

# 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 1158

SPONSOR: Education Committee and Senator Geller

SUBJECT: Alternative School Personnel/Fingerprinting

DATE: February 18, 2004      REVISED: \_\_\_\_\_

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

**I. Summary:**

This committee substitute requires that all personnel who are hired to fill a position requiring direct contact with students in an alternative school under contract with a district school system file fingerprints in accordance with s. 1012.32, F.S.

The committee substitute creates section 1012.47, of the Florida Statutes.

**II. Present Situation:**

This committee substitute was precipitated by an alleged sexual assault committed by Vankara Educational Center Administrator Carrollo Phillips on a 14-year old student. Although Mr. Phillips allegedly has a lengthy criminal record, he did not undergo criminal background screening because he was employed by the Vankara Educational Center, which operates under contract with the school district.<sup>1</sup> According to the Miami-Dade School District, contracts with alternative educational centers at the time only required fingerprint checks on classroom teachers and not administrators such as Mr. Phillips.

Although Vankara Educational Center is located on a campus that includes the Vankara Academy Charter School, the entities are purportedly distinct and separate corporations. However, the two entities share the same corporate officers. According to representatives of Vankara Academy Charter School, Vankara Educational Center has separate employees. As a charter school, all employees of Vankara Academy Charter School having direct contact with students are purportedly fingerprinted in accordance with s. 1002.33, F.S. The Miami-Dade School District has a contract with Vankara Educational Center to assign certain students to the

<sup>1</sup> Miami Herald, *Child-sex Case May Have Other Victims*, November 24, 2002.

alternative school. There is allegedly no contract between the charter school and the alternative school and the two entities have different student populations.

Miami-Dade District Schools have indicated that since the alleged incident all contracts have been rewritten to require fingerprinting and background checks on all personnel having direct contact with students in an alternative school.

Although not specifically defined in law, alternative schools encompass programs or facilities that provide services to students needing educational alternatives, students with discipline problems, students who are pregnant or teenage parents, and students serving in facilities operated by the Department of Juvenile Justice. The local school district determines placement in the programs, with the exception of the Department of Justice facilities. When these services are provided in a separate facility, the alternative schools may be public schools, Department of Justice facilities, or partnerships between district school boards and private entities. Personnel in these schools are fingerprinted and screened in accordance with the specific statutory provision governing operation of the schools.

Pursuant to s. 1012.32, F.S., school districts and university lab schools must fingerprint all personnel having direct contact with students in a district school system or university lab school. The school district may not employ an individual in a position requiring direct contact with students if the individual has been convicted of a crime involving moral turpitude. Section 1001.31, F.S., defines, in pertinent part, a district school system to include all public schools in the district under the direction of district school officials. A district school system may also include alternative site schools for disruptive or violent youth.

Pursuant to s. 1002.33(12)(g), F.S., charter schools shall employ or contract with employees who have been fingerprinted as provided in s. 1012.32, F.S.

Pursuant to s. 985.407, F.S., the Department of Juvenile Justice shall require level 1 employment screening pursuant to chapter 435 for personnel in delinquency facilities, services, and programs. Level 1 background screening under chapter 435 includes fingerprint checks.

Although alternative schools may be part of the district school system, they are not required to be. The Department of Education interprets s. 1012.32, F.S., as requiring fingerprinting of all personnel having direct contact with students in an alternative school under contract with a district school system. Obviously, the Miami-Dade School System had a differing interpretation. Absent a provision in the contract between the district school board or charter school and the alternative school, there may be circumstances in which certain alternative school personnel are not fingerprinted.

If Vankara Educational Center is considered a part of the Miami-Dade School System, Mr. Phillips would have been required to submit fingerprints for background screening as a matter of law. If Vankara Educational Center is not considered part of the Miami-Dade School System, there may be differing interpretations as to the fingerprinting requirements.

**III. Effect of Proposed Changes:**

The committee substitute clarifies fingerprinting requirements by mandating that all personnel having direct contact with students in an alternative school under contract with a district school system be fingerprinted in accordance with s. 1012.32, F.S.

The committee substitute has an effective date of July 1, 2004.

**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:**

Although not specifically addressed by the committee substitute, s. 1012.32, F.S., provides that the cost of fingerprinting shall be borne by the school district or the employee. The cost of a fingerprint check is currently \$23 per employee.

**C. Government Sector Impact:**

Section 1012.32(2)(a), F.S., authorizes the school district or the employee to pay for the cost of fingerprint processing. To the extent that a district school system elects to pay for the cost there would be an indeterminate fiscal impact.

**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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