

113TH CONGRESS
1ST SESSION

H. R. 2083

IN THE SENATE OF THE UNITED STATES

OCTOBER 28, 2013

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

AN ACT

To require State educational agencies that receive funding under the Elementary and Secondary Education Act of 1965 to have in effect policies and procedures on 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 as the “Protecting Students
3 from Sexual and Violent Predators Act”.

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

5 (a) **BACKGROUND CHECKS.**—Not later than 2 years
6 after the date of enactment of this Act, each State edu-
7 cational agency that receives funds under the Elementary
8 and Secondary Education Act of 1965 (20 U.S.C. 6301
9 et seq.) shall have in effect policies and procedures that—

10 (1) require that a criminal background check be
11 conducted for each school employee that includes—

12 (A) a search of the State criminal registry
13 or repository of the State in which the school
14 employee resides;

15 (B) a search of State-based child abuse
16 and neglect registries and databases of the
17 State in which the school employee resides;

18 (C) a Federal Bureau of Investigation fin-
19 gerprint check using the Integrated Automated
20 Fingerprint Identification System; and

21 (D) a search of the National Sex Offender
22 Registry established under section 19 of the
23 Adam Walsh Child Protection and Safety Act of
24 2006 (42 U.S.C. 16919);

25 (2) prohibit the employment of a school em-
26 ployee as a school employee if such employee—

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

3 (B) makes a false statement in connection
4 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 on or after
18 the date that is 5 years before the date of
19 such employee's criminal background check
20 under paragraph (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 each criminal background
25 check conducted under paragraph (1) be periodically

1 repeated or updated in accordance with State law or
2 the policies of local educational agencies served by
3 the State educational agency;

4 (4) upon request, provide each school employee
5 who has had a criminal background check under
6 paragraph (1) with a copy of the results of the
7 criminal background check;

8 (5) provide for a timely process by which a
9 school employee may appeal, but which does not per-
10 mit the employee to be employed as a school em-
11 ployee during such appeal, the results of a criminal
12 background check conducted under paragraph (1)
13 which prohibit the employee from being employed as
14 a school employee under paragraph (2) to—

15 (A) challenge the accuracy or completeness
16 of the information produced by such criminal
17 background check; and

18 (B) establish or reestablish eligibility to be
19 hired or reinstated as a school employee by
20 demonstrating that the information is materi-
21 ally inaccurate or incomplete, and has been cor-
22 rected;

23 (6) ensure that such policies and procedures are
24 published on the website of the State educational

1 agency and the website of each local educational
2 agency served by the State educational agency; and

3 (7) allow a local educational agency to share
4 the results of a school employee's criminal back-
5 ground check recently conducted under paragraph
6 (1) with another local educational agency that is
7 considering such school employee for employment as
8 a school employee.

9 (b) TRANSFER PROHIBITION.—A local educational
10 agency or State educational agency that receives funds
11 under the Elementary and Secondary Education Act of
12 1965 (20 U.S.C. 6301 et seq.) may not knowingly transfer
13 or facilitate the transfer of any school employee if the
14 agency knows, or has substantive reason to believe, that
15 such employee engaged in sexual misconduct with an ele-
16 mentary school or secondary school student.

17 (c) FEES FOR BACKGROUND CHECKS.—

18 (1) CHARGING OF FEES.—The Attorney Gen-
19 eral, State Attorney General, or other State law en-
20 forcement official may charge reasonable fees for
21 conducting a criminal background check under sub-
22 section (a)(1).

23 (2) ADMINISTRATIVE FUNDS.—A local edu-
24 cational agency or State educational agency may use
25 administrative funds received under the Elementary

1 and Secondary Education Act of 1965 (20 U.S.C.
2 6301 et seq.) to pay any reasonable fees charged for
3 conducting such criminal background check.

4 (d) DEFINITIONS.—In this Act:

5 (1) IN GENERAL.—The terms “elementary
6 school”, “secondary school”, “local educational agen-
7 cy”, “State”, and “State educational agency” have
8 the meanings given the terms in section 9101 of the
9 Elementary and Secondary Education Act of 1965
10 (20 U.S.C. 7801).

11 (2) SCHOOL EMPLOYEE.—The term “school em-
12 ployee” means—

13 (A) an employee of, or a person seeking
14 employment with, a local educational agency or
15 State educational agency, and who, as a result
16 of such employment, has (or will have) a job
17 duty that results in unsupervised access to ele-
18 mentary school or secondary school students; or

19 (B) any person, or an employee of any per-
20 son, who has a contract or agreement to provide
21 services with an elementary school or secondary
22 school, local educational agency, or State edu-
23 cational agency, and such person or employee,
24 as a result of such contract or agreement, has
25 a job duty that results in unsupervised access

1 to elementary school or secondary school stu-
2 dents.

Passed the House of Representatives October 22,
2013.

Attest:

KAREN L. HAAS,

Clerk.