

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

*As Engrossed: H1/26/04 S1/29/04*

Call Item 4

# A Bill

HOUSE BILL 1140

5 By: Representatives Walters, Harris, Medley, Jeffrey, Norton, Blair  
6 By: *Senators Gullett, Wilkinson*  
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## For An Act To Be Entitled

10 AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR  
11 FRAUDULENT ACTS BY FISCAL OFFICERS OF PUBLIC  
12 SCHOOL DISTRICTS; AND FOR OTHER PURPOSES.  
13

### Subtitle

15 AN ACT TO REQUIRE CRIMINAL BACKGROUND  
16 CHECKS FOR FRAUDULENT ACTS BY FISCAL  
17 OFFICERS OF PUBLIC SCHOOL DISTRICTS.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 6-17-421. Criminal records check for fraudulent acts.

23 (a) For purposes of this section:

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

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

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

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



1 Department of Education the results of statewide and nationwide criminal  
2 records checks by the bureau.

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

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

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

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

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

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

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

31 (c)(1) No person shall be eligible for employment as a fiscal officer  
32 by a local school district if the results of the criminal records check  
33 released to the Department of Education by the applicant reveals that the  
34 applicant has pleaded guilty or nolo contendere to, or has been found guilty  
35 of a fraudulent act, only after an opportunity for a hearing before the state  
36 board upon reasonable notice in writing.

1           (2) However, the board of directors of a local school district  
2 is authorized to offer provisional employment to the affected applicant  
3 pending receipt of eligibility information from the Department of Education.

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

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

12           (e) A prosecuting attorney who prosecutes a person whom he or she  
13 knows is a school employee in a case in which the school employee has pleaded  
14 guilty or nolo contendere to, or has been found guilty of, a fraudulent act  
15 shall report the name of the employee and the nature of the crime to the  
16 school district in which the person is employed and the State Board of  
17 education.

18           (f) A fiscal officer that pleads guilty or nolo contendere to, or has  
19 been found guilty of a fraudulent act shall be dismissed from employment with  
20 the school district, but only after an opportunity for a hearing before the  
21 state board upon reasonable notice in writing.

22           (g)(1) The State Board of Education shall be entitled to consider:

23                   (A) The age of the fiscal officer at the time the criminal  
24 act occurred;

25                   (B) The length of time since the conviction;

26                   (C) Whether the fiscal officer has pleaded guilty, nolo  
27 contendere, or has been found guilty of to any other criminal violation since  
28 the original conviction;

29                   (D) Whether the original conviction was expunged or  
30 pardoned; and

31                   (E) Any other relevant facts.

32           (2) The state board after conducting a hearing and issuing a  
33 decision in writing, may determine not to prevent the employment or not to  
34 require the termination of employment of the fiscal officer as required in  
35 subsection (c) and (f) of this section.

36           SECTION 2. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly that fiscal integrity and the protection of the public funds  
2 is an important responsibility of government, that funds of some school  
3 districts have been misappropriated by employees because of the lack of  
4 requirements for background checks for fraudulent or dishonest acts, that  
5 corrective action must be taken to prevent further loses in funds and in  
6 public trust. Therefore, an emergency is declared to exist and this act  
7 being immediately necessary for the preservation of the public peace, health,  
8 and safety shall become effective on:

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

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

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

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16 */s/ Walters*  
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