

AMENDED IN SENATE JUNE 18, 1997

AMENDED IN ASSEMBLY MAY 29, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1612

Introduced by Assembly Members Alby and Ortiz

~~(Coauthors: Assembly Members Alquist, Campbell, Davis, Honda, Martinez, Pacheco, Washington, Wayne, and Wildman)~~

(Coauthors: Assembly Members Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowler, Brewer, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Martinez, Mazzoni, Migden, Miller, Morrissey, Morrow, Napolitano, Olberg, Oller, Pacheco, Papan, Perata, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Woods)

May 22, 1997

An act to add Sections 44380.1 and 45122.1 to the Education Code, relating to school employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, as amended, Alby. School employees.

(1) Existing law requires the governing board of a school district to require each person to be employed, or employed, in a position not requiring certification qualifications to have fingerprint cards prepared by a local public law enforcement agency, requires that agency to transmit the cards to the Department of Justice, and requires the Department of Justice to ascertain whether the applicant or employee has been arrested or convicted of any crime and to furnish all information of which it has a record and which pertains to the person whose fingerprints were transmitted. Existing law authorizes the exemption from these provisions of substitute and temporary employees, employed for less than a school year.

Existing law requires the Commission on Teacher Credentialing to adopt rules and regulations requiring every applicant for a credential or the renewal of a credential to submit reasonable evidence of identification and good moral character. The adopted rules and regulations are required to include, among other things, the offenses that constitute grounds for the mandatory denial or revocation of a credential. Existing law requires each applicant for a teaching credential or the renewal of a teaching credential to submit with his or her application duplicate personal identification cards with his or her fingerprints. Existing law authorizes the Commission on Teacher Credentialing to require the production of information, records, reports, and other data from any public agency.

This bill would prohibit school districts, as defined to also include county offices of education and the state special schools, from employing or retaining in employment any individual, whether in a certificated or classified position, who has been convicted of a violent or serious felony, as defined. The bill would require the Department of Justice to directly notify the school district, as specified, when an individual who is an applicant for employment, regarding the criminal information of the applicant. The bill would require the Department of Justice to forward a copy of that information to the Commission on Teacher Credentialing when the



individual is an applicant for a position requiring certification qualifications.

(2) The bill would appropriate \$5,000,000 from the General Fund to the Department of Justice for the purposes of implementing an electronic fingerprinting system with terminals located statewide, as specified, and managed through the Department of Justice.

(3) This bill would provide that it will become operative only if AB 1610 of the 1997–98 Regular Session is enacted.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44380.1 is added to the
2 Education Code, to read:

3 44380.1. (a) In addition to any other prohibition or
4 provision, no person who has been convicted of a violent
5 or serious felony shall be employed or retained in
6 employment by a school district in a position requiring
7 certification qualifications or supervising positions
8 requiring certification qualifications.

9 (b) (1) For purposes of this subdivision, a violent
10 felony is any felony listed in subdivision (c) of Section
11 667.5 of the Penal Code and a serious felony is any felony



1 listed in subdivision (c) of Section 1192.7 of the Penal
2 Code.

3 (2) For purposes of this section, the term “school
4 district” has the same meaning as defined in Section
5 41302.5.

6 (c) When the Department of Justice ascertains that an
7 individual who is an applicant for employment by a school
8 district has been convicted of a violent or serious felony,
9 the department shall notify the school district of the
10 criminal information pertaining to the applicant. The
11 notification shall be delivered by telephone and shall be
12 confirmed in writing and delivered to the school district
13 by first-class mail. The Department of Justice also shall
14 send by first-class mail a copy of the criminal information
15 to the Commission on Teacher Credentialing.

16 SEC. 2. Section 45122.1 is added to the Education
17 Code, to read:

18 45122.1. (a) In addition to any other prohibition or
19 provision, no person who has been convicted of a violent
20 or serious felony shall be employed or retained in
21 employment by a school district pursuant to this chapter.

22 (b) (1) For purposes of this subdivision, a violent
23 felony is any felony listed in subdivision (c) of Section
24 667.5 of the Penal Code and a serious felony is any felony
25 listed in subdivision (c) of Section 1192.7 of the Penal
26 Code.

27 (2) For purposes of this section, the term “school
28 district” has the same meaning as defined in Section
29 41302.5.

30 (c) When the Department of Justice ascertains that an
31 individual who is an applicant for employment by a school
32 district has been convicted of a violent or serious felony,
33 the department shall notify the school district of the
34 criminal information pertaining to the applicant. The
35 notification shall be delivered by telephone and shall be
36 confirmed in writing and delivered to the school district
37 by first-class mail.

38 SEC. 3. The sum of five million dollars (\$5,000,000) is
39 hereby appropriated from the General Fund to the
40 Department of Justice for the purposes of implementing



1 an electronic fingerprinting system with terminals
2 located statewide and managed by the Department of
3 Justice. *The statewide terminals shall be used to facilitate*
4 *electronic fingerprinting of all individuals required by*
5 *law to obtain a criminal history background check as a*
6 *condition of employment, licensing, or certification.* One
7 terminal shall be located in the district office of each of
8 the three school districts that have both the largest
9 average daily attendance and a school district police
10 department.

11 SEC. 4. This act shall become operative only if
12 Assembly Bill 1610 of the 1997–98 Regular Session is
13 enacted.

14 SEC. 5. Notwithstanding Section 17610 of the
15 Government Code, if the Commission on State Mandates
16 determines that this act contains costs mandated by the
17 state, reimbursement to local agencies and school
18 districts for those costs shall be made pursuant to Part 7
19 (commencing with Section 17500) of Division 4 of Title
20 2 of the Government Code. If the statewide cost of the
21 claim for reimbursement does not exceed one million
22 dollars (\$1,000,000), reimbursement shall be made from
23 the State Mandates Claims Fund.

24 Notwithstanding Section 17580 of the Government
25 Code, unless otherwise specified, the provisions of this act
26 shall become operative on the same date that the act
27 takes effect pursuant to the California Constitution.

28 SEC. 6. This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or
30 safety within the meaning of Article IV of the
31 Constitution and shall go into immediate effect. The facts
32 constituting the necessity are:

33 In order to protect the safety of pupils and school
34 employees, it is necessary for this act to take effect
35 immediately.

