

1 HB582
2 105080-1
3 By Representatives Rogers, Robinson (O), Scott and Moore (M)
4 RFD: Education Policy
5 First Read: 16-FEB-10

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8 SYNOPSIS: Under existing law, the Alabama Child
9 Protection Act of 1999 requires all prospective and
10 current certified and noncertified education
11 employees who have or will have unsupervised access
12 to children in an educational setting to undergo a
13 criminal history background information check.

14 This bill would subject any person who may
15 be permitted access to school property when
16 students are present, pursuant to a contractual
17 relationship with a local employing board or
18 nonpublic school, to a criminal history background
19 information check.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, prohibits a general
24 law whose purpose or effect would be to require a
25 new or increased expenditure of local funds from
26 becoming effective with regard to a local
27 governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of the amendment. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in the amendment.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT
17

18 To add Article 3, commencing with Section 16-22A-60,
19 to Chapter 22A of Title 16 of the Code of Alabama 1975,
20 relating to the Alabama Child Protection Act of 1999, to
21 expand application of the act and require criminal history
22 background information checks on any person who, pursuant to a
23 contractual relationship, may have access to school property
24 when children are present; and to prescribe penalties for
25 violations; and in connection therewith would have as its
26 purpose or effect the requirement of a new or increased
27 expenditure of local funds within the meaning of Amendment 621

1 of the Constitution of Alabama of 1901, now appearing as
2 Section 111.05 of the Official ReCompilation of the
3 Constitution of Alabama of 1901, as amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. A new Article 3, commencing with Section
6 16-22A-60, is added to Chapter 22A of Title 16 of the Code of
7 Alabama 1975, to read as follows:

8 Article 3. CRIMINAL HISTORY BACKGROUND INFORMATION
9 CHECKS ON CONTRACTUAL SERVICE PROVIDER EMPLOYEES.

10 §16-22A-60.

11 For purposes of this article, the following terms
12 have the following meanings:

13 (1) CONTRACTUAL SERVICE PROVIDER. Any vendor,
14 individual, entity, or private employer under contract with an
15 authorized employer as defined in Section 16-22A-3.

16 (2) SCHOOL PROPERTY. The real property of a school,
17 and any improvement thereon, including a school bus.

18 §16-22A-61.

19 (a) A criminal history background information check
20 shall be conducted on all contractual service provider
21 employees who may have access to school property while
22 children are present.

23 (b) The contractual service provider, upon
24 authorization by the State Superintendent of Education, shall
25 request that the Department of Public Safety secure a state
26 criminal history background information check from the Alabama
27 Bureau of Investigation, and a nationwide criminal history

1 background information check from the Federal Bureau of
2 Investigation, on each contractual service provider employee
3 who may have access to school property while children are
4 present.

5 (c) A request to the Department of Public Safety for
6 a criminal history background information check shall be
7 accompanied by the following:

8 (1) Two complete functional sets of fingerprints,
9 properly executed by a criminal justice agency or an
10 individual properly trained in fingerprinting techniques.

11 (2) Written consent from the contractual service
12 provider employee for the release of criminal history
13 background information to the State Superintendent of
14 Education.

15 (3) A nonrefundable fee to be paid by the
16 contractual service provider requesting the criminal history
17 background information check which shall conform to the
18 guidelines promulgated pursuant to 42 U.S.C. §5119, the
19 National Child Protection Act of 1993, and state law.

20 (4) Acknowledgment that the contractual service
21 provider employee received notice that the State
22 Superintendent of Education will provide a suitability
23 determination based upon the Alabama Bureau of Investigation
24 and Federal Bureau of Investigation criminal history
25 information reports and the suitability criteria to the
26 contractual service provider.

1 (d) The contractual service provider shall be
2 responsible for recording receipt of the items and forwarding
3 them to the Department of Public Safety to request a criminal
4 history background information check.

5 §16-22A-62.

6 The Department of Public Safety shall complete an
7 Alabama Bureau of Investigation criminal history background
8 information report within a reasonable time and shall request
9 a nationwide criminal history background information check
10 from the Federal Bureau of Investigation within a reasonable
11 time of the request from the contractual service provider.

12 §16-22A-63.

13 The Department of Public Safety shall forward state
14 and nationwide criminal history background information reports
15 on contractual service provider employees to the office of the
16 State Superintendent of Education, by certified mail, within a
17 reasonable time of the receipt of the reports. The State
18 Superintendent of Education shall review the information in
19 the reports and determine whether the contractual service
20 provider employee satisfies suitability criteria. A
21 contractual service provider employee who has not been
22 convicted of a child abuse crime, defined in this chapter as a
23 crime committed under the law of the state that involves the
24 physical or mental injury, sexual abuse or exploitation, or
25 maltreatment of a child, shall be deemed suitable to access
26 school property while children are present. The State
27 Superintendent of Education shall issue a suitability

1 determination to the contractual service provider requesting
2 the determination.

3 §16-22A-64.

4 The fee charged for a criminal history background
5 information check on a contractual service provider employee
6 may not exceed the statutory and regulatory amounts set under
7 existing guidelines nor shall additional administrative fees
8 of any kind, except for the cost of mailings, be charged which
9 would increase the cost of the criminal history background
10 information check. The contractual service provider is
11 responsible for the cost of a criminal history background
12 information check conducted on an employee.

13 §16-22A-65.

14 Refusal by a contractual service provider employee
15 to sign and date a consent to obtain a criminal history
16 background information check, and to provide two acceptable
17 sets of fingerprints, shall result in the preclusion of the
18 employee from school property until such time as written
19 permission has been given to the contractual service provider
20 to request a criminal history background information check and
21 the employee has satisfied suitability criteria.

22 §16-22A-66.

23 (a) A criminal history background check shall be
24 completed once every five years on each contractual service
25 provider employee who may have access to school property.

26 (b) Each contractual service provider employee who
27 may have access to school property shall agree to inform the

1 contractual service provider within 48 hours if convicted of
2 any disqualifying offense while employed in that capacity.

3 (c) If it is found that a contractual service
4 provider employee does not satisfy suitability requirements,
5 he or she shall be immediately suspended from working in that
6 capacity and shall remain suspended until final resolution of
7 any appeals and approval by the State Superintendent of
8 Education.

9 §16-22A-67.

10 (a) The confidentiality and penalty provisions
11 regarding criminal history background information reports on
12 certain education employees, as provided in Sections 16-22A-10
13 and 16-22A-12, shall apply with equal force to criminal
14 history background information checks conducted on contractual
15 service provider employees.

16 (b) A contractual service provider who allows an
17 employee who does not satisfy suitability requirements to work
18 on school property while students are present is guilty of a
19 Class C misdemeanor.

20 (c) A contractual service provider employee who
21 gains access to school property while children are present
22 without satisfying suitability requirements is guilty of a
23 Class C misdemeanor.

24 Section 2. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

5 Section 3. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.