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# Tennessee 105th General Assembly - Public Acts Search

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Chapter Number	Subject	Abstract	Bill Number
<u>1080</u>	Contractors	Clarifies that any person, corporation, or other entity who enters or renews a contract, or contracts with any person or entity who enters or renews a contract, with a school, local board of education, or child care program is responsible for obtaining criminal background checks on all employees who go on school grounds; authorizes out-of-state employers to satisfy requirement by showing that background checks were conducted in another state; creates limited exemptions to background check requirement.	<u>SB2807</u>



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**PUBLIC CHAPTER NO. 1080**

**SENATE BILL NO. 2807**

**By Woodson, Marrero, Tate, Ford, Raymond Finney**

**Substituted for: House Bill No. 3076**

**By McCord**

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 5, Part 4, relative to background checks for certain persons.

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

SECTION 1. Tennessee Code Annotated, Section 49-5-413(d)(1), is amended by deleting the introductory clause in its entirety and by substituting instead the following language:

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

SECTION 2. Tennessee Code Annotated, Section 49-5-413(d), is amended by designating the language of subsection (d)(1) as (d)(1)(A) and by adding the following new (d)(1)(B):

(B) Any person, corporation or other entity who, on or after September 1, 2007, but prior to the effective date of this act, entered into or renewed an applicable contract or contracts with a school, local board of education or child care program as defined in Section 49-1-1102, and such contract remains in effect on the effective date of this act, shall be governed by the provisions of this subsection (d) as it existed prior to the effective date of this act. However, all parties to any such contract may agree to come within the provisions of this act, even if such contracts were entered into or renewed prior to the effective date of this act.

SECTION 3. Tennessee Code Annotated, Section 49-5-413(d)(1)(B), is amended by adding between the words "employee" and "access" the words "to have".

SECTION 4. Tennessee Code Annotated, Section 49-5-413, is amended by deleting subsection (d)(2) in its entirety and substituting instead the following:

(2)(A) It is the duty of the person, corporation or other entity that employs a person described in subdivision (d)(1) to require the 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 the children or enter school grounds.

(B) If the person, corporation or other entity is an out-of-state employer, the requirements of subdivision (A) are satisfied if the employer presents proof that a criminal history records check that is comparable to that required by subdivision (A) has been conducted on the employee described in subdivision (d)(1). To qualify as a "comparable" criminal history records check, it must include a fingerprint-based criminal history records check that is conducted by the Federal Bureau of Investigation.

(C) Notwithstanding the provisions of subdivision (A), a person, corporation or entity who, for one employee, satisfies the requirements of this subsection for one school, one local board of education, or one child care program, shall be deemed to have satisfied the requirements for any other school, board of education, or child care program as long as the employee remains in the continuous employment of the same person, corporation, or entity.

(D) Notwithstanding the provisions of subdivision (A), a person, corporation or other entity who, for one contract, satisfies the requirements of this subsection (d), shall be deemed to have satisfied the requirements of this subsection for any subsequent contract as long as the employee servicing or working on that contract remains in the continuous employment of the same person, corporation, or entity.

SECTION 5. Tennessee Code Annotated, Section 49-5-413(d), is amended by adding the following new subdivisions:

(5) The provisions of subsection (d) shall not apply to:

(A) Government personnel engaged in law enforcement, medical or emergency health services;

(B) Utility personnel, where utility means any entity created or authorized by law to provide electricity, gas, water, wastewater services, telecommunications services, or any combination thereof; or

(C) Delivery or pick-up service providers where those services involve only scheduled visits under the supervision of school personnel.

(D) A person whose contract is for the performance of a service at a school-sponsored activity, assembly or event at which school officials or employees are present when the service is performed and where the activity, assembly, or event is conducted under the supervision of school officials or employees.

(6) Nothing in this subsection (d) shall be construed to prevent any person, corporation, or other entity that employs a person described in subsection (d)(1) from directly receiving, upon payment of the appropriate fee,

information indicating whether the employee meets or does not meet the criteria set out in this subsection.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it and shall apply to contracts or the renewal of contracts as provided in Sections 1 and 2.

**PASSED: May 13, 2008**

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 30th day of May 2008**

  
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PHIL BREDEESEN, GOVERNOR

**\* NEW TENNESSEE LAW REQUIRES BACKGROUND CHECKS**

**FOR CONTRACT WORK WITH SCHOOL SYSTEMS**

**This law is effective September 1, 2007**

Tennessee Bill No. 2048 amends Tennessee Code Annotated, Section 49-5-413 and requires employers that contract with schools or child care centers to conduct background checks on all of their employees who have potential contact with children. If any employee is found to be a registered sexual offender, he or she will be prohibited from working on school grounds or child care center property when children are present. The provisions of this bill will apply regardless of whether the employment was direct or through a subcontractor or subsidiary.

1. These requirements do not apply to any contract or PO prior to Sept. 1, 2007.
2. The Act applies to public or private schools. It does not apply to colleges or commercial daycares. The provisions which reference “children in a child care program”, are referring to before or after school programs-not a daycare.
3. The basic steps to get started with this process are as follows:
  - a. Step 1: The contractor which has the direct contract with the school must send in a “Letter of Purpose” on their company letterhead stating the type of business they represent, what services they are contracted to do and that they are trying to comply with Public Act 587. This letter can be faxed to 615-744-4653. Note: The GC is responsible for managing this program-subcontractors to the GC are not to submit a “Letter of Purpose.”
  - b. Step 2: Upon receipt of the “Letter of Purpose” the TBI will send the contractor a “Vendor/Contractor User Agreement”. It is an 8 page document, of which the first page must be completed and sent back.
  - c. Step 3: The TBI will issue the contractor an ORI# (Originated ID #). The TBI will then contact the point of contact (POC) noted on the user agreement for further instructions.
  - d. Last Step: A letter will be mailed from TBI to the POC indicating whether or not the employee will be allowed to work on school grounds.
4. Other General Information
  - a. The cost is \$48.00 with various payment options available.
  - b. There is an estimated 1 week turnaround.
  - c. The employee will go to a Congent Services location for fingerprinting-they have locations all over the state. <http://www.tennessee.cogentid.com/>
  - d. Background checks only cover sexual offenses.
  - e. As long as there is no break in employment the background check does not expire.

\*Information provided by The Association of General Contractors of America.

## FREQUENTLY ASKED QUESTIONS REGARDING PUBLIC CHAPTER 587 OF 2007

**1. Question:** How do contractors comply with Public Chapter 587 when the TBI can only run fingerprint criminal history records checks and return rap sheets to public entities rather than to private businesses pursuant to FBI rules and regulations?

**Answer:** Contractors must contact the TBI to be assigned an individual ORI number. The ORI number is the originated identifier number and allows the TBI to know who has requested the criminal history check and who will receive the response letter. The reason for this process is that the FBI rules will not allow the TBI to return the rap sheets to the contractor. The contractor will receive a letter from the TBI simply indicating whether or not the employee may be allowed to work on school grounds when children are present pursuant to the new legislation. The contractor must keep all employee letters on file. Contractors should contact Bobbie Jackovich at 615-744-4274 to set up an ORI.

**2. Question:** If a contractor who contracts with "LEA A" to provide services and submits all employee names for a TBI criminal history records check later enters into an additional contract with "LEA B", will the employees working for contractor have to be reprinted and submit to an additional background check for "LEA B"?

**Answer:** No. The contractor will have letters on file regarding employees who work in the school system. One check will suffice to cover the state of Tennessee and will not have to be re-run because the employee is working within a new LEA.

**3. Question:** If the contractor's contract ends with the LEA and later they enter into a new contract with the same LEA, will the employees need to be reprinted?

**Answer:** No, as long as the employee has remained an employee of the contractor and there has been no break in employment, the same letter will suffice. If the employee has left the service of the Contractor and later returned to be employed by the contractor, then the employee will be required to be re-printed.

**4. Question:** If an employee leaves one contractor to work for another contractor, will the employee need to be reprinted or will the prints that were taken by the original Contractor to perform work at the LEA suffice?

**Answer:** Yes. The employee must be reprinted. Pursuant to the new legislation every contractor is responsible for checking each of their employees prior to allowing them to work on a school campus. Response letters may not be exchanged among contractors and should not be given to employees to give to a new employer.

**5. Question:** What criteria must be used by a contractor to disqualify an employee from working on school grounds when children are present?

**Answer:** The new legislation only requires the disqualification of employees who have been convicted of sexual offenses pursuant to Tenn. Code Ann. §40-39-202.

**6. Question:** What about contractors who have current contracts with an LEA? Will all of those employees have to be printed?

**Answer:** No, not until the contract is renewed. Public Chapter 587 only mandates that contractor employees be fingerprinted on new or renewed contracts with LEA's on or after September 1, 2007.

**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, Pinlon, Shepard, Lollar, Roach, Hill, Bell, Sargent, Fincher, Sontany, Pitts, Coleman, Curt Cobb, Odum, 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**

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 28th day of June 2007**

  
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PHIL BREDESEN, GOVERNOR

# BACKGROUND CHECK COMPLIANCE FORM

BLOUNT COUNTY GOVERNMENT  
PURCHASING DEPARTMENT  
385 COURT STREET  
MARYVILLE, TN 37804-5906  
(865) 273-5740 Phone  
(865) 273-5746 Fax

**BID NUMBER:**

**CONTRACT NUMBER:**

**BACKGROUND CHECKS:** Contractors shall comply with Public Chapter 587 of 2007, as codified in Tennessee Code Annotated Section 49-5-413 and amended in Public Chapter 1080, which requires all contractors to facilitate a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee prior to permitting the employee to have contact with students or enter school grounds when students are present.

Any person, corporation or other entity or any employee of any person, corporation or entity who enters into or renews a contract with a local board of education or child care program on or after September 1, 2007, must:

- (1) Provide a fingerprint sample
- (2) Submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigations and the Federal Bureau of Investigations.

Company or Individuals (Name)

Address

City, State, Zip Code

Telephone Number

(       )

Contractor License Number (If Applicable)

I agree to abide by Public Chapter 587 of 2007, as codified in Tennessee Code Annotated Section 49-5-413 and amended in Public Chapter 1080, and certify that I am authorized to sign. The undersigned further agrees if this bid or contract is accepted, to furnish any and all of the Background Check Information on himself and all of his employees as required by law, at the request of Blount County Government. I hereby agree to release all criminal history and other required information to Blount County Government, the Tennessee Bureau of Investigation and the Federal Bureau of Investigation in accordance with Tennessee law and I further certify that all information supplied by me regarding this inquiry is true and accurate. I agree to release and hold harmless the above-mentioned governmental entities for the use of this information related to the purposes mandated under Tennessee law. I further certify that I have obtained acceptable criminal history information on all current employees and will obtain said information on future employees associated with the performance of the work defined in this bid or contract, pursuant to Tennessee Code Annotated Section 49-5-413 and that neither I nor any employee of mine is prohibited from direct contact with school children for the reasons enumerated in Tennessee Code Annotated Section 49-5-413.

**Signature** \_\_\_\_\_ **Title** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_ **Date** \_\_\_\_\_  
(Please Print Clearly) (Month, Day, Year)

**INTERNAL OFFICE USE ONLY**

Notes \_\_\_\_\_  
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