

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

HOUSE BILL 2228

By: Dorman and Nollan of the
House

5 and

6 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;

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; and

22 5. "Student volunteer" means a student enrolled in an
23 accredited institution of higher education who, in carrying out his
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1 or her coursework, will have or is likely to have direct contact
2 with students in public or private schools.

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

21 F. 1. For any person applying for employment as a substitute
22 teacher, a national criminal history record check shall be required
23 for the school year; provided however, a board of education may
24 choose whether to require a national criminal history record check

1 from a prospective substitute teacher who has been employed by the
2 school district in the last year. Any person applying for
3 employment as a substitute teacher in more than one school district
4 shall only be required to have one national criminal history record
5 check, and, upon the request of the substitute teacher, that record
6 check shall be sent to all other school districts in which the
7 substitute teacher is applying to teach.

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

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

3 G. Except for extenuating circumstances due to time restraints
4 as determined by the local school district superintendent, a board
5 of education may request in writing to the State Board of Education
6 that a national criminal history record check be conducted of any
7 prospective volunteer. Such requests shall comply with the Civil
8 Rights Act of 1964. The OSBI shall obtain fingerprints of the
9 prospective volunteer and require that the school district pay a
10 search fee not to exceed Fifty Dollars (\$50.00) or the cost of the
11 search, whichever is the lesser amount. The fees shall be deposited
12 in the OSBI Revolving Fund. After a prospective volunteer passes a
13 check, such individual shall not be required to submit to additional
14 checks unless required by a policy adopted by the board of
15 education.

16 H. An accredited institution of higher education may request in
17 writing to the State Department of Education that a national
18 criminal history record check be conducted for a student volunteer.
19 The OSBI shall obtain fingerprints of the student volunteer and
20 require that the student volunteer pay the cost of the search. The
21 fees shall be deposited in the OSBI Revolving Fund. The State
22 Department of Education shall make the results of the check
23 available upon request to any public school district or private
24 school where the student volunteer will have or is likely to have

1 direct contact with students. Unless otherwise required by board of
2 education policy, by law, or for employment or professional
3 certification purposes, a student volunteer shall not be required to
4 submit to additional checks under this section as long as the
5 student volunteer remains continuously enrolled in an accredited
6 institution of higher education, or for a period of five years,
7 whichever is shorter.

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

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

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