

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1127 Educational Employees
SPONSOR(S): Education Committee, Duggan
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1444

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	12 Y, 0 N	McAlarney	Guy
2) PreK-12 Appropriations Subcommittee	10 Y, 0 N	Seifert	Potvin
3) Education Committee	15 Y, 0 N, As CS	McAlarney	Hassell

SUMMARY ANALYSIS

The bill improves the processes by which education personnel who have direct contact with children are disciplined for committing criminal acts and misconduct that would render them ineligible to serve in kindergarten through grade 12 schools. The bill expands the universe of education personnel over whom the Florida Department of Education (DOE) has authority to disqualify from employment. It creates efficiencies in the background screening process for certified educators by making the DOE the sole authority to perform criminal background checks. Additionally, the bill provides penalties to school administrators for not reporting criminal acts committed by adults on school grounds.

Disqualification of Education Personnel

The bill requires DOE to create and maintain an electronic employment disqualification list (DQ list) to prevent individuals subject to disciplinary action from working or serving in an education environment. The bill defines individuals subject to the DQ list to include public school employees, public school contracted personnel, charter schools, charter school governing boards, and private schools that accept students who participate in a state scholarship program listed in chapter 1002, F.S.

Background Screening for Educator Certification and Employment

While the DOE has the authority to conduct background screening and does so on a limited basis, the majority of background screening is conducted by school districts who must screen individuals upon employment. Teachers who teach in multiple counties, such as student teachers and virtual school teachers, have to submit to separate background screening for each county in which they work. To address this duplicative screening, the bill authorizes the DOE to participate in the Florida Agency for Health Care Administration Care Provider Background Screening Clearinghouse and provides that each certified educator will only be subject to one background screening every five years.

The bill requires certified educators to meet the same screening standards as other professions that care for vulnerable individuals, like childcare personnel. Those standards for disqualification from employment are for an arrest awaiting final disposition for approximately 50 offenses. Currently, disqualification is only required for felony conviction of similar offenses.

Standards of Ethical Conduct for Education Personnel

The bill requires district school boards, superintendents, and principals to report criminal acts or misconduct perpetrated by adults in specific circumstances on school grounds.

The bill will have a fiscal impact to the DOE for participation in the AHCA Care Provider Background Screening Clearinghouse that is estimated to be between \$150,000 and \$300,000. See Fiscal Comments.

The bill provides an effective date of July 1, 2019.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1127c.EDC

DATE: 4/12/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida schools have had problems with school personnel, substitute teachers, or contractors who have committed crimes of moral turpitude and have gone on to continue serving in positions that require direct contact with students.¹ Many times these individuals resign before the completion of an investigation. This has the practical effect of allowing them to continue working because they were never formally charged. For example, in Hillsborough County, five former teachers who resigned while under investigation for wrongdoing later returned to the classroom through a company that provides temporary workers for the school district. Of those five, two were working as substitute teachers after resigning.²

For certified educators, there have been several instances of criminal conduct that went unreported or without repercussion to the teacher. Currently, a certified middle school teacher is on trial in Miami-Dade County for sexual misconduct with students over an 11-year time period. Despite numerous complaints against the teacher, he continued teaching and working with students. Allegations include forcible rape, child pornography, text messages, unwanted sexual touching, groping a fellow teacher, and verbal sexual comments.³

Present Situation

Disqualification of Education Personnel

Background screening is required for instructional personnel and noninstructional personnel employed in positions that require direct contact with students.⁴ An individual who has a conviction for any crime involving moral turpitude may not be employed, engaged to provide services, or serve in any position that requires direct contact with students.⁵ Education personnel who have direct contact with students may not have a felony conviction for any of the offenses listed in s. 1012.315, F.S.⁶

DOE Investigations of Alleged Misconduct

For certified educators found to have committed acts of misconduct, the DOE's Office of Professional Practice Services (OPPS) administers the state grievance process, including investigations of alleged misconduct and disciplinary actions.⁷ The DOE must expeditiously investigate a filed complaint, which, if legally sufficient,⁸ contains grounds for the revocation or suspension of a certificate or any other appropriate penalty.⁹ Complaints can be filed by any person or entity, and the OPPS can self-generate complaints on their own using media reports or other sources. Legally sufficient complaints of

¹ Jarrod Holbrook, *I-Team: Hillsborough School Supervisors Lacked Oversight on Substitute Teachers who Misbehave*, Aug. 15, 2017, <https://www.abcactionnews.com/news/local-news/i-team-investigates/i-team-hillsborough-school-supervisors-lacked-oversight-on-substitute-teachers-who-misbehave> (last visited Mar. 18, 2019).

² Marlene Sokol, *Company in Charge of Hillsborough Substitute Teachers Weighs in on Problem Cases*, Tampa Bay Times, https://www.tampabay.com/news/education/k12/Company-in-charge-of-Hillsborough-substitute-teachers-weighs-in-on-problem-cases_168478343 (last visited May 18, 2019).

³ Colleen Wright, *How did this Middle School Teacher Stay So Long*, Miami Herald, <https://www.miamiherald.com/news/local/education/article226466655.html> (last visited Apr. 8, 2019).

⁴ Section 1012.32(2)(a), F.S.

⁵ Rule 6A-5.056(7), F.A.C., provides a list of offenses that are considered crimes involving moral turpitude, including the offenses listed in s. 1012.315, F.S.

⁶ Section 1012.315(1)(a)-(vv), (3), and (4), F.S.

⁷ Florida Department of Education, *Professional Practices*, <http://www.fldoe.org/teaching/professional-practices/> (last visited Mar. 10, 2019).

⁸ A complaint is legally sufficient if it contains "ultimate facts that show a violation has occurred" as provided in law and state board rule. Section 1012.796(1)(d), F.S.

⁹ Section 1012.796(1)(a), F.S.

misconduct that affect the health, safety, or welfare of a student must be given priority over other pending complaints.¹⁰

For complaints originated by a school district, the district must file with the DOE a legally sufficient complaint within 30 days after the date on which the subject of the complaint comes to the attention of the school district.¹¹ The report must include all information relating to the complaint known to the school district. Each district school board must adopt policies and procedures for reporting legally sufficient complaints of misconduct to the DOE.¹²

Complaints and materials relating to an investigation of a complaint are confidential and exempt from public records laws until the conclusion of the preliminary investigation or until the investigation is considered inactive.¹³ A preliminary investigation is active so long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the near future. An investigation is presumed to be inactive if no finding relating to probable cause is made within 60 days after the complaint is made.¹⁴ Once the OPPS finds probable cause, the case is turned over to the Education Practices Commission (EPC) for an administrative hearing.

Education Practices Commission

The State Board of Education (SBE) has adopted standards for educator conduct, referred to as the Principles of Professional Conduct for the Education Profession.¹⁵ The Education Practices Commission (EPC) interprets and applies the principles.¹⁶ At least once each year, the EPC must report to and meet with the SBE.¹⁷ The EPC is authorized to revoke or suspend an educator certificate or take other appropriate action as provided in law.¹⁸

Specifically, the EPC may revoke or suspend an educator's certificate if a person has been:¹⁹

- Found guilty of gross immorality or an act involving moral turpitude as defined by SBE rule.
- Convicted or found guilty of, or entered a plea of guilty to, regardless of adjudication of guilt, a misdemeanor, felony, or any other criminal charge, other than a minor traffic violation.
- Disqualified from educator certification based on a conviction for certain criminal offenses.

The EPC may impose one or more of the following penalties against a person with an educator certificate:

- Denial of an application, including prohibiting reapplication for a period of up to ten years or permanently.
- Revocation or suspension of a certificate.
- Imposition of an administrative fine not to exceed \$2,000 for each count or separate offense.
- Probation.
- Restriction of the authorized scope of practice.
- Written reprimand.
- Referral to the recovery network program.²⁰

¹⁰ Section 1012.796(1)(b), F.S.

¹¹ Section 1012.796(1)(d), F.S.

¹² *Id.*

¹³ Section 1012.31(3)(a)1., F.S.

¹⁴ *Id.*

¹⁵ Section 1012.795(1)(j), F.S.; Rule 6A-10.081, F.A.C.

¹⁶ Section 1012.79(7)(a), F.S.

¹⁷ Section 1012.79(7)(c), F.S.

¹⁸ Section 1012.79(7)(b), F.S.

¹⁹ Section 1012.795(1), F.S.

²⁰ Section 1012.798, F.S.

The DOE may deny certification if it has satisfactory evidence that an applicant has committed an act for which the EPC would be authorized to revoke a teaching certificate.²¹ The DOE's decision is subject to review by the EPC upon the filing of a written request from the applicant within 20 days after receipt of notice of denial.²²

Teacher Certification and Disciplinary Databases

The DOE provides authorized staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students who participate in a state scholarship program listed in chapter 1002, F.S., with access to electronic verification of information from the *Professional Practices' Database of Disciplinary Actions Against Educators*²³ and the *DOE's Teacher Certification Database*.²⁴ The *Professional Practices' Database of Disciplinary Actions Against Educators* is a database that lists the outcomes of administrative hearings conducted by the EPC on actions brought against an educator by the OPPS. The *DOE's Teacher Certification Database* is a database that lists the certificate status of instructional personnel and school administrators and the types of certificates held. The DOE does not give unlimited access to these databases, only enough access to the data necessary for performing employment history checks of the instructional personnel and school administrators included in the databases.

Background Screening for Educator Certification and Employment

To be an educator in a traditional public school, charter school, virtual school, or other publicly operated school, a person must hold a certificate issued by the DOE.²⁵ A person seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must be certified.²⁶ The purpose of certification is to require school-based personnel to possess the credentials, knowledge, and skills necessary to provide high-quality education in the public schools.²⁷ A person generally must be 18 years or older and hold a certificate or license issued by the SBE or the Department of Children and Families.²⁸ Currently, the DOE has the authority to conduct background screening, but the majority of background screening is conducted by school districts who must screen individuals upon employment.

An applicant's fingerprints are submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for national criminal records checks.²⁹ The screening cost is borne by the district school board, the charter school, the employee, the contractor, or other person subject to the screening requirements.³⁰

²¹ Section 1012.56(12)(a), F.S.

²² Section 1012.56(12)(b), F.S.

²³ Florida Department of Education, Office of Professional Practices, Discipline against Educator Licenses, <http://www.myfloridateacher.com/discipline/summary.aspx> (last visited Mar. 10, 2019).

²⁴ Florida Department of Education, Online Licensing Service, License Verification, <https://flcertify.fldoe.org/datamart/selSearchType.do> (last visited Mar. 10, 2019).

²⁵ Sections 1012.55(1) and 1002.33(12)(f), F.S.

²⁶ Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

²⁷ Section 1012.54, F.S.; Rule 6A-4.001(1), F.A.C.

²⁸ Section 1012.32(1), F.S.

²⁹ Section 1012.32(2), F.S.

³⁰ *Id.*

Disqualifying Offenses

A person is ineligible for educator certification, employment as an instructional personnel, or employment as a school administrator, if he or she has a felony conviction for the following offenses³¹ under s. 1012.315, F.S.:

- Sexual misconduct with certain developmentally disabled clients, mental health patients, forensic clients, or sexual misconduct in juvenile justice programs.
- Abuse, neglect, or exploitation of aged persons or disabled adults.
- Murder.
- Manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Aggravated assault.
- Aggravated battery.
- Battery on a detention or commitment facility staff member or a juvenile probation officer.
- Kidnapping.
- False imprisonment.
- Luring or enticing a child.
- Leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody or dependency proceedings.
- Exhibiting firearms or weapons at a school-sponsored event, on school property, or within 1,000 feet of school.
- Possessing an electric weapon or device, destructive device, or other weapon at a school-sponsored event or on school property.
- Sexual battery.
- Sexual activity with or solicitation of a child by a person in familial or custodial authority.
- Unlawful sexual activity with certain minors.
- Female genital mutilations.
- Prostitution.
- Lewdness and indecent exposure.
- Arson.
- Voyeurism.
- Coordinating the commission of theft in excess of \$3,000.
- Theft from persons 65 years or older.
- Dealing in stolen property.
- Robbery.
- Robbery by sudden snatching.
- Carjacking.
- Home-invasion robbery.
- Fraudulent sale of controlled substance.
- Abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
- Incest.
- Child abuse, aggravated child abuse, or neglect of a child.
- Contributing to the delinquency or dependency of a child.
- Sexual performance by a child.
- Resisting arrest with violence.
- Obscenity.
- Causing, encouraging, soliciting, or recruiting another to join a criminal street gang.
- Any drug abuse charges under ch. 893, F.S., if offense was a second degree felony or higher.

³¹ Sections 1001.42(7), 1012.315(1)-(2), and 1012.32(1), F.S.

- Introduction, removal, or possession of contraband at a correctional facility or juvenile detention facility or commitment program.
- Misdemeanor battery if the victim of the offense was a minor.

Any person who is found ineligible for employment found through a background screening to have been convicted of any crime involving moral turpitude³² cannot be employed, engaged to provide services, or serve in any position that requires direct contact with students.³³

In contrast, childcare personnel are subject to background screening requirements under s. 435.04, F.S. This law disqualifies a person if he or she has been arrested and is awaiting final disposition for enumerated felony or misdemeanor offenses.³⁴ Exemptions may be granted in limited circumstances enumerated in s. 435.07, F.S. The exemption process allows an applicant an opportunity to be heard and mount a defense on why they should not be excluded from working with vulnerable individuals. The person seeking an exemption must set forth clear and convincing evidence such as the specifics of the offense, how long ago the offense occurred, work history, and rehabilitation. The applicant must demonstrate by clear and convincing evidence that the employee should not be disqualified from employment.³⁵

Background Screening Clearinghouse

In 2012, the Legislature passed CS/CS/CS/HB 943, which created the Care Provider Background Screening Clearinghouse (clearinghouse) to create a single “program” of screening individuals and allow for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies. According to s. 943.0542, F.S., “care” is defined to include the education of children. Designated agencies include the Florida Agency for Health Care Administration (AHCA), the Department of Health, the Department of Children and Families, the Department of Elder Affairs, the Agency for Persons with Disabilities, and Vocational Rehabilitation within the Department of Education. Once a person’s screening record is in the clearinghouse, that person will avoid duplicative future screening and associated fees.

Standards of Ethical Conduct for Education Personnel

Public Schools

Florida law requires each district school board to adopt policies establishing standards of ethical conduct of instructional personnel and school administrators.³⁶ Among other things, the policies must establish the duty of instructional personnel and school administrators to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators, which affects the health safety, or welfare of a student.³⁷ If a school board member intentionally does not adopt policies that require instructional personnel and school administrators to report he or she forfeits his or

³² Rule 6A-5.056(7), F.A.C., provides a list of offenses that are considered crimes involving moral turpitude, including the offenses listed in s. 1012.315, F.S.

³³ Section 1012.32(2), F.S.

³⁴ Section 435.04, F.S., provides that a person is ineligible for working in the health care field in any position that requires direct contact with vulnerable people if the person has been arrested for and is awaiting final disposition of, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or similar law of another jurisdiction.

³⁵ Section 435.07(3)(a), F.S.

³⁶ Section 1001.42(6), F.S. The terms “instructional personnel” and “school administrators” are defined under s. 1012.01(2) and (3)(c), F.S. See also s. 1012.796(1)(d), F.S. (requiring school district policies to include standards of ethical conduct for instructional personnel and school administrators).

³⁷ *Id.*

her salary for one year.³⁸ Furthermore, a district school superintendent who does not investigate or who knowingly fails to report forfeits his or her salary for one year.³⁹

Charter Schools

Florida law requires charters schools to employ or contract with employees after the applicant has undergone background screening as provided in s. 1012.32, F.S. In addition, members of a charter school's governing board must undergo a similar background screening.⁴⁰ A charter school must disqualify instructional personnel and school administrators from employment in any position that requires direct contact with students if the applicant has been convicted of a crime listed in s. 1012.315.⁴¹

All charter schools must adopt policies establishing standards of ethical conduct. The policies must inform all instructional personnel and school administrators that they have a duty to report alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student. Furthermore, the school may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination. The school may not provide instructional personnel or school administrators with employment references or discuss the personnel's or administrators' performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any agreement that has the effect of concealing misconduct that affects the health, safety, or welfare of a student is void may not be enforced.⁴²

Private Schools Participating in an Educational Scholarship Program

Florida law requires all private schools accepting students participating in a state scholarship program listed in chapter 1002, F.S., to be registered and in compliance with all scholarship program laws. A private school must screen all potential instructional personnel and administrators before employing them in any position that requires direct contact with students. The school must conduct employment history checks of each previous employer, screen the applicant using the *Professional Practices' Database of Disciplinary Actions Against Educators*⁴³ and the *DOE's Teacher Certification Database*,⁴⁴ and document the findings. If a school knowingly fails to screen, the DOE will suspend the payment of funds to the school and prohibit the school from enrolling new scholarship students for one fiscal year and until the school complies. If the school continues to screen potential hires improperly, the Commissioner may prohibit the school from participating in scholarship programs.⁴⁵

The Commissioner may immediately suspend the payment of scholarship funds to a private school⁴⁶ if he or she has determined that there is probable cause to believe that there is an imminent threat to the health, safety, or welfare of the students, a previous pattern of failure to comply with state or federal laws, or fraudulent activity on the part of the private school.⁴⁷ The Commissioner's order suspending payment may be appealed by the private school.⁴⁸

³⁸ Section 1001.42(7)(b), F.S.

³⁹ Section 1001.51(12), F.S.

⁴⁰ Section 1002.33(12)(g)1., F.S.

⁴¹ Section 1002.33(12)(g)2., F.S.

⁴² Section 1002.33(12)(g)3., F.S.

⁴³ Florida Department of Education, Office of Professional Practices, Discipline against Educator Licenses, <http://www.myfloridateacher.com/discipline/summary.aspx> (last visited Mar. 10, 2019).

⁴⁴ Florida Department of Education, Online Licensing Service, License Verification, <https://flcertify.fldoe.org/datamart/selSearchType.do> (last visited Mar. 10, 2019).

⁴⁵ *Id.*

⁴⁶ Section 1002.421(3)(d)-(3)(d)3.c., F.S.

⁴⁷ *Id.*

⁴⁸ *Id.*

Sexual Conduct with Students by Authority Figures

Section 800.101, F.S., prohibits an authority figure from soliciting or engaging in sexual, romantic, or lewd conduct with a student and criminalizes the conduct between an authority figure and a student, regardless of the student's age and regardless of whether the behavior was consensual.⁴⁹ In addition, it is not required that the authority figure use his or her position of authority over the student in order to procure the sexual conduct. It is enough that the person is an authority figure and engages in such conduct with a student to violate the prohibition.⁵⁰

An authority figure is a person 18 years of age or older who is employed by, volunteering at, or under contract with a school, including school resource officers. The term "school" includes a private school, a voluntary prekindergarten education program, an early learning program, a public school, the Florida School for the Deaf and Blind, and the Florida Virtual School. The term "school" does not include a facility dedicated exclusively to adult education.⁵¹

Effects of Proposed Changes

Disqualification of Education Personnel

The bill requires the DOE to maintain an electronic disqualification list (DQ list) to prohibit individuals subject to disciplinary action from working or serving in an education environment. The bill requires the DOE to investigate any legally sufficient complaint involving misconduct that would otherwise result in the permanent revocation of a certificate, giving the complaint priority over other pending complaints. If the Educational Practices Commission (EPC) determines that the misconduct would otherwise result in revocation, then the EPC may place the individual on the DQ list. A person on the DQ list is ineligible for an educator certificate or employment in a position that requires direct contact with students.

The DQ list will include individuals who have had their education certificate permanently revoked by the EPC and private school owners or operators whose authority has been revoked by the Commissioner. For private schools who participate in a state scholarship program listed in chapter 1002, F.S., the bill requires those private schools to deny employment to an individual on the DQ list. The bill prohibits an individual on the DQ list from serving as a charter school employee, contract employee, or governing board member.

The bill requires all public schools, including charter schools, and private schools that accept students who participate in a state scholarship program listed in chapter 1002, F.S., to use the DQ list to screen potential employees, contract employees, board members, operators, and owners. This screening is in addition to current criminal background checks required in Florida law.

Background Screening for Educator Certification and Employment

The bill standardizes the screening and exemption process for certified educators by requiring certified educators to meet the same screening standards as other professions, like childcare personnel, that serve vulnerable individuals. The bill requires the DOE to screen certified educators using the standards under s. 435.04, F.S., and authorizes the DOE to grant an exemption from disqualification according s. 435.07, F.S., for specific offenses not currently prohibited by law.

The bill authorizes the DOE to participate in the AHCA Care Provider Background Screening Clearinghouse (clearinghouse) for the retention of fingerprints, arrest notification, and rescreening every five years. Participation in the clearinghouse will reduce duplicative screenings for certified

⁴⁹ Section 800.101, F.S.

⁵⁰ *Id.*

⁵¹ *Id.*

educators working in multiple counties. The bill establishes a rescreening implementation schedule and clarifies that the DOE is solely responsible for all rescreening going forward, even for those certified educators whose screening was initiated by a school district.

Standards of Ethical Conduct for Education Personnel

Current law requires school boards to adopt certain policies and failure to adopt such policies results in forfeiting one year's salary for non-compliance by school board members. The bill adds to this requirement a duty to adopt a policy that requires a district superintendent to immediately report to law enforcement any criminal conduct that would disqualify school personnel from employment for offenses under s. 1012.315, F.S.

Current law requires the forfeiture of a superintendent's salary for failure to report certain offenses. The bill adds to these offenses failure to report any criminal act under s. 800.101, F.S., and acts that would be disqualify offenses under s. 1012.315. F.S

The bill requires the notice posted in schools for the child abuse hotline to include an explanation of conduct that would be child abuse, abandonment, and neglect and link to the DOE's website for more information about conduct by an adult that would violate s. 800.101, F.S.

The bill requires a district school board to include a procedure by which students report to the school principal criminal acts perpetrated by students or adults on school grounds that would violate ss. 800.101 or 1012.315, F.S. The bill provides that a principal would be subject to discipline by the EPC if he or she does not immediately report such acts to law enforcement.

The bill also requires the governing board of a charter school to require instructional personnel and school administrators to report alleged misconduct by individuals.

The bill provides an effective date of July 1, 2019.

B. SECTION DIRECTORY:

Section 1: Amending s. 435(5), F.S., providing definitions.

Section 2: Amending s. 1001.10(4) and (5), F.S., relating to the Commissioner of Education; general powers and duties.

Section 3: Amending s. 1001.42, F.S., relating to powers and duties of district school board.

Section 4: Amending s. 1001.51(12), F.S., relating to the duties and responsibilities of district school superintendent.

Section 5: Amending s. 1002.33(12)(g), F.S., relating to charter schools and employees of charter schools.

Section 6: Redesignating s. 1002.421(3)(c) and (d), F.S., as s. 1002.421(3)(d) and (e), F.S.; amending s. 1002.421(1)(o), F.S., and s. 1002.421(3)(d), F.S.; adding s. 1002.421(3)(c), F.S., relating to state school choice scholarship program accountability and oversight.

Section 7: Amending s. 1006.061, F.S., relating to child abuse, abandonment, and neglect policy.

Section 8: Amending s. 1006.13, F.S., relating to policy of zero tolerance for crime and victimization.

- Section 9:** Amending s. 1012.315, F.S., relating to disqualification from employment.
- Section 10:** Amending s. 1012.32, F.S., relating to qualifications of personnel.
- Section 11:** Amending s. 1012.315, F.S., relating to exceptions for certain individuals instructional personnel from background screening requirements.
- Section 12:** Amending s. 1012.56, F.S., relating to educator certification requirements.
- Section 13:** Amending s. 1012.79(10), F.S., relating to Education Practices Commission; organization.
- Section 14:** Amending s. 1012.795(1), F.S., relating to Education Practices Commission; authority to discipline.
- Section 15:** Renumbering s. 1012.796(8) and (9), F.S., as s. 1012.796, F.S., (9) and (10); amending 1012.796(5), F.S.; adding 1012.796(1)(g), F.S., adding 1012.796(7)(i), F.S.; creating 1012.796(8), F.S., relating to complaints against teachers and administrators; procedure; penalties.
- Section 16:** Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. None. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

As authorized by s. 435.12, F.S., the Care Provider Background Screening Clearinghouse system housed in the Agency for Health Care Administration (AHCA), is a multi-agency enterprise system that shares fingerprint results among specified agencies for the purpose of reducing the overall cost to

providers by eliminating duplicate screenings for participating agencies. The AHCA develops a methodology to allocate the cost of the maintenance and support of the Clearinghouse system and allocates the costs proportionally based on the number of determinations made by each participating agency. The total costs include direct staff time for project management, development, and testing.

The bill requires the Department of Education to participate in the Care Provider Background Screening Clearinghouse; therefore, beginning with Fiscal Year 2019-2020, the department would be included in AHCA's cost allocation methodology. AHCA's estimates for a new participant of the clearinghouse to be between \$150,000 and \$300,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 9, 2019, the Education Committee reported PCS for HB 1127 favorably as a committee substitute. The CS/HB 1127 maintains the original provisions of HB 1127 relating to the creation of an education personnel disqualification list and adds provisions as detailed below.

Relating to background screening for educator certification and employment, the bill:

- Requires the DOE and school districts to screen all educator personnel who have direct contract with students against offenses in s. 1012.315, F.S., which provides disqualification for specific criminal offenses in which the perpetrator is convicted of a felony.
- Requires the DOE to serve as the sole screening authority for certified teachers.
- Requires the DOE to screen certified teachers against offenses in s. 435.04, F.S, which provides disqualification for specific criminal offenses in which the perpetrator is arrested/awaiting disposition for either felonies or misdemeanors.
- Requires the DOE to use the disqualification exemption process in s. 435.07, F.S.
- Authorizes the DOE to use the AHCA Care Provider Background Screening Clearinghouse for fingerprint retention and criminal history results.
- Requires background screening for student teachers and certified teachers only once every 5 years and provides a rescreening schedule.
- Removes appeal rights for probationary education personnel.

Relating to standards of ethical conduct for education personnel, the bill:

- Requires each school board to adopt a policy governing the superintendent duty to report to law enforcement specified criminal acts and provides a board member penalty of 1-year salary forfeiture for failure to adopt the policy.
- Requires school superintendents to investigate allegations of specific criminal acts and provides a penalty of 1-year salary forfeiture for failure to report.
- Requires each district to adopt a policy governing how students report to school principals specific criminal acts perpetrated by students or adults.
- Requires a school principal to immediately report to law enforcement specific criminal acts perpetrated by education personnel.
- Requires the EPC to discipline a principal for failure to comply with the law enforcement reporting requirement.
- Requires the notice posted in schools for the child abuse hotline to include an explanation of conduct that would be child abuse, abandonment, and neglect and link to the DOE's website for more information about conduct by an adult that would violate s. 800.101, F.S.

The analysis is drafted to the proposed committee substitute.