

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 1182

INTRODUCER: Senator Ring

SUBJECT: Criminal History Record Checks/Sports Coaches

DATE: April 10, 2008

REVISED: 04/16/08

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	Fav/2 amendments
2.	Erickson	Cannon	CJ	Fav/1 amendment
3.			JU	
4.			JA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input checked="" type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill requires the sanctioning authority of an independent youth athletic team to screen any person who acts as a sports coach to an independent youth athletic team. The sports coach must be screened using the sexual offenders and predators website at the Florida Department of Law Enforcement (FDLE) and the Dru Sjodin National Sex Offender Public Registry of the United States Department of Justice. Also, the bill creates a rebuttable presumption against negligent hiring for the sanctioning authority that screens a sports coach using these two websites and which makes a reasonable effort to contact references and former employers. Conversely, there is a rebuttable presumption that a sanctioning authority was negligent in hiring a sports coach if it does not comply with the provisions regarding screening and reference checks.

This bill creates two unnumbered sections of the Florida Statutes.

II. Present Situation:

Section 943.0542, F.S., addresses access to criminal history information provided by the FDLE for qualified entities through the Volunteer and Employee Criminal History System (VECHS). The term "qualified entity" refers to a business or organization, whether public, private, operated

for profit, operated not for profit, or voluntary, which provides care or care placement services. Under this section, “care” means the treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities. Each qualified entity must register with the FDLE before requesting a screening.

According to the FDLE, s. 943.0542, F.S., “implements the National Child Protection Act of 1993, as amended by the Volunteers for Children Act of 1998,¹ which authorizes national criminal history checks to be performed on volunteers and current or prospective employees of qualified entities.” The VECHS program may not be used by organizations that are mandated to obtain criminal history record checks on their employees or volunteers. If a background check is required by state statute or local ordinance, the criminal history information can only be released to a governmental entity. Because the VECHS is a voluntary program, the criminal history information can be released to a qualified entity.

To become a qualified entity, an organization must voluntarily submit an application to the FDLE identifying the function the organization performs and agree in writing that the criminal history information obtained from the FDLE will be used only to screen employees and volunteers for employment purposes. The qualified entity must send a completed waiver form for each employee and volunteer. The fingerprint card submission cost for an employee is \$53.25 and \$42.25 for an electronic submission. A fingerprint card or an electronic submission for a volunteer costs \$33.25. The FDLE provides the state criminal history records and national criminal history data directly to the qualified entity. The criminal history information received by the qualified entity will indicate whether or not the person has a criminal history in state or national databases and notification of any warrants or domestic violence injunctions.

The FDLE compiles information regarding sex offenders and makes that information available to the public. The information on the FDLE’s public website of sexual offenders and sexual predators comes from the following sources: the Florida Department of Corrections, the Florida Department of Highway Safety and Motor Vehicles, and various law enforcement officials.² The Dru Sjodin National Sex Offender Public Registry of the United States Department of Justice allows the public to search participating state websites for public information “regarding the presence or location of offenders, who, in most cases, have been convicted of sexually-violent offenses against adults and children and certain sexual contact and other crimes against victims who are minors.”³

III. Effect of Proposed Changes:

The bill defines an “independent youth athletic team” as an athletic team that includes a minor as a team member, and is sanctioned by an independent organization and not affiliated with a public or private school. A “sports coach” means a person who: is authorized by a sanctioning authority to lead an independent youth athletic team and any person assisting the coach; works 20 or more hours within a calendar year for an independent youth athletic team; has unsupervised contact with minors; and serves as a chaperone on any overnight activity related to the team.

¹ 42 U.S.C. sec. 5119a, et seq.

² See offender.fdle.state.fl.us, Florida Department of Law Enforcement (last visited March 17, 2008).

³ See <http://www.nsopr.gov/>, United States Department of Justice (last visited March 16, 2008).

Under the bill, the sanctioning authority of an independent youth athletic team is required to screen any person who acts as a sports coach to an independent youth athletic team through the website of sexual offenders and sexual predators at the FDLE and the Dru Sjodin National Sex Offender Public Registry of the United States Department of Justice.

A sanctioning authority shall disqualify any sports coach that appears on either registry mentioned above. The sanctioning authority is to notify a sports coach of his or her right to obtain a copy of the screening, and to challenge the accuracy and completeness of the report. Each sanctioning authority must annually sign an affidavit stating that all of its sports coaches have been screened or are awaiting the results of screening.

In any civil suit brought against a sanctioning authority for harm negligently caused by a sports coach, a rebuttable presumption is created that the independent youth athletic team was not negligent in hiring the sports coach if the sanctioning authority:

- Conducted a screening of the sports coach by reviewing the website of sexual offenders and predators at the FDLE and the Dru Sjodin National Sex Offender Public Registry of the United States Department of Justice; and
- Made a reasonable effort to contact references and former employers of the sports coach regarding the coach's suitability to work with minors.

In any civil suit brought against a sanctioning authority for harm negligently caused by a sports coach, a rebuttable presumption is created that the independent youth athletic team was negligent in hiring the sports coach if the sanctioning authority did not review the websites and did not make a reasonable effort to contact references and former employers as previously described. This bill encourages sanctioning authorities to participate in the VECHS program authorized under the National Child Protection Act and s. 943.0542, F.S.

The bill takes effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Although sanctioning authorities for independent youth athletic teams will have to screen their sports coaches using two different websites and contact prior references and employers, it is likely that any additional cost associated with this background screening is minimal. For the sanctioning authority that performs the required background screening, there is a rebuttable presumption against negligent hiring for an independent youth athletic team that hires a coach that has met the screening requirements. This would potentially reduce civil liability. Those sanctioning authorities that do not screen a sports coach as required under this bill are subject to a rebuttable presumption that the coach was negligently hired, which may increase liability.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:**Barcode 377182 by Criminal Justice on April 16, 2008:**

Amends one of the criteria relevant to a rebuttable presumption that the independent youth athletic team was not negligent in hiring the sports coach: the sanctioning authority made a reasonable effort to contact references and former employers of the sports coach concerning the suitability of the sports coach to work with minors and no adverse information regarding such suitability is discovered as a result of the screening and contacts.

Barcode 162184 by Community Affairs on March 19, 2008:

The amendment clarifies that the definition of “independent youth athletic team” refers to an athletic team based in this state.

Barcode 519778 by Community Affairs March 19, 2008:

The amendment revises the language creating a rebuttable presumption with regard to the hiring of a sports coach so that the presumption is based on whether or not the coach is screened using the VECHS program at FDLE.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
