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April 10, 2013

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2228

By: Dorman and Nollan of the
House

and

Loveless of the Senate

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[ schools - Protect Against Pedophiles Act - criminal
history record checks - noncodification - effective
date ]
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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".

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

Section 5-142. A. Except as otherwise provided for in subsection F of this section, for purposes of employment, a board of education may request in writing to the State Board of Education that a national criminal history record check be conducted of any

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

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

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

D. For the purpose of this section:

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

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

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

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

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

E. Each public board of education within this state shall promulgate a statement regarding the felony record search policy for that school district. The policy may permit temporary employment of prospective employees for a maximum of sixty (60) days pending receipt of results of national criminal history record check requests. The temporary employment of the prospective employee

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

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

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

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

19 G. Except for extenuating circumstances due to time restraints
20 as determined by the local school district superintendent, a board
21 of education may request in writing to the State Board of Education
22 that a national criminal history record check be conducted of any
23 prospective volunteer. Such requests shall comply with the Civil
24 Rights Act of 1964. The OSBI shall obtain fingerprints of the

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

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

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.

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
11 April 10, 2013 - DO PASS AS AMENDED
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