

HB 707

2014

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 contractors and instructional personnel in virtual
17 instruction programs; requiring a fingerprint-based
18 criminal history check; providing requirements for
19 submission, retention, search, and reporting of
20 fingerprints; providing for fees; amending s.
21 1012.467, F.S.; requiring the fingerprints of certain
22 noninstructional contractors to be enrolled in the
23 national retained print arrest notification program;
24 requiring arrest fingerprints to be searched against
25 state and federal retained fingerprints; providing for
26 fees; amending s. 1012.56, F.S.; revising provisions

Page 1 of 30

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0707-00

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

43

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

45

46 Section 1. Paragraph (a) of subsection (2) of section
 47 1002.45, Florida Statutes, is amended to read:

48 1002.45 Virtual instruction programs.—

49 (2) PROVIDER QUALIFICATIONS.—

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

- 53 1. Is nonsectarian in its programs, admission policies,
 54 employment practices, and operations.†
- 55 2. Complies with the antidiscrimination provisions of s.
 56 1000.05.†
- 57 3. Locates an administrative office or offices in this
 58 state.†
- 59 4. Requires its administrative staff to be state
 60 residents.†
- 61 5. Requires all instructional staff to be Florida-
 62 certified teachers under chapter 1012. ~~and~~
- 63 6. Submits a signed affidavit under penalty of perjury
 64 stating that all instructional personnel have undergone ~~conducts~~
 65 background screening ~~screenings for all employees or contracted~~
 66 ~~personnel~~, as required by s. 1012.465 ~~1012.32~~, using state and
 67 national criminal history records.†
- 68 7.~~4.~~ Provides to parents and students specific information
 69 posted and accessible online that includes, but is not limited
 70 to, the following teacher-parent and teacher-student contact
 71 information for each course:
- 72 a. How to contact the instructor via phone, e-mail, or
 73 online messaging tools.
- 74 b. How to contact technical support via phone, e-mail, or
 75 online messaging tools.
- 76 c. How to contact the administration office via phone, e-
 77 mail, or online messaging tools.
- 78 d. Any requirement for regular contact with the instructor

79 | for the course and clear expectations for meeting the
80 | requirement.

81 | e. The requirement that the instructor in each course
82 | must, at a minimum, conduct one contact via phone with the
83 | parent and the student each month.~~†~~

84 | 8.5. Possesses prior, successful experience offering
85 | online courses to elementary, middle, or high school students as
86 | demonstrated by quantified student learning gains in each
87 | subject area and grade level provided for consideration as an
88 | instructional program option. However, for a provider without
89 | sufficient prior, successful experience offering online courses,
90 | the department may conditionally approve the provider to offer
91 | courses measured pursuant to subparagraph (8) (a)2. Conditional
92 | approval shall be valid for 1 school year only and, based on the
93 | provider's experience in offering the courses, the department
94 | shall determine whether to grant approval to offer a virtual
95 | instruction program.~~†~~

96 | 9.6. Is accredited by a regional accrediting association
97 | as defined by State Board of Education rule.~~†~~

98 | 10.7. Ensures instructional and curricular quality through
99 | a detailed curriculum and student performance accountability
100 | plan that addresses every subject and grade level it intends to
101 | provide through contract with the school district, including:

102 | a. Courses and programs that meet the standards of the
103 | International Association for K-12 Online Learning and the
104 | Southern Regional Education Board.

105 b. Instructional content and services that align with, and
 106 measure student attainment of, student proficiency in the Next
 107 Generation Sunshine State Standards.

108 c. Mechanisms that determine and ensure that a student has
 109 satisfied requirements for grade level promotion and high school
 110 graduation with a standard diploma, as appropriate.~~†~~

111 11.8. Publishes for the general public, in accordance with
 112 disclosure requirements adopted in rule by the State Board of
 113 Education, as part of its application as a provider and in all
 114 contracts negotiated pursuant to this section:

115 a. Information and data about the curriculum of each full-
 116 time and part-time program.

117 b. School policies and procedures.

118 c. Certification status and physical location of all
 119 administrative and instructional personnel.

120 d. Hours and times of availability of instructional
 121 personnel.

122 e. Student-teacher ratios.

123 f. Student completion and promotion rates.

124 g. Student, educator, and school performance
 125 accountability outcomes.~~†~~

126 12.9. If the provider is a Florida College System
 127 institution, employs instructors who meet the certification
 128 requirements for instructional staff under chapter 1012.~~†~~~~and~~

129 13.10. Performs an annual financial audit of its accounts
 130 and records conducted by an independent certified public

131 accountant which is in accordance with rules adopted by the
132 Auditor General, is conducted in compliance with generally
133 accepted auditing standards, and includes a report on financial
134 statements presented in accordance with generally accepted
135 accounting principles.

136 Section 2. Section 1012.315, Florida Statutes, is amended
137 to read:

138 1012.315 Disqualification from employment.—A person is
139 ineligible for educator certification, and instructional
140 personnel and school administrators, as defined in s. 1012.01,
141 are ineligible for employment in any position that requires
142 direct contact with students in a district school system,
143 charter school, or private school that accepts scholarship
144 students under s. 1002.39 or s. 1002.395, if the person,
145 instructional personnel, or school administrator has been
146 convicted of:

147 (1) Any felony offense prohibited under any of the
148 following statutes:

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

151 (b)~~(a)~~ Section 393.135, relating to sexual misconduct with
152 certain developmentally disabled clients and reporting of such
153 sexual misconduct.

154 (c)~~(b)~~ Section 394.4593, relating to sexual misconduct
155 with certain mental health patients and reporting of such sexual
156 misconduct.

HB 707

2014

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

159 | (e) Section 775.085, relating to evidencing prejudice
160 | while committing offense, if reclassified as a felony.

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

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

163 | ~~(h)~~ (e) Section 782.07, relating to manslaughter,
164 | aggravated manslaughter of an elderly person or disabled adult,
165 | aggravated manslaughter of a child, or aggravated manslaughter
166 | of an officer, a firefighter, an emergency medical technician,
167 | or a paramedic.

168 | (i) Section 782.09(1), relating to killing of unborn quick
169 | child by injury to mother.

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

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

172 | ~~(l)~~ (h) Section 784.075, relating to battery on a detention
173 | or commitment facility staff member or a juvenile probation
174 | officer.

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

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

177 | ~~(o)~~ (k) Section 787.025, relating to luring or enticing a
178 | child.

179 | ~~(p)~~ (l) Section 787.04(2), relating to leading, taking,
180 | enticing, or removing a minor beyond the state limits, or
181 | concealing the location of a minor, with criminal intent pending
182 | custody proceedings.

183 (q)~~(m)~~ Section 787.04(3), relating to leading, taking,
 184 enticing, or removing a minor beyond the state limits, or
 185 concealing the location of a minor, with criminal intent pending
 186 dependency proceedings or proceedings concerning alleged abuse
 187 or neglect of a minor.

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

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

192 (t)~~(o)~~ Section 790.115(2)(b), relating to possessing an
 193 electric weapon or device, destructive device, or other weapon
 194 at a school-sponsored event or on school property.

195 (u) Section 790.166, relating to weapons of mass
 196 destruction.

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

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

201 (x)~~(r)~~ Section 794.05, relating to unlawful sexual
 202 activity with certain minors.

203 (y)~~(s)~~ Section 794.08, relating to female genital
 204 mutilation.

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

206 (aa)~~(u)~~ Chapter 800, relating to lewdness and indecent
 207 exposure.

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

209 (cc)~~(w)~~ Section 810.14, relating to voyeurism.
 210 (dd)~~(x)~~ Section 810.145, relating to video voyeurism.
 211 (ee)~~(y)~~ Section 812.014(6), relating to coordinating the
 212 commission of theft in excess of \$3,000.
 213 (ff)~~(z)~~ Section 812.0145, relating to theft from persons
 214 65 years of age or older.
 215 (gg)~~(aa)~~ Section 812.019, relating to dealing in stolen
 216 property.
 217 (hh)~~(bb)~~ Section 812.13, relating to robbery.
 218 (ii)~~(cc)~~ Section 812.131, relating to robbery by sudden
 219 snatching.
 220 (jj)~~(dd)~~ Section 812.133, relating to carjacking.
 221 (kk)~~(ee)~~ Section 812.135, relating to home-invasion
 222 robbery.
 223 (ll)~~(ff)~~ Section 817.563, relating to fraudulent sale of
 224 controlled substances.
 225 (mm)~~(gg)~~ Section 825.102, relating to abuse, aggravated
 226 abuse, or neglect of an elderly person or disabled adult.
 227 (nn)~~(hh)~~ Section 825.103, relating to exploitation of an
 228 elderly person or disabled adult.
 229 (oo)~~(ii)~~ Section 825.1025, relating to lewd or lascivious
 230 offenses committed upon or in the presence of an elderly person
 231 or disabled person.
 232 (pp)~~(jj)~~ Section 826.04, relating to incest.
 233 (qq)~~(kk)~~ Section 827.03, relating to child abuse,
 234 aggravated child abuse, or neglect of a child.

235 (rr)~~(ll)~~ Section 827.04, relating to contributing to the
 236 delinquency or dependency of a child.

237 (ss)~~(mm)~~ Section 827.071, relating to sexual performance
 238 by a child.

239 (tt) Section 838.015, relating to bribery.

240 (uu)~~(nn)~~ Section 843.01, relating to resisting arrest with
 241 violence.

242 (vv)~~(oo)~~ Chapter 847, relating to obscenity.

243 (ww) Section 859.01, relating to poisoning food or water.

244 (xx)~~(pp)~~ Section 874.05, relating to causing, encouraging,
 245 soliciting, or recruiting another to join a criminal street
 246 gang.

247 (yy) Section 876.32, relating to treason.

248 (zz)~~(qq)~~ Chapter 893, relating to drug abuse prevention
 249 and control, if the offense was a felony of the second degree or
 250 greater severity.

251 (aaa)~~(rr)~~ Section 916.1075, relating to sexual misconduct
 252 with certain forensic clients and reporting of such sexual
 253 misconduct.

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

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

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

261 (2) Any misdemeanor offense prohibited under any of the
 262 following statutes:

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

265 (b) Section 787.025, relating to luring or enticing a
 266 child.

267 (3) Any criminal act committed in another state or under
 268 federal law which, if committed in this state, constitutes an
 269 offense prohibited under any statute listed in subsection (1) or
 270 subsection (2).

271 (4) Any delinquent act committed in this state or any
 272 delinquent or criminal act committed in another state or under
 273 federal law which, if committed in this state, qualifies an
 274 individual for inclusion on the Registered Juvenile Sex Offender
 275 List under s. 943.0435(1)(a)1.d.

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

278 1012.32 Qualifications of personnel.—

279 (3)(a) ~~All fingerprints submitted to~~ The Department of Law
 280 Enforcement ~~as required by subsection (2)~~ shall retain the
 281 fingerprints submitted for a criminal history background
 282 screening ~~be retained by the Department of Law Enforcement~~ in a
 283 manner provided by rule, enter the fingerprints ~~and entered~~ in
 284 the statewide automated biometric identification system
 285 authorized by s. 943.05(2)(b), and enroll the fingerprints in
 286 the national retained print arrest notification program.

287 Fingerprints may not be enrolled in the national retained print
 288 arrest notification program until the Department of Law
 289 Enforcement begins participation with the Federal Bureau of
 290 Investigation. Arrest fingerprints must be searched against the
 291 retained prints by the Department of Law Enforcement and the
 292 Federal Bureau of Investigation to comply with the reporting
 293 requirements of paragraph (b). Individuals whose fingerprints
 294 were retained by the Department of Law Enforcement before its
 295 participation in the national retained print arrest notification
 296 program must be enrolled in the program within 2 years after the
 297 department begins participation with payment of the fee
 298 established by the Federal Bureau of Investigation. Such
 299 fingerprints shall thereafter be available for arrest
 300 notifications required by paragraph (b) and all purposes and
 301 uses authorized for arrest fingerprints entered in the statewide
 302 automated biometric identification system pursuant to s.
 303 943.051.

304 ~~(b) The Department of Law Enforcement shall search all~~
 305 ~~arrest fingerprints received under s. 943.051 against the~~
 306 ~~fingerprints retained in the statewide automated biometric~~
 307 ~~identification system under paragraph (a).~~ An Any arrest record
 308 that is identified with the retained fingerprints of a person
 309 subject to the background screening under this section, either
 310 by the Department of Law Enforcement or the Federal Bureau of
 311 Investigation, shall be reported to the employing or contracting
 312 school district or the school district with which the person is

313 affiliated. Each school district is required to participate in
314 this search process by payment of a state ~~an~~ annual fee and a
315 federal subscription fee to the Department of Law Enforcement
316 and by informing the Department of Law Enforcement of any change
317 in the affiliation, employment, or contractual status or place
318 of affiliation, employment, or contracting of its instructional
319 and noninstructional personnel whose fingerprints are retained
320 under paragraph (a). The Department of Law Enforcement shall
321 adopt by a rule ~~setting the amount of the~~ fees ~~annual fee~~ to be
322 imposed upon each school district for performing these searches
323 and ~~establishing~~ the procedures for the retention of
324 instructional and noninstructional personnel fingerprints and
325 the dissemination of search results. The fees ~~fee~~ may be borne
326 by the district school board, the contractor, or the person
327 fingerprinted.

328 (c) Personnel whose fingerprints are not retained by the
329 Department of Law Enforcement under paragraphs (a) and (b) must
330 be refingerprinted and rescreened in accordance with subsection
331 (2) upon reemployment or reengagement to provide services in
332 order to comply with the requirements of this subsection.

333 Section 4. Section 1012.465, Florida Statutes, is amended
334 to read:

335 1012.465 Background screening requirements for ~~certain~~
336 ~~noninstructional school district employees and contractors~~ and
337 certain instructional personnel.-

338 (1) Except as provided in s. 1012.467 or s. 1012.468,

339 ~~noninstructional school district employees or contractual~~
340 ~~personnel who are permitted access on school grounds when~~
341 ~~students are present, who have direct contact with students or~~
342 ~~who have access to or control of school funds,~~ and instructional
343 personnel who are hired or contracted to fill positions with a
344 provider approved to offer virtual instruction pursuant to s.
345 1002.45, must meet the background ~~level 2~~ screening requirements
346 prescribed as described in subsection (2) s. 1012.32.

347 Contractual personnel shall include any vendor, individual, or
348 entity under contract with a school or the school board.

349 (2) An individual described in subsection (1) must be of
350 good moral character, must not be ineligible under s. 1012.315,
351 and must, when required by law, hold a certificate or license
352 issued under rules of the State Board of Education or the
353 Department of Children and Families, except when employed
354 pursuant to s. 1012.55 or under the emergency provisions of
355 1012.24. Previous residence in this state shall not be required
356 as a prerequisite for any person holding a valid Florida
357 certificate or license to serve in an instructional capacity.

358 (3) A fingerprint-based criminal history check shall be
359 performed on each individual described in subsection (1) at
360 least once every 5 years. For the initial criminal history
361 check, the individual shall submit a complete set of
362 fingerprints taken by any authorized law enforcement agency, any
363 employee trained to take fingerprints for any school district or
364 public school, or any private company authorized to take

365 fingerprints under s. 943.053(13). The fingerprints shall be
366 electronically submitted for state processing to the Department
367 of Law Enforcement, which in turn shall submit the fingerprints
368 to the Federal Bureau of Investigation for national processing.
369 The results of each criminal history check shall be reported to
370 the school district in which the individual seeks access and
371 entered into the shared system described in s. 1012.467(7).

372 (4) The Department of Law Enforcement shall retain the
373 fingerprints submitted for a criminal history check in a manner
374 provided by rule, enter the fingerprints in the statewide
375 automated biometric identification system authorized by s.
376 943.05(2)(b), and enroll the fingerprints in the national
377 retained print arrest notification program in accordance with s.
378 1012.32(3). Arrest fingerprints must be searched against the
379 retained prints by the Department of Law Enforcement and the
380 Federal Bureau of Investigation to comply with the reporting
381 requirements of subsection (5).

382 (5) An arrest record that is identified with the retained
383 fingerprints of a person subject to the criminal history check
384 under this section, either by the Department of Law Enforcement
385 or the Federal Bureau of Investigation, shall be reported to
386 each school district in which the person seeks access.
387 Participation in the search process is subject to a state annual
388 fee established in rule by the Department of Law Enforcement and
389 a federal subscription fee established by the Federal Bureau of
390 Investigation. A fee that is charged by a school district for

391 such checks may not exceed 30 percent of the total amount
392 charged by the Department of Law Enforcement and the Federal
393 Bureau of Investigation. The fees may be borne by the district
394 school board, the contractor, or the person fingerprinted.

395 (6) An individual subject to this section shall inform a
396 school district if a criminal history check was completed in
397 another school district within the past 5 years. The school
398 district shall verify the results of the individual's criminal
399 history check using the shared system described in s.
400 1012.467(7). The school district may not charge a fee for
401 verifying the results of the criminal history check.

402 ~~(2) Every 5 years following employment or entry into a~~
403 ~~contract in a capacity described in subsection (1), each person~~
404 ~~who is so employed or under contract with the school district~~
405 ~~must meet level 2 screening requirements as described in s.~~
406 ~~1012.32, at which time the school district shall request the~~
407 ~~Department of Law Enforcement to forward the fingerprints to the~~
408 ~~Federal Bureau of Investigation for the level 2 screening. If,~~
409 ~~for any reason following employment or entry into a contract in~~
410 ~~a capacity described in subsection (1), the fingerprints of a~~
411 ~~person who is so employed or under contract with the school~~
412 ~~district are not retained by the Department of Law Enforcement~~
413 ~~under s. 1012.32(3)(a) and (b), the person must file a complete~~
414 ~~set of fingerprints with the district school superintendent of~~
415 ~~the employing or contracting school district. Upon submission of~~
416 ~~fingerprints for this purpose, the school district shall request~~

417 ~~the Department of Law Enforcement to forward the fingerprints to~~
418 ~~the Federal Bureau of Investigation for the level 2 screening,~~
419 ~~and the fingerprints shall be retained by the Department of Law~~
420 ~~Enforcement under s. 1012.32(3)(a) and (b). The cost of the~~
421 ~~state and federal criminal history check required by level 2~~
422 ~~screening may be borne by the district school board, the~~
423 ~~contractor, or the person fingerprinted. Under penalty of~~
424 ~~perjury, each person who is employed or under contract in a~~
425 ~~capacity described in subsection (1) must agree to inform his or~~
426 ~~her employer or the party with whom he or she is under contract~~
427 ~~within 48 hours if convicted of any disqualifying offense while~~
428 ~~he or she is employed or under contract in that capacity.~~

429 (7)~~(3)~~ If it is found that a person who is employed or
430 under contract in a capacity described in subsection (1) has
431 been arrested for a disqualifying offense specified in s.
432 1012.315 ~~does not meet the level 2 requirements,~~ the person
433 shall be immediately suspended from working in that capacity and
434 shall remain suspended until final resolution of any appeals.

435 Section 5. Paragraphs (b) through (e) of subsection (2) of
436 section 1012.467, Florida Statutes, are amended to read:

437 1012.467 Noninstructional contractors who are permitted
438 access to school grounds when students are present; background
439 screening requirements.—

440 (2)

441 (b) ~~As authorized by law,~~ The Department of Law
442 Enforcement shall retain the fingerprints submitted ~~by the~~

443 ~~school districts pursuant to this subsection to the Department~~
444 ~~of Law Enforcement~~ for a criminal history background screening
445 in a manner provided by rule, ~~and~~ enter the fingerprints in the
446 statewide automated biometric identification system authorized
447 by s. 943.05(2)(b), and enroll the fingerprints in the national
448 retained print arrest notification program in accordance with s.
449 1012.32(3). The fingerprints shall thereafter be available for
450 arrest notifications required by paragraph (c) and all purposes
451 and uses authorized for arrest fingerprints entered ~~in~~ ~~into~~ the
452 statewide automated biometric identification system pursuant to
453 under s. 943.051. Arrest fingerprints must be searched against
454 the retained prints by the Department of Law Enforcement and the
455 Federal Bureau of Investigation to comply with the reporting
456 requirements of paragraph (c).

457 (c) An arrest record that is identified with the retained
458 fingerprints of a person subject to the background screening
459 under this section, either by the Department of Law Enforcement
460 or the Federal Bureau of Investigation, shall be reported to
461 each school district in which the person seeks access. ~~As~~
462 authorized by law, the Department of Law Enforcement shall
463 search all arrest fingerprints received under s. 943.051 against
464 the fingerprints retained in the statewide automated biometric
465 identification system under paragraph (b).

466 (d) Participation in the search process is subject to a
467 state fee established in rule by the Department of Law
468 Enforcement and a federal subscription fee established by the

469 Federal Bureau of Investigation ~~School districts may participate~~
470 ~~in the search process described in this subsection by paying an~~
471 ~~annual fee to the Department of Law Enforcement.~~

472 (e) A fingerprint retained pursuant to this subsection
473 shall be purged ~~from the automated biometric identification~~
474 ~~system~~ 5 years following the date the fingerprint was initially
475 submitted. The Department of Law Enforcement shall set the
476 amount of the annual fee to be imposed upon each participating
477 agency for performing these searches and establishing the
478 procedures for retaining fingerprints and disseminating search
479 results. The fee may be borne as provided by law. ~~Fees may be~~
480 ~~waived or reduced by the executive director of the Department of~~
481 ~~Law Enforcement for good cause shown.~~

482 Section 6. Paragraph (b) of subsection (10) of section
483 1012.56, Florida Statutes, is amended to read:

484 1012.56 Educator certification requirements.—

485 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND
486 PERIODICALLY.—

487 (b) A person may not receive a certificate under this
488 chapter until the person's screening under s. 1012.32 is
489 completed and the results have been submitted to the Department
490 of Education or to the district school superintendent of the
491 school district that employs the person. Every 5 years after
492 obtaining initial certification, each person who is required to
493 be certified under this chapter and whose fingerprints have not
494 been enrolled in the national retained print arrest notification

HB 707

2014

495 program in accordance with s. 1012.32(3) must be rescreened in
496 accordance with s. 1012.32, at which time the school district
497 shall request the Department of Law Enforcement to forward the
498 fingerprints to the Federal Bureau of Investigation for federal
499 criminal records checks. If, for any reason after obtaining
500 initial certification, the fingerprints of a person who is
501 required to be certified under this chapter are not retained by
502 the Department of Law Enforcement under s. 1012.32(3)(a) and
503 (b), the person must file a complete set of fingerprints with
504 the district school superintendent of the employing school
505 district. Upon submission of fingerprints for this purpose, the
506 school district shall request the Department of Law Enforcement
507 to forward the fingerprints to the Federal Bureau of
508 Investigation for federal criminal records checks, and the
509 fingerprints shall be retained by the Department of Law
510 Enforcement under s. 1012.32(3)(a) and (b). The cost of the
511 state and federal criminal history checks required by paragraph
512 (a) and this paragraph may be borne by the district school board
513 or the employee. Under penalty of perjury, each person who is
514 certified under this chapter must agree to inform his or her
515 employer within 48 hours if convicted of any disqualifying
516 offense while he or she is employed in a position for which such
517 certification is required.

518 Section 7. Subsection (1) of section 1012.797, Florida
519 Statutes, is amended to read:

520 1012.797 Notification of ~~district school superintendent of~~

521 certain charges against or convictions of employees.—

522 (1) Notwithstanding the provisions of s. 985.04(7) or any
 523 other provision of law to the contrary, a law enforcement agency
 524 shall, within 48 hours, notify the appropriate district school
 525 superintendent of the name and address of any employee of the
 526 school district who is charged with a felony or ~~with a~~
 527 misdemeanor specified in s. 1012.315; any other crime involving
 528 the abuse of a minor child or the sale or possession of a
 529 controlled substance; or with any act that would qualify the
 530 employee for inclusion on the Registered Juvenile Sex Offender
 531 List under s. 943.0435(1)(a)1.d. The notification shall include
 532 the specific charge for which the employee of the school
 533 district was arrested. Such notification shall include other
 534 education providers such as the Florida School for the Deaf and
 535 the Blind, the Florida Virtual School, university lab schools,
 536 charter schools, providers of virtual instruction pursuant to s.
 537 1002.45, and private elementary and secondary schools.

538 Section 8. For the purpose of incorporating the amendment
 539 made by this act to section 1012.315, Florida Statutes, in a
 540 reference thereto, subsection (7) of section 1001.42, Florida
 541 Statutes, is reenacted to read:

542 1001.42 Powers and duties of district school board.—The
 543 district school board, acting as a board, shall exercise all
 544 powers and perform all duties listed below:

545 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
 546 instructional personnel and school administrators, as defined in

547 s. 1012.01, from employment in any position that requires direct
548 contact with students if the personnel or administrators are
549 ineligible for such employment under s. 1012.315. An elected or
550 appointed school board official forfeits his or her salary for 1
551 year if:

552 (a) The school board official knowingly signs and
553 transmits to any state official a report of alleged misconduct
554 by instructional personnel or school administrators which
555 affects the health, safety, or welfare of a student and the
556 school board official knows the report to be false or incorrect;
557 or

558 (b) The school board official knowingly fails to adopt
559 policies that require instructional personnel and school
560 administrators to report alleged misconduct by other
561 instructional personnel and school administrators, or that
562 require the investigation of all reports of alleged misconduct
563 by instructional personnel and school administrators, if the
564 misconduct affects the health, safety, or welfare of a student.

565 Section 9. For the purpose of incorporating the amendment
566 made by this act to section 1012.315, Florida Statutes, in a
567 reference thereto, paragraph (g) of subsection (12) of section
568 1002.33, Florida Statutes, is reenacted to read:

569 1002.33 Charter schools.—

570 (12) EMPLOYEES OF CHARTER SCHOOLS.—

571 (g)1. A charter school shall employ or contract with
572 employees who have undergone background screening as provided in

573 s. 1012.32. Members of the governing board of the charter school
574 shall also undergo background screening in a manner similar to
575 that provided in s. 1012.32.

576 2. A charter school shall disqualify instructional
577 personnel and school administrators, as defined in s. 1012.01,
578 from employment in any position that requires direct contact
579 with students if the personnel or administrators are ineligible
580 for such employment under s. 1012.315.

581 3. The governing board of a charter school shall adopt
582 policies establishing standards of ethical conduct for
583 instructional personnel and school administrators. The policies
584 must require all instructional personnel and school
585 administrators, as defined in s. 1012.01, to complete training
586 on the standards; establish the duty of instructional personnel
587 and school administrators to report, and procedures for
588 reporting, alleged misconduct by other instructional personnel
589 and school administrators which affects the health, safety, or
590 welfare of a student; and include an explanation of the
591 liability protections provided under ss. 39.203 and 768.095. A
592 charter school, or any of its employees, may not enter into a
593 confidentiality agreement regarding terminated or dismissed
594 instructional personnel or school administrators, or personnel
595 or administrators who resign in lieu of termination, based in
596 whole or in part on misconduct that affects the health, safety,
597 or welfare of a student, and may not provide instructional
598 personnel or school administrators with employment references or

599 discuss the personnel's or administrators' performance with
600 prospective employers in another educational setting, without
601 disclosing the personnel's or administrators' misconduct. Any
602 part of an agreement or contract that has the purpose or effect
603 of concealing misconduct by instructional personnel or school
604 administrators which affects the health, safety, or welfare of a
605 student is void, is contrary to public policy, and may not be
606 enforced.

607 4. Before employing instructional personnel or school
608 administrators in any position that requires direct contact with
609 students, a charter school shall conduct employment history
610 checks of each of the personnel's or administrators' previous
611 employers, screen the instructional personnel or school
612 administrators through use of the educator screening tools
613 described in s. 1001.10(5), and document the findings. If unable
614 to contact a previous employer, the charter school must document
615 efforts to contact the employer.

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

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 (7) of section
622 1002.36, Florida Statutes, is reenacted to read:

623 1002.36 Florida School for the Deaf and the Blind.—

624 (7) PERSONNEL SCREENING.—

625 (g) For purposes of protecting the health, safety, or
 626 welfare of students, the Florida School for the Deaf and the
 627 Blind is considered a school district and must, except as
 628 otherwise provided in this section, comply with ss. 1001.03,
 629 1001.42, 1001.51, 1006.061, 1012.27, 1012.315, 1012.32, 1012.33,
 630 1012.56, 1012.795, and 1012.796.

631 Section 11. For the purpose of incorporating the amendment
 632 made by this act to section 1012.315, Florida Statutes, in a
 633 reference thereto, paragraph (a) of subsection (4) of section
 634 1002.421, Florida Statutes, is reenacted to read:

635 1002.421 Accountability of private schools participating
 636 in state school choice scholarship programs.—

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

639 (a) Disqualify instructional personnel and school
 640 administrators, as defined in s. 1012.01, from employment in any
 641 position that requires direct contact with students if the
 642 personnel or administrators are ineligible for such employment
 643 under s. 1012.315.

644
 645 The department shall suspend the payment of funds under ss.
 646 1002.39 and 1002.395 to a private school that knowingly fails to
 647 comply with this subsection, and shall prohibit the school from
 648 enrolling new scholarship students, for 1 fiscal year and until
 649 the school complies.

650 Section 12. For the purpose of incorporating the amendment

651 made by this act to section 1012.315, Florida Statutes, in
652 references thereto, subsections (1) and (2) of section 1012.32,
653 Florida Statutes, are reenacted to read:

654 1012.32 Qualifications of personnel.—

655 (1) To be eligible for appointment in any position in any
656 district school system, a person must be of good moral
657 character; must have attained the age of 18 years, if he or she
658 is to be employed in an instructional capacity; must not be
659 ineligible for such employment under s. 1012.315; and must, when
660 required by law, hold a certificate or license issued under
661 rules of the State Board of Education or the Department of
662 Children and Family Services, except when employed pursuant to
663 s. 1012.55 or under the emergency provisions of s. 1012.24.
664 Previous residence in this state shall not be required in any
665 school of the state as a prerequisite for any person holding a
666 valid Florida certificate or license to serve in an
667 instructional capacity.

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

674 (b) Instructional and noninstructional personnel who are
675 hired or contracted to fill positions in any charter school and
676 members of the governing board of any charter school, in

677 compliance with s. 1002.33(12)(g), must, upon employment,
678 engagement of services, or appointment, undergo background
679 screening as required under s. 1012.465 or s. 1012.56, whichever
680 is applicable, by filing with the district school board for the
681 school district in which the charter school is located a
682 complete set of fingerprints taken by an authorized law
683 enforcement agency or an employee of the school or school
684 district who is trained to take fingerprints.

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

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

701

702 Fingerprints shall be submitted to the Department of Law

703 Enforcement for statewide criminal and juvenile records checks
704 and to the Federal Bureau of Investigation for federal criminal
705 records checks. A person subject to this subsection who is found
706 ineligible for employment under s. 1012.315, or otherwise found
707 through background screening to have been convicted of any crime
708 involving moral turpitude as defined by rule of the State Board
709 of Education, shall not be employed, engaged to provide
710 services, or serve in any position that requires direct contact
711 with students. Probationary persons subject to this subsection
712 terminated because of their criminal record have the right to
713 appeal such decisions. The cost of the background screening may
714 be borne by the district school board, the charter school, the
715 employee, the contractor, or a person subject to this
716 subsection.

717 Section 13. For the purpose of incorporating the amendment
718 made by this act to section 1012.315, Florida Statutes, in
719 references thereto, paragraphs (a) and (c) of subsection (10) of
720 section 1012.56, Florida Statutes, are reenacted to read:

721 1012.56 Educator certification requirements.—

722 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND
723 PERIODICALLY.—

724 (a) Each person who seeks certification under this chapter
725 must be fingerprinted and screened in accordance with s. 1012.32
726 and must not be ineligible for such certification under s.
727 1012.315. A person who has been screened in accordance with s.
728 1012.32 by a district school board or the Department of

729 Education within 12 months before the date the person initially
730 obtains certification under this chapter, the results of which
731 are submitted to the district school board or to the Department
732 of Education, is not required to repeat the screening under this
733 paragraph.

734 (c) If it is found under s. 1012.796 that a person who is
735 employed in a position requiring certification under this
736 chapter has not been screened in accordance with s. 1012.32, or
737 is ineligible for such certification under s. 1012.315, the
738 person's certification shall be immediately revoked or suspended
739 and he or she shall be immediately suspended from the position
740 requiring certification.

741 Section 14. For the purpose of incorporating the amendment
742 made by this act to section 1012.315, Florida Statutes, in a
743 reference thereto, paragraph (n) of subsection (1) of section
744 1012.795, Florida Statutes, is reenacted to read:

745 1012.795 Education Practices Commission; authority to
746 discipline.—

747 (1) The Education Practices Commission may suspend the
748 educator certificate of any person as defined in s. 1012.01(2)
749 or (3) for up to 5 years, thereby denying that person the right
750 to teach or otherwise be employed by a district school board or
751 public school in any capacity requiring direct contact with
752 students for that period of time, after which the holder may
753 return to teaching as provided in subsection (4); may revoke the
754 educator certificate of any person, thereby denying that person

755 the right to teach or otherwise be employed by a district school
756 board or public school in any capacity requiring direct contact
757 with students for up to 10 years, with reinstatement subject to
758 the provisions of subsection (4); may revoke permanently the
759 educator certificate of any person thereby denying that person
760 the right to teach or otherwise be employed by a district school
761 board or public school in any capacity requiring direct contact
762 with students; may suspend the educator certificate, upon an
763 order of the court or notice by the Department of Revenue
764 relating to the payment of child support; or may impose any
765 other penalty provided by law, if the person:

766 (n) Has been disqualified from educator certification
767 under s. 1012.315.

768 Section 15. This act shall take effect July 1, 2014.