

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
4

As Engrossed: H2/25/05

A Bill

HOUSE BILL 1242

5 By: Representative Chesterfield
6
7

For An Act To Be Entitled

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

Subtitle

13 AN ACT TO REQUIRE CRIMINAL BACKGROUND
14 CHECKS FOR ALL SCHOOL DISTRICT FISCAL
15 OFFICERS.
16
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)~~ five thousand dollars (\$5,000), specifically
30 including, but not limited to, superintendents, fiscal officers, and
31 bookkeepers; and

32 (3) "Fraudulent act" means an act involving fraud, dishonesty,
33 or breach of fiduciary trust which is punishable under the criminal code in
34 the jurisdiction within which the act occurred Arkansas or would have been
35 punishable under the criminal code in Arkansas if the crime had occurred in
36 Arkansas.



1 (b)(1) By July 1, 2006, every school district shall conduct a criminal
2 background check on all fiscal officers employed by the school district.

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

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

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

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

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

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

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

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

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

36 ~~(b)(1)(A)~~(c)(1)(A) Upon making application for employment in a

1 position as a fiscal officer of a school district, the board of directors of
2 a school district shall require the employment applicant to authorize release
3 to the Department of Education the results of statewide and nationwide
4 criminal records checks by the ~~Bureau of Identification and Information~~
5 Identification Bureau of the Department of Arkansas State Police.

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

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

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

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

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

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

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

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

35 ~~(e)(1)(d)(1)~~ No person shall be eligible for employment as a fiscal
36 officer by a local school district if the results of the criminal records

1 check released to the Department of Education by the applicant reveals that
2 the applicant has pleaded guilty or nolo contendere to or has been found
3 guilty of a fraudulent act, but only after an opportunity for a hearing
4 before the State Board of Education upon reasonable notice in writing.

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

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

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

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

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

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

27 (A) The age of the fiscal officer at the time the criminal
28 act occurred;

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

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

33 (D) Whether the original conviction was expunged or
34 pardoned; and

35 (E) Any other relevant facts.

36 (2) The state board after conducting a hearing and issuing a

1 decision in writing may determine not to prevent the employment or not to
2 require the termination of employment of the fiscal officer as required in
3 subsections (c) and (f) of this section.

4
5 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
6 General Assembly that fiscal integrity and the protection of the public funds
7 are important responsibilities of government; that funds of some school
8 districts have been misappropriated by employees because of the lack of
9 requirements for background checks for fraudulent or dishonest acts; that
10 this act is immediately necessary as corrective action to prevent further
11 losses in funds and in the public trust. Therefore, an emergency is declared
12 to exist and this act being immediately necessary for the preservation of the
13 public peace, health, and safety shall become effective on:

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

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

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

20 /s/ Chesterfield