



Bill Number: Senate Bill 988

Bill Title: High-risk Offenders

Bill Sponsor: Senator Argenziano

Effective Date: July 1, 2007

DOE Contact: Marian W. Lambeth, Chief, Bureau of Professional Practices Services, (850) 245-0438

Executive Summary:

This bill amends the requirements of Florida public school districts, lab schools, charter school and lab charter schools to conduct criminal history background checks for non-instructional school district employees. The bill provides definitions, establishes standards and procedures related to the background screening of non-instructional contractors, establishes exemptions for criminal history background screenings, requires public schools and public school districts to use the Florida Department of Law Enforcement (FDLE) system of shared results, and caps the amount a non-instructional contractor may be charged for background screening.

Specifically, this bill defines:

- "Contractual personnel" as any vendor, individual, or entity under contract with a school or the school board
- "Non-Instructional Contractor" as any individual vendor or entity under contract with a school or school board who receives remuneration and is not otherwise considered an employee. The term non-instructional contractor also includes employees of the contractor and sub-contractors.
- "School grounds" as the buildings and grounds of any public pre-k, kindergarten, elementary, middle, junior high, high, or secondary school, or combination of grades pre-k through 12, together with the school district land. Specifically exempted are any other facilities or locations, buildings or grounds during times students are not permitted and any building used solely as a career or technical center under Part IV of Chapter 1004 for adult post secondary or adult education

The bill establishes fingerprint background screening requirements for non-instructional contractual personnel who are permitted access to school grounds when students are present, and requires the prints to be retained by the FDLE. The FDLE will search all retained prints against arrest fingerprint cards and districts may participate in the search by paying an annual fee which shall be established by the FLDE. Contractors' retained fingerprint records are purged after 5 years. Contractual personnel who remain under contract and are allowed access to school grounds while students are present must submit to a fingerprint-based criminal history background check every 5 years.

The fee charged for the non-instructional contractors' criminal history background check shall not exceed 30 percent of the total amount charged by the FBI and FDLE. (Currently the cost for FDLE is \$23.00 and \$24.00 for the FBI.)

The bill establishes a system of screening, separate from that for other school district employees, for non-instructional contractual personnel who are permitted access on school grounds when students are present. Districts must determine the eligibility or noneligibility of such individuals by using the list of disqualifying offenses for which a conviction of any delineated charge prohibits an individual from becoming a non-instructional contractor. Charges

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that are equivalent to similar offenses in other jurisdictions, or similar offenses that have been re-designated are considered part of the list. The disqualifying offenses include:

- Any offense related to the registration as a sexual offender
- Sexual misconduct with developmentally disabled persons and the reporting of such offenses
- Sexual misconduct with mental health patients and the reporting of such offenses
- Related to Terrorism
- Related to Murder
- Related to Kidnapping
- Related to Lewdness or Indecent Exposure
- Related to Incest
- Related to child abuse, aggravated child abuse, or child neglect

If it is determined the contractor is not eligible for employment, a district must inform the contractor of the specific record of non-compliance for the denial of access to the school grounds. Individuals who have been granted a full pardon or who have had their civil rights restored are exempt from the disqualification criteria.

Each subcontractor is required to notify his or her employer and the school district within 48 hours if arrested for any of the disqualifying offenses. Individuals found to be convicted of any of the listed disqualifying offenses shall immediately be suspended from having access to school grounds and remain suspended until resolution of any charges.

The bill also provides for exemptions to the requirement for a fingerprint-based criminal history background check for certain non-instructional contracted school district employees. Florida public schools or school districts may not subject a non-instructional contracted employee to a fingerprint-based criminal history background check when the contractor meets any of the following exemption criteria:

- Contractors under the direct supervision (meaning in line of sight) of contractors or employees who have met screening requirements
- Contractors screened pursuant to §435.04 for licensure, certification, employment, or other purpose within the past five years who can present evidence of meeting the criteria and that the associated license or certificate is in good standing
- Law Enforcement dispatched or assigned to the school
- An employee or medical director of an ambulance provider
- When the site is separated and secured by perimeter fencing (at least 6 feet tall)
- Pick-up or delivery and like services that involve brief visits

School districts shall conduct a search of the state and federal sexual offender/predator registry of any individual provided an exemption from the background screening. Individuals who are identified as a sexual offender or sexual predator are disqualified from employment with a public school or school district. School districts shall not conduct an



additional fingerprint-based criminal history check if a contractor meets and submits evidence of the exemption criteria.

Section 1012.321, Florida Statutes, is created and provides exceptions from background screening for certain instructional personnel when such individuals provide proof of screening pursuant to §393.0655 or §402.305 and who have met level 2 screening standards pursuant to §435, providing the instructional personnel has:

- Completed the criminal history check within the past 5 years
- Been re-screened every five years and meets level 2 standards
- Had their prints retained by the Florida Department of Law Enforcement

General Implementation Timeline:

Portions of the bill related to the marking of a Florida Driver's License or Florida Identification Card to designate sexual offenders and sexual predators are expressly provided as August 1, 2007, and the possession of or unlawful acts related to a license or identification card are provided as February 1, 2008.

All other requirements and provisions of this bill, including the points described herein, are effective July 1, 2007.