

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 HOUSE BILL NO. 2228

By: Dorman and Nollan of the  
House

and

Loveless of the Senate

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9 COMMITTEE SUBSTITUTE

10 An Act relating to schools; creating the Protect  
11 Against Pedophiles Act; providing short title;  
12 amending 70 O.S. 2011, Section 5-142, as amended by  
13 Section 6, Chapter 354, O.S.L. 2012 (70 O.S. Supp.  
14 2012, Section 5-142), which relates to criminal  
15 history record checks; adding definition; permitting  
16 board of education to request national criminal  
17 history record check for any prospective volunteer;  
18 requiring school district to pay search fee;  
19 prohibiting future checks after volunteer passes a  
20 check unless required by board of education policy;  
21 providing for noncodification; and providing an  
22 effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law not to be  
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Protect Against  
Pedophiles Act".

1 SECTION 2. AMENDATORY 70 O.S. 2011, Section 5-142, as  
2 amended by Section 6, Chapter 354, O.S.L. 2012 (70 O.S. Supp. 2012,  
3 Section 5-142), is amended to read as follows:

4 Section 5-142. A. Except as otherwise provided for in  
5 subsection F of this section, for purposes of employment, a board of  
6 education may request in writing to the State Board of Education  
7 that a national criminal history record check be conducted of any  
8 employee of the school and shall request such information for any  
9 person seeking employment with the school. The Oklahoma State  
10 Bureau of Investigation (OSBI) shall obtain fingerprints of the  
11 employee or prospective employee and require that the person pay a  
12 search fee not to exceed Fifty Dollars (\$50.00) or the cost of the  
13 search, whichever is the lesser amount. The fees shall be deposited  
14 in the OSBI Revolving Fund. School districts may reimburse  
15 employees for the cost of the search. The State Board of Education  
16 shall contact the Oklahoma State Bureau of Investigation for any  
17 national criminal history record of the person within fourteen (14)  
18 working days of receiving a written request from the board of  
19 education.

20 B. The Oklahoma State Bureau of Investigation shall provide the  
21 national criminal history record check requested by the State Board  
22 of Education within fourteen (14) working days from the receipt of  
23 the request. The Bureau may contact the Federal Bureau of  
24 Investigation to obtain the information requested.

1 C. The State Board of Education shall provide the information  
2 received from the Oklahoma State Bureau of Investigation to the  
3 board of education within fourteen (14) days from the receipt of the  
4 information. The State Board of Education shall provide any follow-  
5 up information received from the OSBI concerning a person for which  
6 a national criminal history record check was requested to the  
7 employing board of education.

8 D. For the purpose of this section:

9 1. "Board of education" includes both public and private boards  
10 of education within or outside this state;

11 2. "National criminal history record check" means a national  
12 criminal history record check as defined in Section 150.9 of Title  
13 74 of the Oklahoma Statutes; ~~and~~

14 3. "Prospective employee" means an individual who has received  
15 an offer of temporary employment by a school district pending the  
16 results of the national criminal history record check; and

17 4. "Prospective volunteer" means a parent, guardian or any  
18 individual who intends to volunteer in a capacity that gives him or  
19 her direct contact with students on a regularly scheduled or  
20 continuing basis or that gives him or her supervisory responsibility  
21 for students at a school site or on a school-sponsored trip.

22 E. Each public board of education within this state shall  
23 promulgate a statement regarding the felony record search policy for  
24 that school district. The policy may permit temporary employment of

1 prospective employees for a maximum of sixty (60) days pending  
2 receipt of results of national criminal history record check  
3 requests. The temporary employment of the prospective employee  
4 shall terminate after sixty (60) days unless the school district  
5 receives the results of the national criminal history record check.  
6 The sixty-day temporary employment period shall begin on the first  
7 day the prospective employee reports for duty at the employing  
8 school district. Prospective employees shall be notified of the  
9 requirement, the fee and the reimbursement policy when first  
10 interviewed concerning employment. The school district's  
11 reimbursement policy shall provide, at the minimum, that employees  
12 shall be promptly reimbursed in full for the fee if employed by the  
13 district at the time the national criminal history record check  
14 request is made unless the person was employed pending receipt of  
15 results as set forth above.

16 F. 1. For any person applying for employment as a substitute  
17 teacher, a national criminal history record check shall be required  
18 for the school year; provided however, a board of education may  
19 choose whether to require a national criminal history record check  
20 from a prospective substitute teacher who has been employed by the  
21 school district in the last year. Any person applying for  
22 employment as a substitute teacher in more than one school district  
23 shall only be required to have one national criminal history record  
24 check, and, upon the request of the substitute teacher, that record

1 check shall be sent to all other school districts in which the  
2 substitute teacher is applying to teach.

3 2. Any person employed as a full-time teacher by a school  
4 district in this state in the five (5) years immediately preceding  
5 an application for employment as a substitute teacher may not be  
6 required to have a national criminal history record check, if the  
7 teacher produces a copy of a national criminal history record check  
8 completed within the preceding five (5) years and a letter from the  
9 school district in which the teacher was last employed stating the  
10 teacher left in good standing.

11 3. Any person employed as a full-time teacher by a school  
12 district in this state for ten (10) or more consecutive years  
13 immediately preceding an application for employment as a substitute  
14 teacher in the same school district may not be required to have a  
15 national criminal history record check for as long as the person  
16 remains employed for consecutive years by that school district as a  
17 substitute teacher, if the teacher left full-time employment in good  
18 standing. If the teacher applies for employment as a substitute  
19 teacher in another school district, a national criminal history  
20 record check shall be required.

21 G. Except for extenuating circumstances due to time restraints  
22 as determined by the local school district superintendent, a board  
23 of education may request in writing to the State Board of Education  
24 that a national criminal history record check be conducted of any

1 prospective volunteer. Such requests shall comply with the Civil  
2 Rights Act of 1964. The OSBI shall obtain fingerprints of the  
3 prospective volunteer and require that the school district pay a  
4 search fee not to exceed Fifty Dollars (\$50.00) or the cost of the  
5 search, whichever is the lesser amount. The fees shall be deposited  
6 in the OSBI Revolving Fund. After a prospective volunteer passes a  
7 check, such individual shall not be required to submit to additional  
8 checks unless required by a policy adopted by the board of  
9 education.

10 H. The provisions of this section shall not apply to technology  
11 center employees hired on a part-time or temporary basis for the  
12 instruction of adult students only.

13 ~~H.~~ I. Nothing in this section shall be construed to impose  
14 liability on school districts, except in negligence, for employing  
15 prospective employees within the sixty-day temporary employment  
16 window pending the results of the national criminal history record  
17 check.

18 SECTION 3. This act shall become effective November 1, 2013.

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