

By Senator Argenziano

3-1087E-06

1 A bill to be entitled
2 An act relating to background screening
3 requirements for school district contractors;
4 amending s. 1012.465, F.S.; amending background
5 screening requirements for certain
6 noninstructional school district employees and
7 contractors; adding noninstructional
8 contractors to those who must meet the
9 screening requirements; defining the term
10 "noninstructional contractor"; creating s.
11 1012.467, F.S.; providing for the submission of
12 fingerprints; requiring school districts to
13 screen results of criminal records checks;
14 requiring the cost of background screening
15 requirements to be borne by certain parties;
16 providing a cap on fees that may be charged;
17 providing a list of violations that such
18 persons must not have committed if they are to
19 satisfy the screening requirements; providing
20 sanctions for failure to meet requirements;
21 providing grounds for contesting denial of
22 access to school grounds; providing reporting
23 requirements; providing that the failure to
24 meet requirements is a misdemeanor of the first
25 degree; allowing certain educational entities
26 to share information derived from checks of
27 criminal history records; authorizing the
28 Department of Law Enforcement to adopt rules;
29 providing immunity from civil or criminal
30 liability; creating s. 1012.468, F.S.;
31 specifying exemptions for contractors;

1 providing criteria and conditions; providing
2 that exempted contractors are subject to a
3 search of certain databases that list sexual
4 predators and sexual offenders; providing
5 consequences of a failure to meet the screening
6 requirements; prohibiting school districts from
7 charging additional fees; allowing certain
8 agencies to share information relating to
9 fingerprinting and criminal history records
10 checks; providing an effective date.

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

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14 Section 1. Subsection (1) of section 1012.465, Florida
15 Statutes, is amended to read:

16 1012.465 Background screening requirements for certain
17 noninstructional school district employees and contractors.--

18 (1) Except as provided in s. 1012.467,
19 noninstructional school district employees or contractual
20 personnel who are permitted access on school grounds when
21 students are present, who have direct contact with students or
22 who have access to or control of school funds must meet level
23 2 screening requirements as described in s. 1012.32.
24 Contractual personnel shall include any vendor, individual, or
25 entity under contract with a school or the school board.

26 Section 2. Section 1012.467, Florida Statutes, is
27 created to read:

28 1012.467 Noninstructional contractors who are
29 permitted access to school grounds when students are present;
30 background screening requirements.--

31 (1) As used in this section, the term:

1 (a) "Noninstructional contractor" means any vendor,
2 individual, or entity under contract with a school or with the
3 school board who receives remuneration for services performed
4 for the school district or a school, but who is not otherwise
5 considered an employee of the school district. The term also
6 includes any employee of a contractor who performs services
7 for the school district or school under the contract and any
8 subcontractor and its employees.

9 (b) "Convicted" has the same meaning as in s.
10 943.0435.

11 (2)(a) A fingerprint-based criminal history check
12 shall be performed on the noninstructional contractors who are
13 permitted access to school grounds when students are present
14 and who do not have direct contact with students. Criminal
15 history checks shall be performed at least once every 3 years.
16 For the initial criminal history check, each individual who is
17 subject to the criminal history check shall file with the
18 Department of Law Enforcement a complete set of fingerprints
19 taken by an authorized law enforcement agency or an employee
20 of a school district, a public school, or a private company
21 who is trained to take fingerprints. The fingerprints shall be
22 submitted for state processing to the Department of Law
23 Enforcement, which shall in turn submit the fingerprints to
24 the Federal Bureau of Investigation for federal processing.
25 The results of each criminal history check shall be reported
26 to the school district in which the individual is seeking
27 access. The school district shall screen the results using the
28 disqualifying offenses in paragraph (c) and promptly provide
29 the results to the shared system described in subsection (7).
30 The cost of the criminal history check may be borne by the
31 district school board, the school, the contractor, or the

1 individual. A fee that is charged by a district school board
2 for such checks may not exceed 30 percent of the total amount
3 charged by the Department of Law Enforcement and the Federal
4 Bureau of Investigation.

5 (b) An individual who is subject to a criminal history
6 check under this section shall inform a school district that
7 he or she has completed a criminal history check in another
8 school district within the last 3 years. The school district
9 shall verify the results of the individual's criminal history
10 check using the shared system described in subsection (7). The
11 school district shall not charge the individual a fee for
12 verifying the results of his or her criminal history check.

13 (c) An individual for whom a criminal history check is
14 required under this section may not have been convicted of any
15 of the following offenses designated in the Florida Statutes,
16 any similar offense in another jurisdiction, or any similar
17 offense committed in this state that has been redesignated
18 from a former provision of the Florida Statutes to one of the
19 following offenses:

20 1. Any offense listed in s. 943.0435(1)(a)1., relating
21 to the registration of an individual as a sexual offender.

22 2. Section 393.135, relating to sexual misconduct with
23 certain developmentally disabled clients and the reporting of
24 such sexual misconduct.

25 3. Section 394.4593, relating to sexual misconduct
26 with certain mental health patients and the reporting of such
27 sexual misconduct.

28 4. Section 775.30, relating to terrorism.

29 5. Section 782.04, relating to murder.

30 6. Section 787.01, relating to kidnapping.

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1 7. Any offense under chapter 800, relating to lewdness
2 and indecent exposure.

3 8. Section 826.04, relating to incest.

4 9. Section 827.03, relating to child abuse, aggravated
5 child abuse, or neglect of a child.

6 (3) If it is found that an individual has been
7 convicted of any of the offenses listed in paragraph (c), the
8 individual shall be immediately suspended from having access
9 to school grounds and shall remain suspended until final
10 resolution of any appeals.

11 (4) An individual who has been convicted of any of the
12 offenses listed in paragraph (2)(c) may not be permitted on
13 school grounds when students are present, unless the
14 individual has received a full pardon or has had his or her
15 civil rights restored.

16 (5) If a school district has reasonable cause to
17 believe that grounds exist for the denial of an individual's
18 access to school grounds when students are present, it shall
19 notify the individual in writing, stating the specific record
20 that indicates noncompliance with the standards set forth in
21 this section. It is the responsibility of the affected
22 individual to contest his or her denial. The only basis for
23 contesting the denial is proof of mistaken identity.

24 (6) Each individual who is subject to the requirements
25 of this section shall agree to inform his or her employer or
26 the party to whom he or she is under contract and the school
27 district within 48 hours if he or she is charged with any of
28 the disqualifying offenses in paragraph (2)(c). An individual
29 who willfully fails to comply with this subsection commits a
30 misdemeanor of the first degree, punishable as provided in s.
31 775.082 or s. 775.083.

1 (7)(a) The Department of Law Enforcement shall
2 implement a system that allows for the results of a criminal
3 history check provided to a school district to be shared with
4 other school districts through a secure Internet website or
5 other secure electronic means. The Department of Law
6 Enforcement may adopt rules under ss. 120.536(1) and 120.54 to
7 implement this provision.

8 (b) An employee of a school district, a charter
9 school, a lab school, a charter lab school, or the Florida
10 School for the Deaf and the Blind who requests or shares
11 criminal history information under this section is immune from
12 civil or criminal liability for any good-faith conduct that
13 occurs during the performance of and within the scope of
14 responsibilities related to the record check.

15 Section 3. Section 1012.468, Florida Statutes, is
16 created to read:

17 1012.468 Exceptions to certain fingerprinting and
18 criminal history checks.--

19 (1) As used in this section, the term
20 "noninstructional contractor" means any vendor, individual, or
21 entity under contract with a school or with the school board
22 who receives remuneration for services performed for the
23 school district or a school, but who is not otherwise
24 considered an employee of the school district. The term also
25 includes any employee of a contractor who performs services
26 for the school district or school under the contract and any
27 subcontractor and its employees.

28 (2) A district school board shall exempt from the
29 screening requirements set forth in ss. 1012.465 and 1012.467
30 the following individuals:
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1 (a)1. Noninstructional contractors who are under the
2 direct supervision of a school district employee or contractor
3 who has had a criminal history check and meets the screening
4 requirements pursuant to s. 1012.32, s. 1012.465, s. 1012.467,
5 or s. 1012.56. For purposes of this paragraph, the term
6 "direct supervision" means that a school district employee or
7 contractor is physically present with a noninstructional
8 contractor when the contractor has access to a student and the
9 access remains in the school district employee's or the
10 contractor's line of sight.

11 2. If an individual who is exempt under this
12 subsection no longer is under direct supervision as specified
13 in subparagraph 1., the individual may not be permitted on
14 school grounds when students are present until the individual
15 meets the screening requirements in s. 1012.465 or s.
16 1012.467.

17 (b) Noninstructional contractors who are required by
18 law to undergo a level 2 background screening pursuant to s.
19 435.04 for licensure, certification, employment, or other
20 purposes and who submit evidence of meeting the following
21 criteria:

22 1. The individual meets the screening standards in s.
23 435.04;

24 2. The individual's license or certificate is active
25 and in good standing, if the individual is a licensee or
26 certificateholder; and

27 3. The individual completed the criminal history check
28 within the 5 years prior to seeking access to school grounds
29 when students are present.

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1 (c) A law enforcement officer, as defined in s.
2 943.10, who is assigned or dispatched to school grounds by his
3 or her employer.

4 (3)(a) An individual who is exempt under this section
5 from the screening requirements set forth in s. 1012.465 or s.
6 1012.467 is subject to a search of his or her name or other
7 identifying information against the registration information
8 regarding sexual predators and sexual offenders maintained by
9 the Department of Law Enforcement under s. 943.043 and the
10 national sex offender public registry maintained by the United
11 States Department of Justice. The school district shall
12 conduct the search required under this subsection.

13 (b) An individual who is identified as a sexual
14 predator or sexual offender in the registry search required in
15 paragraph (a) is not permitted on school grounds when students
16 are present.

17 (4) A school district may not subject any individual
18 who meets the requirements in subsection (2) to an additional
19 criminal history check. Upon submission of evidence and
20 verification by the school district, the school district must
21 accept the results of the criminal history check for the
22 individual.

23 (5) An agency that by law requires an individual to
24 undergo a level 2 background screening and meet level 2
25 screening standards pursuant to s. 435.04 for licensure,
26 certification, employment, or other purposes may share the
27 results of the individual's criminal history check with a
28 school district, with the written permission of the
29 individual.

30 Section 4. This act shall take effect July 1, 2006.

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SENATE SUMMARY

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3 Revises background screening requirements for school
4 district contractors. Adds certain noninstructional
5 contractors, as defined in the act, to those who must
6 meet the screening requirements. Provides for the
7 submission of fingerprints. Requires school districts to
8 screen results of criminal records checks. Requires the
9 cost of background screening requirements to be borne by
10 certain parties. Provides a cap on fees that may be
11 charged. Provides a list of violations that such persons
12 must not have committed if they are to satisfy the
13 screening requirements. Provides sanctions for failure to
14 meet requirements. Provides grounds for contesting denial
15 of access to school grounds. Provides reporting
16 requirements. Provides that the failure to meet reporting
17 requirements is a misdemeanor of the first degree. Allows
18 certain educational entities to share information derived
19 from checks of criminal history records. Authorizes the
20 Department of Law Enforcement to adopt rules. Provides
21 immunity from civil or criminal liability. Specifies
22 exemptions for contractors. Provides criteria and
23 conditions. Provides that exempted contractors are
24 subject to a search of certain databases that list sexual
25 predators and sexual offenders. Provides consequences of
26 a failure to meet the screening requirements. Prohibits
27 school districts from charging additional fees. Allows
28 certain agencies to share information relating to
29 fingerprinting and criminal history records checks.
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