

PUBLIC CHAPTER NO. 587**SENATE BILL NO. 2048**

By Woodson, Beavers, Black, Bunch, Burchett, Burks, Cooper, Crowe, Crutchfield, Lowe Finney, Raymond Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Ketron, Kilby, Kurita, Kyle, Marrero, McNally, Norris, Southerland, Stanley, Tate, Tracy, Watson, Wilder, Williams, Mr. Speaker Ramsey

Substituted for: House Bill No. 1991

By McCord, Overbey, Williams, McDaniel, Harrison, Hardaway, Maggart, Harwell, Maddox, Hawk, Pinion, Shepard, Lollar, Roach, Hill, Bell, Sargent, Fincher, Sontany, Pitts, Coleman, Curt Cobb, Odom, Eldridge, Ferguson, Briley, Matheny, Cooper, Mumpower, Jim Cobb, Todd, Baird, Montgomery, Campfield, Moore, Sherry Jones, Windle, Dean, Phillip Johnson, Towns, Bass, Curtis Johnson, Gresham, Lynn, Yokley, Winningham, DuBois, Floyd, Rowland, Niceley, McDonald, Coley, Lundberg, Fitzhugh, Vaughn, Litz, Bone, Shaw, McCormick

AN ACT to amend Tennessee Code Annotated, Section 49-5-413, relative to contracting with certain persons who may have contact with certain children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-5-413, is amended by adding the following new subsection:

(d) (1) Any person, corporation or other entity who enters into or renews a contract with a local board of education or child care program as defined in § 49-1-1102 on or after the effective date of this act shall be required to comply with the provisions of this subsection if the contract requires:

(A) The person or an employee of the person, corporation or other entity to have direct contact with school children or to children in a child care program; or

(B) The person or employee access to the grounds of a school or child care center when children are present.

(2) It is the duty of the person, corporation or other entity who employs a person described in subdivision (1) to require such applicant to supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation prior to permitting the person to have contact with such children or enter school grounds.

(3) (A) No employer, or employee of such employer to whom this subsection applies shall come in direct contact with school

children or to children in a child care program or enter the grounds of a school or child care center when children are present until the criminal history records check has been conducted on such person.

(B) No employer, or employee of such employer, to whom this subsection applies shall come in direct contact with school children or to children in a child care program or enter the grounds of a school or child care center when children are present if the criminal history records check indicates that the employer or employee has been convicted of an offense that, if committed on or after July 1, 2007, is classified as a sexual offense in § 40-39-202(17) or a violent sexual offender in § 40-39-202(25).

(C) (i) If an employee is convicted of an offense that, if committed on or after July 1, 2007, is a sexual offense as defined in § 40-39-202(17) or a violent sexual offense as defined in § 40-39-202(25), after the employer has conducted a criminal history records check on such employee, the employee shall notify the employer of such conviction within seven (7) days from the date of conviction.

(ii) An employee commits a Class A misdemeanor, punishable by fine only, who knowingly fails to disclose to the employer within the required seven (7) days that the employee has been convicted of an offense specified in subdivision (C)(i).

(4) The provisions of this subsection shall only apply if the employer or employee of such employer comes in direct contact with school children, children in a child care program or enter the grounds of a school or child care center when children are present during the ordinary course of performing a function required or permitted by the terms of the contract. Any action involving direct contact or entry by an employee which is outside such ordinary course of performing a function required or permitted by the terms of the contract shall not in any way be deemed to be authorized or approved by the employer and such employer shall not in any way be deemed to be liable for such contact or entry, vicariously or otherwise. However, nothing in this subsection shall authorize such contact or entry by an employer or employee of such employer if contact or entry is prohibited by any other provision of law; provided that with respect to such contact or entry, the person, corporation or other entity who employs a person described in subdivision (1) shall not in any way be deemed to be liable, vicariously or otherwise, for any such actions taken by the employee unless such employer has actual knowledge that such other provision of law prohibits contact or entry by an employee.

SECTION 2. This act shall take effect September 1, 2007, the public welfare requiring it and shall apply to all applicable contracts entered into or renewed on or after the effective date of this act.

PASSED: June 12, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of June 2007



PHIL BREDESEN, GOVERNOR