

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 224 Session of
2011

INTRODUCED BY PICCOLA, DINNIMAN, BROWNE, BRUBAKER, EARLL, PIPPY,
ORIE, TOMLINSON, EICHELBERGER, FONTANA, WAUGH, RAFFERTY,
WARD, WASHINGTON AND MENSCH, JANUARY 24, 2011

AS AMENDED ON THIRD CONSIDERATION, MAY 3, 2011

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," further providing for background
6 checks of prospective employees and for conviction of
7 employees of certain offenses.

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

10 Section 1. Section 111(e), (f) and (h) of the act of March
11 10, 1949 (P.L.30, No.14), known as the Public School Code of
12 1949, amended December 19, 1990 (P.L.1362, No.211) and December
13 23, 2003 (P.L.304, No.48), are amended and the section is
14 amended by adding subsections to read:

15 Section 111. Background Checks of Prospective Employees;
16 Conviction of Employes of Certain Offenses.--* * *

17 (e) No person subject to this act shall be employed in a
18 public or private school, intermediate unit or area vocational-
19 technical school where the report of criminal history record
20 information indicates the applicant has been convicted[, within

1 five (5) years immediately preceding the date of the report,] of
2 any of the following offenses:

3 (1) An offense under one or more of the following provisions
4 of Title 18 of the Pennsylvania Consolidated Statutes:

5 Chapter 25 (relating to criminal homicide).

6 Section 2702 (relating to aggravated assault).

7 [Former section 2709(b) (relating to stalking).]

8 Section 2709.1 (relating to stalking).

9 Section 2901 (relating to kidnapping).

10 Section 2902 (relating to unlawful restraint).

11 Section 2910 (relating to luring a child into a motor vehicle
12 or structure).

13 Section 3121 (relating to rape).

14 Section 3122.1 (relating to statutory sexual assault).

15 Section 3123 (relating to involuntary deviate sexual
16 intercourse).

17 Section 3124.1 (relating to sexual assault).

18 Section 3124.2 (relating to institutional sexual assault).

19 Section 3125 (relating to aggravated indecent assault).

20 Section 3126 (relating to indecent assault).

21 Section 3127 (relating to indecent exposure).

22 Section 3129 (relating to sexual intercourse with animal).

23 Section 4302 (relating to incest).

24 Section 4303 (relating to concealing death of child).

25 Section 4304 (relating to endangering welfare of children).

26 Section 4305 (relating to dealing in infant children).

27 A felony offense under section 5902(b) (relating to
28 prostitution and related offenses).

29 Section 5903(c) or (d) (relating to obscene and other sexual
30 materials and performances).

1 Section ~~6301(a.1)~~ 6301(A)(1) (relating to corruption of
2 minors).

3 Section 6312 (relating to sexual abuse of children).

4 Section 6318 (relating to unlawful contact with minor).

5 Section 6319 (relating to solicitation of minors to traffic
6 drugs).

7 Section 6320 (relating to sexual exploitation of children).

8 (2) An offense designated as a felony under the act of April
9 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,
10 Drug, Device and Cosmetic Act."

11 (3) An [out-of-State or Federal] offense similar in nature
12 to those crimes listed in clauses (1) and (2) under the laws of
13 the United States or one of its territories or possessions,
14 another state, the District of Columbia, the Commonwealth of
15 Puerto Rico or a foreign nation, or under a former law of this
16 Commonwealth.

17 [(f) The requirements of this section shall not apply to
18 employees of public and private schools, intermediate units and
19 area vocational-technical schools who meet all the following
20 requirements:

21 (1) The employees are under twenty-one (21) years of age.

22 (2) They are employed for periods of ninety (90) days or
23 less.

24 (3) They are a part of a job development and/or job training
25 program funded in whole or in part by public or private sources.

26 Once employment of a person who meets these conditions
27 extends beyond ninety (90) days, all requirements of this
28 section shall take effect.]

29 (f.1) (1) If the report of criminal history record
30 information indicates the person has been convicted of a felony

1 offense of the first, second or third degree other than those
2 enumerated under subsection (e), the person shall be eligible
3 for prospective employment if a period of ten years has elapsed
4 from the date of expiration of the sentence for the offense.

5 (2) If the conviction is for a misdemeanor of the first
6 degree, the person shall be eligible for prospective employment
7 if a period of five years has elapsed from the date of
8 expiration of the sentence for the offense.

9 (3) If the report of criminal history record information
10 indicates the person has been convicted more than once for an
11 offense under 75 Pa.C.S. § 3802(a), (b), (c) or (d) (relating to
12 driving under influence of alcohol or controlled substance) and
13 the offense is graded as a misdemeanor of the first degree under
14 75 Pa.C.S. § 3803 (relating to grading), the person shall be
15 eligible for prospective employment if a period of three years
16 has elapsed from the date of expiration of the sentence for the
17 most recent offense.

18 (f.2) Nothing in this section shall be construed to
19 interfere with the ability of a public or private school,
20 intermediate unit or area vocational-technical school to make
21 employment, discipline or termination decisions.

22 * * *

23 (h) [No person employed in a public or private school on the
24 effective date of this section shall be required to obtain the
25 information required herein as a condition of continued
26 employment.] Any person who has once obtained the information
27 required under this section may transfer to another school in
28 the same district or established and supervised by the same
29 organization and shall not be required to obtain additional
30 reports before making such transfer.

1 * * *

2 (j) (1) Employees of a public and private school,
3 intermediate unit or area vocational-technical school shall
4 notify, verbally and in writing, the chief school administrator
5 or designee of any arrest or any conviction for an offense
6 enumerated under subsection (e). Employees of a public and
7 private school, intermediate unit or area vocational-technical
8 school shall notify, verbally and in writing, the chief school
9 administrator or designee of any arrest or any conviction for
10 any felony or misdemeanor offense occurring in this
11 Commonwealth, under the laws of the United States or one of its
12 territories or possessions, another state, the District of
13 Columbia, the Commonwealth of Puerto Rico or a foreign nation,
14 or under a former law of this Commonwealth, where the arrest or
15 conviction occurred within ten years prior to the effective date
16 of this subsection. If the arrest or conviction occurs after the
17 effective date of this subsection, the employee shall provide
18 notice no later than seventy-two (72) hours after an arrest or
19 conviction.

20 (2) If a chief school administrator or designee has a
21 reasonable belief that an employee was arrested or has a
22 conviction for an offense required to be reported under clause
23 (1) and the employee has not notified the chief school
24 administrator or designee as required under clause (1), the
25 chief school administrator or designee shall have the authority
26 to immediately require the employee to submit to the chief school
27 administrator or designee a current report of criminal history
28 record information as required under subsections (a) (7), (b) and
29 (c). The cost of the criminal background check shall be borne by
30 the employing school entity.

1 (3) An employe who willfully fails to disclose a conviction
2 for an offense enumerated under subsection (e)(1) shall be
3 subject to discipline up to and including termination or denial
4 of employment. An employe who willfully fails to disclose a
5 conviction of any other offense required to be reported by this
6 section may be subject to discipline.

7 Section 2. This act shall take effect in 90 days.