

**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.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1386

INTRODUCER: Senator Diaz

SUBJECT: Background Screenings for School Personnel

DATE: January 31, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

SB 1386 shifts from the district school board to the employing entity the entity with whom a complete set of fingerprints must be filed to complete the background screening required upon employment for personnel in a virtual instruction program, an alternative school, or a charter school other than a school of hope. Consequently, the bill provides that:

- The cost of background screening is borne by the employing entity.
- The Florida Department of Law Enforcement must report arrests of school personnel to the employing entity instead of the school district
- Unless a person is otherwise disqualified by law, the employing entity has the sole authority for determining a person’s employment eligibility.

The bill defines “employing entity” as a district school board, charter school, alternative school, or any other entity that requires employees to complete a background screening to provide services in a district school system.

The bill takes effect July 1, 2022.

**II. Present Situation:**

**Criminal History Background Screening**

Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in an alternative school<sup>1</sup> or any public school, including a

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<sup>1</sup> An alternative school is a school that provides dropout prevention and academic intervention services. Section 1008.341(2), F.S.

charter school, and instructional staff of any approved virtual instruction program<sup>2</sup> must file with the district school board for the district in which the school serves or is located a complete set of fingerprints. The fingerprints must be:<sup>3</sup>

- Taken by an authorized law enforcement agency or an employee of the school or district school board who is trained to take fingerprints.<sup>4</sup>
- Submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for national criminal records checks.

The screening cost is borne by the district school board, the charter school, the employee, the contractor, or other person subject to the screening requirements.<sup>5</sup> A district school board is required to reimburse a charter school the cost of background screening if it does not notify the charter school of the eligibility of a governing board member or instructional or noninstructional personnel within the earlier of 14 days after receipt of the background screening results from the FDLE or 30 days of submission of fingerprints by the governing board member or instructional or noninstructional personnel.

A person is ineligible for employment if the person has committed certain disqualifying offenses specified in law<sup>6</sup> or rule<sup>7</sup> of the state board of education. FBI criminal history record information may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities.<sup>8</sup>

### **Retention of Applicant Fingerprints**

The FDLE must retain the fingerprints and report any arrest record of a person that is identified with the retained fingerprints to the employing or contracting district school board or the district school board with which the person is affiliated.<sup>9</sup> Employees and contracted personnel subject to these fingerprinting requirements must be rescreened every five years.<sup>10</sup>

Each school district is required to participate in this search process by payment of an annual fee to the FDLE and by informing the FDLE of any change in the affiliation, employment, or contractual status or place of affiliation, employment, or contracting of its instructional and noninstructional personnel whose fingerprints are retained. The FDLE is required to set the amount of the annual fee to be imposed upon each school district for performing these searches and establishing the procedures for the retention of instructional and noninstructional personnel

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<sup>2</sup> Section 1002.45(2)(a)3., F.S. A virtual instruction program is a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both. Section 1002.45(1)(a)2., F.S.

<sup>3</sup> Section 1012.32(2), F.S. This requirement is subject to limited exceptions for noninstructional contractors who meet the requirements specified in s. 1012.468, F.S.

<sup>4</sup> Section 1012.32(2)(b), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> *See* s. 1012.315, F.S., for a list of disqualifying offenses.

<sup>7</sup> Rule 6A-5.056(8), F.A.C.

<sup>8</sup> 28 C.F.R. s. 50.12(b).

<sup>9</sup> Section 1012.32(3), F.S.

<sup>10</sup> Sections 1012.465 and 1012.56(10), F.S.

fingerprints and the dissemination of search results. The fee may be borne by the district school board, the contractor, or the person fingerprinted.<sup>11</sup>

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

SB 1386 shifts from the district school board to the employing entity the entity with whom the complete set of fingerprints must be filed to complete the background screening required upon employment for personnel in a virtual instruction program, an alternative school, or a charter school other than a school of hope. Consequently, the bill provides that:

- The cost of background screening is borne by the employing entity.
- The FDLE must report arrests of school personnel to the employing entity instead of the school district
- Unless a person is otherwise disqualified by law, the employing entity has the sole authority for determining a person's employment eligibility.

The bill defines "employing entity" as a district school board, charter school, alternative school, or any other entity that requires employees to complete a background screening to provide services in a district school system.

The shift in screening responsibilities to the employing entity may reduce the time to complete the background screening process for employers other than district school boards. In addition, redundant background screenings for employing entities that contract with or provide services in more than one school district may be reduced or eliminated.

The bill takes effect July 1, 2022.

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

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

#### **E. Other Constitutional Issues:**

None.

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<sup>11</sup> Section 1012.32(3)(b), F.S.

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

None.

**B. Private Sector Impact:**

The fiscal impact to the private sector is indeterminate. The Florida Department of Law Enforcement (FDLE) reports that there will be a one-time increase in background checks as individuals will be required to be rescreened under the new employing entity holding the fingerprints. Employers or their employees that provide services in only one school district may experience an indeterminate negative fiscal impact associated with the initial rescreening.<sup>12</sup> Employers that contract with or provide services in more than one school district may experience a cost savings due to the reduction of redundant background screenings.

**C. Government Sector Impact:**

The fiscal impact is indeterminate. FDLE reports that there will be a one-time increase in background checks as individuals will be required to be rescreened under the new employing entity holding the fingerprints. Charter schools that are public employers or their employees that provide services in only one school district may experience an indeterminate negative fiscal impact associated with the initial one-time rescreening.<sup>13</sup>

Charter schools that are public employers that contract with or provide services to more than one district school board may experience a cost savings due to the reduction of redundant background screenings.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1012.32 of the Florida Statutes.

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<sup>12</sup> Florida Department of Law Enforcement, 2022 *FDLE Legislative Bill Analysis for SB 1386*.

<sup>13</sup> *Id.*

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

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