



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.2.

12/5/2023

Subject:

Ordinance Amending Chapter 82, Brevard County Code of Ordinances, to Mandate Criminal History Record Checks for Specified Positions of Employment or by Certain Outside Contractors for services or Vendors.

Fiscal Impact:

There are no expected costs to apply for a FL9 Originating Agency Identifier ("ORI") number. The costs associated with performing background checks on applicants for County positions are currently paid by the respective County Department hiring the individual.

Dept/Office:

Human Resources

Requested Action:

It is requested that the Board of County Commissioners adopt an ordinance amending Chapter 82, Personnel, of the Brevard County Code of Ordinances, to create a new section 82-17 mandating state and federal criminal history record checks for specified positions of employment and for certain outside contractors for services or vendors.

Summary Explanation and Background:

The County currently holds a Volunteer and Employee Criminal History System (VECHS) number which allows Human Resources to obtain Florida and national criminal history records through FDLE and the FBI for applicants applying for positions that require a "High-Level Security Check" in accordance with County procedures. The VECHS system is intended to allow access to criminal history records for persons who provide services to vulnerable populations (children, elderly and the disabled) "exclusively". As a result of an audit of FDLE by the FBI, the County has been advised that it can no longer use its VECHS number to obtain criminal history checks beyond the scope of the VECHS system.

To continue to obtain state and federal criminal history records for persons who hold positions of employment that do not meet the requirements of VECHS but have some interaction with vulnerable populations and/or are in a position of public trust that warrants the criminal history check, the County may submit a request to obtain an ORI number from the FBI. FDLE refers to this as the "FL9" system.

To obtain an ORI number from the FBI for the FL9 system, the County must first enact an ordinance pursuant to section 125.5801, Florida Statutes that mandates a state and federal criminal history records check when it is critical to security or public safety. The ordinance must then be included in the documentation sent with the request to the FBI for consideration.

Business Impact Estimate: A business impact estimate pursuant to section 125.66(3), Florida Statutes, is not

required because the proposed ordinance is required for compliance with federal or state law or regulation, and/or the proposed ordinance is required to implement a contract or an agreement.

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

December 6, 2023

M E M O R A N D U M

TO: Jerry Visco, Human Resources Director

RE: Item G.2., Ordinance Amending Chapter 82, Brevard County Code of Ordinances, to Mandate Criminal History Record Checks for Specified Positions of Employment or by Certain Outside Contractors for Services or Vendors

The Board of County Commissioners, in regular session on December 5, 2023, adopted Ordinance No. 23-31, amending Chapter 82, Personnel, of the Brevard County Code of Ordinances, to create a new Section 82-17 mandating State and Federal criminal history record checks for specified positions of employment and for certain outside contractors for services or vendors. Enclosed is a fully executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell", is written over the typed name.

Kimberly Powell, Clerk to the Board

/ds

Encl. (1)

cc: Finance
Budget

ORDINANCE NO. 2023-31_____

**MANDATING STATE AND FEDERAL CRIMINAL HISTORY
RECORD CHECKS FOR SPECIFIED POSITIONS OF
EMPLOYMENT BY BREVARD COUNTY OR BY CERTAIN
OUTSIDE CONTRACTORS, OR VENDORS**

WHEREAS, Section 125.5801, Florida Statutes, authorizes the Board of County Commissioners (hereinafter also referred to as "Board") to adopt this Ordinance to mandate state and national criminal history record checks for applicants seeking employment in positions of employment deemed by the Board or its designee to be critical to security or to public safety regarding any facility owned or operated by Brevard County; and

WHEREAS, these criminal history record checks can apply to private contractors for services, employees of such contractors including vendors, repair persons, or deliver persons, any of whom are deemed by the Board or its designee to be critical with regard to security or to public safety, including concerns with regard to any such Brevard County owned or operated building or facility; and

WHEREAS, these criminal history record checks include having the applicant, private contractors for services, employees of such contractors including vendors, repair persons, or delivery persons fingerprinted and submitting the individual's fingerprints to the Florida Department of Law Enforcement (for a state criminal history record check) and to the Federal Bureau of Investigation for a national criminal history record check; and

Officially filed with the Secretary of State 12/6/2023.

WHEREAS, the information obtained from the criminal history record checks will be used to determine the respective individual's eligibility for employment by the County or by any contractor with whom the County might contract for services, and

WHEREAS, each individual applying for County employment, or who is then employed by the County, in any position then deemed by the Board or its designee to be critical to security or to public safety, can be denied employment (or if already employed, such employment can be terminated). If the individual has been or is convicted of any felony or any misdemeanor of the first degree, and the conviction need not be related to the respective position of employment or appointment; and

WHEREAS, Brevard County Merit System Procedure III(VII) and Administrative Order 05 sets forth the procedure for completing background checks and requires fingerprinting for any high-level security position; and

WHEREAS Brevard County Merit System Procedure III(VII) and Administrative Order-05 designates the Appointing Authority/Department Director to ensure compliance with background check requirements and determine the appropriate security level for applicants.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

SECTION 1: A new section, 82-17, of the Brevard County Code of Laws and Ordinances is hereby created to read as follows:

87-17. MANDATING STATE AND FEDERAL CRIMINAL HISTORY RECORD CHECKS FOR SPECIFIED POTITIONS OF EMPLOYMENT BY BREVARD COUNTY OR BY CERTAIN OUTSIDE CONTRACTORS, OR VENDORS

Pursuant to Section 125.5801, Florida Statutes, the Board of County Commissioners or its designee, may, in its sole discretion, require employment screening for any position of county employment or appointment which the County or designee determines is critical to security or public safety, or for any private contractor for services, employee of a private contractor for services, vendor, repair person or delivery person who has access to any public facility or publicly operated facility that the Board or designee determines is critical to security or public safety. Each person applying for, or continuing employment in, any such designated position or any designated private contractor for services, employee of a private contractor for services, vendor, repair person or delivery person having access to any such facility shall also be required to fingerprinted. The fingerprints shall be submitted to the Department of Law Enforcement for a state criminal history record check and to the Federal Bureau of Investigations for a national criminal history record check. The information obtained from the criminal history record checks conducted pursuant to this Ordinance may be used by the County to determine an applicant's eligibility for employment or appointment and to determine an employee's eligibility for continued employment. This section is not intended to preempt or prevent any other background screening, including, but not limited to criminal history background checks, that a County may lawfully undertake.

SECTION 2: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other Ordinance of Brevard County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 3: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

This Ordinance shall be made part of the Code of Laws and Ordinances of Brevard County, Florida, as a new Section 82-17 of that Code. The sections of the Ordinance may be renumbered or re-lettered to accomplish that result, and the word "Ordinance" may be changed to "Section", "Article" or any other appropriate word.

SECTION 4: EFFECTIVE DATE

This Ordinance shall be effective upon receipt of notice that this Ordinance has been filed with the Florida Department of State.

DONE, ORDERED AND ADOPTED, in Regular Session, this 5th day of December, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS

BREVARD COUNTY, FLORIDA



Rachel M. Sadoff, Clerk

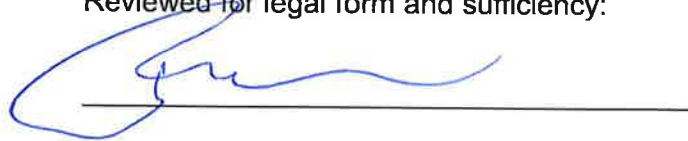
(SEAL)



Jason Steele, Chair

As approved by the Board on DEC 05 2023

Reviewed for legal form and sufficiency:



County Attorney's Office



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

December 12, 2023

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2023-31, which was filed in this office on December 6, 2023.

Sincerely,

Anya Owens
Administrative Code and Register Director

ACO/wlh

Donna Scott

From: County Ordinances <CountyOrdinances@dos.myflorida.com>
Sent: Tuesday, December 12, 2023 1:10 PM
To: Donna Scott; County Ordinances
Subject: [EXTERNAL EMAIL]RE: BRE20231205_ORDINANCE2023_31
Attachments: Brevard20231206_Ordinance2023_31_Ack.pdf

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments, clicking links or responding to unknown senders.

Good afternoon,

Please find the attached acknowledgment letter for Brevard County Ordinance No. 2023-31, which was filed in this office on December 6, 2023.

Best,

County Ordinances
Florida Administrative Code and Register
Room 701 The Capitol | Tallahassee, Florida

From: Donna Scott <donna.scott@brevardclerk.us>
Sent: Wednesday, December 6, 2023 4:19 PM
To: County Ordinances <CountyOrdinances@dos.myflorida.com>
Subject: BRE20231205_ORDINANCE2023_31

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Attached is Ordinance No. 23-31, to be filed with the State.

Thank you,
Donna Scott
Assistant Clerk to the Board
321-637-2001



Brevard County, Florida

Clerk of the Court

Rachel M. Sadoff