

111TH CONGRESS
2D SESSION

H. R. 6547

IN THE SENATE OF THE UNITED STATES

DECEMBER 22, 2010

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited at the “Protecting Students
3 from Sexual and Violent Predators Act”.

4 **SEC. 2. BACKGROUND CHECKS.**

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

8 **“SEC. 9537. BACKGROUND CHECKS.**

9 “(a) BACKGROUND CHECKS.—Each State that re-
10 ceives funds under this Act shall have in effect policies
11 and procedures that—

12 “(1) require that criminal background checks
13 be conducted for school employees that include—

14 “(A) a search of the State criminal reg-
15 istry or repository in the State in which the
16 school employee resides and each State in which
17 such school employee previously resided;

18 “(B) a search of State-based child abuse
19 and neglect registries and databases in the
20 State in which the school employee resides and
21 each State in which such school employee pre-
22 viously resided;

23 “(C) a search of the National Crime Infor-
24 mation Center of the Department of Justice;

1 “(D) a Federal Bureau of Investigation
2 fingerprint check using the Integrated Auto-
3 mated Fingerprint Identification System; and

4 “(E) a search of the National Sex Of-
5 fender Registry established under section 19 of
6 the Adam Walsh Child Protection and Safety
7 Act of 2006 (42 U.S.C. 16919);

8 “(2) prohibit the employment of school employ-
9 ees for a position as a school employee if such indi-
10 vidual—

11 “(A) refuses to consent to the criminal
12 background check described in paragraph (1);

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

15 “(C) has been convicted of a felony con-
16 sisting of—

17 “(i) homicide;

18 “(ii) child abuse or neglect;

19 “(iii) a crime against children, includ-
20 ing child pornography;

21 “(iv) spousal abuse;

22 “(v) a crime involving rape or sexual
23 assault;

24 “(vi) kidnapping;

25 “(vii) arson; or

1 “(viii) physical assault, battery, or a
2 drug-related offense, committed within the
3 past 5 years; or

4 “(D) has been convicted of any other crime
5 that is a violent or sexual crime against a
6 minor;

7 “(3) require that a local educational agency or
8 State educational agency that receives information
9 from a criminal background check conducted under
10 this section that an individual who has applied for
11 employment with such agency as a school employee
12 is a sexual predator report to local law enforcement
13 that such individual has so applied;

14 “(4) require that the criminal background
15 checks described in paragraph (1) be periodically re-
16 peated; and

17 “(5) provide for a timely process by which a
18 school employee may appeal the results of a criminal
19 background check conducted under this section to
20 challenge the accuracy or completeness of the infor-
21 mation produced by such background check and seek
22 appropriate relief for any final employment decision
23 based on materially inaccurate or incomplete infor-
24 mation produced by such background check, but

1 that does not permit the school employee to be em-
2 ployed as a school employee during such process.

3 “(b) DEFINITIONS.—In this section:

4 “(1) SCHOOL EMPLOYEE.—The term ‘school
5 employee’ means—

6 “(A) an employee of, or a person seeking
7 employment with, a local educational agency or
8 State educational agency, and who has a job
9 duty that results in exposure to students; or

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

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

17 “(ii) results in exposure to students.

18 “(2) SEXUAL PREDATOR.—The term ‘sexual
19 predator’ means a person 18 years of age or older
20 who has been convicted of, or pled guilty to, a sexual
21 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.”.

Passed the House of Representatives December 21,
2010.

Attest: LORRAINE C. MILLER,
Clerk.