

110TH CONGRESS
2D SESSION

S. 3378

To require all public school employees and those employed in connection with a public school to receive FBI background checks prior to being hired, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require all public school employees and those employed in connection with a public school to receive FBI background checks prior to being hired, and for other purposes.

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 “Safety for Our School-
5 children Act of 2008”.

1 **SEC. 2. BACKGROUND CHECKS FOR PUBLIC SCHOOL EM-**
 2 **PLOYEES.**

3 (a) IN GENERAL.—Title IV of the Elementary and
 4 Secondary Education Act of 1965 (20 U.S.C. 7101 et
 5 seq.) is amended by adding at the end the following:

6 **“PART D—BACKGROUND CHECKS FOR PUBLIC**
 7 **SCHOOL EMPLOYEES**

8 **“SEC. 4401. DEFINITIONS.**

9 “(a) CRIME OF VIOLENCE.—The term ‘crime of vio-
 10 lence’ has the meaning given the term in section 924(c)(3)
 11 of title 18, United States Code.

12 “(b) DRUNK DRIVING.—The term ‘drunk driving’
 13 means driving while intoxicated or driving under the influ-
 14 ence of alcohol.

15 “(c) FBI BACKGROUND CHECK.—The term ‘FBI
 16 background check’ means a criminal history background
 17 check as described in section 231 of the Crime Control
 18 Act of 1990 (42 U.S.C. 13041).

19 “(d) SCHOOL EMPLOYEE.—The term ‘school em-
 20 ployee’ means—

21 “(1) an employee of a local educational agency
 22 or State educational agency who works either in a
 23 public school or has a job duty that results in expo-
 24 sure to students, including administrators, teachers,
 25 substitute teachers, custodians, cafeteria workers,
 26 and school bus drivers; and

1 “(2) an employee of a company, or a subsidiary
 2 of a company, that has a contract with a local edu-
 3 cational agency or State educational agency who
 4 works in a public school or has a job duty that re-
 5 sults in exposure to students.

6 “(e) SERIOUS MOVING VIOLATION.—The term ‘seri-
 7 ous moving violation’ means a felonious driving violation,
 8 as determined by State law.

9 “(f) SEXUAL PREDATOR.—The term ‘sexual pred-
 10 ator’ means an individual 18 years of age or older who
 11 has been convicted of, or pled guilty to, a sexual offense
 12 against a minor.

13 **“SEC. 4402. BACKGROUND CHECKS FOR PUBLIC SCHOOL**
 14 **EMPLOYEES.**

15 “(a) IN GENERAL.—A local educational agency or
 16 State educational agency that receives Federal funds shall
 17 obtain an FBI background check on an individual prior
 18 to making an offer of employment as a school employee
 19 with such agency to such individual.

20 “(b) PROHIBITION AGAINST EMPLOYMENT OF FEL-
 21 ONS OR VIOLENT CRIMINALS.—A local educational agency
 22 or State educational agency that receives Federal funds
 23 may not make an offer of employment to an individual
 24 for a position as a school employee with such agency if

1 such individual has been convicted of a crime of violence
 2 or other felony.

3 “(c) REPORTING SEXUAL PREDATORS.—A local edu-
 4 cational agency or State educational agency that receives
 5 information from an FBI background check that an indi-
 6 vidual who has applied for employment with such agency
 7 as a school employee is a sexual predator shall report to
 8 local law enforcement that such individual has so applied.

9 “(d) TRANSPORTATION.—A local educational agency
 10 or State educational agency that receives Federal funds
 11 may not make an offer of employment to an individual
 12 for a position as a school bus driver if such individual has
 13 been convicted of, or pled guilty to, drunk driving or a
 14 serious moving violation.

15 **“SEC. 4403. LOSS OF FEDERAL FUNDS FOR FAILURE TO**
 16 **COMPLY.**

17 “(a) STATE EDUCATIONAL AGENCIES.—

18 “(1) IN GENERAL.—If a State educational
 19 agency fails to take an action required under this
 20 part or takes an action prohibited under this part
 21 for—

22 “(A) 6 months or less, the Secretary shall
 23 withhold from such agency 50 percent of the
 24 amount of funds such agency has allocated for

1 planning and administrative use under section
2 2113(d); and

3 “(B) longer than 6 months but not longer
4 than 12 months, the Secretary shall withhold
5 from such agency 100 percent of the amount of
6 funds such agency has allocated for planning
7 and administrative use under section 2113(d).

8 “(2) LOSS OF TITLE II ADMINISTRATIVE
9 FUNDS.—If a State educational agency fails to take
10 an action required under this part or takes an action
11 prohibited under this part for longer than 12
12 months, the Secretary shall withhold from such
13 agency the amount of funds such agency has allo-
14 cated for planning and administrative use under title
15 II.

16 “(3) PROHIBITION AGAINST REALLOCATION.—

17 “(A) IN GENERAL.—A State educational
18 agency that fails to take an action under this
19 part or takes an action prohibited under this
20 part as described in paragraph (1) or (2) may
21 not reallocate Federal funds provided for teach-
22 er development under title II for planning and
23 administrative use by the agency.

24 “(B) PENALTY.—The Secretary shall with-
25 hold all Federal funds under title II to a State

1 educational agency if such agency reallocates
 2 funds as prohibited under subparagraph (A)
 3 until such agency restores the funds for teacher
 4 development.

5 “(b) LOCAL EDUCATIONAL AGENCIES.—If a local
 6 educational agency fails to take an action required under
 7 this part or takes an action prohibited under this part,
 8 the local educational agency shall not be eligible to receive
 9 a subgrant or any additional funds under section 2121.”.

10 (b) CONFORMING AMENDMENTS.—The table of con-
 11 tents in section 2 of the Elementary and Secondary Edu-
 12 cation Act of 1965 is amended by inserting after the item
 13 relating to section 4304 the following:

“PART D—BACKGROUND CHECKS FOR PUBLIC SCHOOL EMPLOYEES

“Sec. 4401. Definitions.

“Sec. 4402. Background checks for public school employees.

“Sec. 4403. Loss of Federal funds for failure to comply.”.

