

AMENDED IN ASSEMBLY JANUARY 10, 2000

AMENDED IN ASSEMBLY JANUARY 3, 2000

AMENDED IN ASSEMBLY APRIL 8, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 415

Introduced by Assembly Member Havice

February 12, 1999

An act to add Section 35021.3 to the Education Code, relating to school volunteers.

LEGISLATIVE COUNSEL'S DIGEST

AB 415, as amended, Havice. School volunteers.

(1) Existing law authorizes any school district to permit any person, except a person required to register as a sex offender, to volunteer to supervise pupils during the school lunch period or any breakfast period or nutrition period, or to serve as a nonteaching volunteer aide under the immediate supervision and direction of the certificated personnel of the district. Existing law authorizes a school district or county office of education to request that a local law enforcement agency conduct an automated records check of a prospective nonteaching volunteer aide in order to ascertain whether the prospective nonteaching volunteer aide has been convicted of any sex offense. *Existing law requires the Department of Justice to provide a CD-ROM or other electronic medium containing certain information for registered sex offenders.*

~~(2) This~~

This bill would require a prospective volunteer who will have direct contact with pupils in an unsupervised setting to have his or her name submitted to annually by the school district in which the volunteer will serve to the local law enforcement agency so that the name of the prospective volunteer can be checked against the names on the list of registered sex offenders maintained by the local law enforcement agency to determine whether that person has been convicted of a sex offense compiled on a CD-ROM or other electronic medium by the Department of Justice. The bill would require the local law enforcement agency to report within 14 days to the school district whether the name of the prospective volunteer appears on the list. If the name appears on the list, the school district would be required to so inform the prospective volunteer and to clarify that the appearance of a name on the list is not necessarily determinative of whether an individual has been convicted of a sex offense.

The bill would require the governing board of a school district to adopt a policy regarding the procedures the school district will follow for implementing these provisions. The bill would prohibit a volunteer from having direct contact with pupils in an unsupervised setting until the local law enforcement agency has ascertained that the individual has not been convicted of a sex offense and has notified the school district of this fact name of the individual does not appear on the list of names on the CD-ROM or other electronic medium and would prohibit a school district from using the services of a prospective volunteer whose name appears on the list of names on the CD-ROM or other electronic medium. The bill would exempt from this requirement a school district that already has in place a policy of performing a background check on the criminal history of a prospective volunteer before allowing that individual to have direct contact with pupils in an unsupervised setting and the parent or guardian of a pupil enrolled in the school where the parent or guardian volunteer will serve. By requiring school districts to submit the names of prospective volunteers to the local law enforcement agency and to adopt a policy regarding the implementation of these provisions, the bill would impose a state-mandated local program.



(3)

(2) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 35021.3 is added to the
2 Education Code, to read:
3 35021.3. (a) A prospective volunteer who will have
4 direct contact with pupils in an unsupervised setting shall
5 *annually* have submitted his or her name by the school
6 district in which the volunteer will serve to the local law
7 enforcement agency so that the name of the prospective
8 volunteer can be checked against the list of ~~registered sex~~
9 ~~offenders maintained by the local law enforcement~~
10 ~~agency pursuant to Section 290 of the Penal Code to~~
11 ~~determine whether that person has been convicted of a~~
12 ~~sex offense, as defined in Section 44010. names on the~~
13 *CD-ROM or other electronic medium compiled pursuant*
14 *to Section 290.4 of the Penal Code. Within 14 days after*
15 *receipt of a name, the local law enforcement agency shall*
16 *report to the school district whether the name of the*
17 *prospective volunteer appears on the list. If the local law*
18 *enforcement agency informs the school district that the*
19 *name of the prospective volunteer appears on the list, the*
20 *school district shall so inform the prospective volunteer*
21 *and clarify that the appearance of a name on the list is not*



1 necessarily determinative of whether an individual has
2 been convicted of a sex offense.

3 (b) The governing board of a school district shall adopt
4 a policy regarding the procedures the school district will
5 follow for implementing this section.

6 (c) If the name of a prospective volunteer appears on
7 the list of names on the CD-ROM or other electronic
8 medium compiled pursuant to Section 290.4 of the Penal
9 Code, the school district may not avail itself of the
10 prospective volunteer's services. A volunteer shall not
11 have direct contact with pupils in an unsupervised
12 setting, until the local law enforcement agency has
13 ascertained ~~that the individual has not been convicted of~~
14 ~~a sex offense and has notified the school district of this~~
15 ~~fact.~~ that the name of the individual does not appear on
16 the list of names on the CD-ROM or other electronic
17 medium compiled pursuant to Section 290.4 of the Penal
18 Code.

19 ~~(b)~~

20 (d) (1) Any school district that already has in place a
21 policy of performing a background check on the criminal
22 history of a prospective volunteer before allowing that
23 individual to have direct contact with pupils in an
24 unsupervised setting is not subject to this requirement.

25 ~~(e)~~

26 (2) This section does not apply to the parent or
27 guardian of a pupil enrolled in the school where the
28 parent or guardian volunteer will serve.

29 (e) The requirements of this section are intended to
30 provide a minimum level safety check and are not
31 intended to prevent schools from taking additional safety
32 measures. Nothing in this section is intended to impose
33 liability on school districts and law enforcement agencies
34 for incidents that may occur even though the school has
35 met the requirements of this section.

36 SEC. 2. Notwithstanding Section 17610 of the
37 Government Code, if the Commission on State Mandates
38 determines that this act contains costs mandated by the
39 state, reimbursement to local agencies and school
40 districts for those costs shall be made pursuant to Part 7



1 (commencing with Section 17500) of Division 4 of Title
2 2 of the Government Code. If the statewide cost of the
3 claim for reimbursement does not exceed one million
4 dollars (\$1,000,000), reimbursement shall be made from
5 the State Mandates Claims Fund.

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