

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

1 information indicates the applicant has been convicted[, within
2 five (5) years immediately preceding the date of the report,] of
3 any of the following offenses:

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

6 Chapter 25 (relating to criminal homicide).

7 Section 2702 (relating to aggravated assault).

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

9 Section 2709.1 (relating to stalking).

10 Section 2901 (relating to kidnapping).

11 Section 2902 (relating to unlawful restraint).

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

14 Section 3121 (relating to rape).

15 Section 3122.1 (relating to statutory sexual assault).

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

18 Section 3124.1 (relating to sexual assault).

19 Section 3124.2 (relating to institutional sexual assault).

20 Section 3125 (relating to aggravated indecent assault).

21 Section 3126 (relating to indecent assault).

22 Section 3127 (relating to indecent exposure).

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

24 Section 4302 (relating to incest).

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

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

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

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

30 Section 5903(c) or (d) (relating to obscene and other sexual

1 materials and performances).

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

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

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

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

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

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

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

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

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

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

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

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

30 (f.1) (1) If the report of criminal history record

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

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

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

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

* * *

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

1 reports before making such transfer.

2 * * *

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

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

1 the employing school entity.

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

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