.14 application to be an employee or volunteer in the district has been denied as a result
1.15 of a background check conducted under this section. The school hiring authority must
1.16 also inform an individual who is a current employee or volunteer if the individual's
1.17 employment or volunteer status in the district is being terminated as a result of a
1.18 background check conducted under this section.

1.19 Sec. 2. Minnesota Statutes 2006, section 123B.03, subdivision 3, is amended to read:

1.20 Subd. 3. **Definitions.** For purposes of this section:

1.21 (a) "School" means a school as defined in section 120A.22, subdivision 4, except
1.22 a home school, and includes a school receiving tribal contract or grant school aid under
1.23 section 124D.83; school, for the purposes of this section, also means a service cooperative,

2.1 a special education cooperative, or an education district under Minnesota Statutes 1997
2.2 Supplement, section 123.35, a charter school under section 124D.10, an intermediate
2.3 school district under section 136D.01, and a joint powers district under section 471.59.

2.4 (b) "School hiring authority" means the school principal or other person having
2.5 general control and supervision of the school.

2.6 (c) "Security violations" means failing to prevent or failing to institute safeguards
2.7 to prevent the access, use, retention, or dissemination of information in violation of the
2.8 security and management control outsourcing standard established by the state compact
2.9 officer under section 299C.58, article I, paragraph (2)(B). A third-party contractor that has
2.10 engaged in security violations is ineligible to participate under this section and a school
2.11 hiring authority must not contract with such a contractor.

2.12 Sec. 3. Minnesota Statutes 2006, section 123B.03, is amended by adding a subdivision
2.13 to read:

2.14 Subd. 4. **Third-party contractors; responsibility for criminal history record**
2.15 **information.** (a) For purposes of this section, a school hiring authority may contract with
2.16 an eligible third party to conduct the criminal history background check required under
2.17 subdivision 1. Before entering into the contract, the school hiring authority must:

2.18 (1) provide the state compact officer with the name of the proposed third-party
2.19 contractor and a copy of the proposed contract;

2.20 (2) determine from the state compact officer whether the proposed contractor has
2.21 engaged in security violations; and

2.22 (3) request and receive permission from the state compact officer to enter into the
2.23 contract with the proposed contractor.

2.24 (b) The contract must specify the purposes for which the background check
2.25 information may be made available and shall incorporate into the contract by reference
2.26 the management control outsourcing standard under subdivision 3, paragraph (c). A
2.27 third-party contractor under this section is subject to section 13.05, subdivision 11.

2.28 (c) A school hiring authority must inform an individual who is the subject of a
2.29 criminal history background check that the individual has the right to request and obtain
2.30 from the school hiring authority a copy of the background check report. A school hiring
2.31 authority may charge the individual for the actual cost of providing a copy of the report.
2.32 An individual who is the subject of a criminal history background check has the right to
2.33 challenge the accuracy and completeness of any information contained in the background
2.34 check report, consistent with section 13.04, subdivision 4.