By the Committee on Education; and Senator Diaz

A bill to be entitled
An act relating to school personnel; amending s. 800.101, F.S.; prohibiting a person who is required to make certain reports concerning sexual misconduct with a student from knowingly or willfully failing to make such report or knowingly or willfully preventing another person from doing so; prohibiting a person from knowingly or willfully submitting inaccurate, incomplete, or untruthful information with respect to a report concerning sexual misconduct with a student; prohibiting a person from knowingly or willfully coercing or threatening any other person with the intent to alter testimony or a written report concerning sexual misconduct with a student; providing criminal penalties; amending s. 1012.32, F.S.; specifying that certain instructional and noninstructional personnel must file fingerprints with the employing entity or alternative school, as applicable, rather than the district school board; conforming provisions to changes made by the act; providing that an employing entity has the sole authority for determining the employment eligibility of certain personnel; providing an exception; requiring the Department of Law Enforcement to report the results from background screenings to the employing entity; defining the term “employing entity”; amending s. 1012.34, F.S.; providing that certain procedures established by district school superintendents set the standards of service to be
offered to the public within the meaning of a
specified provision and are not subject to the
collective bargaining process; providing an effective
date.

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

Section 1. Present subsection (4) of section 800.101,
Florida Statutes, is redesignated as subsection (5), new
subsection (4) is added to that section, and subsection (3) of
that section is amended, to read:

800.101 Offenses against students by authority figures.—
(3) A person who violates subsection (2) this section
commits a felony of the second degree, punishable as provided in
s. 775.082, s. 775.083, or s. 775.084.
(4)(a) A person who is required to make a report regarding
an incident of sexual misconduct with a student which could
impact an educator’s inclusion on the disqualification list
maintained by the Department of Education pursuant to s.
1001.10(4)(b) and who knowingly or willfully fails to make such
report, or knowingly or willfully prevents another person from
doing so, commits a misdemeanor of the first degree, punishable
as provided in s. 775.082 or s. 775.083.
(b) A person who knowingly or willfully submits inaccurate,
incomplete, or untruthful information with respect to a report
regarding an incident of sexual misconduct with a student which
could impact an educator’s inclusion on the disqualification
list maintained by the Department of Education pursuant to s.
1001.10(4)(b) commits a misdemeanor of the first degree,
punishable as provided in s. 775.082 or s. 775.083.
(c) A person who knowingly or willfully coerces or threatens any other person with the intent to alter testimony or a written report regarding an incident of sexual misconduct with a student which could impact an educator’s inclusion on the disqualification list maintained by the Department of Education pursuant to s. 1001.10(4)(b) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Subsection (2) and paragraph (b) of subsection (3) of section 1012.32, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

1012.32 Qualifications of personnel.—
(2)(a) Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in any district school system or university lab school must, upon employment or engagement to provide services, undergo background screening as required under s. 1012.465 or s. 1012.56, whichever is applicable.

(b)1. Instructional and noninstructional personnel who are hired or contracted to fill positions in a charter school other than a school of hope as defined in s. 1002.333, and members of the governing board of such charter school, in compliance with s. 1002.33(12)(g), upon employment, engagement of services, or appointment, shall undergo background screening as required under s. 1012.465 or s. 1012.56, whichever is applicable, by filing with the employing entity district school board for the school district in which the charter school is located a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school
2. Instructional and noninstructional personnel who are hired or contracted to fill positions in a school of hope as defined in s. 1002.333, and members of the governing board of such school of hope, shall file with the school of hope a complete set of fingerprints taken by an authorized law enforcement agency, by an employee of the school of hope or school district who is trained to take fingerprints, or by any other entity recognized by the Department of Law Enforcement to take fingerprints.

(c) Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in an alternative school that operates under contract with a district school system must, upon employment or engagement to provide services, undergo background screening as required under s. 1012.465 or s. 1012.56, whichever is applicable, by filing with the alternative school district school board for the school district to which the alternative school is under contract a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.

(d) Student teachers and persons participating in a field experience pursuant to s. 1004.04(5) or s. 1004.85 in any district school system, lab school, or charter school must, upon engagement to provide services, undergo background screening as required under s. 1012.56.

Required fingerprints must be submitted to the Department of Law Enforcement for statewide criminal and juvenile records checks.
and to the Federal Bureau of Investigation for federal criminal records checks. A person subject to this subsection who is found ineligible for employment under s. 1012.315, or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, may not be employed, engaged to provide services, or serve in any position that requires direct contact with students. Probationary persons subject to this subsection who are terminated because of their criminal record have the right to appeal such decisions. Except for a person’s ineligibility for employment as provided in this section, an employing entity has the sole authority for determining a person’s employment eligibility. The cost of the background screening may be borne by the employing entity district school board, the charter school, the employee, the contractor, or a person subject to this subsection. A district school board shall 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 Florida Department of Law Enforcement or 30 days of submission of fingerprints by the governing board member or instructional or noninstructional personnel.

(3)

(b) The Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (a). Any arrest record
that is identified with the retained fingerprints of a person subject to the background screening under this section must shall be reported to the employing entity or contracting school district or the school district with which the person is affiliated. Each employing entity school district is required to participate in this search process by payment of an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement 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 under paragraph (a). The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon each employing entity school district for performing these searches and establishing the procedures for the retention of instructional and noninstructional personnel fingerprints and the dissemination of search results. The fee may be borne by the employing entity district school board, the contractor, or the person fingerprinted.

(4) For purposes of this section, the term “employing entity” means a district school board, charter school, alternative school, or any other entity that requires employees to complete a background screening pursuant to this section.

Section 3. Paragraph (a) of subsection (1) of section 1012.34, Florida Statutes, is amended to read:

1012.34 Personnel evaluation procedures and criteria.—

(1) EVALUATION SYSTEM APPROVAL AND REPORTING.—

(a) For the purpose of increasing student academic performance by improving the quality of instructional,
administrative, and supervisory services in the public schools of this state, the district school superintendent shall establish procedures for evaluating the performance of duties and responsibilities of all instructional, administrative, and supervisory personnel employed by the school district. The procedures established by the district school superintendent set the standards of service to be offered to the public within the meaning of s. 447.209 and are not subject to the collective bargaining process. The district school superintendent shall provide instructional personnel the opportunity to review their class rosters for accuracy and to correct any mistakes. The district school superintendent shall report accurate class rosters for the purpose of calculating district and statewide student performance and annually report the evaluation results of instructional personnel and school administrators to the Department of Education in addition to the information required under subsection (5).

Section 4. This act shall take effect upon becoming a law.