

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1854

SPONSOR: Education Committee and Senator Diaz de la Portilla

SUBJECT: School Personnel/Charter Schools/Alternative Schools

DATE: April 4, 2003                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matthews</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The committee substitute requires that alternative school personnel, upon employment and according to the contract, at an alternative school under contract with a district school board, must file a complete set of fingerprints as required in s. 1012.32, F.S., if the individual is hired to fill a position requiring direct contact with students. In addition, the bill requires alternative school personnel to comply with state and federal rules that govern public school personnel.

The bill creates s. 1012.47, F.S.

**II. Present Situation:**

Pursuant to ss. 1003.52 and 1003.53, F.S., alternative schools, or commonly known as “second chance schools,” may be public schools under the district school board, Department of Juvenile Justice facilities designated by the district school board, or partnerships between district school boards and public and private entities. Pursuant to s. 1012.32, F.S., the Department of Education requires all personnel having direct contact with a student in a district school system to be fingerprinted. According to the Department of Education, the fingerprinting requirement applies to all alternative school personnel including an alternative school that is under contract with the district school board.

Personnel at an alternative school that is part of the district school system would be subject to state rules and federal regulations governing public school personnel because they are public school personnel.

However, public school personnel requirements pertaining to employees in a Department of Juvenile Justice facility are not so clear. Florida Administrative Code Rule 6A-05281, F.A.C.,

provides, in pertinent part, that a school district shall ensure that only qualified instructional staff members are employed to provide instruction to students in Department of Juvenile Justice programs. Any use of non-certificated instructional staff requires approval by the district school board. The district school board selects instructional staff in consultation with the director of the Department of Juvenile Justice facility.

Private entities that operate an alternative school under contract with a district school board may not need to comply with all state rules and federal regulations concerning public school personnel. However, a contract between the private entity and the district school board may provide for such requirements. Rule 6A-05281, F.A.C., requires a private provider to document that it has sufficient financial stability and resources to hire an adequate number of certified or qualified instructional personnel.

### **III. Effect of Proposed Changes:**

The committee substitute would require all alternative school personnel, who are hired to fill positions requiring direct contact with students in an alternative school, to file a complete set of fingerprints as required in s. 1012.32, F.S., upon employment and according to the contract between the alternative school and the district school board. According to the Department of Education, the alternative school personnel having direct contact with a student are all fingerprinted. In addition, the bill requires the alternative school personnel to comply with state rules and federal regulations concerning public school employees.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. Other Constitutional Issues:**

The committee substitute requires alternative school employees to comply with all state rules and federal regulations concerning public school employees. To the extent that the alternative school contract provides differently, the bill may face constitutional scrutiny for impairing a contract under s. 10, Art. 1 of the State Constitution.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill does not address the entity that would pay for the cost of fingerprinting in a private alternative school under contract with a district school board.

**C. Government Sector Impact:**

Section 1012.32(2)(a), F.S., authorizes the district school board or the employee to pay for the cost of fingerprinting. To the extent that a district school board pays for the cost there would be a fiscal impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.