

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1242

4
5 By: Representative Chesterfield
6
7

For An Act To Be Entitled

8
9 AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR
10 ALL SCHOOL DISTRICT FISCAL OFFICERS; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO REQUIRE CRIMINAL BACKGROUND
15 CHECKS FOR ALL SCHOOL DISTRICT FISCAL
16 OFFICERS.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 6-17-421 is amended to read as follows:
22 6-17-421. Criminal records check for fraudulent acts.

23 (a) For purposes of this section:

24 (1) "Applicant" means an individual who 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, dishonesty,
32 or breach of fiduciary trust which is punishable under the criminal code in
33 the jurisdiction within which the act occurred.

34 (b)(1) By July 1, 2006, and by July 1 each year thereafter, every
35 school district shall conduct a criminal background check on all fiscal
36 officers employed by the school district.



1 (2)(A) All persons employed by a school district as fiscal
 2 officers shall authorize release to the Department of Education the results
 3 of statewide and nationwide criminal records checks by the Identification
 4 Bureau of the Department of Arkansas State Police.

5 (B) The employing school district's board of directors
 6 shall take action as necessary to allow the school district to pay for the
 7 cost of the criminal background checks required by this section and the
 8 school district shall be responsible to the Identification Bureau of the
 9 Department of Arkansas State Police for the payment of any fee associated
 10 with conducting the criminal records check.

11 (3)(A) The criminal background check shall conform to the
 12 applicable federal standards and include the taking of the fiscal officer's
 13 fingerprints.

14 (B) At the conclusion of the criminal records check
 15 required by this section, the Identification Bureau of the Department of
 16 Arkansas State Police shall promptly destroy the fingerprint card of the
 17 fiscal officer.

18 (4)(A) Any information received by the Department of Education
 19 from the Identification Bureau of the Department of Arkansas State Police
 20 under this section shall not be available for examination by any person not
 21 employed by the Department of Education, except by the fiscal officer or his
 22 or her duly authorized representative.

23 (B) No record, file, or document shall be removed from the
 24 custody of the Department of Education.

25 (C) Any information made available to the fiscal officer
 26 shall be information pertaining to that fiscal officer only.

27 (D) Rights of privilege and confidentiality established
 28 under this section shall not extend to any document created for purposes
 29 other than the background check.

30 (5) The Department of Education shall promptly inform the
 31 superintendent and the president of the board of directors of the local
 32 school district whether or not the fiscal officer is eligible for continuing
 33 his or her employment as provided in subsection (d) of this section.

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

1 to the Department of Education the results of statewide and nationwide
2 criminal records checks by the ~~Bureau of Identification and Information~~
3 Identification Bureau of the Department of Arkansas State Police.

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

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

12 (B) At the conclusion of the criminal records check
13 required by this section, the ~~bureau~~ Identification Bureau of the Department
14 of Arkansas State Police shall promptly destroy the fingerprint card of the
15 affected employment applicant ~~or fiscal officer~~.

16 (3)(A) Any information received by the Department of Education
17 from the ~~bureau~~ Identification Bureau of the Department of Arkansas State
18 Police pursuant to this section shall not be available for examination except
19 by the affected employment applicant ~~or fiscal officer~~ or his or her ~~duly~~
20 authorized representative, ~~and no~~.

21 (B) No record, file, or document shall be removed from the
22 custody of the Department of Education.

23 ~~(B)(C)~~ Any information made available to the affected
24 employment applicant ~~or fiscal officer~~ shall be information pertaining to
25 that applicant only.

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

29 (4) The Department of Education shall promptly inform the
30 superintendent and the president of the board of directors of the local
31 school district whether or not the affected employment applicant is eligible
32 for employment as provided in ~~this~~ subsection ~~(b)(d)~~ of this section.

33 ~~(e)(1)(d)(1)~~ No person shall be eligible for employment as a fiscal
34 officer by a local school district if the results of the criminal records
35 check released to the Department of Education by the applicant reveals that
36 the applicant has pleaded guilty or nolo contendere to or has been found

1 guilty of a fraudulent act, but only after an opportunity for a hearing
 2 before the State Board of Education upon reasonable notice in writing.

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

6 ~~(d)(1)~~(e)(1) The superintendent of each school district shall report
 7 to the state board the name of any fiscal officer who is currently employed
 8 or was employed during the two (2) previous school years by the local school
 9 district who has pleaded guilty or nolo contendere to or has been found
 10 guilty of a fraudulent act.

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

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

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

23 ~~(g)(1)~~(h)(1) The state board shall be entitled to consider:

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

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

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

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

32 (E) Any other relevant facts.

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