

By the Committee on Education; and Senator Diaz

581-02603-22

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1 A bill to be entitled
2 An act relating to school personnel; amending s.
3 800.101, F.S.; prohibiting a person who is required to
4 make certain reports concerning sexual misconduct with
5 a student from knowingly or willfully failing to make
6 such report or knowingly or willfully preventing
7 another person from doing so; prohibiting a person
8 from knowingly or willfully submitting inaccurate,
9 incomplete, or untruthful information with respect to
10 a report concerning sexual misconduct with a student;
11 prohibiting a person from knowingly or willfully
12 coercing or threatening any other person with the
13 intent to alter testimony or a written report
14 concerning sexual misconduct with a student; providing
15 criminal penalties; amending s. 1012.32, F.S.;
16 specifying that certain instructional and
17 noninstructional personnel must file fingerprints with
18 the employing entity or alternative school, as
19 applicable, rather than the district school board;
20 conforming provisions to changes made by the act;
21 providing that an employing entity has the sole
22 authority for determining the employment eligibility
23 of certain personnel; providing an exception;
24 requiring the Department of Law Enforcement to report
25 the results from background screenings to the
26 employing entity; defining the term "employing
27 entity"; amending s. 1012.34, F.S.; providing that
28 certain procedures established by district school
29 superintendents set the standards of service to be

581-02603-22

20221386c1

30 offered to the public within the meaning of a
31 specified provision and are not subject to the
32 collective bargaining process; providing an effective
33 date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Present subsection (4) of section 800.101,
38 Florida Statutes, is redesignated as subsection (5), new
39 subsection (4) is added to that section, and subsection (3) of
40 that section is amended, to read:

41 800.101 Offenses against students by authority figures.—

42 (3) A person who violates subsection (2) ~~this section~~
43 commits a felony of the second degree, punishable as provided in
44 s. 775.082, s. 775.083, or s. 775.084.

45 (4) (a) A person who is required to make a report regarding
46 an incident of sexual misconduct with a student which could
47 impact an educator's inclusion on the disqualification list
48 maintained by the Department of Education pursuant to s.
49 1001.10(4) (b) and who knowingly or willfully fails to make such
50 report, or knowingly or willfully prevents another person from
51 doing so, commits a misdemeanor of the first degree, punishable
52 as provided in s. 775.082 or s. 775.083.

53 (b) A person who knowingly or willfully submits inaccurate,
54 incomplete, or untruthful information with respect to a report
55 regarding an incident of sexual misconduct with a student which
56 could impact an educator's inclusion on the disqualification
57 list maintained by the Department of Education pursuant to s.
58 1001.10(4) (b) commits a misdemeanor of the first degree,

581-02603-22

20221386c1

59 punishable as provided in s. 775.082 or s. 775.083.

60 (c) A person who knowingly or willfully coerces or
61 threatens any other person with the intent to alter testimony or
62 a written report regarding an incident of sexual misconduct with
63 a student which could impact an educator's inclusion on the
64 disqualification list maintained by the Department of Education
65 pursuant to s. 1001.10(4)(b) commits a misdemeanor of the first
66 degree, punishable as provided in s. 775.082 or s. 775.083.

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

70 1012.32 Qualifications of personnel.—

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

77 (b)1. Instructional and noninstructional personnel ~~who are~~
78 hired or contracted to fill positions in a charter school other
79 than a school of hope as defined in s. 1002.333, and members of
80 the governing board of such charter school, in compliance with
81 s. 1002.33(12)(g), upon employment, engagement of services, or
82 appointment, shall undergo background screening as required
83 under s. 1012.465 or s. 1012.56, whichever is applicable, by
84 filing with the employing entity ~~district school board for the~~
85 ~~school district in which the charter school is located~~ a
86 complete set of fingerprints taken by an authorized law
87 enforcement agency or an employee of the school ~~or school~~

581-02603-22

20221386c1

88 ~~district~~ who is trained to take fingerprints.

89 2. Instructional and noninstructional personnel ~~who are~~
90 hired or contracted to fill positions in a school of hope as
91 defined in s. 1002.333, and members of the governing board of
92 such school of hope, shall file with the school of hope a
93 complete set of fingerprints taken by an authorized law
94 enforcement agency, by an employee of the school of hope ~~or~~
95 ~~school district~~ who is trained to take fingerprints, or by any
96 other entity recognized by the Department of Law Enforcement to
97 take fingerprints.

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

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

114

115 Required fingerprints must be submitted to the Department of Law
116 Enforcement for statewide criminal and juvenile records checks

581-02603-22

20221386c1

117 and to the Federal Bureau of Investigation for federal criminal
118 records checks. A person subject to this subsection who is found
119 ineligible for employment under s. 1012.315, or otherwise found
120 through background screening to have been convicted of any crime
121 involving moral turpitude as defined by rule of the State Board
122 of Education, may ~~shall~~ not be employed, engaged to provide
123 services, or serve in any position that requires direct contact
124 with students. Probationary persons subject to this subsection
125 who are terminated because of their criminal record have the
126 right to appeal such decisions. Except for a person's
127 ineligibility for employment as provided in this section, an
128 employing entity has the sole authority for determining a
129 person's employment eligibility. The cost of the background
130 screening may be borne by the employing entity ~~district school~~
131 ~~board, the charter school, the employee, the contractor, or a~~
132 person subject to this subsection. ~~A district school board shall~~
133 ~~reimburse a charter school the cost of background screening if~~
134 ~~it does not notify the charter school of the eligibility of a~~
135 ~~governing board member or instructional or noninstructional~~
136 ~~personnel within the earlier of 14 days after receipt of the~~
137 ~~background screening results from the Florida Department of Law~~
138 ~~Enforcement or 30 days of submission of fingerprints by the~~
139 ~~governing board member or instructional or noninstructional~~
140 ~~personnel.~~

141 (3)

142 (b) The Department of Law Enforcement shall search all
143 arrest fingerprints received under s. 943.051 against the
144 fingerprints retained in the statewide automated biometric
145 identification system under paragraph (a). Any arrest record

581-02603-22

20221386c1

146 ~~that is~~ identified with the retained fingerprints of a person
147 subject to the background screening under this section must
148 ~~shall~~ be reported to the employing entity ~~or contracting school~~
149 ~~district or the school district with which the person is~~
150 ~~affiliated~~. Each employing entity ~~school district~~ is required to
151 participate in this search process by payment of an annual fee
152 to the Department of Law Enforcement and by informing the
153 Department of Law Enforcement of any change in the ~~affiliation,~~
154 ~~employment,~~ or contractual status ~~or place of affiliation,~~
155 ~~employment,~~ or ~~contracting~~ of its instructional and
156 noninstructional personnel whose fingerprints are retained under
157 paragraph (a). The Department of Law Enforcement shall adopt a
158 rule setting the amount of the annual fee to be imposed upon
159 each employing entity ~~school district~~ for performing these
160 searches and establishing the procedures for the retention of
161 instructional and noninstructional personnel fingerprints and
162 the dissemination of search results. The fee may be borne by the
163 employing entity ~~district school board, the contractor,~~ or the
164 person fingerprinted.

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

169 Section 3. Paragraph (a) of subsection (1) of section
170 1012.34, Florida Statutes, is amended to read:

171 1012.34 Personnel evaluation procedures and criteria.—

172 (1) EVALUATION SYSTEM APPROVAL AND REPORTING.—

173 (a) For the purpose of increasing student academic
174 performance by improving the quality of instructional,

581-02603-22

20221386c1

175 administrative, and supervisory services in the public schools
176 of this ~~the~~ state, the district school superintendent shall
177 establish procedures for evaluating the performance of duties
178 and responsibilities of all instructional, administrative, and
179 supervisory personnel employed by the school district. The
180 procedures established by the district school superintendent set
181 the standards of service to be offered to the public within the
182 meaning of s. 447.209 and are not subject to the collective
183 bargaining process. The district school superintendent shall
184 provide instructional personnel the opportunity to review their
185 class rosters for accuracy and to correct any mistakes. The
186 district school superintendent shall report accurate class
187 rosters for the purpose of calculating district and statewide
188 student performance and annually report the evaluation results
189 of instructional personnel and school administrators to the
190 Department of Education in addition to the information required
191 under subsection (5).

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