

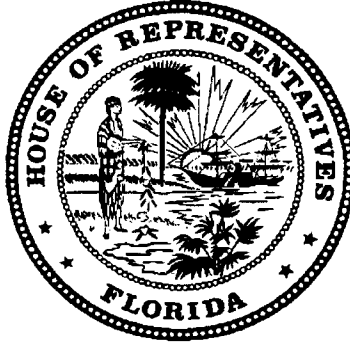


K - 12
Subcommittee
Wednesday, March 5, 2014
1:00 p.m. – 3:00 p.m.
17 HOB

Meeting Packet

Will Weatherford
Speaker

Janet H. Adkins
Chair



AGENDA

K-12 Subcommittee
Wednesday, March 5, 2014
1:00 p.m. – 3:00 p.m.
17 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bills:
 - HB 87 Fine Arts Courses by McBurney
 - HB 279 Public School Instruction by Hill, Diaz, M.
- IV. Consideration of the following proposed committee substitute:
 - PCS for HB 707 -- Background Screening
- V. Closing Remarks and Adjournment

1 A bill to be entitled

2 An act relating to fine arts courses; creating s.
 3 1003.4995, F.S.; requiring the Commissioner of
 4 Education to prepare an annual report relating to
 5 student access to and participation in fine arts
 6 courses and information on educators, facilities, and
 7 instruction in such courses; providing an effective
 8 date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

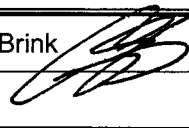

11
 12 Section 1. Section 1003.4995, Florida Statutes, is created
 13 to read:

14 1003.4995 Fine arts report.—The Commissioner of Education
 15 shall prepare an annual report that includes a description,
 16 based on annual reporting by schools, of student access to and
 17 participation in fine arts courses, which are visual arts,
 18 music, dance, and theatre courses; the number and certification
 19 status of educators providing instruction in the courses;
 20 educational facilities designed and classroom space equipped for
 21 fine arts instruction; and the manner in which schools are
 22 providing the core curricular content for fine arts established
 23 in the Next Generation Sunshine State Standards. The report
 24 shall be posted on the Department of Education's website and
 25 updated annually.

26 Section 2. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 87 Fine Arts Courses
SPONSOR(S): McBurney and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 420

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Brink	 
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill requires the Commissioner of Education to prepare an annual report that includes information, based on annual reporting by schools, regarding student access to, and participation in, fine arts courses; the number and certification status of educators providing arts instruction; educational facilities designed and classroom space equipped for fine arts instruction; and the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards. The report must be posted on the Department of Education's website and updated annually.

The bill defines fine arts courses, for purposes of the annual report, to include visual arts, music, dance, and theatre courses.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

High school students are required to earn one credit in fine or performing arts, speech and debate, or a practical arts course that incorporates artistic content and techniques of creativity and imagination.¹ Eligible practical arts courses are identified in the Course Code Directory.² In addition, the state's academic standards are required to include standards for instruction for visual and performing arts. Such standards must include specific curricular content and include distinct grade level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade five. The standards for grades six through 12 may be organized by grade clusters of more than one grade level.³

Some studies have indicated a correlation between instruction in fine and performing arts and student achievement in core academic subjects, including reading.⁴

The Commissioner of Education (commissioner) is required to file various annual reports relating to certain aspects of public K-12 education in Florida. For example, the commissioner must annually report statewide assessment results for the state, school districts, and schools. The annual report must describe the performance of each public school and its major student populations, and include the percent of students performing at or above grade level and making a year's worth of progress in reading and mathematics.⁵ However, no reporting requirements exist with respect to instruction in fine or performing arts.

Effect of Proposed Changes

The bill requires the commissioner to prepare an annual report that includes information, based on annual reporting by schools, regarding student access to, and participation in, fine arts courses; the number and certification status of educators providing arts instruction; educational facilities designed and classroom space equipped for fine arts instruction; and the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards. The report must be posted on the Department of Education's website and updated annually.

The bill defines fine arts courses, for purposes of the annual report, to include visual arts, music, dance, and theatre courses.

B. SECTION DIRECTORY:

Section 1. Creates s. 1003.4995, F.S., requiring the Commissioner of Education to prepare an annual report relating to student access to and participation in fine arts courses and information on educators, facilities, and instruction in such courses.

¹ Section 1003.4282(2)(a)5., F.S.

² Florida Department of Education, Course Code Directory and Instruction Personnel Assignments, available at <https://www.fldoe.org/articulation/CCD/files/PACourses1314.pdf>.

³ Section 1003.41(2)(e), F.S.

⁴ See, e.g., The President's Committee on the Arts and The Arts Education Partnership, *Champions of Change: The Impact of the Arts on Learning* (1999), available at <http://artsedge.kennedy-center.org/champions/pdfs/ChampsReport.pdf>; James S. Catterall, et al, National Endowment for the Arts, *The Arts and Achievement in At-Risk Youth: Findings from Four Longitudinal Studies* (2012), available at <http://www.nea.gov/research/Arts-At-Risk-Youth.pdf>.

⁵ Section 1008.34(1), F.S.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires the annual report prepared by the commissioner to include a description of "student access to . . . fine arts courses . . ." It is unclear what "student access to fine arts courses" means or whether data on such information could be reported.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

HB 279

2014

27 | legacy of service to this country and his passion for education
 28 | and the military, NOW, THEREFORE,

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

32 | Section 1. Paragraph (u) is added to subsection (2) of
 33 | section 1003.42, Florida Statutes, to read:

34 | 1003.42 Required instruction.—

35 | (2) Members of the instructional staff of the public
 36 | schools, subject to the rules of the State Board of Education
 37 | and the district school board, shall teach efficiently and
 38 | faithfully, using the books and materials required that meet the
 39 | highest standards for professionalism and historic accuracy,
 40 | following the prescribed courses of study, and employing
 41 | approved methods of instruction, the following:

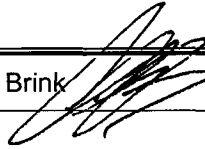
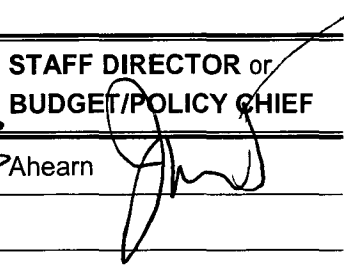
42 | (u) The events surrounding the terrorist attacks occurring
 43 | on September 11, 2001, and the impact of those events on the
 44 | nation.

46 | The State Board of Education is encouraged to adopt standards
 47 | and pursue assessment of the requirements of this subsection.

48 | Section 2. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 279 Public School Instruction
SPONSOR(S): Hill and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 252

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Brink 	Ahearn 
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill requires public schools to provide instruction on the events surrounding the terrorist attacks of September 11, 2001, and the impact of those events on the nation.

The PCS does not appear to have a fiscal impact on the state or local governments.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation:

Section 1003.42(2), F.S., establishes components of required instruction for public school students. Instructional staff must teach the following content:

- The history and content of the Declaration of Independence, to include specific consents which include in part including national sovereignty, and natural law;
- The history, meaning, significance, and effect of the provisions of the Constitution of the United States with emphasis on each of the ten amendments that make up the Bill of Rights;
- The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers;
- Flag education, including proper flag display and flag salute;
- The elements of civil government, including the primary functions of and interrelationships between the Federal Government, the state, and its counties, municipalities, school districts, and special districts;
- The history of the United States, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present;
- The history of the Holocaust;
- The history of African Americans;
- The elementary principles of agriculture;
- The true effects of all alcoholic beverages and narcotics upon the human body and mind;
- Kindness to animals;
- The history of the state;
- The conservation of natural resources;
- Comprehensive health education that addresses concepts of community health; consumer health; environmental health; family life, including in part, an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy; mental and emotional health; and dating violence and abuse;
- Such additional materials, subjects, courses, or fields in such grades as are prescribed by law or by rules of the State Board of Education and the district school board in fulfilling the requirements of law;
- The study of Hispanic contributions to the United States;
- The study of women's contributions to the United States;
- The nature and importance of free enterprise to the United States economy;
- A character-development program in kindergarten through grade 12; and
- In order to encourage patriotism, the sacrifices that veterans have made in serving our country and protecting democratic values worldwide.

The law does not establish any particular grade level or courses within which instruction on these topics must be provided. However, the Department of Education takes steps to ensure that the enumerated content is taught in public schools.

Current law does not require instruction on the impact of September 11, 2001, on our nation; however, the Department of Education's website includes multiple resources to support educators and students in researching and understanding the effects of the event.¹

Additionally, federal law designates September 11, 2001, as Patriot Day in honor of the individuals who lost their lives as a result of the terrorist attacks against the United States on September 11, 2001.²

Effect of Proposed Changes:

The bill requires that the events surrounding the terrorist attacks of September 11, 2001, and the impact of those events on the nation be included in the required instruction for public school students. School districts could incorporate remembrance of these events in instruction and school-related activities on Patriot Day, September 11, and throughout the year in other subjects.

B. SECTION DIRECTORY:

Section 1. Creates s. 1003.42(2)(u), F.S.; requiring that instructional staff of public schools provide instruction to students about the terrorist attacks occurring on September 11, 2001, and the impact of those events.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There is no anticipated fiscal impact associated with this bill. Providing instruction as required by the bill would not necessitate expenditure of funds because free resources are available for use, such as those listed by the Department of Education on its website. If districts choose to purchase additional

¹ See Florida Department of Education, Patriot Day and National Day of Service and Remembrance, available at <http://www.fldoe.org/bii/humanities/pdc.asp> (last visited Feb. 21, 2014).

² Public Law 107-89. See 36 U.S.C. s. 144.

instructional materials, funds received pursuant to the instructional materials categorical under the Florida Education Finance Program (FEFP) formula can be used.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to background screening; amending s.
3 1002.45, F.S.; revising the requirement relating to
4 background screening of instructional personnel in
5 virtual instruction programs; amending s. 1012.315,
6 F.S.; providing additional offenses that determine
7 ineligibility for educator certification or employment
8 in a position that requires direct contact with
9 students; amending s. 1012.32, F.S.; revising
10 requirements for the retention, search, and reporting
11 of fingerprints of school personnel; providing for
12 Department of Law Enforcement participation in the
13 national retained print arrest notification program;
14 providing for fees; amending s. 1012.465, F.S.;
15 providing background screening requirements for
16 certain school district employees, certain contractual
17 personnel, and instructional personnel in virtual
18 instruction programs; requiring a fingerprint-based
19 criminal history background screening; providing
20 requirements for submission, retention, search, and
21 reporting of fingerprints; providing for fees;
22 amending s. 1012.467, F.S.; requiring the fingerprints
23 of certain noninstructional contractors to be enrolled
24 in the national retained print arrest notification
25 program; requiring arrest fingerprints to be searched
26 against state and federal retained fingerprints;

27 providing for fees to be established in rule; revising
 28 provisions relating to sharing criminal history
 29 information; amending s. 1012.56, F.S.; revising
 30 provisions relating to background rescreening for
 31 educator certification; amending s. 1012.796;
 32 including persons employed by virtual instruction
 33 providers against which complaints may be filed;
 34 amending s. 1012.797, F.S.; revising provisions
 35 relating to notification to education providers of
 36 charges against school district employees; reenacting
 37 ss. 1001.42(7), 1002.33(12)(g), 1002.36(7)(g),
 38 1002.421(4)(a), 1012.32(1) and (2), 1012.56(10)(a) and
 39 (c), and 1012.795(1)(n), F.S., relating to district
 40 school board powers and duties, charter schools, the
 41 Florida School for the Deaf and the Blind, the
 42 accountability of private schools participating in
 43 state school choice scholarship programs,
 44 qualifications of personnel, educator certification
 45 requirements, and Education Practices Commission
 46 authority to discipline, respectively, to incorporate
 47 the amendment made to s. 1012.315, F.S., in references
 48 thereto; providing an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:
 51
 52 Section 1. Paragraph (a) of subsection (2) of section

53 | 1002.45, Florida Statutes, is amended to read:

54 | 1002.45 Virtual instruction programs.—

55 | (2) PROVIDER QUALIFICATIONS.—

56 | (a) The department shall annually publish online a list of
 57 | providers approved to offer virtual instruction programs. To be
 58 | approved by the department, a provider must document that it:

59 | 1. Is nonsectarian in its programs, admission policies,
 60 | employment practices, and operations.‡

61 | 2. Complies with the antidiscrimination provisions of s.
 62 | 1000.05.‡

63 | 3. Locates an administrative office or offices in this
 64 | state.‡

65 | 4. Requires its administrative staff to be state
 66 | residents.‡

67 | 5. Requires all instructional staff to hold a valid
 68 | Florida educator certificate ~~be Florida-certified teachers~~ under
 69 | chapter 1012. and

70 | 6. Has submitted a signed affidavit under penalty of
 71 | perjury stating that all instructional personnel employed by the
 72 | provider hold a valid Florida educator certificate in good
 73 | standing and have undergone ~~conducts~~ background screening
 74 | ~~screenings for all employees or contracted personnel,~~ as
 75 | required by s. 1012.465 ~~1012.32~~, using state and national
 76 | criminal history records.‡

77 | ~~7.4-~~ Provides to parents and students specific information
 78 | posted and accessible online that includes, but is not limited

79 to, the following teacher-parent and teacher-student contact
80 information for each course:

81 a. How to contact the instructor via phone, e-mail, or
82 online messaging tools.

83 b. How to contact technical support via phone, e-mail, or
84 online messaging tools.

85 c. How to contact the administration office via phone, e-
86 mail, or online messaging tools.

87 d. Any requirement for regular contact with the instructor
88 for the course and clear expectations for meeting the
89 requirement.

90 e. The requirement that the instructor in each course
91 must, at a minimum, conduct one contact via phone with the
92 parent and the student each month.†

93 8.5- Possesses prior, successful experience offering
94 online courses to elementary, middle, or high school students as
95 demonstrated by quantified student learning gains in each
96 subject area and grade level provided for consideration as an
97 instructional program option. However, for a provider without
98 sufficient prior, successful experience offering online courses,
99 the department may conditionally approve the provider to offer
100 courses measured pursuant to subparagraph (8)(a)2. Conditional
101 approval shall be valid for 1 school year only and, based on the
102 provider's experience in offering the courses, the department
103 shall determine whether to grant approval to offer a virtual
104 instruction program.†

105 ~~9.6.~~ Is accredited by a regional accrediting association
 106 as defined by State Board of Education rule.~~7~~

107 ~~10.7.~~ Ensures instructional and curricular quality through
 108 a detailed curriculum and student performance accountability
 109 plan that addresses every subject and grade level it intends to
 110 provide through contract with the school district, including:

111 a. Courses and programs that meet the standards of the
 112 International Association for K-12 Online Learning and the
 113 Southern Regional Education Board.

114 b. Instructional content and services that align with, and
 115 measure student attainment of, student proficiency in the Next
 116 Generation Sunshine State Standards.

117 c. Mechanisms that determine and ensure that a student has
 118 satisfied requirements for grade level promotion and high school
 119 graduation with a standard diploma, as appropriate.~~7~~

120 ~~11.8.~~ Publishes for the general public, in accordance with
 121 disclosure requirements adopted in rule by the State Board of
 122 Education, as part of its application as a provider and in all
 123 contracts negotiated pursuant to this section:

124 a. Information and data about the curriculum of each full-
 125 time and part-time program.

126 b. School policies and procedures.

127 c. Certification status and physical location of all
 128 administrative and instructional personnel.

129 d. Hours and times of availability of instructional
 130 personnel.

PCS for HB 707

Original

2014

- 131 e. Student-teacher ratios.
- 132 f. Student completion and promotion rates.
- 133 g. Student, educator, and school performance
- 134 accountability outcomes.

135 ~~12.9.~~ If the provider is a Florida College System
 136 institution, employs instructors who meet the certification
 137 requirements for instructional staff under chapter 1012.7 and

138 ~~13.10.~~ Performs an annual financial audit of its accounts
 139 and records conducted by an independent certified public
 140 accountant which is in accordance with rules adopted by the
 141 Auditor General, is conducted in compliance with generally
 142 accepted auditing standards, and includes a report on financial
 143 statements presented in accordance with generally accepted
 144 accounting principles.

145 Section 2. Section 1012.315, Florida Statutes, is amended
 146 to read:

147 1012.315 Disqualification from employment.—A person is
 148 ineligible for educator certification, and instructional
 149 personnel and school administrators, as defined in s. 1012.01,
 150 are ineligible for employment in any position that requires
 151 direct contact with students in a district school system,
 152 charter school, or private school that accepts scholarship
 153 students under s. 1002.39 or s. 1002.395, if the person,
 154 instructional personnel, or school administrator has been
 155 convicted of:

- 156 (1) Any felony offense prohibited under any of the

157 following statutes:

158 (a) Section 39.205, relating to failure to report child
 159 abuse, abandonment, or neglect.

160 (b)~~(a)~~ Section 393.135, relating to sexual misconduct with
 161 certain developmentally disabled clients and reporting of such
 162 sexual misconduct.

163 (c)~~(b)~~ Section 394.4593, relating to sexual misconduct
 164 with certain mental health patients and reporting of such sexual
 165 misconduct.

166 (d)~~(e)~~ Section 415.111, relating to adult abuse, neglect,
 167 or exploitation of aged persons or disabled adults.

168 (e) Section 775.085, relating to evidencing prejudice
 169 while committing offense, if reclassified as a felony.

170 (f)~~(d)~~ Section 782.04, relating to murder.

171 (g) Section 782.051, relating to attempted felony murder.

172 (h)~~(e)~~ Section 782.07, relating to manslaughter,
 173 aggravated manslaughter of an elderly person or disabled adult,
 174 aggravated manslaughter of a child, or aggravated manslaughter
 175 of an officer, a firefighter, an emergency medical technician,
 176 or a paramedic.

177 (i) Section 782.09(1), relating to killing of unborn quick
 178 child by injury to mother.

179 (j)~~(f)~~ Section 784.021, relating to aggravated assault.

180 (k)~~(g)~~ Section 784.045, relating to aggravated battery.

181 (l)~~(h)~~ Section 784.075, relating to battery on a detention
 182 or commitment facility staff member or a juvenile probation

183 officer.

184 (m)~~(i)~~ Section 787.01, relating to kidnapping.

185 (n)~~(j)~~ Section 787.02, relating to false imprisonment.

186 (o)~~(k)~~ Section 787.025, relating to luring or enticing a
187 child.

188 (p)~~(l)~~ Section 787.04(2), relating to leading, taking,
189 enticing, or removing a minor beyond the state limits, or
190 concealing the location of a minor, with criminal intent pending
191 custody proceedings.

192 (q)~~(m)~~ Section 787.04(3), relating to leading, taking,
193 enticing, or removing a minor beyond the state limits, or
194 concealing the location of a minor, with criminal intent pending
195 dependency proceedings or proceedings concerning alleged abuse
196 or neglect of a minor.

197 (r) Section 787.06, relating to human trafficking.

198 (s)~~(n)~~ Section 790.115(1), relating to exhibiting firearms
199 or weapons at a school-sponsored event, on school property, or
200 within 1,000 feet of a school.

201 (t)~~(e)~~ Section 790.115(2)(b), relating to possessing an
202 electric weapon or device, destructive device, or other weapon
203 at a school-sponsored event or on school property.

204 (u) Section 790.166, relating to weapons of mass
205 destruction.

206 (v)~~(p)~~ Section 794.011, relating to sexual battery.

207 (w)~~(q)~~ Former s. 794.041, relating to sexual activity with
208 or solicitation of a child by a person in familial or custodial

209 authority.

210 ~~(x)~~ ~~(r)~~ Section 794.05, relating to unlawful sexual

211 activity with certain minors.

212 ~~(y)~~ ~~(s)~~ Section 794.08, relating to female genital

213 mutilation.

214 ~~(z)~~ ~~(t)~~ Chapter 796, relating to prostitution.

215 ~~(aa)~~ ~~(u)~~ Chapter 800, relating to lewdness and indecent

216 exposure.

217 ~~(bb)~~ ~~(v)~~ Section 806.01, relating to arson.

218 ~~(cc)~~ ~~(w)~~ Section 810.14, relating to voyeurism.

219 ~~(dd)~~ ~~(x)~~ Section 810.145, relating to video voyeurism.

220 ~~(ee)~~ ~~(y)~~ Section 812.014(6), relating to coordinating the

221 commission of theft in excess of \$3,000.

222 ~~(ff)~~ ~~(z)~~ Section 812.0145, relating to theft from persons

223 65 years of age or older.

224 ~~(gg)~~ ~~(aa)~~ Section 812.019, relating to dealing in stolen

225 property.

226 ~~(hh)~~ ~~(bb)~~ Section 812.13, relating to robbery.

227 ~~(ii)~~ ~~(ee)~~ Section 812.131, relating to robbery by sudden

228 snatching.

229 ~~(jj)~~ ~~(dd)~~ Section 812.133, relating to carjacking.

230 ~~(kk)~~ ~~(ee)~~ Section 812.135, relating to home-invasion

231 robbery.

232 ~~(ll)~~ ~~(ff)~~ Section 817.563, relating to fraudulent sale of

233 controlled substances.

234 ~~(mm)~~ ~~(gg)~~ Section 825.102, relating to abuse, aggravated

235 | abuse, or neglect of an elderly person or disabled adult.
 236 | ~~(nn)~~~~(hh)~~ Section 825.103, relating to exploitation of an
 237 | elderly person or disabled adult.
 238 | ~~(oo)~~~~(ii)~~ Section 825.1025, relating to lewd or lascivious
 239 | offenses committed upon or in the presence of an elderly person
 240 | or disabled person.
 241 | ~~(pp)~~~~(jj)~~ Section 826.04, relating to incest.
 242 | ~~(qq)~~~~(kk)~~ Section 827.03, relating to child abuse,
 243 | aggravated child abuse, or neglect of a child.
 244 | ~~(rr)~~~~(ll)~~ Section 827.04, relating to contributing to the
 245 | delinquency or dependency of a child.
 246 | ~~(ss)~~~~(mm)~~ Section 827.071, relating to sexual performance
 247 | by a child.
 248 | ~~(tt)~~ Section 838.015, relating to bribery.
 249 | ~~(uu)~~~~(nn)~~ Section 843.01, relating to resisting arrest with
 250 | violence.
 251 | ~~(vv)~~~~(oo)~~ Chapter 847, relating to obscenity.
 252 | ~~(ww)~~ Section 859.01, relating to poisoning food or water.
 253 | ~~(xx)~~~~(pp)~~ Section 874.05, relating to causing, encouraging,
 254 | soliciting, or recruiting another to join a criminal street
 255 | gang.
 256 | ~~(yy)~~ Section 876.32, relating to treason.
 257 | ~~(zz)~~~~(qq)~~ Chapter 893, relating to drug abuse prevention
 258 | and control, if the offense was a felony of the second degree or
 259 | greater severity.
 260 | ~~(aaa)~~~~(rr)~~ Section 916.1075, relating to sexual misconduct

261 with certain forensic clients and reporting of such sexual
 262 misconduct.

263 (bbb)~~(ss)~~ Section 944.47, relating to introduction,
 264 removal, or possession of contraband at a correctional facility.

265 (ccc)~~(tt)~~ Section 985.701, relating to sexual misconduct
 266 in juvenile justice programs.

267 (ddd)~~(uu)~~ Section 985.711, relating to introduction,
 268 removal, or possession of contraband at a juvenile detention
 269 facility or commitment program.

270 (2) Any misdemeanor offense prohibited under any of the
 271 following statutes:

272 (a) Section 784.03, relating to battery, if the victim of
 273 the offense was a minor.

274 (b) Section 787.025, relating to luring or enticing a
 275 child.

276 (3) Any criminal act committed in another state or under
 277 federal law which, if committed in this state, constitutes an
 278 offense prohibited under any statute listed in subsection (1) or
 279 subsection (2).

280 (4) Any delinquent act committed in this state or any
 281 delinquent or criminal act committed in another state or under
 282 federal law which, if committed in this state, qualifies an
 283 individual for inclusion on the Registered Juvenile Sex Offender
 284 List under s. 943.0435(1)(a)1.d.

285 Section 3. Subsection (3) of section 1012.32, Florida
 286 Statutes, is amended to read:

287 1012.32 Qualifications of personnel.-
 288 (3) (a) ~~All fingerprints submitted to~~ The Department of Law
 289 ~~Enforcement as required by subsection (2)~~ shall retain the
 290 fingerprints submitted for a criminal history background
 291 screening pursuant to subsection (2) and s. 1012.465, be
 292 ~~retained by the Department of Law Enforcement in a manner~~
 293 ~~provided by rule~~ enter the fingerprints and entered in the
 294 statewide automated biometric identification system authorized
 295 by s. 943.05 (2) (b), and enroll the fingerprints in the national
 296 retained print arrest notification program when the national
 297 program becomes operational and the Department of Law
 298 Enforcement begins participation in the program. The
 299 fingerprints of individuals which were retained by the
 300 Department of Law Enforcement before its participation in the
 301 national program must be enrolled in the program within 2 years
 302 after the Department of Law Enforcement begins participation.
 303 Such fingerprints shall thereafter be available for arrest
 304 notifications required by paragraph (b) and all purposes and
 305 uses authorized for arrest fingerprints entered in the statewide
 306 automated biometric identification system pursuant to s.
 307 943.051.
 308 (b) The Department of Law Enforcement shall search all
 309 ~~arrest fingerprints received under s. 943.051~~ against the
 310 ~~fingerprints retained in the statewide automated biometric~~
 311 ~~identification system under paragraph (a)~~ and report- any arrest
 312 ~~record that is identified~~ by the Department of Law Enforcement

313 ~~or the Federal Bureau of Investigation with the retained~~
 314 ~~fingerprints of a person subject to the background screening~~
 315 ~~under this section shall be reported to the employing or~~
 316 ~~contracting school district or the school district with which~~
 317 ~~the person is affiliated. Each school district is required to~~
 318 ~~participate in this search process by payment of fees an annual~~
 319 ~~fee to the Department of Law Enforcement and by informing the~~
 320 ~~Department of Law Enforcement of any change in the affiliation,~~
 321 ~~employment, or contractual status or place of affiliation,~~
 322 ~~employment, or contracting of its instructional and~~
 323 ~~noninstructional personnel whose fingerprints are retained under~~
 324 ~~paragraph (a). The Department of Law Enforcement shall adopt a~~
 325 ~~rule that sets ~~setting the amount of~~ the annual fee to be~~
 326 ~~imposed upon each school district must pay to the Department of~~
 327 ~~Law Enforcement and identifies the federal subscription fee~~
 328 ~~collected and remitted by the Department of Law Enforcement for~~
 329 ~~participation in the national retained arrest print notification~~
 330 ~~program, as applicable, for performing these searches and~~
 331 ~~establishes ~~establishing~~ the procedures for the retention of~~
 332 ~~instructional and noninstructional personnel fingerprints~~
 333 ~~retained under paragraph (a) and the dissemination of search~~
 334 ~~results. The fee may be borne by the district school board, the~~
 335 ~~contractor, or the person fingerprinted.~~

336 (c) Personnel whose fingerprints are not retained by the
 337 Department of Law Enforcement under paragraph ~~paragraphs~~ (a) and
 338 ~~(b)~~ must be refingerprinted and rescreened in accordance with

339 subsection (2) upon reemployment or reengagement to provide
 340 services in order to comply with the requirements of this
 341 subsection.

342 Section 4. Section 1012.465, Florida Statutes, is amended
 343 to read:

344 1012.465 ~~Background screening~~ Requirements for certain
 345 ~~noninstructional~~ school district employees, contractual
 346 personnel, and instructional personnel and contractors.-

347 (1) The following individuals ~~Except as provided in s.~~
 348 ~~1012.467 or s. 1012.468, noninstructional school district~~
 349 ~~employees or contractual personnel who are permitted access on~~
 350 ~~school grounds when students are present, who have direct~~
 351 ~~contact with students or who have access to or control of school~~
 352 ~~funds~~ must meet the level 2 screening requirements of this
 353 section: as described in s. 1012.32. Contractual personnel shall
 354 ~~include any vendor, individual, or entity under contract with a~~
 355 ~~school or the school board.~~

356 (a) Noninstructional school district employees who have
 357 direct contact with students or who have access to or control of
 358 school funds.

359 (b) Contractual personnel, including individuals under
 360 contract with a school or the district school board who provide
 361 instructional, rehabilitative, medical, or psychological
 362 services, or other services relating to the education, care,
 363 custody, or safety of students, that involve direct contact with
 364 students.

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365 (c) Contractual personnel who have access to or control of
366 school funds.

367 (d) Instructional personnel who are hired or contracted to
368 provide virtual instruction pursuant to s. 1002.45.

369 (2) An individual described in subsection (1) must be of
370 good moral character, must not be ineligible under s. 1012.315,
371 and must, when required by law, hold a certificate or license
372 issued under rules of the State Board of Education or the
373 Department of Children and Families, except when employed
374 pursuant to s. 1012.55 or under the emergency provisions of s.
375 1012.24. Previous residence in this state shall not be required
376 as a prerequisite for a person holding a valid Florida
377 certificate or license to serve in an instructional capacity.

378 (3) A fingerprint-based criminal history background
379 screening shall be performed on each individual described in
380 subsection (1) at least once every 5 years. For the initial
381 criminal history background screening, the individual shall
382 submit electronically to the Department of Law Enforcement for a
383 state criminal history check a complete set of fingerprints
384 taken by an authorized law enforcement agency, an employee
385 trained to take fingerprints for any school district or public
386 school, or a private company authorized to take fingerprints
387 under s. 943.053(13). The Department of Law Enforcement shall
388 submit the fingerprints to the Federal Bureau of Investigation
389 for a national criminal history check. The Department of Law
390 Enforcement shall report the results of each criminal history

391 check to the school district in which the individual seeks
 392 access and enter the results into the system described in s.
 393 1012.467(7).

394 (4) The Department of Law Enforcement shall retain the
 395 fingerprints submitted for a criminal history background
 396 screening, enter the fingerprints in the statewide automated
 397 biometric identification system authorized by s. 943.05(2)(b),
 398 and enroll the fingerprints in the national retained print
 399 arrest notification program in accordance with s. 1012.32(3).

400 (5) The Department of Law Enforcement shall search arrest
 401 fingerprints against the fingerprints retained under subsection
 402 (4) and report any arrest record identified by the Department of
 403 Law Enforcement or the Federal Bureau of Investigation to each
 404 school district in which the person seeks access. Participation
 405 in the search process is subject to payment of fees pursuant to
 406 s. 1012.32(3). The fees may be borne by the district school
 407 board, the contractor, or the person fingerprinted. A fee that
 408 is charged by a school district may not exceed 30 percent of the
 409 total amount charged by the Department of Law Enforcement and
 410 the Federal Bureau of Investigation.

411 (6) An individual subject to this section shall inform a
 412 school district if a criminal history background screening was
 413 completed in another school district within the past 5 years.
 414 The school district shall verify the results of the individual's
 415 criminal history background screening using the system described
 416 in s. 1012.467(7). The school district may not charge a fee for

417 verifying the results of the criminal history background
 418 screening.

419 ~~(2) Every 5 years following employment or entry into a~~
 420 ~~contract in a capacity described in subsection (1), each person~~
 421 ~~who is so employed or under contract with the school district~~
 422 ~~must meet level 2 screening requirements as described in s.~~
 423 ~~1012.32, at which time the school district shall request the~~
 424 ~~Department of Law Enforcement to forward the fingerprints to the~~
 425 ~~Federal Bureau of Investigation for the level 2 screening. If,~~
 426 ~~for any reason following employment or entry into a contract in~~
 427 ~~a capacity described in subsection (1), the fingerprints of a~~
 428 ~~person who is so employed or under contract with the school~~
 429 ~~district are not retained by the Department of Law Enforcement~~
 430 ~~under s. 1012.32(3)(a) and (b), the person must file a complete~~
 431 ~~set of fingerprints with the district school superintendent of~~
 432 ~~the employing or contracting school district. Upon submission of~~
 433 ~~fingerprints for this purpose, the school district shall request~~
 434 ~~the Department of Law Enforcement to forward the fingerprints to~~
 435 ~~the Federal Bureau of Investigation for the level 2 screening,~~
 436 ~~and the fingerprints shall be retained by the Department of Law~~
 437 ~~Enforcement under s. 1012.32(3)(a) and (b). The cost of the~~
 438 ~~state and federal criminal history check required by level 2~~
 439 ~~screening may be borne by the district school board, the~~
 440 ~~contractor, or the person fingerprinted. Under penalty of~~
 441 ~~perjury, each person who is employed or under contract in a~~
 442 ~~capacity described in subsection (1) must agree to inform his or~~

443 ~~her employer or the party with whom he or she is under contract~~
 444 ~~within 48 hours if convicted of any disqualifying offense while~~
 445 ~~he or she is employed or under contract in that capacity.~~

446 (7)(3) If it is found that a person who is employed or
 447 under contract in a capacity described in subsection (1) has
 448 been arrested for a disqualifying offense specified in s.
 449 1012.315 does not meet the level 2 requirements, the person
 450 shall be immediately suspended from working in that capacity and
 451 shall remain suspended until final resolution of any appeals.

452 Section 5. Paragraphs (b) through (e) of subsection (2)
 453 and subsection (7) of section 1012.467, Florida Statutes, are
 454 amended to read:

455 1012.467 Noninstructional contractors who are permitted
 456 access to school grounds when students are present; background
 457 screening requirements.—

458 (2)

459 (b) ~~As authorized by law,~~ The Department of Law
 460 Enforcement shall retain the fingerprints submitted by the
 461 ~~school districts pursuant to this subsection to the Department~~
 462 ~~of Law Enforcement~~ for a criminal history background screening
 463 in a manner provided by rule, and enter the fingerprints in the
 464 statewide automated biometric identification system authorized
 465 by s. 943.05(2)(b), and enroll the fingerprints in the national
 466 retained print arrest notification program in accordance with s.
 467 1012.32(3). The fingerprints shall thereafter be available for
 468 arrest notifications required by paragraph (c) and all purposes

469 and uses authorized for arrest fingerprints entered in ~~into~~ the
 470 statewide automated biometric identification system pursuant to
 471 ~~under~~ s. 943.051.

472 (c) The Department of Law Enforcement shall search arrest
 473 fingerprints against the fingerprints retained under paragraph
 474 (b) and report any arrest record identified by the Department of
 475 Law Enforcement or the Federal Bureau of Investigation to each
 476 school district in which the person seeks access. As authorized
 477 ~~by law, the Department of Law Enforcement shall search all~~
 478 ~~arrest fingerprints received under s. 943.051 against the~~
 479 ~~fingerprints retained in the statewide automated biometric~~
 480 ~~identification system under paragraph (b).~~

481 (d) School district participation in the search process is
 482 subject to the payment of fees ~~School districts may participate~~
 483 ~~in the search process described in this subsection by paying an~~
 484 ~~annual fee to the Department of Law Enforcement~~ as provided in
 485 paragraph (e).

486 (e) A fingerprint retained pursuant to this subsection
 487 shall be purged ~~from the automated biometric identification~~
 488 ~~system~~ 5 years following the date the fingerprint was initially
 489 submitted. The Department of Law Enforcement shall set by rule
 490 the amount of the fees, separately identifying the federal
 491 subscription fee collected and remitted by the Department of Law
 492 Enforcement for participation in the national retained print
 493 arrest notification program, as applicable, ~~annual fee to be~~
 494 imposed upon each participating agency for performing these

495 searches under this subsection and ~~establishing~~ the procedures
 496 for retaining fingerprints and disseminating search results. The
 497 fee may be borne as provided by law. ~~Fees may be waived or~~
 498 ~~reduced by the executive director of the Department of Law~~
 499 ~~Enforcement for good cause shown.~~

500 (7) (a) The Department of Law Enforcement shall implement a
 501 system that allows for the results of a criminal history check
 502 provided to a school district to be shared with other school
 503 districts through a secure Internet website or other secure
 504 electronic means. ~~School districts must accept reciprocity of~~
 505 ~~level 2 screenings for Florida High School Athletic Association~~
 506 ~~officials.~~

507 (b) An employee of a school district, a charter school, a
 508 lab school, a charter lab school, an approved virtual
 509 instruction provider under s. 1002.45, or the Florida School for
 510 the Deaf and the Blind who requests or shares criminal history
 511 information under this section is immune from civil or criminal
 512 liability for any good faith conduct that occurs during the
 513 performance of and within the scope of responsibilities related
 514 to the record check.

515 Section 6. Paragraph (b) of subsection (10) of section
 516 1012.56, Florida Statutes, is amended to read:

517 1012.56 Educator certification requirements.—

518 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND
 519 PERIODICALLY.—

520 (b) A person may not receive a certificate under this

521 chapter until the person's screening under s. 1012.32 is
 522 completed and the results have been submitted to the Department
 523 of Education or to the district school superintendent of the
 524 school district that employs the person. Every 5 years after
 525 obtaining initial certification, each person who is required to
 526 be certified under this chapter and whose fingerprints have not
 527 been enrolled in the national retained print arrest notification
 528 program in accordance with s. 1012.32(3) must be rescreened in
 529 accordance with s. 1012.32, at which time the school district
 530 shall request the Department of Law Enforcement to forward the
 531 fingerprints to the Federal Bureau of Investigation for federal
 532 criminal records checks. If, for any reason after obtaining
 533 initial certification, the fingerprints of a person who is
 534 required to be certified under this chapter are not retained by
 535 the Department of Law Enforcement under s. 1012.32(3)(a) and
 536 (b), the person must file a complete set of fingerprints with
 537 the district school superintendent of the employing school
 538 district. Upon submission of fingerprints for this purpose, the
 539 school district shall request the Department of Law Enforcement
 540 to forward the fingerprints to the Federal Bureau of
 541 Investigation for federal criminal records checks, and the
 542 fingerprints shall be retained by the Department of Law
 543 Enforcement under s. 1012.32(3)(a) and (b). The cost of the
 544 state and federal criminal history checks required by paragraph
 545 (a) and this paragraph may be borne by the district school board
 546 or the employee. Under penalty of perjury, each person who is

547 certified under this chapter must agree to inform his or her
 548 employer within 48 hours if convicted of any disqualifying
 549 offense while he or she is employed in a position for which such
 550 certification is required.

551 Section 7. Paragraph (e) of subsection (1) of section
 552 1012.796, Florida Statutes, is amended to read:

553 1012.796 Complaints against teachers and administrators;
 554 procedure; penalties.—

555 (1)

556 (e) If allegations arise against an employee who is
 557 certified under s. 1012.56 and employed in an educator-
 558 certificated position by ~~in~~ any public school, charter school or
 559 governing board thereof, approved virtual instruction provider
 560 under s. 1002.45, or private school that accepts scholarship
 561 students under s. 1002.39 or s. 1002.395, the school or provider
 562 shall file in writing with the department a legally sufficient
 563 complaint within 30 days after the date on which the subject
 564 matter of the complaint came to the attention of the school or
 565 provider. A complaint is legally sufficient if it contains
 566 ultimate facts that show a violation has occurred as provided in
 567 s. 1012.795 and defined by rule of the State Board of Education.
 568 The school or provider shall include all known information
 569 relating to the complaint with the filing of the complaint. This
 570 paragraph does not limit or restrict the power and duty of the
 571 department to investigate complaints, regardless of the school's
 572 or provider's untimely filing, or failure to file, complaints

573 and followup reports.

574 Section 8. Subsection (1) of section 1012.797, Florida
 575 Statutes, is amended to read:

576 1012.797 Notification of ~~district school superintendent of~~
 577 certain charges against or convictions of employees.—

578 (1) Notwithstanding the provisions of s. 985.04(7) or any
 579 other provision of law to the contrary, a law enforcement agency
 580 shall, within 48 hours, notify the appropriate district school
 581 superintendent of the name and address of any employee of the
 582 school district who is charged with a felony or ~~with a~~
 583 misdemeanor specified in s. 1012.315 or any other crime
 584 involving the abuse of a minor child or the sale or possession
 585 of a controlled substance. The notification shall include the
 586 specific charge for which the employee of the school district
 587 was arrested. Such notification shall include other education
 588 providers such as the Florida School for the Deaf and the Blind,
 589 the Florida Virtual School, university lab schools, charter
 590 schools, approved virtual instruction providers under s.
 591 1002.45, and private elementary and secondary schools.

592 Section 9. For the purpose of incorporating the amendment
 593 made by this act to section 1012.315, Florida Statutes, in a
 594 reference thereto, subsection (7) of section 1001.42, Florida
 595 Statutes, is reenacted to read:

596 1001.42 Powers and duties of district school board.—The
 597 district school board, acting as a board, shall exercise all
 598 powers and perform all duties listed below:

599 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
 600 instructional personnel and school administrators, as defined in
 601 s. 1012.01, from employment in any position that requires direct
 602 contact with students if the personnel or administrators are
 603 ineligible for such employment under s. 1012.315. An elected or
 604 appointed school board official forfeits his or her salary for 1
 605 year if:

606 (a) The school board official knowingly signs and
 607 transmits to any state official a report of alleged misconduct
 608 by instructional personnel or school administrators which
 609 affects the health, safety, or welfare of a student and the
 610 school board official knows the report to be false or incorrect;
 611 or

612 (b) The school board official knowingly fails to adopt
 613 policies that require instructional personnel and school
 614 administrators to report alleged misconduct by other
 615 instructional personnel and school administrators, or that
 616 require the investigation of all reports of alleged misconduct
 617 by instructional personnel and school administrators, if the
 618 misconduct affects the health, safety, or welfare of a student.

619 Section 10. For the purpose of incorporating the amendment
 620 made by this act to section 1012.315, Florida Statutes, in a
 621 reference thereto, paragraph (g) of subsection (12) of section
 622 1002.33, Florida Statutes, is reenacted to read:

623 1002.33 Charter schools.—

624 (12) EMPLOYEES OF CHARTER SCHOOLS.—

625 (g)1. A charter school shall employ or contract with
 626 employees who have undergone background screening as provided in
 627 s. 1012.32. Members of the governing board of the charter school
 628 shall also undergo background screening in a manner similar to
 629 that provided in s. 1012.32.

630 2. A charter school shall disqualify instructional
 631 personnel and school administrators, as defined in s. 1012.01,
 632 from employment in any position that requires direct contact
 633 with students if the personnel or administrators are ineligible
 634 for such employment under s. 1012.315.

635 3. The governing board of a charter school shall adopt
 636 policies establishing standards of ethical conduct for
 637 instructional personnel and school administrators. The policies
 638 must require all instructional personnel and school
 639 administrators, as defined in s. 1012.01, to complete training
 640 on the standards; establish the duty of instructional personnel
 641 and school administrators to report, and procedures for
 642 reporting, alleged misconduct by other instructional personnel
 643 and school administrators which affects the health, safety, or
 644 welfare of a student; and include an explanation of the
 645 liability protections provided under ss. 39.203 and 768.095. A
 646 charter school, or any of its employees, may not enter into a
 647 confidentiality agreement regarding terminated or dismissed
 648 instructional personnel or school administrators, or personnel
 649 or administrators who resign in lieu of termination, based in
 650 whole or in part on misconduct that affects the health, safety,

651 or welfare of a student, and may not provide instructional
 652 personnel or school administrators with employment references or
 653 discuss the personnel's or administrators' performance with
 654 prospective employers in another educational setting, without
 655 disclosing the personnel's or administrators' misconduct. Any
 656 part of an agreement or contract that has the purpose or effect
 657 of concealing misconduct by instructional personnel or school
 658 administrators which affects the health, safety, or welfare of a
 659 student is void, is contrary to public policy, and may not be
 660 enforced.

661 4. Before employing instructional personnel or school
 662 administrators in any position that requires direct contact with
 663 students, a charter school shall conduct employment history
 664 checks of each of the personnel's or administrators' previous
 665 employers, screen the instructional personnel or school
 666 administrators through use of the educator screening tools
 667 described in s. 1001.10(5), and document the findings. If unable
 668 to contact a previous employer, the charter school must document
 669 efforts to contact the employer.

670 5. The sponsor of a charter school that knowingly fails to
 671 comply with this paragraph shall terminate the charter under
 672 subsection (8).

673 Section 11. For the purpose of incorporating the amendment
 674 made by this act to section 1012.315, Florida Statutes, in a
 675 reference thereto, paragraph (g) of subsection (7) of section
 676 1002.36, Florida Statutes, is reenacted to read:

677 1002.36 Florida School for the Deaf and the Blind.—
 678 (7) PERSONNEL SCREENING.—
 679 (g) For purposes of protecting the health, safety, or
 680 welfare of students, the Florida School for the Deaf and the
 681 Blind is considered a school district and must, except as
 682 otherwise provided in this section, comply with ss. 1001.03,
 683 1001.42, 1001.51, 1006.061, 1012.27, 1012.315, 1012.32, 1012.33,
 684 1012.56, 1012.795, and 1012.796.

685 Section 12. For the purpose of incorporating the amendment
 686 made by this act to section 1012.315, Florida Statutes, in a
 687 reference thereto, paragraph (a) of subsection (4) of section
 688 1002.421, Florida Statutes, is reenacted to read:

689 1002.421 Accountability of private schools participating
 690 in state school choice scholarship programs.—

691 (4) A private school that accepts scholarship students
 692 under s. 1002.39 or s. 1002.395 must:

693 (a) Disqualify instructional personnel and school
 694 administrators, as defined in s. 1012.01, from employment in any
 695 position that requires direct contact with students if the
 696 personnel or administrators are ineligible for such employment
 697 under s. 1012.315.

698
 699 The department shall suspend the payment of funds under ss.
 700 1002.39 and 1002.395 to a private school that knowingly fails to
 701 comply with this subsection, and shall prohibit the school from
 702 enrolling new scholarship students, for 1 fiscal year and until

703 the school complies.

704 Section 13. For the purpose of incorporating the amendment
 705 made by this act to section 1012.315, Florida Statutes, in
 706 references thereto, subsections (1) and (2) of section 1012.32,
 707 Florida Statutes, are reenacted to read:

708 1012.32 Qualifications of personnel.—

709 (1) To be eligible for appointment in any position in any
 710 district school system, a person must be of good moral
 711 character; must have attained the age of 18 years, if he or she
 712 is to be employed in an instructional capacity; must not be
 713 ineligible for such employment under s. 1012.315; and must, when
 714 required by law, hold a certificate or license issued under
 715 rules of the State Board of Education or the Department of
 716 Children and Family Services, except when employed pursuant to
 717 s. 1012.55 or under the emergency provisions of s. 1012.24.
 718 Previous residence in this state shall not be required in any
 719 school of the state as a prerequisite for any person holding a
 720 valid Florida certificate or license to serve in an
 721 instructional capacity.

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

728 (b) Instructional and noninstructional personnel who are

729 hired or contracted to fill positions in any charter school and
 730 members of the governing board of any charter school, in
 731 compliance with s. 1002.33(12)(g), must, upon employment,
 732 engagement of services, or appointment, undergo background
 733 screening as required under s. 1012.465 or s. 1012.56, whichever
 734 is applicable, by filing with the district school board for the
 735 school district in which the charter school is located a
 736 complete set of fingerprints taken by an authorized law
 737 enforcement agency or an employee of the school or school
 738 district who is trained to take fingerprints.

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

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

755
 756 Fingerprints shall be submitted to the Department of Law
 757 Enforcement for statewide criminal and juvenile records checks
 758 and to the Federal Bureau of Investigation for federal criminal
 759 records checks. A person subject to this subsection who is found
 760 ineligible for employment under s. 1012.315, or otherwise found
 761 through background screening to have been convicted of any crime
 762 involving moral turpitude as defined by rule of the State Board
 763 of Education, shall not be employed, engaged to provide
 764 services, or serve in any position that requires direct contact
 765 with students. Probationary persons subject to this subsection
 766 terminated because of their criminal record have the right to
 767 appeal such decisions. The cost of the background screening may
 768 be borne by the district school board, the charter school, the
 769 employee, the contractor, or a person subject to this
 770 subsection.

771 Section 14. For the purpose of incorporating the amendment
 772 made by this act to section 1012.315, Florida Statutes, in
 773 references thereto, paragraphs (a) and (c) of subsection (10) of
 774 section 1012.56, Florida Statutes, are reenacted to read:

775 1012.56 Educator certification requirements.—

776 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND
 777 PERIODICALLY.—

778 (a) Each person who seeks certification under this chapter
 779 must be fingerprinted and screened in accordance with s. 1012.32
 780 and must not be ineligible for such certification under s.

781 1012.315. A person who has been screened in accordance with s.
 782 1012.32 by a district school board or the Department of
 783 Education within 12 months before the date the person initially
 784 obtains certification under this chapter, the results of which
 785 are submitted to the district school board or to the Department
 786 of Education, is not required to repeat the screening under this
 787 paragraph.

788 (c) If it is found under s. 1012.796 that a person who is
 789 employed in a position requiring certification under this
 790 chapter has not been screened in accordance with s. 1012.32, or
 791 is ineligible for such certification under s. 1012.315, the
 792 person's certification shall be immediately revoked or suspended
 793 and he or she shall be immediately suspended from the position
 794 requiring certification.

795 Section 15. For the purpose of incorporating the amendment
 796 made by this act to section 1012.315, Florida Statutes, in a
 797 reference thereto, paragraph (n) of subsection (1) of section
 798 1012.795, Florida Statutes, is reenacted to read:

799 1012.795 Education Practices Commission; authority to
 800 discipline.—

801 (1) The Education Practices Commission may suspend the
 802 educator certificate of any person as defined in s. 1012.01(2)
 803 or (3) for up to 5 years, thereby denying that person the right
 804 to teach or otherwise be employed by a district school board or
 805 public school in any capacity requiring direct contact with
 806 students for that period of time, after which the holder may

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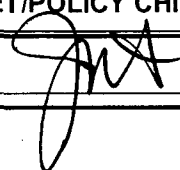
807 return to teaching as provided in subsection (4); may revoke the
 808 educator certificate of any person, thereby denying that person
 809 the right to teach or otherwise be employed by a district school
 810 board or public school in any capacity requiring direct contact
 811 with students for up to 10 years, with reinstatement subject to
 812 the provisions of subsection (4); may revoke permanently the
 813 educator certificate of any person thereby denying that person
 814 the right to teach or otherwise be employed by a district school
 815 board or public school in any capacity requiring direct contact
 816 with students; may suspend the educator certificate, upon an
 817 order of the court or notice by the Department of Revenue
 818 relating to the payment of child support; or may impose any
 819 other penalty provided by law, if the person:

820 (n) Has been disqualified from educator certification
 821 under s. 1012.315.

822 Section 16. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 707 Background Screening
SPONSOR(S): K-12 Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-12 Subcommittee		Brink 	Ahearn 

SUMMARY ANALYSIS

The PCS reorganizes language relating to background screening for all personnel and contractors who have direct contact with students or access school campuses, eliminating reference to the term "level 2 background screening."

The PCS revises requirements relating to virtual instruction programs and reduces the cost of repeated background screening for virtual instruction program instructional personnel by allowing screening results to be shared between school districts. The PCS amends other requirements relating to virtual instruction program personnel.

The PCS amends the list of disqualifying criminal offenses against which personnel who have direct contact with students are screened to be consistent with Florida Department of Law Enforcement (FDLE) rule.

The PCS requires the FDLE to enroll fingerprints received for background screening for school districts in the national retained arrest print notification program once the program is operational and the FDLE begins participation. The PCS requires the FDLE to enroll the fingerprints of instructional and noninstructional personnel in the national retained print arrest notification program within two years after the FDLE begins participation in the program. The FDLE must notify a school district whenever an arrest record is identified with the retained fingerprints of one of the district's employees or contractors in the national retained print arrest notification program.

The PCS provides that rescreening for a certified educator at the time of the educator's five-year certification renewal is necessary only if his or her fingerprints have not yet been enrolled in the national retained print arrest notification program.

The PCS requires the FDLE to identify in rule the fee assessed by the FBI for participation in the national retained arrest print notification program.

The PCS reenacts certain sections of law for the purpose of incorporating by reference the list of disqualifying offenses amended by the PCS.

The PCS does not appear to have a fiscal impact on the state or local governments.

The PCS provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Virtual Instruction Programs

Virtual instruction programs are programs 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.¹ The purpose of these programs is to make instruction available to students using online and distance learning technology in the nontraditional classroom.²

In order to provide its students with the opportunity to participate in a school district virtual instruction program, a school district may:

- Contract with the Florida Virtual School (FLVS) or establish a franchise of the FLVS.³
- Contract with a provider approved by the Department of Education (DOE) for full-time school district virtual instruction program.⁴
- Enter into an agreement with another school district to allow its students to participate in a virtual instruction program provided by the other school district.⁵
- Establish school district operated part-time or full-time kindergarten through grade 12 virtual instruction programs for students enrolled in the school district.⁶
- Enter into an agreement with a virtual charter school authorized by the school district.⁷

In order for a virtual instruction program provider to be approved by the DOE, the provider must document that it, among other things, requires all instructional staff to be Florida-certified teachers and conducts background screenings for all employees or contracted personnel using state and national criminal history records.⁸

Currently, virtual instruction provider instructional employees are subject to the background screening requirements of certified educators.⁹

Background Screening

Individuals who work in, or provide services to, school districts, charter schools, and private schools that participate in state school choice scholarship programs must undergo a fingerprint-based background screening before being permitted access to school grounds.¹⁰ The individuals who must undergo background screening fall under three personnel classifications: instructional and

¹ Section 1002.45(1)(a)2., F.S.

² Section 1002.45(1)(b), F.S. In 2008, the Florida Legislature required all school districts to provide a virtual instruction program beginning with the 2009-10 academic year. Section 4, ch. 2008-147, L.O.F.

³ Section 1002.45(1)(c)1., F.S.

⁴ Section 1002.45(1)(c)2., F.S..

⁵ Section 1002.45(1)(c)3., F.S.

⁶ Section 1002.45(1)(c)4., F.S.

⁷ Section 1002.45(1)(c)5., F.S.

⁸ Section 1002.45(2)(a)3., F.S. The virtual instruction program provider staff must undergo the same background screening as school instructional and noninstructional personnel *See supra* text accompanying note 2.

⁹ Section 1002.45(2)(a)3., F.S.

¹⁰ Sections 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S

noninstructional personnel,¹¹ noninstructional school district employees and contracted personnel,¹² and noninstructional contractors.¹³ Candidates for educator certification must also undergo background screening.¹⁴

The background screening requirements for each personnel classification vary depending upon the individual's duties, whether or not the individual is a school district employee, and the degree of contact the individual has with students.¹⁵ Because they are more likely to have direct contact with students, candidates for educator certification, instructional and noninstructional personnel, and noninstructional school district employees and contracted personnel must undergo Level 2 background screening. Level 2 background screening requires individuals to be screened against a statutorily prescribed list of over 50 disqualifying offenses.¹⁶ In contrast, noninstructional contractors, individuals who are not school district employees and have no direct contact with students, are screened against a statutory list of nine disqualifying offenses.¹⁷

Fingerprints taken for a background screening are 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.¹⁸ The cost of the background screening may be borne by the district school board, the charter school, the employee, the contractor, or other person subject to the screening requirements.¹⁹

The FDLE enters and retains the fingerprints in the Automated Fingerprint Identification System (AFIS), and retains them in the Applicant Fingerprint Retention and Notification Program (AFRNP) database.²⁰ Any arrest fingerprints the FDLE receives through the Criminal Justice Information Program²¹ must then be searched against the fingerprints retained in the AFRNP. Any arrest record that is identified with the retained fingerprints of a person subject to the background screening must be reported to the employing or contracting school district.²²

Fees²³ are charged for each initial background screening and each five-year renewal thereafter.²⁴ In addition, each school district must participate in the search process and pay an annual fee of \$6 for each record retained in the AFRNP database.²⁵ The initial entry of an applicant's fingerprints into the AFRNP database must be accompanied by a state or a state and national criminal history records

¹¹ Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S. Employees and contracted personnel of virtual instruction programs must also undergo background screening pursuant to s. 1012.32(2), F.S. Section 1002.45(2)(a)3., F.S.

¹² Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

¹³ Noninstructional contractors are vendors or contractors who are not school district employees but are permitted access to school grounds when students are present. Section 1012.467(1)(a), F.S.

¹⁴ Sections 1012.32(2)(a) and 1012.56(10)(a), F.S.

¹⁵ Sections 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

¹⁶ See ss. 435.04, 1012.32(2), 1012.465(1), and 1012.56(10), F.S. The disqualifying offenses for level 2 background screening are listed under s. 1012.315, F.S.

¹⁷ See s. 1012.467(2)(g), F.S.

¹⁸ Section 1012.32(2), F.S.

¹⁹ *Id.*

²⁰ Section 1012.32(3)(a), F.S.; s. 943.05(2), F.S.; rule 11C-6.010(1), F.A.C.

²¹ Section 943.051, F.S.

²² Section 1012.32(3)(b), F.S.

²³ The fee charged for the state-level background check is \$24 per name submitted. Section 943.053(3)(b), F.S. The fee for the federal background check is \$16.50. Florida Department of Law Enforcement, *Criminal History Record Checks/Background Checks Fact Sheet*, <http://www.fdle.state.fl.us/Content/getdoc/1acc7c3e-dac7-45d4-8739-0d221749d8ce/FAQ.aspx#13> (last visited Feb. 18, 2014). The total level 2 background check fee is \$40.50 per name submitted, not including any annual fee for fingerprint retention in the AFRNP. *Id.*

²⁴ Sections 1012.56(10)(b), 1012.465(2), and 1012.467(2)(a), F.S.

²⁵ *Id.*

check.²⁶ For noninstructional contractors, fingerprints are purged from the AFRNP database five years after the date they are initially submitted, and the annual retention fee for the five-year period must be paid in total at the time of submission.²⁷

Before employing instructional personnel or school administrators in any position that requires direct contact with students, school districts, charter schools, and private schools participating in a state school choice scholarship program must:

- Conduct an employment history check of the individual's previous employer. If unable to contact a previous employer, efforts to contact the employer must be documented;
- Screen the individual through use of the Department of Education's (DOE) Professional Practices' Database of Disciplinary Actions Against Educators and Teacher Certification Database;²⁸ and
- Document the findings.²⁹

Currently, fingerprints submitted by states are not retained by the FBI for purposes of national background screening.³⁰ However, a national retained print arrest notification program is in development and should be operational sometime during 2014.³¹ The program will allow applicant fingerprints to be retained by the FBI and searched against incoming arrest fingerprints nationwide in a manner similar to the AFRNP in Florida. Participation in the program will allow the FDLE to be notified when a school district employee or contractor subject to background screening requirements is arrested in another state.³² Participation in the national retained print arrest notification program is subject to a one-time \$13.00 fee per each set of retained fingerprints.

Screening results for contractors, both those who have direct contact with students and those who simply have access to school property when students are present, are entered into the Florida Shared School Results (FSSR) system,³³ which allows the results to be shared with other school districts through a secure internet website or other secure electronic means.³⁴ However, the screening results for instructional personnel hired or contracted through a virtual instruction provider are not included in the system. As a result, virtual instruction personnel may be required to undergo background screening by each school district using their instructional services.³⁵

Effect of Proposed Changes

The PCS requires each virtual instruction program, in order to be included in the list of approved programs, to submit an affidavit stating that all instructional personnel have undergone background screening and hold a valid educator certificate in good standing.

²⁶ Rule 11C-6.010(6), F.A.C.

²⁷ Rule 11C-6.010(7), F.A.C.

²⁸ See s. 1001.10(5), F.S.; see also Florida Department of Education, *Employment Screening Tools*, <http://www.fldoe.org/edstandards/est.asp> (last visited Feb. 20, 2014) (includes links to the Professional Practices' Database of Disciplinary Actions Against Educators and the Teacher Certification Database). The Teacher Certification Database is also known as the Bureau of Educator Certification's Partnership Access and Services System (BEC-PASS). Florida Department of Education, *Technical Assistance Paper, Senate Bill 1712, No. K12: 2008-129*, at 4 (July 31, 2008), available at <http://www.fldoe.org/edstandards/pdfs/SB1712TAP.pdf>.

²⁹ Sections 1002.33(12)(g)4. (charter schools), 1002.421(4)(c) (private schools), and 1012.27(6), F.S.

³⁰ Florida Department of Law Enforcement, *Criminal History Record Checks/Background Checks Fact Sheet*, <http://www.fdle.state.fl.us/Content/getdoc/1acc7c3e-dac7-45d4-8739-0d221749d8ce/FAQ.aspx#13> (last visited Feb. 18, 2014).

³¹ Staff of the Florida Department of Law Enforcement, *FDLE Legislative Bill Analysis for HB 707* (2014).

³² *Id.*

³³ Florida Department of Law Enforcement, *Criminal History Record Checks/Background Checks Fact Sheet*, <http://www.fdle.state.fl.us/Content/getdoc/1acc7c3e-dac7-45d4-8739-0d221749d8ce/FAQ.aspx#13> (last visited Feb. 18, 2014).

³⁴ Section 1012.467(7)(a), F.S.; Telephone interview with Bureau Chief, Office of Professional Practices, Florida Department of Education (Feb. 20, 2014).

³⁵ *Id.*

In addition, the PCS clarifies that the FDLE must enter background screening results for virtual instruction program instructional personnel and school district noninstructional personnel and contractors into the FSSR. As a result, virtual instruction program instructional personnel will no longer have to bear the expense of undergoing background screening for each district in which they are providing instruction.

The PCS includes employees of virtual instruction providers in the list of public school, charter school, and public school employees who are immune from civil and criminal liability for any good faith conduct that occurs during the performance of and within the scope of responsibilities related to a background check. The PCS requires that a virtual instruction program file a complaint with the DOE if a certified employee has engaged in conduct which would subject the certificate to discipline by the Education Practices Commission as provided by state law.³⁶ The PCS also requires a law enforcement agency to provide notice to a virtual instruction program provider within 48 hours after one of its screened employees is charged with a disqualifying offense.

The PCS reorganizes language relating to background screening for all personnel and contractors who have direct contact with students or who access school campuses while students are present, eliminating reference to the vague term "level 2 background screening."

The PCS adds the following crimes to the list of disqualifying criminal offenses against which personnel who have direct contact with students are screened:

- Section 39.205, F.S., relating to failure to report child abuse;
- Section 775.085, F.S., relating to evidencing prejudice while committing offense, if reclassified as a felony;
- Section 782.051, F.S., relating to attempted felony murder;
- Section 782.09(1), F.S., relating to killing of unborn quick child by injury to mother;
- Section 787.06, F.S., relating to human trafficking;
- Section 790.166, F.S., relating to weapons of mass destruction;
- Section 838.015, F.S., relating to bribery;
- Section 859.01, F.S., relating to poisoning food or water; and
- Section 876.32, relating to treason.

The PCS requires the FDLE to enroll in the national retained print arrest notification program the fingerprints it has already retained within two years after the FDLE begins participation in the program. Furthermore, the PCS provides that rescreening is necessary for a certified educator at the time of the educator's five-year certification renewal only if his or her fingerprints have not yet been enrolled in the national retained print arrest notification program.

In addition, the PCS requires the FDLE to enroll fingerprints received in performing background checks for school districts in the national retained arrest print notification program once the program is operational and the FDLE begins participation. Once participating in the national retained arrest print notification program, the FDLE must notify school districts whenever the FBI identifies an arrest record with the retained fingerprints of a school district employee or contractor.

The PCS requires the FDLE to identify in rule the fee assessed by the FBI for participation in the national retained arrest print notification program. The PCS also provides that the fee charged by school districts to virtual instruction program instructional personnel and noninstructional school district personnel and contractors who are in direct contact with students may not exceed 30 percent of the total fee assessed by the FDLE and FBI for background screening.

³⁶ Section 1012.795, F.S., permits the Education Practices Commission to take disciplinary action against an educator's certificate if the educator is found to have engaged in behavior or conduct specified by statute.

The PCS eliminates an obsolete provision relating to reciprocity of level 2 background screening for Florida High School Athletic Association officials. Such officials are not contracted by school districts, thus reference to reciprocity is unnecessary. The PCS also makes various conforming changes.

The PCS reenacts the following sections for the purpose of incorporating by reference the list of disqualifying offenses added by the PCS:

- Section 1001.42(7), F.S.;
- Section 1002.33(12)(g), F.S.;
- Section 1002.36(7)(g);
- Section 1002.421(4)(a), F.S.;
- Section 1012.32(1) and (2), F.S.;
- Section 1012.56(1)(a) and (c), F.S.; and
- Section 1012.795(1)(n), F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.45, F.S., revising the requirement relating to background screening of instructional personnel in virtual instruction programs.

Section 2. Amends s. 1012.315, F.S., providing additional offenses that determine ineligibility for educator certification or employment in a position that requires direct contact with students.

Section 3. Amends s. 1012.32, F.S., revising requirements for the retention, search, and reporting of fingerprints of school personnel; providing for Department of Law Enforcement participation in the national retained print arrest notification program; providing for fees.

Section 4. Amends s. 1012.465, F.S., providing background screening requirements for certain school district employees, certain contractual personnel, and instructional personnel in virtual instruction programs.

Section 5. Amends s. 1012.467, F.S., requiring the fingerprints of certain noninstructional contractors to be enrolled in the national retained print arrest notification program; requiring arrest fingerprints to be searched against state and federal retained fingerprints; providing for fees to be established in rule.

Section 6. Amends s. 1012.56, F.S., revising provisions relating to background rescreening for educator certification.

Section 7. Amends s. 1012.796, F.S., including persons employed by virtual instruction providers against which complaints may be filed.

Section 8. Amends s. 1012.797, F.S., revising provisions relating to notification to education providers of charges against school district employees.

Section 9. Reenacts s. 1001.42(7), F.S., relating to district school board powers and duties, to incorporate the amendment made to s. 1012.315, F.S., in reference thereto.

Section 10. Reenacts s. 1002.33(12)(g), F.S., relating to charter schools, to incorporate the amendment made to s. 1012.315, F.S., in reference thereto.

Section 11. Reenacts s. 1002.36(7)(g), F.S., relating to the Florida School for the Deaf and the Blind, to incorporate the amendment made to s. 1012.315, F.S., in reference thereto.

Section 12. Reenacts s. 1002.421(4)(a), F.S., relating to accountability of private schools participating in state school choice scholarship programs, to incorporate the amendment made to s. 1012.315, F.S., in reference thereto.

Section 13. Reenacts s. 1012.32(1) and (2), F.S., relating to qualifications of personnel, to incorporate the amendment made to s. 1012.315, F.S., in reference thereto.

Section 14. Reenacts s. 1012.56(10)(a) and (c), relating to educator certification requirements, to incorporate the amendment made to s. 1012.315, F.S., in reference thereto.

Section 15. Reenacts s. 1012.795(1)(n), F.S., relating to Education Practices Commission authority to discipline, to incorporate the amendment made to s. 1012.315, F.S., in reference thereto.

Section 16. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may lessen the long-term cost of background screening for personnel required to undergo background screening. This is because FDLE participation in the national retained print arrest notification program requires payment of a one-time fee of \$13 for retention of each set of fingerprints, so long as the person is employed by or contracting with the school district, instead of a \$16.50 fee at each five-year rescreening.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This PCS does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The PCS adds to FDLE rulemaking authority the requirement that FDLE identify by rule the amount of the fee assessed by the FBI for participation in the national retained print arrest notification program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.