

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 358

INTRODUCER: Rules Committee and Senator Ring

SUBJECT: Volunteers for Organized Youth Sports and Recreational Programs

DATE: March 20, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sanford	Hendon	CF	Favorable
2. Stearns	Yeatman	CA	Favorable
3. Sanford	Phelps	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 358 clarifies the definition of “athletic coach” to include coaches, assistant coaches, and referees. It requires independent sanctioning authorities to conduct level 1 background screenings for each current and prospective athletic coach and prohibits the authority from delegating this responsibility to individual teams.

The bill provides that athletic coaches may not act as athletic coaches unless a background screening has been completed which did not result in disqualification of the coach. It authorizes the independent sanctioning authority to allow a disqualified person to act as an athletic coach if the authority determines that the persons meets the requirements for an exemption from disqualification set forth in s. 435.07, F.S.

It requires that the sanctioning authority maintain the results of screenings and notices of disqualification for at least 5 years.

The bill is not expected to have a fiscal impact on the state and has an effective date of July 1, 2014.

II. Present Situation:

Definitions

Current law defines an “athletic coach” as a person who is authorized by an independent sanctioning authority to work for 20 or more hours within a calendar year, whether for compensation or as a volunteer, for a youth athletic team based in this state, and has direct contact with one or more minors on the youth athletic team.

An “independent sanctioning authority” means a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team in this state if the team includes one or more minors and is not affiliated with a private school as defined in s. 1002.01, F.S.

Background Screenings for Athletic Coaches

Independent sanctioning authorities are required to conduct background screenings of athletic coaches. A background screening consists of a name search of the state and federal registries of sexual predators and sexual offenders on websites maintained by the Florida Department of Law Enforcement (FDLE) and the Attorney General of the United States.¹

Sexual Predator and Offender Information

The FDLE compiles information regarding sex offenders and makes that information available to the public. The information on the FDLE public website of sexual offenders and sexual predators is derived from the Florida Department of Corrections, the Florida Department of Highway Safety and Motor Vehicles, and various law enforcement officials.² The Dru Sjodin National Sex Offender Public Website of the United States Department of Justice provides a centralized database to search for information about the location of people convicted of sexual crimes.

Level 1 Background Screening

In 1995, the Legislature created standard procedures for criminal history background screening of prospective employees in order to protect vulnerable persons. Chapter 435, F.S., outlines the screening standards for Level 1 and Level 2 employment screening. The FDLE provides criminal history checks to the employer.³ The primary difference between Level 1 and Level 2 screenings is that Level 2 screenings require the submission of fingerprint information for applicants, while Level 1 screenings are name-based demographic screenings. The list of disqualifying offenses for both Level 1 and Level 2 screenings covers includes 44 separate offenses, and 6 entire chapters of Florida law. Offenses relating to domestic violence are also grounds for disqualification.⁴

¹ Section 943.0438, F.S.

² Florida Department of Law Enforcement, *Florida Sexual Offenders and Predators*, available at <http://offender.fdle.state.fl.us> (last visited Feb. 13, 2014).

³ The cost for a Level 1 screening is \$40.50, according to the FDLE website, available at <http://www.fdle.state.fl.us/Content/getdoc/1acc7c3e-dac7-45d4-8739-0d221749d8ce/FAQ.aspx> (last visited March 21, 2014).

⁴ Section 435.03(2), F.S. (Level 1 screening standards), refers to the list of offenses set forth in s. 435.04(2), F.S. (Level 2 screening standards). Section 435.03(3) adds domestic violence offenses defined in s. 741.28, F.S.

Exemptions from Disqualification

Section 435.07, F.S., provides a mechanism to obtain an exemption from disqualification if a person is disqualified from employment through either a Level 1 or Level 2 background screening. An exemption may be granted if the applicant was disqualified for:

- Felonies committed more than 3 years prior to the date of disqualification;
- Misdemeanors;
- Offenses that were felonies when committed but now are misdemeanors; or
- Findings of delinquency.

The person seeking an exemption must demonstrate by clear and convincing evidence that he or she should not be disqualified. This evidence may include:

- An explanation of the circumstances surrounding the criminal incident for which the exemption is sought;
- The time period that has elapsed since the incident;
- The nature of the harm caused to the victim;
- The history of the applicant since the incident; or
- Any other evidence indicating that the applicant will not present a danger if employment or continued employment is allowed.⁵

III. Effect of Proposed Changes:

Section 1 clarifies the definition of “athletic coach” to mean a coach, assistant coach, or referee. It requires the independent sanctioning authority to conduct a Level 1 background screening pursuant to s. 435.03, F.S., for each current and prospective athletic coach. It prohibits the authority from delegating this responsibility to an individual team.

CS/SB 358 provides that the sanctioning authority may not authorize any person to act as an athletic coach unless a Level 1 screening has been conducted and has not resulted in disqualification of that individual. It requires Level 1 background screenings to be conducted annually for each athletic coach. It requires, in addition to the background screening, a search of the internet registries of sexual predators and sexual offenders maintained by FDLE and the Attorney General of the United States. It allows background screening conducted by a commercial consumer reporting agency, so long as that screening includes a Level 1 background screening and a search of the sexual predators and sex offender registries.

The bill authorizes the independent sanctioning authority to allow a person disqualified by the background screening to act as an athletic coach if it determines that the person meets the requirements for an exemption from disqualification under s. 435.07, F.S.

It requires that the independent sanctioning authority maintain for at least 5 years documentation of the results of background screening for each person screened, and the written notice of disqualification provided to each person who is disqualified as a result of the screening.

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

⁵ Section 435.07(3), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The sex offender registry screening requirements of the bill are expected to have a nominal effect on the authorities. The state and national registries are public websites that can be accessed by persons with minimal computer skills, and searches can be conducted relatively quickly. Those authorities electing to perform searches via a commercial consumer reporting agency may incur moderate expenses for the screening. The authorities may pass these screening costs on to volunteer applicants and incur no costs from this screening requirement.

The Level 1 screenings cost \$40.50 each. This cost will likely be passed on to the athletic coach applicant and may have a negative impact on recruitment and retention of these volunteers.

C. Government Sector Impact:

FDLE reports no projected fiscal impact from the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 943.0438 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Rules on March 20, 2014:

The Committee Substitute:

- Narrows the group requiring background screening from all volunteers for organized youth sports and recreational activities to coaches, assistant coaches, and referees for youth athletic teams;
- Adds Level 1 screening pursuant to s. 435.03, F.S., to the requirements for background screening for athletic coaches;
- Authorizes the sanctioning authority to grant exemptions from disqualification pursuant to s. 435.07, F.S.; and
- Removes conforming changes which were necessary under the prior version of the bill.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
