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Hello,

School Safety Initiative Amended to Exclude Construction Personnel

By Jeremy Motz, Clark Hill PLC

As many are aware, a package of bills known collectively as the School Safety Initiative ("SSI") became effective on January 1, 2006. These laws made several changes to the Revised School Code. The SSI, in large part, implements mandatory fingerprinting and criminal background checks for all full- and part-time employees of school districts, as well as for all individuals who "regularly and continuously work under contract" in any school of a school district. In an effort to keep sexual offenders from contacting students, school districts are prohibited from employing, or assigning to regularly and continuously work under contract, any individuals who are found to have certain criminal convictions based upon criminal background checks.

An unanticipated consequence of the "initial roll-out" of the SSI was that the phrase "regularly and continuously work under contract" was undefined. Of heightened importance to school districts, construction personnel and suppliers were the uncertainties of which individuals who "work under contract" were subject to the requirements of the SSI. Read conservatively, the "initial" SSI subjected any individual, ranging from various construction personnel to delivery personnel, to the fingerprinting and background check requirements, even if the individual had little or no contact with students.

After identifying these unanticipated consequences, the Michigan Legislature amended the SSI, effective March 31, 2006, to clarify which individuals fall within the scope of the SSI. Through Public Act 84 of 2006, the SSI was amended to define "an individual assigned to regularly and continuously work under contract" to include only those persons who work "at school" on a more than intermittent or sporadic basis to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils. This change makes clear that contractors are not covered by the Act. The amendments are welcome news to contractors and school officials alike, who previously were left to wonder whether contractors are subject to SSI compliance.

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