

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1291

Session of
2005

INTRODUCED BY CURRY, BAKER, BEBKO-JONES, BENNINGHOFF,
CALTAGIRONE, CIVERA, CORNELL, CORRIGAN, CRAHALLA, CREIGHTON,
DONATUCCI, FRANKEL, GEORGE, GOODMAN, HARHAI, HARPER,
W. KELLER, MUSTIO, PISTELLA, ROEBUCK, SCAVELLO, SHANER,
SHAPIRO, SOLOBAY, STABACK, R. STEVENSON, E. Z. TAYLOR, TIGUE,
WALKO, YOUNGBLOOD, MUNDY, THOMAS, SCHRODER, RAPP, BUXTON AND
HERMAN, APRIL 6, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JULY 1, 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," 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(a), (c) and (i) 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 July 4,
13 2004 (P.L.536, No.70), are amended and the section is amended by
14 adding subsections to read:

15 Section 111. Background Checks of Prospective Employees;
16 Conviction of Employees of Certain Offenses.--(a) This section
17 shall apply to all prospective employees of public and private

1 schools, intermediate units and area vocational-technical
2 schools, including independent contractors and their employes,
3 except those employes and independent contractors and their
4 employes who have no direct contact with children. This
5 subsection shall expire March 31, 2006.

6 (a.1) Beginning April 1, 2006, this section shall apply to
7 all prospective employes of public and private schools,
8 intermediate units and area vocational-technical schools,
9 including, but not limited to, teachers, substitutes, janitors,
10 cafeteria workers, bus drivers, independent contractors and
11 their employes, except those employes and independent
12 contractors and their employes who have no direct contact with
13 children.

14 * * *

15 (c) Where the applicant has not been a resident of this
16 Commonwealth for at least two (2) years immediately preceding
17 the date of application for employment, administrators shall
18 require the applicant to submit with the application for
19 employment a set of fingerprints which may be submitted to the
20 Federal Bureau of Investigation for Federal criminal history
21 record information pursuant to the Federal Bureau of
22 Investigation appropriation of Title II of Public Law 92-544, 86
23 Stat. 1115 or a copy of such Federal criminal history record.
24 Administrators shall forward the set of fingerprints for the
25 Federal criminal history record to the Department of Education.
26 The Department of Education shall be the intermediary for the
27 purposes of this section. The Department of Education shall
28 return the Federal criminal history record to the applicant.
29 When the applicant provides a copy of the Federal criminal
30 history record, it shall be no more than one (1) year old.

1 Administrators shall maintain a copy of the required information
2 and shall require each applicant to produce a Federal criminal
3 history record that may not be more than one (1) year old at the
4 time of employment. The original Federal criminal history record
5 shall be returned to the applicant. This subsection shall expire
6 March 31, 2006.

7 (c.1) Beginning April 1, 2006, administrators shall require
8 the applicant to submit with the application for employment a
9 set of fingerprints which shall be submitted to the Federal
10 Bureau of Investigation for Federal criminal history record
11 information pursuant to the Federal Bureau of Investigation
12 appropriation of Title II of Public Law 92-544, 86 Stat. 1115 or
13 a copy of such Federal criminal history record. Administrators
14 shall forward the set of fingerprints for the Federal criminal
15 history record to the Department of Education. The Department of
16 Education shall be the intermediary for the purposes of this
17 section. The Department of Education shall return the Federal
18 criminal history record to the applicant. When the applicant
19 provides a copy of the Federal criminal history record, it shall
20 be no more than one (1) year old. Administrators shall maintain
21 a copy of the required information and shall require each
22 applicant to produce a Federal criminal history record that may
23 not be more than one (1) year OLD. The original Federal criminal <—
24 history record shall be returned to the applicant.

25 * * *

26 (i) Notwithstanding subsections (b) [and (c)], (c) and
27 (c.1), administrators may employ applicants on a provisional <—
28 basis for a single period not to exceed thirty (30) days or, for
29 out of State applicants, a period of ninety (90) days, except
30 (C.1), ADMINISTRATORS, BEFORE APRIL 1, 2006, MAY EMPLOY IN-STATE <—

1 APPLICANTS ON A PROVISIONAL BASIS FOR A SINGLE PERIOD NOT TO
2 EXCEED THIRTY (30) DAYS [OR, FOR] AND MAY EMPLOY OUT-OF-STATE
3 APPLICANTS[, A PERIOD OF] ON A PROVISIONAL BASIS FOR A SINGLE
4 PERIOD NOT TO EXCEED NINETY (90) DAYS[, EXCEPT] AND, AFTER MARCH
5 31, 2006, MAY EMPLOY ANY APPLICANTS ON A PROVISIONAL BASIS FOR A
6 SINGLE PERIOD NOT TO EXCEED NINETY (90) DAYS. THIS SUBSECTION
7 SHALL NOT APPLY during a lawful strike proceeding under the
8 provisions of the act of July 23, 1970 (P.L.563, No.195), known
9 as the "Public Employe Relations Act," provided that all of the
10 following conditions are met:

11 (1) the applicant has applied for the information required
12 under subsection (b) and, where applicable, under subsection (c)
13 or (c.1) and the applicant provides a copy of the appropriate
14 completed request forms to the administrator;

15 (2) the administrator has no knowledge of information
16 pertaining to the applicant which would disqualify him from
17 employment pursuant to subsection (e);

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

20 (4) if the information obtained pursuant to subsection (b)
21 [or (c)], (c) or (c.1) reveals that the applicant is
22 disqualified from employment pursuant to subsection (e), the
23 applicant shall be suspended and subject to termination
24 proceedings as provided for by law; and

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

28 Section 2. This act shall take effect immediately.