

AMENDED IN ASSEMBLY APRIL 17, 2012

AMENDED IN ASSEMBLY MARCH 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1717**

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**Introduced by Assembly Member Dickinson**

February 16, 2012

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An act to ~~amend Section 44830.1 of~~ *add Section 44021* to the Education Code, ~~and to amend Section 1555 of the Health and Safety Code,~~ relating to ~~certificated~~ school district employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1717, as amended, Dickinson. ~~Certificated school~~ *School* district employees. *employees: community care facilities.*

(1) Existing law requires the State Department of Social Services to notify the local director of social services and the probation officer of the county in which a community care facility is located whenever the license, registration, or special permit issued to the community care facility is suspended, revoked, temporarily suspended, forfeited, canceled, or expired.

Existing law requires the Department of Justice to notify a school district if it discovers that an individual who is an applicant for employment for a position requiring certification qualifications has been convicted of specified offenses and requires a school district employer to request subsequent arrest service from the Department of Justice, as specified.

*This bill would require a school district, as part of the hiring process, to request an applicant for a classified or certificated position, including a temporary or substitute position, to provide, in writing, information*

*regarding a currently or previously held license, registration, or special permit issued under provisions governing community care facilities and regarding current or prior employment in a licensed community care facility. The bill would require an employee of a school district to provide similar information by July 1, 2013.*

*The bill would require a school district that receives information that an applicant for employment or an employee currently holds or previously held such a license, registration, or special permit or is currently employed or was previously employed in a licensed community care facility to submit the applicant's or employee's name, birth date, and driver's license or Department of Motor Vehicles identification number to the State Department of Social Services.*

*The bill would require the State Department of Social Services to include the contact information for the employing school district in the record of an individual holding a license, registration, or special permit and in the record of the employee of a community care facility. If the individual's license, registration, or special permit is revoked, suspended, forfeited, canceled, or surrendered on the grounds that the holder engaged in conduct inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the community care facility or has an exclusion on those grounds, the bill would require the State Department of Social Services to notify the employing school district within 10 days of receipt of that information or within 10 days of the revocation, suspension, forfeiture, cancellation, surrender, or exclusion, whichever is applicable.*

*The bill would require the school district to notify the State Department of Social Services if an employee of a school district who holds a license, registration, or special permit for a community care facility or is employed in a licensed community care facility is dismissed on the basis of endangering the safety of a pupil.*

*To the extent that these requirements would operate to impose new duties on school districts, the bill would impose a state-mandated local program.*

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,*

*reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~This bill would require the State Department of Social Services to notify, as provided, the Department of Justice whenever a license, registration, or special permit issued for a community care facility is revoked or has an exclusion on the grounds that the holder engaged in conduct inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.~~

~~The bill would require the Department of Justice to provide to a school district information pertaining to the revocation of or exclusion on a license, registration, or special permit for a community care facility if a certificated school employee or an applicant for employment by the school district is the subject of the information. The bill would require the department to provide the information within 10 days of receipt of the information.~~

~~(2) The bill also would make technical, nonsubstantive changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 44021 is added to the Education Code,
- 2     to read:
- 3     44021. (a) (1) As part of the hiring process, a school district
- 4     shall request an applicant for a classified or certificated position,
- 5     including a temporary or substitute position, to provide, in writing,
- 6     information regarding a currently or previously held license,
- 7     registration, or special permit issued under Chapter 3
- 8     (commencing with Section 1500) of Division 2 of the Health and
- 9     Safety Code for a community care facility and regarding current
- 10    or prior employment in a community care facility licensed by the
- 11    State Department of Social Services.
- 12    (2) By July 1, 2013, an employee of a school district shall notify
- 13    the school district, in writing, if the employee currently holds or
- 14    previously held a license, registration, or special permit issued
- 15    under Chapter 3 (commencing with Section 1500) of Division 2
- 16    of the Health and Safety Code for a community care facility and
- 17    if the employee is currently or was previously employed in a

1 community care facility licensed by the State Department of Social  
2 Services.

3 (b) When a school district receives information that an applicant  
4 for employment or an employee currently holds or previously held  
5 a license, registration, or special permit issued under Chapter 3  
6 (commencing with Section 1500) of Division 2 of the Health and  
7 Safety Code for a community care facility or is currently or was  
8 previously employed in a community care facility licensed by the  
9 State Department of Social Services, the school district shall submit  
10 the applicant's or employee's name, birth date, and driver's license  
11 or Department of Motor Vehicles identification number to the State  
12 Department of Social Services.

13 (c) The State Department of Social Services shall include the  
14 contact information for the employing school district in the record  
15 of an individual holding a license, registration, or special permit  
16 issued under Chapter 3 (commencing with Section 1500) of  
17 Division 2 of the Health and Safety Code for a community care  
18 facility and in the record of the employee of a community care  
19 facility. If the individual's license, registration, or special permit  
20 is revoked, suspended, forfeited, canceled, or surrendered on the  
21 grounds that the holder engaged in conduct inimical to the health,  
22 morals, welfare, or safety of either an individual in or receiving  
23 services from the community care facility or has an exclusion on  
24 those grounds, the State Department of Social Services shall notify  
25 the employing school district and, in the case of a certificated  
26 employee, the Commission on Teacher Credentialing within 10  
27 days of receipt of information pursuant to subdivision (b) or within  
28 10 days of the revocation, suspension, forfeiture, cancellation,  
29 surrender, or exclusion, whichever is applicable.

30 (d) If an employee of a school district who holds a license,  
31 registration, or special permit issued under Chapter 3  
32 (commencing with Section 1500) of Division 2 of the Health and  
33 Safety Code for a community care facility or is employed in a  
34 community care facility licensed by the State Department of Social  
35 Services is dismissed on the basis of endangering the safety of a  
36 pupil, the school district shall notify the State Department of Social  
37 Services of the dismissal.

38 SEC. 2. If the Commission on State Mandates determines that  
39 this act contains costs mandated by the state, reimbursement to  
40 local agencies and school districts for those costs shall be made

1 *pursuant to Part 7 (commencing with Section 17500) of Division*  
2 *4 of Title 2 of the Government Code.*

3 ~~SECTION 1. Section 44830.1 of the Education Code is~~  
4 ~~amended to read:~~

5 ~~44830.1. (a) In addition to any other prohibition or provision,~~  
6 ~~a person who has been convicted of a violent or serious felony~~  
7 ~~shall not be hired by a school district in a position requiring~~  
8 ~~certification qualifications or supervising positions requiring~~  
9 ~~certification qualifications. A school district shall not retain in~~  
10 ~~employment a current certificated employee who has been~~  
11 ~~convicted of a violent or serious felony, and who is a temporary~~  
12 ~~employee, a substitute employee, or a probationary employee~~  
13 ~~-serving before March 15 of the employee's second probationary~~  
14 ~~year. If any conviction is reversed and the formerly convicted~~  
15 ~~person is acquitted of the offense in a new trial, or the charges are~~  
16 ~~dismissed, this section does not prohibit his or her employment~~  
17 ~~thereafter.~~

18 ~~(b) This section applies to any violent or serious offense that,~~  
19 ~~if committed in this state, would have been punishable as a violent~~  
20 ~~or serious felony.~~

21 ~~(c) (1) For purposes of this section, a violent felony is any~~  
22 ~~felony listed in subdivision (c) of Section 667.5 of the Penal Code~~  
23 ~~and a serious felony is any felony listed in subdivision (c) of~~  
24 ~~Section 1192.7 of the Penal Code.~~

25 ~~(2) For purposes of this section, a plea of nolo contendere to a~~  
26 ~~serious or violent felony constitutes a conviction.~~

27 ~~(3) For purposes of this section, the term "school district" has~~  
28 ~~the same meaning as defined in Section 41302.5.~~

29 ~~(d) When the governing board of any school district requests a~~  
30 ~~criminal record summary of a temporary, substitute, or probationary~~  
31 ~~certificated employee, two fingerprint cards, bearing the legible~~  
32 ~~rolled and flat impressions of the person's fingerprints together~~  
33 ~~with a personal description and the fee, shall be submitted, by any~~  
34 ~~means authorized by the Department of Justice, to the Department~~  
35 ~~of Justice.~~

36 ~~(e) When the Department of Justice ascertains that an individual~~  
37 ~~who is an applicant for employment by a school district has been~~  
38 ~~convicted of a violent or serious felony, or for purposes of~~  
39 ~~implementing the prohibitions set forth in Section 44836, any sex~~  
40 ~~offense, as defined in Section 44010, or any controlled substance~~

1 offense, as defined in Section 44011, or is the subject of  
2 information received pursuant to subdivision (b) of Section 1555  
3 of the Health and Safety Code, the Department of Justice shall  
4 notify the school district of the criminal or other information  
5 pertaining to the applicant. The notification shall be delivered by  
6 telephone or electronic mail to the school district. The notification  
7 to the school district shall cease to be made once the statewide  
8 electronic fingerprinting network is returning responses within  
9 three working days. The Department of Justice shall send by  
10 first-class mail or electronic mail a copy of the criminal or other  
11 information to the Commission on Teacher Credentialing. The  
12 Department of Justice may charge a reasonable fee to cover the  
13 costs associated with processing, reviewing, and supplying the  
14 criminal record summary or other information required by this  
15 section. The fee shall not exceed the actual costs incurred by the  
16 Department of Justice.

17 (f) Notwithstanding subdivision (a), a person shall not be denied  
18 employment or terminated from employment solely on the basis  
19 that the person has been convicted of a violent or serious felony  
20 if the person has obtained a certificate of rehabilitation and pardon  
21 pursuant to Chapter 3.5 (commencing with Section 4852.01) of  
22 Title 6 of Part 3 of the Penal Code.

23 (g) Notwithstanding subdivision (f), a person shall not be denied  
24 employment or terminated from employment solely on the basis  
25 that the person has been convicted of a serious felony that is not  
26 also a violent felony if that person can prove to the sentencing  
27 court of the offense in question, by clear and convincing evidence,  
28 that he or she has been rehabilitated for the purposes of school  
29 employment for at least one year. If the offense in question  
30 occurred outside this state, the person may seek a finding of  
31 rehabilitation from the court in the school district in which he or  
32 she is a resident.

33 (h) Notwithstanding any other law, when the Department of  
34 Justice notifies a school district by telephone or electronic mail  
35 that a current temporary employee, substitute employee, or  
36 probationary employee serving before March 15 of the employee's  
37 second probationary year, has been convicted of a violent or serious  
38 felony, that employee shall immediately be placed on leave without  
39 pay. When the school district receives written electronic  
40 notification of the fact of conviction from the Department of

1 ~~Justice, the employee shall be terminated automatically and without~~  
2 ~~regard to any other procedure for termination specified in this code~~  
3 ~~or school district procedures unless the employee challenges the~~  
4 ~~record of the Department of Justice and the Department of Justice~~  
5 ~~withdraws in writing its notification to the school district. Upon~~  
6 ~~receipt of written withdrawal of notification from the Department~~  
7 ~~of Justice, the employee shall immediately be reinstated with full~~  
8 ~~restoration of salary and benefits for the period of time from the~~  
9 ~~suspension without pay to the reinstatement.~~

10 ~~(i) (1) An employer shall request subsequent arrest service from~~  
11 ~~the Department of Justice as provided under Section 11105.2 of~~  
12 ~~the Penal Code.~~

13 ~~(2) Within 10 days of receipt of information provided to the~~  
14 ~~Department of Justice pursuant to Section 1555 of the Health and~~  
15 ~~Safety Code subsequent to employment of a person, the Department~~  
16 ~~of Justice shall provide to a school district employer notification~~  
17 ~~of that information and copies of all records provided to the~~  
18 ~~Department of Justice pertaining to the revocation or exclusion,~~  
19 ~~in compliance with all applicable federal and state privacy laws.~~  
20 ~~The notification shall be delivered to the school district employer~~  
21 ~~in the same manner as set forth in subdivision (e).~~

22 ~~(j) Notwithstanding Section 47610, this section applies to a~~  
23 ~~charter school.~~

24 ~~(k) This section shall not apply to a certificated employee who~~  
25 ~~applies to renew his or her credential when both of the following~~  
26 ~~conditions have been met:~~

27 ~~(1) The employee's original application for credential was~~  
28 ~~accompanied by that person's fingerprints.~~

29 ~~(2) The employee has either been continuously employed in~~  
30 ~~one or more public school districts since the issuance or last~~  
31 ~~renewal of his or her credential or his or her credential has not~~  
32 ~~expired between renewals.~~

33 ~~(l) This section does not prohibit a county superintendent of~~  
34 ~~schools from issuing a temporary certificate to any person~~  
35 ~~described in paragraph (1) or (2) of subdivision (k).~~

36 ~~(m) This section does not prohibit a school district from hiring~~  
37 ~~a certificated employee who became a permanent employee of~~  
38 ~~another school district as of October 1, 1997.~~

1 ~~(n) All information obtained from the Department of Justice is~~  
2 ~~confidential. Every agency handling Department of Justice~~  
3 ~~information shall ensure the following:~~

4 ~~(1) A recipient shall not disclose its contents or provide copies~~  
5 ~~of information.~~

6 ~~(2) Information received shall be stored in a locked file separate~~  
7 ~~from other files, and shall only be accessible to the custodian of~~  
8 ~~records.~~

9 ~~(3) Information received shall be destroyed upon the hiring~~  
10 ~~determination in accordance with subdivision (a) of Section 708~~  
11 ~~of Title 11 of the California Code of Regulations.~~

12 ~~(4) Compliance with destruction, storage, dissemination,~~  
13 ~~auditing, backgrounding, and training requirements as set forth in~~  
14 ~~Sections 700 through 708, inclusive, of Title 11 of the California~~  
15 ~~Code of Regulations and Section 11077 of the Penal Code,~~  
16 ~~governing the use and security of criminal offender record~~  
17 ~~information, is the responsibility of the entity receiving the~~  
18 ~~information from the Department of Justice.~~

19 ~~SEC. 2. Section 1555 of the Health and Safety Code is amended~~  
20 ~~to read:~~

21 ~~1555. (a) Whenever a license, registration, or special permit~~  
22 ~~issued under this chapter for a community care facility is~~  
23 ~~suspended, revoked, temporarily suspended, forfeited, canceled,~~  
24 ~~or expires, the department shall provide written notice of that~~  
25 ~~occurrence within 10 days to the local director of social services~~  
26 ~~and the probation officer of the county in which the community~~  
27 ~~care facility is located.~~

28 ~~(b) Whenever a license, registration, or special permit issued~~  
29 ~~under this chapter for a community care facility is revoked or has~~  
30 ~~an exclusion on the grounds that the holder engaged in conduct~~  
31 ~~inimical to the health, morals, welfare, or safety of either an~~  
32 ~~individual in, or receiving services from, the facility or the people~~  
33 ~~of the State of California, the department shall provide written~~  
34 ~~notice of that occurrence within 10 days to the Department of~~  
35 ~~Justice, and copies of records pertaining to the revocation or~~  
36 ~~exclusion, in compliance with all applicable federal and state~~  
37 ~~privacy laws.~~