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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1963** Session of  
2003

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INTRODUCED BY BLAUM, WEBER, TIGUE, COY, DALEY, EACHUS, KELLER,  
SCRIMENTI, GEIST, NAILOR, WASHINGTON, LAUGHLIN, BEBKO-JONES,  
YOUNGBLOOD, E. Z. TAYLOR, DeWEESE, HORSEY, HALUSKA, STABACK,  
CURRY, MANN, LEDERER, O'NEILL, CRUZ, BELFANTI, JAMES, THOMAS,  
HARPER, CIVERA AND SURRA, SEPTEMBER 9, 2003

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 9, 2003

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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 of the act of March 10, 1949 (P.L.30,  
11 No.14), known as the Public School Code of 1949, amended  
12 December 19, 1990 (P.L.1362, No.211), June 25, 1997 (P.L.297,  
13 No.30) and December 9, 2002 (P.L.1317, No.153), is amended to  
14 read:

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

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

3 (b) Administrators of public and private schools,  
4 intermediate units and area vocational-technical schools shall  
5 require prospective employees to submit with their employment  
6 application, pursuant to 18 Pa.C.S. Ch.91 (relating to criminal  
7 history record information), a report of criminal history record  
8 information from the Pennsylvania State Police or a statement  
9 from the Pennsylvania State Police that the State Police central  
10 repository contains no such information relating to that person.  
11 Such criminal history record information shall be limited to  
12 that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2)  
13 (relating to general regulations) and shall be no more than one  
14 (1) year old. An applicant may submit a copy of the required  
15 information with the application for employment. Administrators  
16 shall maintain a copy of the required information and shall  
17 require each applicant to produce the original document prior to  
18 employment. Administrators shall require contractors to produce  
19 the original document for each prospective employe of such  
20 contractor prior to employment.

21 (c) Where the applicant has not been a resident of this  
22 Commonwealth for at least two (2) years immediately preceding  
23 the date of application for employment, administrators shall  
24 require the applicant to submit with the application for  
25 employment a report of Federal criminal history record  
26 information pursuant to the Federal Bureau of Investigation  
27 appropriation of Title II of Public Law 92-544, 86 Stat. 1115,  
28 and the department shall be the intermediary for the purposes of  
29 this section.

30 (d) The State Board of Education shall, in the manner

1 provided by law, promulgate the regulations necessary to carry  
2 out this section. The regulations shall provide for the  
3 confidentiality of criminal history record information obtained  
4 pursuant to this act.

5 (e) No person subject to this act shall be employed in a  
6 public or private school, intermediate unit or area vocational-  
7 technical school where the report of criminal history record  
8 information indicates the applicant has been convicted, within  
9 five (5) years immediately preceding the date of the report, of  
10 any of the following offenses:

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

13 Chapter 25 (relating to criminal homicide).

14 Section 2702 (relating to aggravated assault).

15 Section 2709 (relating to harassment and stalking).

16 Section 2901 (relating to kidnapping).

17 Section 2902 (relating to unlawful restraint).

18 Section 3121 (relating to rape).

19 Section 3122.1 (relating to statutory sexual assault).

20 Section 3123 (relating to involuntary deviate sexual  
21 intercourse).

22 Section 3124.1 (relating to sexual assault).

23 Section 3125 (relating to aggravated indecent assault).

24 Section 3126 (relating to indecent assault).

25 Section 3127 (relating to indecent exposure).

26 Section 4302 (relating to incest).

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

28 Section 4304 (relating to endangering welfare of  
29 children).

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

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

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

5           Section 6301 (relating to corruption of minors).

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

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

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

12       (f) The requirements of this section shall not apply to  
13 employes of public and private schools, intermediate units and  
14 area vocational-technical schools who meet all the following  
15 requirements:

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

17       (2) They are employed for periods of ninety (90) days or  
18 less.

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

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

29       (1) The department shall have jurisdiction to determine  
30 violators of this section and may, following a hearing, assess a

1 civil penalty not to exceed two thousand five hundred dollars  
2 (\$2,500).

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

4 (h) [No] Except as hereinafter provided, no person employed  
5 in a public or private school on the effective date of this  
6 section shall be required to obtain the information required  
7 herein as a condition of continued employment. Any person who  
8 has once obtained the information required under this section  
9 may transfer to another school in the same district or  
10 established and supervised by the same organization and shall  
11 not be required to obtain additional reports before making such  
12 transfer. Nothing contained in this section shall prevent a  
13 private school from requiring an employe to obtain a report of  
14 criminal history record information from the Pennsylvania State  
15 Police or Federal Bureau of Investigation as a condition of  
16 continued employment.

17 (i) Notwithstanding subsections (b) and (c), administrators  
18 may employ applicants on a provisional basis for a single period  
19 not to exceed thirty (30) days or, for out-of-State applicants,  
20 a period of ninety (90) days, except during a lawful strike  
21 proceeding under the provisions of the act of July 23, 1970  
22 (P.L.563, No.195), known as the "Public Employe Relations Act,"  
23 provided that all of the following conditions are met:

24 (1) the applicant has applied for the information required  
25 under subsection (b) and, where applicable, under subsection (c)  
26 and the applicant provides a copy of the appropriate completed  
27 request forms to the administrator;

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 (b)  
4 or (c) reveals that the applicant is disqualified from  
5 employment pursuant to subsection (e), the applicant shall be  
6 suspended and subject to termination proceedings as provided for  
7 by law; and

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

11 Section 2. This act shall take effect immediately.