

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Diaz, M. offered the following:

2
3 **Amendment to Amendment (784037) (with title amendment)**

4 Remove lines 5-774 and insert:

5 Section 11. Subsection (3) of section 1012.32, Florida
6 Statutes, is amended to read:

7 1012.32 Qualifications of personnel.-

8 (3) (a) ~~All fingerprints submitted to~~ The Department of Law
9 Enforcement ~~as required by subsection (2)~~ shall retain the
10 fingerprints submitted for a criminal history background
11 screening pursuant to subsection (2) and s. 1012.465, be
12 ~~retained by the Department of Law Enforcement in a manner~~
13 ~~provided by rule~~ enter the fingerprints and entered in the
14 statewide automated biometric identification system authorized

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15 by s. 943.05(2) (b), and enroll the fingerprints in the national
16 retained print arrest notification program when the national
17 program becomes operational and the Department of Law
18 Enforcement begins participation in the program. The
19 fingerprints of individuals which were retained by the
20 Department of Law Enforcement before its participation in the
21 national program must be enrolled in the program within 2 years
22 after the Department of Law Enforcement begins participation.
23 Such fingerprints shall thereafter be available for arrest
24 notifications required by paragraph (b) and all purposes and
25 uses authorized for arrest fingerprints entered in the statewide
26 automated biometric identification system pursuant to s.
27 943.051.

28 (b) The Department of Law Enforcement shall search all
29 arrest fingerprints ~~received under s. 943.051~~ against the
30 fingerprints retained ~~in the statewide automated biometric~~
31 ~~identification system~~ under paragraph (a) and report- any arrest
32 record ~~that is~~ identified by the Department of Law Enforcement
33 or the Federal Bureau of Investigation ~~with the retained~~
34 ~~fingerprints of a person subject to the background screening~~
35 ~~under this section shall be reported~~ to the employing or
36 contracting school district or the school district with which
37 the person is affiliated. Each school district is required to
38 participate in this search process by payment of fees ~~an annual~~
39 ~~fee~~ to the Department of Law Enforcement and by informing the
40 Department of Law Enforcement of any change in the ~~affiliation,~~

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41 ~~employment, or contractual status or place of affiliation,~~
42 ~~employment, or contracting~~ of its instructional and
43 ~~noninstructional~~ personnel whose fingerprints are retained under
44 paragraph (a). The Department of Law Enforcement shall adopt a
45 rule that sets ~~setting the amount of~~ the annual fee ~~to be~~
46 ~~imposed upon~~ each school district must pay to the Department of
47 Law Enforcement and identifies the federal subscription fee
48 collected and remitted by the Department of Law Enforcement for
49 participation in the national retained arrest print notification
50 program, as applicable, for performing these searches and
51 establishes ~~establishing~~ the procedures for the retention of
52 ~~instructional and noninstructional personnel~~ fingerprints
53 retained under paragraph (a) and the dissemination of search
54 results. The fee may be borne by the district school board, the
55 contractor, or the person fingerprinted.

56 (c) Personnel whose fingerprints are not retained by the
57 Department of Law Enforcement under paragraph ~~paragraphs~~ (a) and
58 ~~(b)~~ must be refingerprinted and rescreened in accordance with
59 subsection (2) upon reemployment or reengagement to provide
60 services in order to comply with the requirements of this
61 subsection.

62 Section 12. Section 1012.465, Florida Statutes, is amended
63 to read:

64 1012.465 ~~Background screening~~ Requirements for certain
65 ~~noninstructional~~ school district employees, contractual
66 personnel, and instructional personnel ~~and contractors.~~

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67 (1) The following individuals ~~Except as provided in s.~~
68 ~~1012.467 or s. 1012.468, noninstructional school district~~
69 ~~employees or contractual personnel who are permitted access on~~
70 ~~school grounds when students are present, who have direct~~
71 ~~contact with students or who have access to or control of school~~
72 ~~funds~~ must meet the level 2 screening requirements of this
73 section: as described in s. 1012.32. ~~Contractual personnel shall~~
74 ~~include any vendor, individual, or entity under contract with a~~
75 ~~school or the school board.~~

76 (a) Noninstructional school district employees who have
77 direct contact with students or who have access to or control of
78 school funds.

79 (b) Contractual personnel, including individuals under
80 contract with a school or the district school board who provide
81 instructional, rehabilitative, medical, or psychological
82 services, or other services relating to the education, care,
83 custody, or safety of students, that involve direct contact with
84 students.

85 (c) Contractual personnel who have access to or control of
86 school funds.

87 (d) Instructional personnel who are hired or contracted to
88 provide virtual instruction pursuant to s. 1002.45.

89 (2) An individual described in subsection (1) must be of
90 good moral character, must not be ineligible under s. 1012.315,
91 and must, when required by law, hold a certificate or license
92 issued under rules of the State Board of Education or the

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93 Department of Children and Families, except when employed
94 pursuant to s. 1012.55 or under the emergency provisions of s.
95 1012.24. Previous residence in this state shall not be required
96 as a prerequisite for a person holding a valid Florida
97 certificate or license to serve in an instructional capacity.

98 (3) A fingerprint-based criminal history background
99 screening shall be performed on each individual described in
100 subsection (1) at least once every 5 years. For the initial
101 criminal history background screening, the individual shall
102 submit electronically to the Department of Law Enforcement for a
103 state criminal history check a complete set of fingerprints
104 taken by an authorized law enforcement agency, an employee
105 trained to take fingerprints for any school district or public
106 school, or a private company authorized to take fingerprints
107 under s. 943.053(13). The Department of Law Enforcement shall
108 submit the fingerprints to the Federal Bureau of Investigation
109 for a national criminal history check. The Department of Law
110 Enforcement shall report the results of each criminal history
111 check to the school district in which the individual seeks
112 access and enter the results into the system described in s.
113 1012.467(7).

114 (4) The Department of Law Enforcement shall retain the
115 fingerprints submitted for a criminal history background
116 screening, enter the fingerprints in the statewide automated
117 biometric identification system authorized by s. 943.05(2)(b),
118 and enroll the fingerprints in the national retained print

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119 arrest notification program in accordance with s. 1012.32(3).

120 (5) The Department of Law Enforcement shall search arrest
121 fingerprints against the fingerprints retained under subsection
122 (4) and report any arrest record identified by the Department of
123 Law Enforcement or the Federal Bureau of Investigation to each
124 school district in which the person seeks access. Participation
125 in the search process is subject to payment of fees pursuant to
126 s. 1012.32(3). The fees may be borne by the district school
127 board, the contractor, or the person fingerprinted. A fee that
128 is charged by a school district may not exceed 30 percent of the
129 total amount charged by the Department of Law Enforcement and
130 the Federal Bureau of Investigation.

131 (6) An individual subject to this section shall inform a
132 school district if a criminal history background screening was
133 completed in another school district within the past 5 years.
134 The school district shall verify the results of the individual's
135 criminal history background screening using the system described
136 in s. 1012.467(7). The school district may not charge a fee for
137 verifying the results of the criminal history background
138 screening.

139 ~~(2) Every 5 years following employment or entry into a~~
140 ~~contract in a capacity described in subsection (1), each person~~
141 ~~who is so employed or under contract with the school district~~
142 ~~must meet level 2 screening requirements as described in s.~~
143 ~~1012.32, at which time the school district shall request the~~
144 ~~Department of Law Enforcement to forward the fingerprints to the~~

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145 ~~Federal Bureau of Investigation for the level 2 screening. If,~~
146 ~~for any reason following employment or entry into a contract in~~
147 ~~a capacity described in subsection (1), the fingerprints of a~~
148 ~~person who is so employed or under contract with the school~~
149 ~~district are not retained by the Department of Law Enforcement~~
150 ~~under s. 1012.32(3)(a) and (b), the person must file a complete~~
151 ~~set of fingerprints with the district school superintendent of~~
152 ~~the employing or contracting school district. Upon submission of~~
153 ~~fingerprints for this purpose, the school district shall request~~
154 ~~the Department of Law Enforcement to forward the fingerprints to~~
155 ~~the Federal Bureau of Investigation for the level 2 screening,~~
156 ~~and the fingerprints shall be retained by the Department of Law~~
157 ~~Enforcement under s. 1012.32(3)(a) and (b). The cost of the~~
158 ~~state and federal criminal history check required by level 2~~
159 ~~screening may be borne by the district school board, the~~
160 ~~contractor, or the person fingerprinted. Under penalty of~~
161 ~~perjury, each person who is employed or under contract in a~~
162 ~~capacity described in subsection (1) must agree to inform his or~~
163 ~~her employer or the party with whom he or she is under contract~~
164 ~~within 48 hours if convicted of any disqualifying offense while~~
165 ~~he or she is employed or under contract in that capacity.~~

166 ~~(7)(3)~~ If it is found that a person who is employed or
167 under contract in a capacity described in subsection (1) has
168 been arrested for a disqualifying offense specified in s.
169 1012.315 ~~does not meet the level 2 requirements,~~ the person
170 shall be immediately suspended from working in that capacity and

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171 shall remain suspended until final resolution of any appeals.

172 Section 13. Paragraphs (b) through (e) of subsection (2)
173 and subsection (7) of section 1012.467, Florida Statutes, are
174 amended to read:

175 1012.467 Noninstructional contractors who are permitted
176 access to school grounds when students are present; background
177 screening requirements.—

178 (2)

179 (b) ~~As authorized by law,~~ The Department of Law
180 Enforcement shall retain the fingerprints submitted ~~by the~~
181 ~~school districts pursuant to this subsection to the Department~~
182 ~~of Law Enforcement~~ for a criminal history background screening
183 in a manner provided by rule, ~~and~~ enter the fingerprints in the
184 statewide automated biometric identification system authorized
185 by s. 943.05(2)(b), and enroll the fingerprints in the national
186 retained print arrest notification program in accordance with s.
187 1012.32(3). The fingerprints shall thereafter be available for
188 arrest notifications required by paragraph (c) and all purposes
189 and uses authorized for arrest fingerprints entered in ~~into~~ the
190 statewide automated biometric identification system pursuant to
191 ~~under~~ s. 943.051.

192 (c) The Department of Law Enforcement shall search arrest
193 fingerprints against the fingerprints retained under paragraph
194 (b) and report any arrest record identified by the Department of
195 Law Enforcement or the Federal Bureau of Investigation to each
196 school district in which the person seeks access. ~~As authorized~~

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197 ~~by law, the Department of Law Enforcement shall search all~~
198 ~~arrest fingerprints received under s. 943.051 against the~~
199 ~~fingerprints retained in the statewide automated biometric~~
200 ~~identification system under paragraph (b).~~

201 (d) School district participation in the search process is
202 subject to the payment of fees ~~School districts may participate~~
203 ~~in the search process described in this subsection by paying an~~
204 ~~annual fee to the Department of Law Enforcement as provided in~~
205 paragraph (e).

206 (e) A fingerprint retained pursuant to this subsection
207 shall be purged ~~from the automated biometric identification~~
208 ~~system~~ 5 years following the date the fingerprint was initially
209 submitted. The Department of Law Enforcement shall set by rule
210 the amount of the fees, separately identifying the federal
211 subscription fee collected and remitted by the Department of Law
212 Enforcement for participation in the national retained print
213 arrest notification program, as applicable, annual fee to be
214 imposed upon each participating agency for performing ~~these~~
215 searches under this subsection and ~~establishing~~ the procedures
216 for retaining fingerprints and disseminating search results. The
217 fee may be borne as provided by law. ~~Fees may be waived or~~
218 ~~reduced by the executive director of the Department of Law~~
219 ~~Enforcement for good cause shown.~~

220 (7) (a) The Department of Law Enforcement shall implement a
221 system that allows for the results of a criminal history check
222 provided to a school district to be shared with other school

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223 districts through a secure Internet website or other secure
224 electronic means. ~~School districts must accept reciprocity of~~
225 ~~level 2 screenings for Florida High School Athletic Association~~
226 ~~officials.~~

227 (b) An employee of a school district, a charter school, a
228 lab school, a charter lab school, an approved virtual
229 instruction provider under s. 1002.45, or the Florida School for
230 the Deaf and the Blind who requests or shares criminal history
231 information under this section is immune from civil or criminal
232 liability for any good faith conduct that occurs during the
233 performance of and within the scope of responsibilities related
234 to the record check.

235 Section 14. Paragraph (b) of subsection (10) of section
236 1012.56, Florida Statutes, is amended to read:

237 1012.56 Educator certification requirements.—

238 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND
239 PERIODICALLY.—

240 (b) A person may not receive a certificate under this
241 chapter until the person's screening under s. 1012.32 is
242 completed and the results have been submitted to the Department
243 of Education or to the district school superintendent of the
244 school district that employs the person. Every 5 years after
245 obtaining initial certification, each person who is required to
246 be certified under this chapter and whose fingerprints have not
247 been enrolled in the national retained print arrest notification
248 program in accordance with s. 1012.32(3) must be rescreened in

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249 accordance with s. 1012.32, at which time the school district
250 shall request the Department of Law Enforcement to forward the
251 fingerprints to the Federal Bureau of Investigation for federal
252 criminal records checks. If, for any reason after obtaining
253 initial certification, the fingerprints of a person who is
254 required to be certified under this chapter are not retained by
255 the Department of Law Enforcement under s. 1012.32(3)(a) and
256 (b), the person must file a complete set of fingerprints with
257 the district school superintendent of the employing school
258 district. Upon submission of fingerprints for this purpose, the
259 school district shall request the Department of Law Enforcement
260 to forward the fingerprints to the Federal Bureau of
261 Investigation for federal criminal records checks, and the
262 fingerprints shall be retained by the Department of Law
263 Enforcement under s. 1012.32(3)(a) and (b). The cost of the
264 state and federal criminal history checks required by paragraph
265 (a) and this paragraph may be borne by the district school board
266 or the employee. Under penalty of perjury, each person who is
267 certified under this chapter must agree to inform his or her
268 employer within 48 hours if convicted of any disqualifying
269 offense while he or she is employed in a position for which such
270 certification is required.

271 Section 15. Paragraph (e) of subsection (1) of section
272 1012.796, Florida Statutes, is amended to read:

273 1012.796 Complaints against teachers and administrators;
274 procedure; penalties.—

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(1)

(e) If allegations arise against an employee who is certified under s. 1012.56 and employed in an educator-certificated position by ~~in~~ any public school, charter school or governing board thereof, approved virtual instruction provider under s. 1002.45, or private school that accepts scholarship students under s. 1002.39 or s. 1002.395, the school or provider shall file in writing with the department a legally sufficient complaint within 30 days after the date on which the subject matter of the complaint came to the attention of the school or provider. A complaint is legally sufficient if it contains ultimate facts that show a violation has occurred as provided in s. 1012.795 and defined by rule of the State Board of Education. The school or provider shall include all known information relating to the complaint with the filing of the complaint. This paragraph does not limit or restrict the power and duty of the department to investigate complaints, regardless of the school's or provider's untimely filing, or failure to file, complaints and followup reports.

Section 16. Subsection (1) of section 1012.797, Florida Statutes, is amended to read:

1012.797 Notification of ~~district school superintendent of~~ certain charges against or convictions of employees.—

(1) Notwithstanding the provisions of s. 985.04(7) or any other provision of law to the contrary, a law enforcement agency shall, within 48 hours, notify the appropriate district school

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301 superintendent of the name and address of any employee of the
302 school district who is charged with a felony or ~~with a~~
303 misdemeanor specified in s. 1012.315 or any other crime
304 involving the abuse of a minor child or the sale or possession
305 of a controlled substance. The notification shall include the
306 specific charge for which the employee of the school district
307 was arrested. Such notification shall include other education
308 providers such as the Florida School for the Deaf and the Blind,
309 the Florida Virtual School, university lab schools, charter
310 schools, approved virtual instruction providers under s.
311 1002.45, and private elementary and secondary schools.

312 -----
313
314 **T I T L E A M E N D M E N T**

315 Remove lines 779-824 and insert:
316 amending s. 1012.32, F.S.; revising requirements for
317 the retention, search, and reporting of fingerprints
318 of school personnel; providing for Department of Law
319 Enforcement participation in the national retained
320 print arrest notification program; providing for fees;
321 amending s. 1012.465, F.S.; providing background
322 screening requirements for certain school district
323 employees, certain contractual personnel, and
324 instructional personnel in virtual instruction
325 programs; requiring a fingerprint-based criminal
326 history background screening; providing requirements

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327 for submission, retention, search, and reporting of
328 fingerprints; providing for fees; amending s.
329 1012.467, F.S.; requiring the fingerprints of certain
330 noninstructional contractors to be enrolled in the
331 national retained print arrest notification program;
332 requiring arrest fingerprints to be searched against
333 state and federal retained fingerprints; providing for
334 fees to be established in rule; revising provisions
335 relating to sharing criminal history information;
336 amending s. 1012.56, F.S.; revising provisions
337 relating to background rescreening for educator
338 certification; amending s. 1012.796; including persons
339 employed by virtual instruction providers against
340 which complaints may be filed; amending s. 1012.797,
341 F.S.; revising provisions relating to notification to
342 education providers of charges against school district
343 employees;

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