

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 13

Session of
2005

INTRODUCED BY TRUE, BOYD, HICKERNELL, STURLA, BAKER, BALDWIN,
BEBKO-JONES, BENNINGHOFF, CALTAGIRONE, CAPPELLI, CLYMER,
CORNELL, CORRIGAN, CRAHALLA, DALLY, FLEAGLE, FRANKEL, GEIST,
GILLESPIE, GOODMAN, GRELL, GRUCELA, HARHAI, HARRIS,
HENNESSEY, HERMAN, KAUFFMAN, KOTIK, LEACH, MACKERETH,
MAITLAND, MANN, MARSICO, MCGILL, MCILHATTAN, MICOZZIE,
R. MILLER, S. MILLER, MUNDY, NAILOR, PICKETT, PYLE, REED,
SAYLOR, SCAVELLO, SCHRODER, SHAPIRO, B. SMITH, SOLOBAY,
STABACK, STERN, R. STEVENSON, E. Z. TAYLOR, TIGUE, TURZAI,
WATSON, WILT, WRIGHT, YOUNGBLOOD AND YUDICHAK,
AUGUST 18, 2005

REFERRED TO COMMITTEE ON EDUCATION, AUGUST 18, 2005

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," providing for background checks and
6 registration of sexual offenders.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 111.1. Background Checks of Employes; Registration
13 of Sexual Offenders.--(a) This section shall apply to all
14 prospective employes of public and private schools, intermediate
15 units and area vocational-technical schools, including

1 independent contractors and their employes, except those
2 employes and independent contractors and their employes who have
3 no direct contact with children.

4 (b) Administrators of public and private schools,
5 intermediate units and area vocational-technical schools shall
6 submit the names of prospective employes, and any other
7 identifying information prescribed by the Commissioner of
8 Pennsylvania State Police, to the Pennsylvania State Police to
9 compare with the State registry of offenders and sexually
10 violent predators maintained pursuant to 42 Pa.C.S Ch. 97 Subch.
11 H (relating to registration of sexual offenders).

12 (c) Within ten (10) days of receipt of information under
13 subsection (b) pertaining to prospective employes, the
14 Pennsylvania State Police shall notify the administrator of a
15 public or private school, intermediate unit or area vocational-
16 technical school if a prospective employe is:

17 (1) an offender or a sexually violent predator under 42
18 Pa.C.S. Ch. 97 Subch. H; or

19 (2) required to register pursuant to 42 Pa.C.S. §
20 9795.2(b)(4) or (5) (relating to registration procedures and
21 applicability).

22 (d) The State Board of Education shall, in the manner
23 provided by law, promulgate the regulations necessary to carry
24 out this section for public and private schools, intermediate
25 units and area vocational-technical schools. The Commissioner of
26 Pennsylvania State Police shall, in the manner provided by law,
27 promulgate regulations necessary for the Pennsylvania State
28 Police to carry out this section.

29 (e) No person subject to this act shall be employed in a
30 public or private school, intermediate unit or area vocational-

1 technical school if the Pennsylvania State Police indicate that
2 the applicant is:

3 (1) an offender or a sexually violent predator under 42
4 Pa.C.S. Ch. 97 Subch. H; or

5 (2) required to register pursuant to 42 Pa.C.S. §
6 9795.2(b)(4) or (5).

7 (f) An administrator or other person responsible for
8 employment decisions in a school or other institution under this
9 section who willfully fails to comply with the provisions of
10 this section commits a violation of this act and shall be
11 subject to civil penalty as provided in this section.

12 (1) The Department of Education shall have jurisdiction to
13 determine violators of this section and may, following a
14 hearing, assess a civil penalty not to exceed two thousand five
15 hundred dollars (\$2,500).

16 (2) The civil penalty shall be payable to the Commonwealth.

17 (g) Notwithstanding the provisions of this section,
18 administrators may employ applicants on a provisional basis for
19 a single period not to exceed thirty (30) days, except during a
20 lawful strike proceeding under the provisions of the act of July
21 23, 1970 (P.L.563, No.195), known as the "Public Employe
22 Relations Act," provided that all of the following conditions
23 are met:

24 (1) The administrator has submitted the name and other
25 identifying information to the Pennsylvania State Police,
26 pursuant to subsection (b), to compare with the State registry
27 of offenders and sexually violent predators.

28 (2) The administrator has no knowledge of information
29 pertaining to the applicant which would disqualify him from
30 employment pursuant to subsection (e).

1 (3) The applicant swears or affirms in writing that he is
2 not disqualified from employment pursuant to subsection (e).

3 (4) If the information obtained pursuant to subsection (c)
4 reveals that the applicant is disqualified from employment
5 pursuant to subsection (e), the applicant shall be suspended and
6 subject to termination proceedings as provided for by law.

7 (5) The administrator requires that the applicant not be
8 permitted to work alone with children and that the applicant
9 work in the immediate vicinity of a permanent employe.

10 (h) The following shall be immune from liability for good
11 faith conduct under this section:

12 (1) The Pennsylvania State Police.

13 (2) A public or private school, intermediate unit or area
14 vocational-technical school.

15 (3) An administrator of any entity in clause (2).

16 (i) An individual who, on the effective date of this
17 section, is a current employe of a public or private school,
18 intermediate unit or area vocational-technical school, including
19 independent contractors and their employes, except those
20 employes and independent contractors and their employes who have
21 no direct contact with children, shall comply with the
22 provisions of this section within twelve (12) months of the
23 effective date of this section as a condition of continued
24 employment.

25 Section 2. This act shall take effect in 60 days.