

113TH CONGRESS  
1ST SESSION

# H. R. 2083

To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2013

Mr. GEORGE MILLER of California (for himself, Ms. WILSON of Florida, Mr. RANGEL, Ms. SLAUGHTER, and Mrs. MCCARTHY of New York) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Students  
5 from Sexual and Violent Predators Act”.

6 **SEC. 2. BACKGROUND CHECKS.**

7 Subpart 2 of part E of title IX of the Elementary  
8 and Secondary Education Act of 1965 (20 U.S.C. 7901  
9 et seq.) is amended by adding at the end the following:

1 **“SEC. 9537. BACKGROUND CHECKS.**

2 “(a) BACKGROUND CHECKS.—Each State edu-  
3 cational agency that receives funds under this Act shall  
4 have in effect policies and procedures that—

5 “(1) require that criminal background checks  
6 be conducted for each school employee that in-  
7 clude—

8 “(A) a search of the State criminal reg-  
9 istry or repository in the State in which the  
10 school employee resides and each State in which  
11 the school employee previously resided;

12 “(B) a search of State-based child abuse  
13 and neglect registries and databases in the  
14 State in which the school employee resides and  
15 each State in which the school employee pre-  
16 viously resided;

17 “(C) a Federal Bureau of Investigation  
18 fingerprint check using the Integrated Auto-  
19 mated Fingerprint Identification System; and

20 “(D) a search of the National Sex Of-  
21 fender Registry established under section 19 of  
22 the Adam Walsh Child Protection and Safety  
23 Act of 2006 (42 U.S.C. 16919);

24 “(2) prohibit the employment of an individual  
25 as a school employee if such individual—

1           “(A) refuses to consent to a criminal back-  
2 ground check under paragraph (1);

3           “(B) makes a false statement in connec-  
4 tion with such criminal background check;

5           “(C) has been convicted of a felony con-  
6 sisting of—

7                   “(i) homicide;

8                   “(ii) child abuse or neglect;

9                   “(iii) a crime against children, includ-  
10 ing child pornography;

11                   “(iv) spousal abuse;

12                   “(v) a crime involving rape or sexual  
13 assault;

14                   “(vi) kidnapping;

15                   “(vii) arson; or

16                   “(viii) physical assault, battery, or a  
17 drug-related offense, committed within 5  
18 years of the completion of such individual’s  
19 criminal background check under para-  
20 graph (1); or

21           “(D) has been convicted of any other crime  
22 that is a violent or sexual crime against a  
23 minor;

24           “(3) require that a local educational agency or  
25 State educational agency that receives information

1 from a criminal background check conducted para-  
2 graph (1) that an individual who has applied for em-  
3 ployment as a school employee with such agency is  
4 a sexual predator, report to local law enforcement  
5 that such individual has so applied;

6 “(4) require that criminal background checks  
7 conducted under paragraph (1) be periodically re-  
8 peated or updated in accordance with State law or  
9 local educational policy, but not less than once every  
10 5 years;

11 “(5) require that each school employee who has  
12 had a criminal background check under paragraph  
13 (1) be provided with a copy of the background  
14 check; and

15 “(6) provide for a timely process by which a  
16 school employee may appeal, but which does not per-  
17 mit the school employee to be employed as a school  
18 employee during such appeal, the results of a crimi-  
19 nal background check conducted under paragraph  
20 (1) to—

21 “(A) challenge the accuracy or complete-  
22 ness of the information produced by such back-  
23 ground check; and

24 “(B) seek appropriate relief for any final  
25 employment decision based on materially inac-

1 curate or incomplete information produced by  
2 such background check.

3 “(b) INVENTORY AUTHORIZED.—A State educational  
4 agency may maintain an inventory of all the information  
5 from criminal background checks conducted under sub-  
6 section (a)(1) on school employees in the State.

7 “(c) DEFINITIONS.—In this section:

8 “(1) SCHOOL EMPLOYEE.—The term ‘school  
9 employee’ means—

10 “(A) an employee of, or a person seeking  
11 employment with, a local educational agency or  
12 State educational agency, and who has a job  
13 duty that results in access to students; or

14 “(B) an employee of, or a person seeking  
15 employment with, a for-profit or nonprofit enti-  
16 ty, or local public agency, that has a contract  
17 or agreement to provide services with a school,  
18 local educational agency, or State educational  
19 agency, and whose job duty—

20 “(i) is to provide such services; and

21 “(ii) results in access to students.

22 “(2) SEXUAL PREDATOR.—The term ‘sexual  
23 predator’ means a person 18 years of age or older  
24 who has been convicted of, or pled guilty to, a sexual  
25 offense against a minor.”.

1 **SEC. 3. CONFORMING AMENDMENT.**

2 Section 2 of the Elementary and Secondary Edu-  
3 cation Act of 1965 is amended by adding after the item  
4 relating to section 9536 the following:

“Sec. 9537. Background checks.”.

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