

113TH CONGRESS  
1ST SESSION

# S. 1596

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.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2013

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

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## A BILL

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,*

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       (a) BACKGROUND CHECKS.—Not later than 2 years  
8       after the date of enactment of this Act, each State edu-

1 cational agency that receives funds under the Elementary  
2 and Secondary Education Act of 1965 (20 U.S.C. 6301  
3 et seq.) shall have in effect policies and procedures that—

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

6 (A) a search of the State criminal registry  
7 or repository of the State in which the school  
8 employee resides;

9 (B) a search of State-based child abuse  
10 and neglect registries and databases of the  
11 State in which the school employee resides;

12 (C) a Federal Bureau of Investigation fin-  
13 gerprint check using the Integrated Automated  
14 Fingerprint Identification System; and

15 (D) a search of the National Sex Offender  
16 Registry established under section 19 of the  
17 Adam Walsh Child Protection and Safety Act of  
18 2006 (42 U.S.C. 16919);

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

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

23 (B) makes a false statement in connection  
24 with such criminal background check;

1 (C) has been convicted of a felony con-  
2 sisting of—

3 (i) homicide;

4 (ii) child abuse or neglect;

5 (iii) a crime against children, includ-  
6 ing child pornography;

7 (iv) spousal abuse;

8 (v) a crime involving rape or sexual  
9 assault;

10 (vi) kidnapping;

11 (vii) arson; or

12 (viii) physical assault, battery, or a  
13 drug-related offense, committed on or after  
14 the date that is 5 years before the date of  
15 such employee's criminal background check  
16 under paragraph (1); or

17 (D) has been convicted of any other crime  
18 that is a violent or sexual crime against a  
19 minor;

20 (3) require that each criminal background  
21 check conducted under paragraph (1) be periodically  
22 repeated or updated in accordance with State law or  
23 the policies of local educational agencies served by  
24 the State educational agency;

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

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

12                 (A) challenge the accuracy or completeness  
13                 of the information produced by such criminal  
14                 background check; and

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

20          (6) ensure that such policies and procedures are  
21          published on the website of the State educational  
22          agency and the website of each local educational  
23          agency served by the State educational agency; and

24          (7) allow a local educational agency to share  
25          the results of a school employee's criminal back-

1 ground check recently conducted under paragraph  
2 (1) with another local educational agency that is  
3 considering such school employee for employment as  
4 a school employee.

5 (b) TRANSFER PROHIBITION.—A local educational  
6 agency or State educational agency that receives funds  
7 under the Elementary and Secondary Education Act of  
8 1965 (20 U.S.C. 6301 et seq.) may not knowingly transfer  
9 or facilitate the transfer of any school employee if the  
10 agency knows, or has substantive reason to believe, that  
11 such employee engaged in sexual misconduct with an ele-  
12 mentary school or secondary school student.

13 (c) FEES FOR BACKGROUND CHECKS.—

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

19 (2) ADMINISTRATIVE FUNDS.—A local edu-  
20 cational agency or State educational agency may use  
21 administrative funds received under the Elementary  
22 and Secondary Education Act of 1965 (20 U.S.C.  
23 6301 et seq.) to pay any reasonable fees charged for  
24 conducting such criminal background check.

25 (d) DEFINITIONS.—In this Act:

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

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

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

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

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