

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB's 1254 and 1662

SPONSOR: Education Committee and Senators Aronberg and Saunders

SUBJECT: School Employees/Background Checks

DATE: April 17, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matthews</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Fav/Combined CS</u>
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	<u>                    </u>	<u>                    </u>	<u>ACJ</u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>AED</u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

## I. Summary:

This committee substitute requires, beginning July 1, 2003, the Florida Department of Law Enforcement (FDLE) to retain and enter into a statewide automated fingerprint identification system all fingerprints submitted by school district, charter schools, and university lab schools for personnel who have direct contact with students. Beginning December 15, 2004, FDLE shall search all arrest fingerprint cards received pursuant to s. 943.051, F.S., against fingerprints contained in the system. FDLE shall report any matches to the employing school district or charter school. Each school district and charter school is required to participate in the system and pay for the service which may be passed on to the employee. Each school district and charter school is required to inform FDLE of any change in employment of employees or contractors who have fingerprints in the system. FDLE shall adopt rules setting the amount of the fee and procedures for retention and reporting of fingerprints and matches.

The committee substitute requires charter school employees and contractors hired or contracted to fill positions that have direct contact with students, and members of the charter school governing board to have a complete set of fingerprints taken by an authorized law enforcement officer or employee trained to take fingerprints. The committee substitute makes conforming changes to s. 1012.32, F.S., to add charter school employees and contractors.

The committee substitute takes effect July 1, 2003.

The committee substitute substantially amends s. 1012.32, F.S.

## **II. Present Situation:**

Section 1012.32, F.S., requires a fingerprint check, upon employment, of all personnel who are hired to fill positions requiring direct contact with students in any district school system or university lab school. The Department of Education requires all school district employees and contractors, upon employment, to undergo a fingerprint check if the personnel are hired to fill a position requiring direct contact with children. The Department of Education has interpreted the term "personnel" in s. 1012.32, F.S., to encompass contractors.

Section 1012.21, F.S., authorizes the Department of Education (DOE), in cooperation with the Department of Law Enforcement (FDLE), to conduct periodic criminal history record checks on persons holding an educator certificate and on adjunct educators. In reality, the periodic criminal history record checks are not being conducted.

Section 1002.33, F.S., requires a charter school to employ or contract with employees who have been fingerprinted pursuant to s. 1012.32, F.S. Additionally, members of the governing board of a charter school are required to be fingerprinted.

There are additional fingerprint requirements for certain instructional personnel. Section 1012.56, F.S., requires a fingerprint check for any individual seeking education certification. Section 1012.39, F.S., requires a fingerprint check for substitute teachers, adult education teachers, and non-degreed teachers of career and technical programs.

The costs for the initial fingerprint checks are borne by either the school district or the employee. FDLE assesses a \$15 fee to process a background check.

Section 1012.797, F.S., requires a law enforcement agency to notify, within 48 hours, the appropriate district school superintendent of the name and address of any school district employee who is charged with a felony, a misdemeanor involving the abuse of a minor child, or the sale or possession of a controlled substance.

## **III. Effect of Proposed Changes:**

This committee substitute requires, beginning July 1, 2003, the Florida Department of Law Enforcement (FDLE) to retain and enter into a statewide automated fingerprint identification system all fingerprints submitted by school district, charter schools, and university lab schools for personnel who have direct contact with students. Beginning December 15, 2004, FDLE shall search all arrest fingerprint cards received pursuant to s. 943.051, F.S., against fingerprints contained in the system. FDLE shall report any matches to the employing school district or charter school. Each school district and charter school is required to participate in the system and pay for the service which may be passed on to the employee. Each school district and charter school is required to inform FDLE of any change in employment of employees or contractors who have fingerprints in the system. FDLE shall adopt rules setting the amount of the fee and procedures for retention and reporting of fingerprints and matches.

FDLE has previously expressed concern that without a matching fingerprint comparison, some offenders would not be identified or some persons would be identified with a criminal record that

is not theirs. The committee substitute would ameliorate those concerns by matching fingerprint arrest cards with fingerprints retained in the statewide automated fingerprint identification system.

The committee substitute requires charter school employees having direct contact with students, contractors contracted to fill positions that have direct contact with students, and members of the charter school governing board to have a complete set of fingerprints taken by an authorized law enforcement officer or employee trained to take fingerprints. The committee substitute makes conforming changes to s. 1012.32, F.S., to add charter school employees and contractors.

The committee substitute takes effect July 1, 2003.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of Law Enforcement (FDLE) is already implementing the statewide automated fingerprint identification system and the system will be on line in 2004. FDLE has indicated that there would be no fiscal impact with the committee substitute.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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