

1989

Session Law 89-144

Florida Senate & House of Representatives

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S 292 GENERAL BILL/1ST ENG by Gardner (Similar CS/H 309, Compare CS/1ST ENG/H 504)
School Personnel/Fingerprinting; requires fingerprinting of certain noninstructional personnel; provides for guidelines & policies; provides exemptions. Amends 231.02. Effective Date: 01/01/90.

02/21/89 SENATE Prefiled

03/24/89 SENATE Referred to Education; Appropriations

04/04/89 SENATE Introduced, referred to Education; Appropriations -SJ 32; On Committee agenda—Education, 04/06/89, 8:30 am, Room-2C-(301)

04/06/89 SENATE Comm. Report: Favorable by Education -SJ 97; Now in Appropriations -SJ 97

05/02/89 SENATE Withdrawn from Appropriations -SJ 246; Placed on Calendar

05/25/89 SENATE Placed on Special Order Calendar -SJ 449; Passed as amended; YEAS 38 NAYS 0 -SJ 474

05/26/89 HOUSE In Messages

06/01/89 HOUSE Received, placed on Calendar; Read second time; Read third time; Passed; YEAS 106 NAYS 0 -HJ 1064

06/01/89 Ordered enrolled -SJ 691

06/12/89 Signed by Officers and presented to Governor

06/27/89 Approved by Governor; Chapter No. 89-144; See also: CS/HB 504 (Ch. 89-261)

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

REVISED: April 6, 1989

BILL NO. SB 292

DATE: April 4, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. O'Farrell	O'Farrell	1. <u>ED</u>	<u>Favorable</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Fingerprinting/
Noninstructional Personnel

BILL NO. AND SPONSOR:

SB 292 by
Senator Gardner

I. SUMMARY:

A. Present Situation:

Current Florida law requires persons seeking entry into a number of professions and occupations to submit a set of fingerprints as a precondition of licensure or employment. For example: teachers must submit fingerprints in order to receive a state teaching certificate; child care personnel must submit a set of fingerprints to their employers within five days of beginning work at a child care facility; mortgage brokers must submit fingerprints to the Department of Banking and Finance in order to obtain a license; and all persons seeking positions of special trust or responsibility or at a sensitive location with any state agency must submit fingerprints to that agency as a condition of employment.

The extent to which fingerprints are checked or processed varies. For the examples cited above; the prints of teachers and child care workers are processed by the Florida Department of Law Enforcement (FDLE) and the FBI, mortgage brokers' prints may be processed by FDLE or the FBI, and the prints of state employees in sensitive positions are processed by FDLE and may be checked further by the U.S. Department of Justice at the employing agency's request.

Responsibility for the cost of fingerprint processing also varies. Teachers and child care personnel must bear the costs of processing while the agencies cover the costs for mortgage brokers and state employees in sensitive positions. In the case of mortgage brokers, however, the cost is probably included in the license application fee.

Some school districts routinely fingerprint newly hired or prospective noninstructional employees. Districts requiring prints usually process them through local law enforcement agencies, but do not use the processing service of FDLE or the FBI. A few districts use FDLE to run background checks on new employees; however, these reviews do not include fingerprints. Costs associated with local fingerprinting and background investigation efforts are usually borne by the districts.

The Florida School for the Deaf and the Blind has required fingerprinting of newly hired noninstructional employees for the past school year. The school processes the prints through FDLE and the FBI, and assumes responsibility for the costs involved.

Noninstructional personnel in university laboratory schools are employed through the universities and, at this time, are not fingerprinted as a condition of employment.

B. Effect of Proposed Changes:

The bill before the committee would require all public school districts, state university demonstration schools, and the Florida School for the Deaf and the Blind to require a full set of fingerprints from all newly employed noninstructional personnel occupying positions that would bring them into direct contact with students.

The fingerprints would be processed by FDLE and the FBI, and affected employees would be on probationary status until the processing determined if they were in compliance with standards for good moral conduct. In the event of noncompliance, the employee could not be placed in a position requiring direct contact with students. The employee would have the right to appeal a negative finding.

The Commissioner of Education would be required to provide guidelines concerning standards of good moral character for the purpose of assisting local school boards, demonstration schools, and the Board of Trustees of the Florida School for the Deaf and the Blind in developing policies to implement this legislation.

According to provisions in the bill, either the employee or the employer could pay for the costs of the fingerprint processing. Determination of who pays would probably be governed by the local availability of prospective employees or through a collective bargaining agreement.

II. ECONOMIC IMPACT AND FISCAL NOTE:**A. Public:**

Individuals seeking employment with the schools may have to pay the costs of fingerprint processing. The current cost of processing for a person seeking teacher certification is \$27.00.

B. Government:

The affected boards and schools would have to pay the costs of fingerprint processing if the charge was not passed on to the probationary employee. The Florida School for the Deaf and the Blind pays \$24.00 per noninstructional employee for FDLE and FBI processing.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STORAGE NAME:\wp\summary\H309F.edk
DATE: June 7, 1989

HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 309 (See SB 292 as passed by the Legislature)

RELATING TO: Fingerprinting of Noninstructional Personnel

SPONSOR(S): Committee on Education and Representative Glickman

EFFECTIVE DATE: January 1, 1990

COMPANION BILL(S): SB 292 by Gardner (Passed by the Legislature); CS/HB 504 by Committee on Health Care and Representatives Frankel, Gordon, and others (Passed by the Legislature)

OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

I. SUMMARY:

Committee Substitute for House Bill 309 requires background screening of all noncertified personnel hired by school boards and laboratory schools for positions that involve direct contact with children. This background screening may be done through fingerprint matching by the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI) or through name matching by the Florida Crimes Information Telecommunications Network and National Crime Information Center. All provisions of the bill will take effect beginning January 1, 1990.

A. PRESENT SITUATION:

Section 231.02, F.S., requires that to be eligible for appointment in any position in a district school system, a person shall be of good moral character. Presently, all persons applying for initial teacher certification (s. 231.17, F.S.) or work as a substitute teacher (s. 231.47, F.S.) in Florida are required to submit fingerprints to the Department of Education Bureau of Teacher Certification for background screening by the FDLE and FBI. The cost for processing is paid by the applicant. Fingerprinting and background screening of noncertified personnel is left to the discretion of each school district.

Section 402.3055, F.S., requires all persons employed in a licensed child care facility to submit a set of fingerprints for screening within five days of employment. The cost of processing and background screening is borne by the applicant.

B. EFFECT OF PROPOSED CHANGES:

Committee Substitute for House Bill 309 would amend s. 231.02, F.S., to require that upon being hired, noninstructional (noncertified) personnel working in positions requiring direct

contact with students would submit a set of fingerprints for background screening by FDLE and the FBI. School districts which had authorized terminal access to Florida Crimes Information Telecommunications Network and National Crime Information Center could use this equipment for required the background screening.

The new employee would be on probationary status pending the outcome of the background check. Employees found through background screening to have been convicted of a crime involving moral turpitude (an act or behavior that gravely violates moral sentiment or accepted moral standards of the community) would not be employed in any position requiring direct contact with students. Employees terminated because of their criminal records would have the right of appeal to the school board.

All provisions of the bill would begin on January 1, 1990, and apply to the employees, such as teacher aides, of school boards and laboratory schools who work in school buildings and come in direct contact with students. The provisions would not apply to central office secretaries, warehouse employees, etc. Employees on annual contract would not have to be refingerprinted or rescreened each year provided they had not been unemployed for more than 90 days.

Each local school board and laboratory school would develop the policies necessary to implement this requirement. The Commissioner of Education would provide guidelines for district use in developing these policies. The local district would also have the option of paying, partially paying, or requiring the employee to pay for the fingerprint processing.

C. SECTION-BY-SECTION ANALYSIS:

None

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

Committee Substitute for House Bill 309 is consistent with the following declaration in the Speaker's Policy Statement:

I.A.1.g. Schools should be kept safer by removing violent and criminal elements as well as weapons and firearms from traditional classroom settings.

The issue does not seem to be the desirability of screening all persons who come in contact with school children, but rather the cost of such a requirement. School districts do not feel they can bear the expense of FDLE and FBI background checks for new employees. Many noncertified positions, however, are relatively low-paying jobs; a required fee for background screening might be a financial hardship for applicants.

Background screening through fingerprint matching by the FDLE and FBI is the more thorough method of checking for a criminal background. Background screening through name matching by the Florida Crimes Information Telecommunications Network and National Crime Information Center is less accurate but a quicker and less expensive method.

Information from the Florida School Boards Association supplemented by a committee staff telephone survey indicates that 12 of the 67 school districts presently require fingerprinting of new noncertified personnel. Fifty-four districts do not do fingerprinting or formal background checks. One district does occasional background checks on noncertified personnel through FDLE, but does not use fingerprints for this screening.

The following districts presently require fingerprinting of noncertified school personnel:

Bradford	Indian River
Brevard	Lake
Broward	Lee
Duval	St. Lucie
Franklin	Suwannee
Gilchrist	Volusia

Of these 12 districts which fingerprint noncertified personnel, only one reports sending the fingerprints to FDLE for background screening. This district requires the applicant to pay the \$10 fee for processing. The other 11 districts either check locally through the sheriff's department or merely keep the fingerprints on file. These districts bear the minimal costs of this local screening and filing.

The Department of Education (DOE) reports that during the 1987-88 school year 17,564 persons were employed as instructional aides in Florida; and 56,461 other persons were employed by school districts as clerical workers, service workers, skilled craftsman, and unskilled labor. School districts estimate as many as one-fifth of the noncertified personnel are new employees each year.

Following the 1984 Legislative Session in which legislation requiring fingerprinting of teachers and substitute teachers was enacted,

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

A school district might choose to pay all, or a portion of, the fingerprinting and background screening costs for new employees working in school buildings. The FDLE reports a current charge of \$10 per applicant for background screening. The FBI reports a charge of \$14, for a total cost of \$24 per employee for fingerprint screening. Name matching through the Florida Crimes Information Telecommunications Network and National Crime Information Center is reported to cost \$10 per applicant.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

A school district might require the new employee to pay the cost of background screening (\$24 for fingerprint matching or \$10 for name matching).

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

Committee Substitute for House Bill 309 is consistent with the following goals and policies of the state comprehensive plan:

(2)(a) Florida shall provide programs sufficient to protect the health, safety, and welfare of all its children.

(7)(b)11. Increase crime prevention efforts to enhance the protection of individual personal safety and property, especially for those individuals who are most vulnerable.

IV. COMMENTS:

Committee Substitute for House Bill 309 is consistent with the following declaration in the Speaker's Policy Statement:

I.A.1.g. Schools should be kept safer by removing violent and criminal elements as well as weapons and firearms from traditional classroom settings.

The issue does not seem to be the desirability of screening all persons who come in contact with school children, but rather the cost of such a requirement. School districts do not feel they can bear the expense of FDLE and FBI background checks for new employees. Many noncertified positions, however, are relatively low-paying jobs; a required fee for background screening might be a financial hardship for applicants.

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Following the 1984 Legislative Session in which legislation requiring fingerprinting of teachers and substitute teachers was enacted, attempts were made to include noncertified personnel in the screening requirement. In 1985, CS/HB 156, died on the House calendar. The companion bill, CS/SB 285 passed the Senate 35 to zero, but also died on the House calendar. In 1986, the House sponsor again filed a bill, CS/HB 375. This bill passed the House by a vote of 110 to zero and died in the Senate Committee on Education. There was no Senate companion that year.

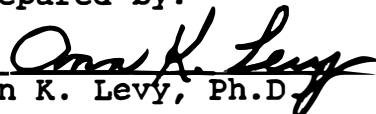
In the 1989 session, House Bill 309 was reported favorably as a committee substitute by the Committee on Education's Subcommittee on Programs on April 13, 1989, and by the full committee on April 17, 1989. The committee substitute was withdrawn from the Committee on Appropriations on May 19, 1989, and placed on the calendar where it died at the end of the session. The companion bill, SB 292, was amended on the floor of the Senate to be substantially identical to CS/HB 309, passed (38/0) on May 25, 1989, and approved by the House (106/0) on June 1, 1989. In addition, the provisions of CS/HB 309 were amended to CS/HB 504 and passed by the House (99/16) on May 24, 1989. This combined bill was approved by the Senate (36/0) on June 1, 1989, also.

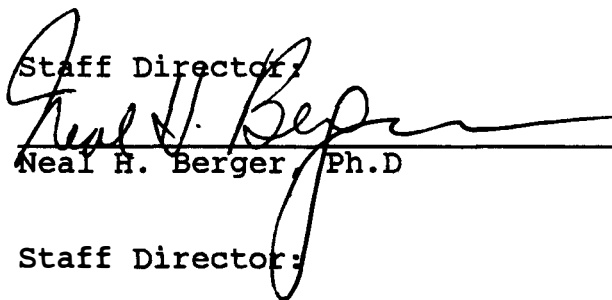
V. AMENDMENTS:

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:


Ann K. Levy, Ph.D.

Staff Director:

Neal H. Berger, Ph.D.

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director: