

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend House Bill No. 2228, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

Senator Loveless

Loveless-EB-FS-Req#1760
4/18/2013 3:30 PM

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE

4 FOR ENGROSSED

HOUSE BILL NO. 2228

By: Dorman and Nollan of the
House

5 and

6 Loveless of the Senate

7
8
9 FLOOR SUBSTITUTE

10 [schools - Protect Against Pedophiles Act - criminal
11 history record checks - noncodification - effective
12 date]

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

22 Section 5-142. A. Except as otherwise provided for in
23 subsection F of this section, for purposes of employment, a board of
24 education may request in writing to the State Board of Education

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

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

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

3 D. For the purpose of this section:

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

6 2. "National criminal history record check" means a national
7 criminal history record check as defined in Section 150.9 of Title
8 74 of the Oklahoma Statutes; ~~and~~

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

12 4. "Prospective volunteer" means a parent, guardian or any
13 individual who intends to volunteer in a capacity that gives him or
14 her direct contact with students on a regularly scheduled or
15 continuing basis or that gives him or her supervisory responsibility
16 for students at a school site or on a school-sponsored trip; and

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

21 E. Each public board of education within this state shall
22 promulgate a statement regarding the felony record search policy for
23 that school district. The policy may permit temporary employment of
24 prospective employees for a maximum of sixty (60) days pending

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

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

1 1. May permit the school district to request in writing to the
2 OSBI that a national criminal history record check be conducted of
3 any prospective volunteer who will have or is likely to have
4 unsupervised access to students at a school site or on a school-
5 sponsored trip. The OSBI shall obtain fingerprints of the
6 prospective volunteer and require that the school district pay a
7 search fee not to exceed Fifty Dollars (\$50.00) or the cost of the
8 search, whichever is the lesser amount. The fees shall be deposited
9 in the OSBI Revolving Fund. At the discretion of the school
10 district, the cost of the search fee may be passed on to the
11 prospective volunteer. After a prospective volunteer passes a
12 check, such individual shall not be required to submit to additional
13 checks unless required by a policy adopted by the board of
14 education;

15 2. May permit the school district to request in writing to the
16 OSBI that an Oklahoma criminal history record check with fingerprint
17 analysis be conducted of any prospective volunteer who will have or
18 is likely to have supervised access to students at a school site or
19 on a school-sponsored trip. The OSBI shall require that the school
20 district pay a search fee of not to exceed Nineteen Dollars (\$19.00)
21 or the cost of the search, whichever is the lesser amount. The fees
22 shall be deposited in the OSBI Revolving Fund. At the discretion of
23 the school district, the cost of the search fee may be passed on to
24 the prospective volunteer. After a prospective volunteer passes a

1 check, such individual shall not be required to submit to additional
2 checks unless required by a policy adopted by the board of
3 education; and

4 3. Shall comply with the Civil Rights Act of 1964.

5 H. An accredited institution of higher education may request in
6 writing to the State Department of Education that a national
7 criminal history record check be conducted for a student volunteer.
8 The OSBI shall obtain fingerprints of the student volunteer and
9 require that the student volunteer pay the cost of the search. The
10 fees shall be deposited in the OSBI Revolving Fund. The State
11 Department of Education shall make the results of the check
12 available upon request to any public school district or private
13 school where the student volunteer will have or is likely to have
14 direct contact with students. Unless otherwise required by board of
15 education policy, by law, or for employment or professional
16 certification purposes, a student volunteer shall not be required to
17 submit to additional checks under this section as long as the
18 student volunteer remains continuously enrolled in an accredited
19 institution of higher education, or for a period of five (5) years,
20 whichever is shorter. However, the State Board of Education shall
21 be authorized to accept the results of a national criminal history
22 record check performed pursuant to this subsection to meet the
23 requirements of Section 6-190 of this title if the record check was
24 performed within one (1) year of the person seeking certification.

1 I. The provisions of this section shall not apply to technology
2 center employees hired on a part-time or temporary basis for the
3 instruction of adult students only.

4 ~~H.~~ J. Nothing in this section shall be construed to impose
5 liability on school districts, except in negligence, for employing
6 prospective employees within the sixty-day temporary employment
7 window pending the results of the national criminal history record
8 check.

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

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11 54-1-1760 EB 4/18/2013 3:30:10 PM

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