

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 45 Session of 2011

INTRODUCED BY BAKER, REICHLEY, STERN, HESS, BARRAR, CAUSER,
CONKLIN, DeLUCA, FLECK, GABLER, GEIST, GEORGE, GINGRICH,
HARRIS, KAUFFMAN, MILLER, O'NEILL, PYLE, SONNEY, SWANGER,
VULAKOVICH, WATSON, MILLARD, MICOZZIE, BOYD, K. SMITH,
KNOWLES, KULA AND PICKETT, JANUARY 19, 2011

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 19, 2011

AN ACT

1 Providing for college and university faculty and staff criminal
2 history background investigations and self-disclosure
3 requirements.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the College and
8 University Criminal History Background Investigation Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Branch campus." A unit of an institution of higher
14 education which is distinguished by all of the following
15 characteristics:

16 (1) An academic degree-granting program or organized
17 parts thereof offered on a continuing basis.

1 (2) Location separately identifiable from the main
2 campus of the parent institution and providing the services
3 normally associated with the campus.

4 (3) Legal authority for governance, administration and
5 general operation derived from the charter or enabling
6 legislation of the parent institution or of the State System
7 of Higher Education.

8 "Community colleges." Institutions now or hereafter created
9 pursuant to Article XIX-A of the act of March 10, 1949 (P.L.30,
10 No.14), known as the Public School Code of 1949, or the act of
11 August 24, 1963 (P.L.1132, No.484), known as the Community
12 College Act of 1963.

13 "Faculty member." A full-time professor or instructor of any
14 rank at an institution of higher education.

15 "Final candidate." The individual to whom an institution of
16 higher education intends to make a bona fide offer of employment
17 as a faculty member or staff member.

18 "Independent institution of higher education." An
19 institution of higher education which is operated not for
20 profit, located in and incorporated or chartered by the
21 Commonwealth, entitled to confer degrees as set forth in 24
22 Pa.C.S. Ch. 65 (relating to private colleges, universities and
23 seminaries) and entitled to apply to itself the designation
24 "college" or "university" as provided for by standards and
25 qualifications prescribed by the State Board of Education
26 pursuant 24 Pa.C.S. Ch. 65.

27 "Institution of higher education." An independent
28 institution of higher education, a community college, a State-
29 owned institution or a State-related institution.

30 "Staff member." A full-time employee of an institution of

1 higher education.

2 "State-owned institution." An institution which is part of
3 the State System of Higher Education pursuant to Article XX-A of
4 the act of March 10, 1949 (P.L.30, No.14), known as the Public
5 School Code of 1949.

6 "State-related institution." Any of the following: The
7 Pennsylvania State University, the University of Pittsburgh,
8 Temple University and Lincoln University and their branch
9 campuses.

10 Section 3. Scope.

11 This act relates to institutions of higher education in this
12 Commonwealth.

13 Section 4. Criminal history record information.

14 An institution of higher education may conduct a criminal
15 history background investigation prior to hiring an individual
16 for a full-time faculty or staff position. Such investigation
17 shall at a minimum include reasonable efforts to obtain
18 information pertaining to felony convictions and convictions of
19 other crimes involving sex offenses or misappropriation of
20 funds.

21 Section 5. Use of records for employment of full-time faculty 22 and staff.

23 (a) General rule.--Notwithstanding the provisions of 18
24 Pa.C.S. § 9125 (relating to use of records for employment), when
25 an administrator of an institution of higher education is in
26 receipt of information which is part of a final candidate's
27 criminal history record information file, the administrator may
28 use that information for the purpose of deciding whether to hire
29 the final candidate as a faculty member or staff member.

30 (b) Notice.--The administrator shall notify a final

1 candidate in writing if the decision not to hire is based in
2 whole or in part on criminal history record information.

3 (c) Policy.--An institution of higher education shall
4 develop and implement a written policy regarding its use of
5 criminal history record information in its hiring practices
6 concerning faculty members and staff members, including the
7 procedure for notifying a final candidate of the requirements of
8 section 4. The policy shall be disseminated to all faculty
9 members, staff members and final candidates for employment.

10 Section 6. Self-disclosure required.

11 (a) General rule.--An institution of higher education may
12 require an individual offered employment as a full-time faculty
13 member or staff member to self-disclose at a minimum the
14 following criminal history information on a self-disclosure form
15 as provided by the institution of higher education:

16 (1) Any Federal felony convictions and any Federal
17 convictions of other crimes involving sex offenses or
18 misappropriation of funds.

19 (2) Any felony convictions in this or any other state,
20 territory or possession of the United States, the District of
21 Columbia, the Commonwealth of Puerto Rico or a foreign
22 nation.

23 (3) Any convictions involving sex offenses or
24 misappropriation of funds in this or any other state,
25 territory or possession of the United States, the District of
26 Columbia, the Commonwealth of Puerto Rico or a foreign
27 nation.

28 (b) Penalty.--An individual hired as a full-time faculty
29 member or staff member who fails to provide required criminal
30 history information or provides false information shall be

1 subject to termination.

2 Section 7. Dissemination.

3 An institution of higher education shall state whether it has
4 established policies relating to the performance of criminal
5 history background investigations on full-time faculty members
6 and staff members in its informational materials and other
7 literature provided or made available to prospective students.

8 Section 8. Applicability.

9 This act shall apply to applications for employment submitted
10 by individuals seeking to become a faculty member or staff
11 member at an institution of higher education on or after the
12 effective date of this section.

13 Section 9. Effective date.

14 This act shall take effect in 180 days.