

1 State of Arkansas  
2 84th General Assembly  
3 Second Extraordinary Session, 2003  
4

Call Item 4

# A Bill

HOUSE BILL 1140

5 By: Representatives Walters, Harris, Medley, Jeffrey, Norton, Blair  
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## For An Act To Be Entitled

9 AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR  
10 FRAUDULENT ACTS BY FISCAL OFFICERS OF PUBLIC  
11 SCHOOL DISTRICTS; AND FOR OTHER PURPOSES.  
12

## Subtitle

14 AN ACT TO REQUIRE CRIMINAL BACKGROUND  
15 CHECKS FOR FRAUDULENT ACTS BY FISCAL  
16 OFFICERS OF PUBLIC SCHOOL DISTRICTS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 6-17-421. Criminal records check for fraudulent acts.

22 (a) For purposes of this section:

23 (1) "Applicant" means an individual that is applying for initial  
24 employment as a fiscal officer of a school district;

25 (2) "Fiscal officer" means any certified or noncertified  
26 employee of a school district or education service cooperative who has any  
27 right, duty, or responsibility to access funds of a school district in excess  
28 of two hundred dollars (\$200), specifically including, but not limited to,  
29 superintendents, fiscal officers and bookkeepers; and

30 (3) "Fraudulent act" means an act, involving fraud, or breach of  
31 fiduciary trust, which is punishable under the criminal code in the  
32 jurisdiction within which the act occurred.

33 (b)(1)(A) Upon making application for employment in a position as a  
34 fiscal officer of a school district, the board of directors of a school  
35 district shall require the employment applicant to authorize release to the  
36 Department of Education the results of statewide and nationwide criminal



1 records checks by the bureau.

2 (B) Unless the employing school district's board of  
3 directors has taken action to pay for the cost of criminal background checks  
4 required by this section, the employment applicant shall be responsible to  
5 the Department of Arkansas State Police for the payment of any fee associated  
6 with the criminal records check.

7 (2)(A) The criminal background check shall conform to the  
8 applicable federal standards and include the taking of the employment  
9 applicant's or current fiscal employed officer's fingerprints.

10 (B) At the conclusion of the criminal records check  
11 required by this section, the Bureau of Identification and Information shall  
12 promptly destroy the fingerprint card of the affected employment applicant or  
13 fiscal officer.

14 (3)(A) Any information received by the Department of Education  
15 from the Bureau of Identification and Information pursuant to this section  
16 shall not be available for examination except by the affected employment  
17 applicant or fiscal officer or his or her duly authorized representative, and  
18 no record, file, or document shall be removed from the custody of the  
19 Department of Education.

20 (B) Any information made available to the affected  
21 employment applicant or fiscal officer shall be information pertaining to  
22 that applicant only.

23 (C) Rights of privilege and confidentiality established  
24 under this section shall not extend to any document created for purposes  
25 other than the background check.

26 (4) The Department of Education shall promptly inform the board  
27 of directors of the local school district whether or not the affected  
28 employment applicant is eligible for employment as provided in this  
29 subsection (b).

30 (c)(1) No person shall be eligible for employment as a fiscal officer  
31 by a local school district if the results of the criminal records check  
32 released to the Department of Education by the applicant reveals that the  
33 applicant has pleaded guilty or nolo contendere to, or has been found guilty  
34 of a fraudulent act.

35 (2) However, the board of directors of a local school district  
36 is authorized to offer provisional employment to the affected applicant

1 pending receipt of eligibility information from the Department of Education.

2 (d)(1) The superintendent of each school district shall report to the  
 3 State Board of Education the name of any fiscal officer who is currently  
 4 employed or was employed during the two (2) previous school years by the  
 5 local school district who has pleaded guilty or nolo contendere to, or has  
 6 been found guilty of a fraudulent act.

7 (2) A superintendent who knowingly fails to report information  
 8 as required by this subsection may be subject to sanctions imposed by the  
 9 state board.

10 (e) A prosecuting attorney prosecuting a case in which a school  
 11 employee has pleaded guilty or nolo contendere to, or has been found guilty  
 12 of a fraudulent act shall report the name of the employee and the nature of  
 13 the crime to the school district in which the person is employed and the  
 14 state board.

15 (f) A fiscal officer that pleads guilty or nolo contendere to, or has  
 16 been found guilty of a fraudulent act shall be dismissed from employment with  
 17 the school district.

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 19 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 20 General Assembly that fiscal integrity and the protection of the public funds  
 21 is an important responsibility of government, that funds of some school  
 22 districts have been misappropriated by employees because of the lack of  
 23 requirements for background checks for fraudulent or dishonest acts, that  
 24 corrective action must be taken to prevent further loses in funds and in  
 25 public trust. Therefore, an emergency is declared to exist and this act  
 26 being immediately necessary for the preservation of the public peace, health,  
 27 and safety shall become effective on:

28 (1) The date of its approval by the Governor;

29 (2) If the bill is neither approved nor vetoed by the Governor,  
 30 the expiration of the period of time during which the Governor may veto the  
 31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is  
 33 overridden, the date the last house overrides the veto.

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