

By the Committees on Criminal Justice; Education; and Senators  
Saunders and Fasano

307-1999-04

1                                   A bill to be entitled  
2           An act relating to school district employees  
3           and contractors; amending ss. 1002.33, 1012.32,  
4           1012.56, 1012.57, F.S.; requiring background  
5           screening, initially and periodically, of  
6           charter school employees, contractors, and  
7           members of the governing board; requiring  
8           background screening, initially and  
9           periodically, of persons certified under ch.  
10          1012, F.S.; requiring background screening,  
11          initially and periodically, of adjunct  
12          educators; requiring both instructional and  
13          noninstructional personnel of charter schools  
14          to undergo background screening by filing  
15          fingerprints with the school board of the  
16          district within which the charter school is  
17          located; providing that contractors have the  
18          same probationary status as employees;  
19          providing duties of the Department of Law  
20          Enforcement with respect to retention of  
21          fingerprint records submitted on behalf of  
22          school employees and contractors; requiring the  
23          Department of Law Enforcement to search all  
24          fingerprint records for arrest records;  
25          directing the department to report the arrest  
26          record to the school district employing the  
27          person; directing the school district to  
28          participate in the search; requiring the  
29          department to set a fee to be imposed on the  
30          school district; creating s. 1012.465, F.S.;  
31          requiring background screening, initially and

1           periodically, of certain noninstructional  
2           personnel and contractors with the school  
3           district; requiring any such person to report  
4           his or her conviction of a disqualifying  
5           offense; providing that noninstructional  
6           personnel may perform certain services before  
7           the results of the screening have been  
8           reported, with limitations; providing for  
9           suspending any such personnel who do not meet  
10          the screening requirements and revoking or  
11          suspending the certification of any such  
12          certified person; providing for appeal;  
13          providing that the school district or the  
14          employee may pay for the screening; providing  
15          an effective date.

16

17 Be It Enacted by the Legislature of the State of Florida:

18

19           Section 1. Paragraph (g) of subsection (12) of section  
20 1002.33, Florida Statutes, is amended to read:

21           1002.33 Charter schools.--

22           (12) EMPLOYEES OF CHARTER SCHOOLS.--

23           (g) A charter school shall employ or contract with  
24 employees who have undergone background screening ~~been~~  
25 ~~fingerprinted~~ as provided in s. 1012.32. Members of the  
26 governing board of the charter school shall also undergo  
27 background screening ~~be fingerprinted~~ in a manner similar to  
28 that provided in s. 1012.32.

29           Section 2. Subsection (2) of section 1012.32, Florida  
30 Statutes, is amended to read:

31           1012.32 Qualifications of personnel.--

1           (2)(a) Instructional and noninstructional personnel  
2 who are hired or contracted to fill positions requiring direct  
3 contact with students in any district school system or  
4 university lab school shall, upon employment or engagement to  
5 provide services, undergo background screening as required  
6 under s. 1012.56 or s. 1012.465, whichever is applicable file  
7 ~~a complete set of fingerprints taken by an authorized law~~  
8 ~~enforcement agency or an employee of the school or district~~  
9 ~~who is trained to take fingerprints.~~ Instructional and  
10 noninstructional personnel who are hired or contracted to fill  
11 positions in any charter school and members of the governing  
12 board of any charter school, in compliance with s.  
13 1002.33(12)(g), shall, upon employment, engagement of  
14 services, or appointment, undergo background screening as  
15 required under s. 1012.56 or s. 1012.465, whichever is  
16 applicable, by filing with the district school board for the  
17 district in which the charter school is located a complete set  
18 of fingerprints taken by an authorized law enforcement agency  
19 or an employee of the school or district who is trained to  
20 take fingerprints. These fingerprints shall be submitted to  
21 the Department of Law Enforcement for state processing and to  
22 the Federal Bureau of Investigation for federal processing.  
23 ~~The new employees shall be on probationary status pending~~  
24 ~~fingerprint processing and determination of compliance with~~  
25 ~~standards of good moral character.~~ Employees or contractors  
26 found through fingerprint processing to have been convicted of  
27 a crime involving moral turpitude may shall not be employed or  
28 engaged to provide services in any position requiring direct  
29 contact with students. Probationary employees or contractors  
30 terminated because of their criminal record ~~shall~~ have the  
31 right to appeal such decisions. The cost of the background

1 screening fingerprint processing may be borne by the district  
2 school board, the charter school, or the employee, or the  
3 contractor.

4 (b) Personnel whose fingerprints are not retained by  
5 the Department of Law Enforcement under paragraphs (c) and (d)  
6 are required to be refingerprinted and must meet level 2  
7 screening requirements as described in s. 435.04, upon  
8 reemployment or reengagement to provide services, in order to  
9 comply with the requirements of this subsection.

10 ~~(b) Personnel who have been fingerprinted or screened~~  
11 ~~pursuant to this subsection and who have not been unemployed~~  
12 ~~for more than 90 days shall not be required to be~~  
13 ~~refingerprinted or rescreened in order to comply with the~~  
14 ~~requirements of this subsection.~~

15 (c) Beginning July 1, 2004, all fingerprints submitted  
16 to the Department of Law Enforcement as required by paragraph  
17 (a), shall be retained by the Department of Law Enforcement in  
18 a manner provided by rule and entered in the statewide  
19 automated fingerprint identification system authorized by s.  
20 943.05(2)(b). Such fingerprints shall thereafter be available  
21 for all purposes and uses authorized for arrest fingerprint  
22 cards entered in the statewide automated fingerprint  
23 identification system pursuant to s. 943.051.

24 (d) Beginning December 15, 2004, the Department of Law  
25 Enforcement shall search all arrest fingerprint cards received  
26 under s. 943.051 against the fingerprints retained in the  
27 statewide automated fingerprint identification system under  
28 paragraph(c). Any arrest record that is identified with the  
29 retained employee or contractual personnel fingerprints will  
30 be reported to the employing or contracting school district.  
31 Each school district is required to participate in this search

1 process by payment of an annual fee to the Department of Law  
2 Enforcement and by informing the Department of Law Enforcement  
3 of any change in the employment or contractual status or place  
4 of employment or contracting of its instructional and  
5 noninstructional personnel whose fingerprints are retained  
6 under paragraph (c). The Department of Law Enforcement shall  
7 adopt a rule setting the amount of the annual fee to be  
8 imposed upon each school district for performing these  
9 searches, and establishing the procedures for the retention of  
10 employee or contractual personnel fingerprints and the  
11 dissemination of search results. The fee may be borne by the  
12 district school board or by the employee or contracted person.

13 Section 3. Paragraph (d) of subsection (2) of section  
14 1012.56, Florida Statutes, is amended, present subsections  
15 (9), (10), (11), (12), (13), (14), and (15) of that section  
16 are redesignated as subsections (10), (11), (12), (13), (14),  
17 (15), and (16), respectively, and a new subsection (9) is  
18 added to that section, to read:

19 1012.56 Educator certification requirements.--

20 (2) ELIGIBILITY CRITERIA.--To be eligible to seek  
21 certification pursuant to this chapter, a person must:

22 (d) Submit to background screening in accordance with  
23 subsection (9)~~a fingerprint check from the Department of Law~~  
24 ~~Enforcement and the Federal Bureau of Investigation pursuant~~  
25 ~~to s. 1012.32. If the background screening indicates~~  
26 ~~fingerprint reports indicate~~ a criminal history or if the  
27 applicant acknowledges a criminal history, the applicant's  
28 records shall be referred to the Bureau of Educator Standards  
29 for review and determination of eligibility for certification.  
30 If the applicant fails to provide the necessary documentation  
31 requested by the Bureau of Educator Standards within 90 days

1 after the date of the receipt of the certified mail request,  
2 the statement of eligibility and pending application shall  
3 become invalid.

4 (9) BACKGROUND SCREENING REQUIRED, INITIALLY AND  
5 PERIODICALLY.--

6 (a) Each person who seeks certification under this  
7 chapter must meet level 2 screening requirements as described  
8 in s. 435.04 unless a level 2 screening has been conducted by  
9 a district school board within 12 months before the date the  
10 person initially obtains certification under this chapter, the  
11 results of which are submitted to the department by the  
12 district school board.

13 (b) A person may not receive a certificate under this  
14 chapter until the level 2 screening has been completed and the  
15 results have been submitted to the district school  
16 superintendent of the school district that employs him or her.  
17 Every 5 years after obtaining initial certification, each  
18 person who is required to be certified under this chapter must  
19 meet level 2 screening requirements as described in s. 435.04,  
20 at which time the school district shall request the Department  
21 of Law Enforcement to forward the fingerprints to the Federal  
22 Bureau of Investigation for the level 2 screening. If, for any  
23 reason after obtaining initial certification, the fingerprints  
24 of a person who is required to be certified under this chapter  
25 are not retained by the Department of Law Enforcement under s.  
26 1012.32(2)(c) and (d), the person must file a complete set of  
27 fingerprints with the district school superintendent of the  
28 school district that employs him or her. Upon submission of  
29 fingerprints for this purpose, the school district shall  
30 request the Department of Law Enforcement to forward the  
31 fingerprints to the Federal Bureau of Investigation for the

1 level 2 screening, and the fingerprints shall be retained by  
2 the Department of Law Enforcement under s. 1012.32(2)(c) and  
3 (d). The cost of the state and federal criminal history check  
4 required by level 2 screening may be borne by the district  
5 school board or the employee. Under penalty of perjury, each  
6 person who is certified under this chapter must agree to  
7 inform his or her employer immediately if convicted of any  
8 disqualifying offense while he or she is employed in a  
9 position for which such certification is required.

10 (c) If it is found under s. 1012.796 that a person who  
11 is employed in a position requiring certification under this  
12 chapter does not meet the level 2 requirements, the person's  
13 certification shall be immediately revoked or suspended, and  
14 he or she shall be immediately suspended from the position  
15 requiring certification.

16 Section 4. Section 1012.57, Florida Statutes, is  
17 amended to read:

18 1012.57 Certification of adjunct educators.--

19 (1) Notwithstanding the provisions of ss. 1012.32,  
20 1012.55, and 1012.56, or any other provision of law or rule to  
21 the contrary, district school boards may issue an adjunct  
22 teaching certificate to any applicant who fulfills the  
23 requirements of s. 1012.56(2)(a)-(f) and (9) and who has  
24 expertise in the subject area to be taught. An applicant shall  
25 be considered to have expertise in the subject area to be  
26 taught if the applicant has at least a minor in the subject  
27 area or demonstrates sufficient subject area mastery as  
28 determined by district school board policy. The adjunct  
29 teaching certificate shall be used for part-time teaching  
30 positions. The intent of this provision is to allow school  
31 districts to tap the wealth of talent and expertise

1 represented in Florida's citizens who may wish to teach  
2 part-time in a Florida public school by permitting school  
3 districts to issue adjunct certificates. Adjunct  
4 certificateholders should be used as a strategy to reduce the  
5 teacher shortage; thus, adjunct certificateholders should  
6 supplement a school's instructional staff, not supplant it.  
7 Each school principal shall assign an experienced peer mentor  
8 to assist the adjunct teaching certificateholder during the  
9 certificateholder's first year of teaching, and an adjunct  
10 certificateholder may participate in a district's new teacher  
11 training program. District school boards shall provide the  
12 adjunct teaching certificateholder an orientation in classroom  
13 management prior to assigning the certificateholder to a  
14 school. Each adjunct teaching certificate is valid for 5  
15 school years and is renewable if:

16       (a) The applicant completes a minimum of 60 inservice  
17 points or 3 semester hours of college credit. The earned  
18 credits must include instruction in classroom management,  
19 district school board procedures, school culture, and other  
20 activities that enhance the professional teaching skills of  
21 the certificateholder.

22       (b) The applicant has received satisfactory  
23 performance evaluations during each year of teaching under  
24 adjunct teaching certification.

25       (2) Individuals who are certified and employed under  
26 ~~pursuant to~~ this section ~~shall~~ have the same rights and  
27 protection of laws as teachers certified under ~~pursuant to~~ s.  
28 1012.56.

29       Section 5. Section 1012.465, Florida Statutes, is  
30 created to read:

31



1           1012.465 Background screening requirements for certain  
2 noninstructional school district employees and contractors.--

3           (1) Noninstructional school district employees or  
4 contractual personnel who have direct contact with minors or  
5 access to or control of school funds must meet level 2  
6 screening requirements as described in s. 435.04.

7           (2) Every 5 years following employment or entry into a  
8 contract in a capacity described in subsection (1), each  
9 person who is so employed or under contract with the district  
10 must meet level 2 screening requirements as described in s.  
11 435.04, at which time the school district shall request the  
12 Department of Law Enforcement to forward the fingerprints to  
13 the Federal Bureau of Investigation for the level 2 screening.

14 If, for any reason following employment or entry into a  
15 contract in a capacity described in subsection (1), the  
16 fingerprints of a person who is so employed or under contract  
17 with the district are not retained by the Department of Law  
18 Enforcement under s. 1012.32(2)(c) and (d), the person must  
19 file a complete set of fingerprints with the district school  
20 superintendent of the school district that employs or  
21 contracts with him or her. Upon submission of fingerprints for  
22 this purpose, the school district shall request the Department  
23 of Law Enforcement to forward the fingerprints to the Federal  
24 Bureau of Investigation for the level 2 screening, and the  
25 fingerprints shall be retained by the Department of Law  
26 Enforcement under s. 1012.32(2)(c) and (d). The cost of the  
27 state and federal criminal history check required by level 2  
28 screening may be borne by the district school board or by the  
29 employee or contractor. Under penalty of perjury, each person  
30 who is employed or under contract in a capacity described in  
31 subsection (1) must agree to inform his or her employer or the

1 party with whom he or she is under contract immediately if  
2 convicted of any disqualifying offense while he or she is  
3 employed or under contract in that capacity.

4 (3) If it is found that a person who is employed or  
5 under contract in a capacity described in subsection (1) does  
6 not meet the level 2 requirements, the person shall be  
7 immediately suspended from working in that capacity and shall  
8 remain suspended until final resolution of any appeals.

9 Section 6. This act shall take effect July 1, 2004.

10  
11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
12 COMMITTEE SUBSTITUTE FOR  
13 CS/SB 154

- 14 - Authorizes FDLE to compare incoming arrest fingerprints  
15 against retained fingerprints and to notify the  
16 appropriate school district immediately if an employee or  
17 contractor is arrested.  
18 - Requires any employee or contractor who is subject to  
19 mandatory screening of state and national records for  
20 employment, contract status, or certification, whose  
21 fingerprints are not retained by FDLE for any reason, to  
22 be re-fingerprinted for retention and to satisfy Level 2  
23 screening requirements at the time they come up for  
24 re-employment or re-screening.  
25 - Authorizes FDLE to use retained fingerprints for all  
26 authorized criminal justice purposes.  
27 - Requires FDLE to adopt a rule setting the amount of the  
28 annual fee to be imposed on each school district for  
29 performing the criminal background searches and  
30 establishing procedures for the retention of fingerprints  
31 and the dissemination of search results.  
- Provides that the annual fee will be paid by the district  
school board or by the employee or contracted person.