

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 545 Session of  
2007

INTRODUCED BY WONDERLING, ORIE, BROWNE, FONTANA, GREENLEAF,  
RAFFERTY, COSTA, PIPPY, REGOLA, WOZNIAK AND McILHINNEY,  
MARCH 19, 2007

REFERRED TO EDUCATION, MARCH 19, 2007

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 conviction of certain  
7 offenses.

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

10 Section 1. Section 111 of the act of March 10, 1949 (P.L.30,  
11 No.14), known as the Public School Code of 1949, amended or  
12 added December 19, 1990 (P.L.1362, No.211), December 23, 2003  
13 (P.L.304, No.48), July 4, 2004 (P.L.536, No.70) and July 11,  
14 2006 (P.L.1092, No.114), is amended to read:

15 Section 111. Background Checks of Prospective and Current  
16 Employees; Conviction of Employees of Certain Offenses.--(a) This  
17 section shall apply to all prospective and current employees of  
18 public and private schools, intermediate units and area  
19 vocational-technical schools, including independent contractors  
20 and their employees, except those employees and independent

1 contractors and their employes who have no direct contact with  
2 children.

3 (a.1) Beginning April 1, 2007, this section shall apply to  
4 all prospective employes of public and private schools,  
5 intermediate units and area vocational-technical schools,  
6 including, but not limited to, teachers, substitutes, janitors,  
7 cafeteria workers, independent contractors and their employes,  
8 except those employes and independent contractors and their  
9 employes who have no direct contact with children.

10 (1) Beginning April 1, 2007, this section shall apply to bus  
11 drivers offered employment by a school district, private school,  
12 nonpublic school, intermediate unit or area vocational-technical  
13 school or by an independent contractor.

14 (2) Beginning April 1, 2007, this section shall apply to  
15 student teacher candidates assigned to all public and private  
16 schools, intermediate units and area vocational-technical  
17 schools.

18 (3) For purposes of this section, "student teacher  
19 candidate" shall mean an individual participating in a classroom  
20 teaching, internship, clinical or field experience who, as part  
21 of a program for the initial or advanced preparation of  
22 professional educators, performs classroom teaching or assists  
23 in the education program in a public or private school,  
24 intermediate unit or area vocational-technical school under the  
25 supervision of educator preparation program faculty.

26 (4) Prior to a student teacher candidate's participation in  
27 any classroom teaching, internship, clinical or field  
28 experience, that candidate shall provide to the administrator of  
29 his or her educator preparation program all criminal history  
30 record information required of an employe or prospective employe

1 who is subject to this section.

2 (5) The student teacher candidate may not participate in any  
3 classroom teaching, internship, clinical or field experience if  
4 this section would prohibit an employe or prospective employe  
5 subject to this section from being employed under those  
6 circumstances.

7 (6) During the course of a student teacher candidate's  
8 participation in an educator preparation program, the  
9 administrator of the student teacher candidate's educator  
10 preparation program shall maintain a copy of the criminal  
11 history record information that was provided by the student  
12 teacher candidate. The penalty provisions of subsection (g)  
13 shall be applicable to the administrator of a student teacher  
14 candidate's educator preparation program.

15 (7) If a student teacher candidate is continuously enrolled  
16 in an educator preparation program, the criminal history record  
17 information initially submitted by that candidate to that  
18 program shall remain valid during that period of enrollment. If  
19 a student teacher candidate's enrollment in an educator  
20 preparation program is interrupted or if that candidate  
21 transfers to another educator preparation program, the candidate  
22 shall provide to the administrator of his or her educator  
23 preparation program all criminal history record information  
24 required of an employe who is subject to this section.

25 (b) (1) Administrators of public and private schools,  
26 intermediate units and area vocational-technical schools shall  
27 require prospective and current employes to submit with their  
28 employment application or annually, pursuant to 18 Pa.C.S. Ch.91  
29 (relating to criminal history record information), a report of  
30 criminal history record information from the Pennsylvania State

1 Police or a statement from the Pennsylvania State Police that  
2 the State Police central repository contains no such information  
3 relating to that person. Such criminal history record  
4 information shall be limited to that which is disseminated  
5 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general  
6 regulations) and shall be no more than one (1) year old. An  
7 applicant may submit a copy of the required information with the  
8 application for employment.

9 (2) Upon completion, the Pennsylvania State Police shall  
10 submit the original report or statement directly to the school  
11 principal to whom the applicant applies for employment and may  
12 provide a copy of the report or statement to the applicant,  
13 provided that the applicant pays the necessary fee for a copy  
14 thereof. Administrators shall maintain a copy of the required  
15 information [and shall require each applicant to produce the  
16 original document prior to employment]. Administrators shall  
17 require contractors to produce the original document for each  
18 prospective employe of such contractor prior to employment.

19 (c) [Where the applicant has not been a resident of this  
20 Commonwealth for at least two (2) years immediately preceding  
21 the date of application for employment, administrators]  
22 Administrators shall require the applicant to submit with the  
23 application for employment or a current employe to submit  
24 annually a set of fingerprints which [may] shall be submitted to  
25 the Federal Bureau of Investigation for Federal criminal history  
26 record information pursuant to the Federal Bureau of  
27 Investigation appropriation of Title II of Public Law 92-544, 86  
28 Stat. 1115 or a copy of such Federal criminal history record.  
29 Administrators shall forward the set of fingerprints for the  
30 Federal criminal history record to the Department of Education.

1 The Department of Education shall be the intermediary for the  
2 purposes of this section. The Department of Education shall  
3 return the Federal criminal history record to the [applicant]  
4 appropriate school principal. [When the applicant provides a  
5 copy of the Federal criminal history record, it shall be no more  
6 than one (1) year old. Administrators shall maintain a copy of  
7 the required information and shall require each applicant to  
8 produce a Federal criminal history record that may not be more  
9 than one (1) year old at the time of employment. The] A copy of  
10 the original Federal criminal history record shall be [returned]  
11 provided by the school principal to the applicant or current  
12 employee. This subsection shall expire March 31, 2007.

13 (c.1) Beginning April 1, 2007, administrators shall require  
14 the applicant to submit with the application for employment a  
15 copy of the Federal criminal history record in a manner  
16 prescribed by the Department of Education. When the applicant  
17 provides a copy of the Federal criminal history record, it shall  
18 be no more than one (1) year old. Administrators shall maintain  
19 a copy of the required information and shall require each  
20 applicant to produce a Federal criminal history record that may  
21 not be more than one (1) year old at the time of employment. The  
22 original Federal criminal history record shall be returned to  
23 the applicant.

24 (d) The State Board of Education shall, in the manner  
25 provided by law, promulgate the regulations necessary to carry  
26 out this section. The regulations shall provide for the  
27 confidentiality of criminal history record information obtained  
28 pursuant to this act.

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 where the report of criminal history record  
2 information indicates the [applicant] person has been  
3 convicted[, within five (5) years immediately preceding the date  
4 of the report,] of any of the following offenses:

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

7 Chapter 25 (relating to criminal homicide).

8 Section 2702 (relating to aggravated assault).

9 Former section 2709(b) (relating to stalking).

10 Section 2709.1 (relating to stalking).

11 Section 2901 (relating to kidnapping).

12 Section 2902 (relating to unlawful restraint).

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 3125 (relating to aggravated indecent assault).

19 Section 3126 (relating to indecent assault).

20 Section 3127 (relating to indecent exposure).

21 Section 4302 (relating to incest).

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

23 Section 4304 (relating to endangering welfare of  
24 children).

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

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

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

30 Section 6301 (relating to corruption of minors).

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

2           (2) An offense designated as a felony under the act of April  
3 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,  
4 Drug, Device and Cosmetic Act."

5           (3) An out-of-State or Federal offense similar in nature to  
6 those crimes listed in clauses (1) and (2).

7           (f) The requirements of this section shall not apply to  
8 employes of public and private schools, intermediate units and  
9 area vocational-technical schools who meet all the following  
10 requirements:

11           (1) The employes are under [twenty-one (21)] eighteen (18)  
12 years of age.

13           (2) They are employed for periods of ninety (90) days or  
14 less.

15           (3) They are a part of a job development and/or job training  
16 program funded in whole or in part by public or private sources.  
17 Once employment of a person who meets these conditions extends  
18 beyond ninety (90) days, all requirements of this section shall  
19 take effect.

20           (g) An administrator, or other person responsible for  
21 employment decisions in a school or other institution under this  
22 section who wilfully fails to comply with the provisions of this  
23 section commits a violation of this act and shall be subject to  
24 civil penalty as provided in this section.

25           (1) The department shall have jurisdiction to determine  
26 violators of this section and may, following a hearing, assess a  
27 civil penalty not to exceed two thousand five hundred dollars  
28 (\$2,500).

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

30           (h) [No person employed in a public or private school on the

1 effective date of this section shall be required to obtain the  
2 information required herein as a condition of continued  
3 employment. Any] Except to meet an annual requirement to submit  
4 information required under this section, a person who has once  
5 obtained the information required under this section may  
6 transfer to another school in the same district or established  
7 and supervised by the same organization and shall not be  
8 required to obtain additional reports before making such  
9 transfer.

10 (i) Notwithstanding subsections (b), (c) and (c.1),  
11 administrators, before April 1, 2007, may employ in-State  
12 applicants on a provisional basis for a single period not to  
13 exceed thirty (30) days and may employ out-of-State applicants  
14 on a provisional basis for a single period not to exceed ninety  
15 (90) days and, after March 31, 2007, may employ any applicants  
16 on a provisional basis for a single period not to exceed ninety  
17 (90) days, except during a lawful strike proceeding under the  
18 provisions of the act of July 23, 1970 (P.L.563, No.195), known  
19 as the "Public Employe Relations Act," provided that all of the  
20 following conditions are met:

21 (1) the applicant has applied for the information required  
22 under subsection (b) and, where applicable, under subsection (c)  
23 or (c.1) and the applicant provides a copy of the appropriate  
24 completed request forms to the administrator;

25 (2) the administrator has no knowledge of information  
26 pertaining to the applicant which would disqualify him from  
27 employment pursuant to subsection (e);

28 (3) the applicant swears or affirms in writing that he is  
29 not disqualified from employment pursuant to subsection (e);

30 (4) if the information obtained pursuant to subsection (b),



1 (c) or (c.1) reveals that the applicant is disqualified from  
2 employment pursuant to subsection (e), the applicant shall be  
3 suspended and subject to termination proceedings as provided for  
4 by law; and

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

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