

# Major Changes to Provisions Impacting the Hiring of Employees Who Have Ongoing Contact with Children



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The statute requiring school corporations to conduct criminal history background checks on applicants for employment who are likely to have direct, ongoing contact with children has been in place since 1997. Since that time, school boards have been given the authority to consider the information presented in the background check when making a determination to hire an applicant.

But, as a result of the passage of [SEA 342](#), starting July 1, 2023, individuals who have been convicted of certain offenses will no longer be able to be employed by a school corporation if they are likely to have direct, ongoing contact with children within the scope of their employment. Applicants who have been convicted of other specified offenses may still be employed, but only if the school board approves of the employment recommendation at a public meeting.

## Offenses That Preclude Employment

The new law identifies 10 offenses that, if an applicant for employment with a school corporation has been convicted of, will result in the denial of employment with the school corporation if the individual is likely to have direct, ongoing contact with children within the scope of employment. Those offenses include murder, aggravated battery, sex offenses, certain act of public indecency, and an offense related to material or a performance that is harmful to minors or obscene. This prohibition also applies to an individual with whom the school corporation contracts for services.

## Offenses That Allow Employment

SEA 342 lists nine offenses that may result in employment, but only if a majority of the members of the school board approves the employment “as a separate, special agenda item,” include an offense related to operating a vehicle while intoxicated, battery, domestic battery, contributing to the delinquency of a minor, offenses involving weapons, and offenses related to controlled substances other than an offense involving marijuana or paraphernalia used to consume marijuana. This language also applies to an individual with whom the school corporation contracts for services.

## Other Misconduct

The new law also adds language regarding employing or contracting with (1) individuals who are required to wear an ankle monitor as the result of a criminal conviction, (2) individuals who entered into a settlement agreement with an educational entity to settle an allegation of misconduct “related to the health, safety, or well-being of a student” (as defined in the new law), and (3) individuals who, in an academic environment, engaged in conduct with a child “that is intended to prepare or condition the child for sexual activity.” The statute permits the employment of or contracting with these individuals, but again only if a majority of the members of the school board approves the employment “as a separate, special agenda item.”

Feel free to contact ISBA Legal Services for further information about these new requirements.