# *Fiscal Note & Local Impact Statement*

*127 th General Assembly of Ohio*

Ohio Legislative Service Commission
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BILL: **H.B. 428** DATE: **January 22, 2008**

STATUS: **As Introduced** SPONSOR: **Rep. Setzer**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Makes several changes regarding the reporting of and discipline for school employee misconduct**

## *State Fiscal Highlights*

| STATE FUND | FY 2008 | FY 2009 | FUTURE YEARS |
|---|---|---|---|
| **General Revenue Fund** | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Potential increase in ODE's administrative burden | Potential increase in ODE's administrative burden | Potential increase in ODE's administrative burden |
| **General Reimbursement Fund (Fund 106)** | | | |
| Revenues | Fee revenue increase of approximately $1.0 million | Fee revenue increase of approximately $1.0 million | Fee revenue increase of approximately $1.0 million |
| Expenditures | Offsetting increase for notification services | Offsetting increase for notification services | Offsetting increase for notification services |

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- The bill requires the Department of Education (ODE) to elect to receive notifications from the Bureau of Criminal Identification and Investigation (BCII) for approximately 200,000 individuals licensed by the State Board of Education and entered into the Retained Applicant Fingerprint Database (RAFD). BCII will charge an annual fee of $5 per individual in the Database to cover the costs of providing the service. Therefore, BCII will experience an increase in fee revenue equal to approximately $1.0 million per year. This revenue increase will offset BCII's cost of operating the Database. Generally, the cost of licensure, including the cost of background checks and presumably the additional cost of the RAFD, is borne by the licensee.

- ODE may experience an increase in administrative burden due to the bill's requirements regarding the RAFD and the Ohio Law Enforcement Gateway (OLEG).

## *Local Fiscal Highlights*

| LOCAL GOVERNMENT | FY 2008 | FY 2009 | FUTURE YEARS |
|---|---|---|---|
| **School Districts** | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Potential minimal increase | Potential minimal increase | Potential minimal increase |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Schools may see a minimal increase in expenditure for increased reporting requirements under the bill.

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## *Detailed Fiscal Analysis*

The bill establishes new provisions and makes several changes regarding the reporting of and discipline for school employee misconduct.

***Additional reporting requirements***

Continuing law requires prosecutors to notify the State Board of Education, for individuals licensed by the Board, and schools, for nonlicensed employees of the school, if one of these individuals pleads guilty to or is convicted of certain offenses.[1] In addition to these cases, the bill mandates reporting when one of these individuals has been determined to be eligible for intervention in lieu of conviction or has agreed to participate in a pre-trial diversion program for these same offenses.

Similarly, continuing law requires that public and chartered nonpublic schools report to the Superintendent of Public Instruction certain information on disciplinary actions against an employee who is licensed by the State Board of Education. One item that must be reported is a known plea of guilty by, a finding of guilt of, or a conviction of a licensee for the same offenses mentioned above. As with prosecutors, the bill also mandates reporting when a licensed employee has been determined to be eligible for intervention in lieu of conviction or has agreed to participate in a pre-trial diversion program for these same offenses. Any potential costs of this additional reporting are expected to be minimal.

***ODE participation in the Retained Applicant Fingerprint Database***

Continuing law requires the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) to establish, by February 15, 2008, a database of fingerprints of individuals on whom BCII has conducted criminal records checks for the purpose of determining eligibility for employment with or licensure from a public office. This database is known as the Retained Applicant Fingerprint Database (RAFD). When someone in the database is arrested or convicted of any offense, the Superintendent must send a notification to the public office that employs or licensed the individual if the public office elects to receive notifications. Under a recently adopted rule, BCII will charge an annual fee of $5 for each individual employee record entered and maintained in the database.

[1] These offenses are listed in the LSC bill analysis.

The bill requires that ODE elect to receive BCII notifications. As a result, ODE will be responsible for paying the $5 annual fee for each record submitted to BCII. According to a spokesperson from ODE, the agency will need to submit approximately 200,000 records for an annual cost of approximately $1.0 million. This represents revenue for BCII, which will be offset by the costs of the RAFD service. Generally, the cost of licensure, including the cost of background checks and presumably the additional cost of the RAFD, is borne by the licensee. If a school chooses to reimburse its employees for the costs associated with licensure and, in particular, for being added to the RAFD, the school may experience an increase in expenditures. In addition, ODE may see an increased administrative burden as a result of its work with the RAFD.

***ODE access to Ohio Law Enforcement Gateway***

The bill requires the Office of the Attorney General, upon application, to grant access to the Ohio Law Enforcement Gateway (OLEG) to any person in ODE's Office of Professional Conduct. Currently, only law enforcement personnel, prosecutors, and corrections officers have access to OLEG. Granting this access is not expected to have a fiscal impact on the Office of the Attorney General. ODE may experience some administrative cost in training personnel to use OLEG.

***Employee suspensions***

The bill requires that public and chartered nonpublic schools suspend all licensed and nonlicensed employees from duties that require the care, custody, or control of a child upon arrest or indictment for certain specified offenses and continuing through the conclusion of the criminal action against the employee. The school must also report this suspension to ODE. According to a spokesperson from the Buckeye Association of School Administrators, this provision is not expected to increase costs significantly as it generally conforms the law to current practice. A superintendent may reassign an employee to a location that does not involve the employee in direct contact with children and fill the employee's position in the school with a substitute. Presumably, this same practice will be used for the suspensions mandated by the bill.

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