

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 2087 Session of  
2005

INTRODUCED BY CREIGHTON, ARMSTRONG, GINGRICH, GOODMAN, MUSTIO,  
RAPP AND BEYER, OCTOBER 19, 2005

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 19, 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 for prospective employees and conviction of employees  
7 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), December 23, 2003  
13 (P.L.304, No.48) and July 4, 2004 (P.L.536, No.70), is amended  
14 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 employees and current  
18 employees of public and private schools, intermediate units and  
19 area vocational-technical schools, including independent  
20 contractors and their employees, except those employees and

1 independent contractors and their employees who have no direct  
2 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 employee 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]  
24 Administrators of public and private schools, intermediate units  
25 and area vocational-technical schools shall require [the  
26 applicant] all prospective employees to submit with the  
27 application for employment a set of fingerprints which may be  
28 submitted to the Federal Bureau of Investigation for Federal  
29 criminal history record information pursuant to the Federal  
30 Bureau of Investigation appropriation of Title II of Public Law

1 92-544, 86 Stat. 1115 or a copy of such Federal criminal history  
2 record. Administrators shall forward the set of fingerprints for  
3 the Federal criminal history record to the Department of  
4 Education. The Department of Education shall be the intermediary  
5 for the purposes of this section. The Department of Education  
6 shall return the Federal criminal history record to the  
7 applicant. When the applicant provides a copy of the Federal  
8 criminal history record, it shall be no more than one (1) year  
9 old. Administrators shall maintain a copy of the required  
10 information and shall require each applicant to produce a  
11 Federal criminal history record that may not be more than one  
12 (1) year old at the time of employment. The original Federal  
13 criminal history record shall be returned to the applicant.

14 (d) The State Board of Education shall, in the manner  
15 provided by law, promulgate the regulations necessary to carry  
16 out this section. The regulations shall provide for the  
17 confidentiality of criminal history record information obtained  
18 pursuant to this act.

19 (e) No person subject to this act shall be employed in a  
20 public or private school, intermediate unit or area vocational-  
21 technical school where the report of criminal history record  
22 information indicates the applicant has been either convicted of  
23 any of the following offenses which is graded as a felony or  
24 convicted, within five (5) years immediately preceding the date  
25 of the report, of any of the following offenses which is graded  
26 as a misdemeanor:

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

29 Chapter 25 (relating to criminal homicide).

30 Section 2702 (relating to aggravated assault).

1           Former section 2709(b) (relating to stalking).  
2           Section 2709.1 (relating to stalking).  
3           Section 2901 (relating to kidnapping).  
4           Section 2902 (relating to unlawful restraint).  
5           Section 3121 (relating to rape).  
6           Section 3122.1 (relating to statutory sexual assault).  
7           Section 3123 (relating to involuntary deviate sexual  
8 intercourse).  
9           Section 3124.1 (relating to sexual assault).  
10          Section 3125 (relating to aggravated indecent assault).  
11          Section 3126 (relating to indecent assault).  
12          Section 3127 (relating to indecent exposure).  
13          Section 4302 (relating to incest).  
14          Section 4303 (relating to concealing death of child).  
15          Section 4304 (relating to endangering welfare of  
16 children).  
17          Section 4305 (relating to dealing in infant children).  
18          A felony offense under section 5902(b) (relating to  
19 prostitution and related offenses).  
20          Section 5903(c) or (d) (relating to obscene and other  
21 sexual materials and performances).  
22          Section 6301 (relating to corruption of minors).  
23          Section 6312 (relating to sexual abuse of children).  
24          (2) An offense designated as a felony under the act of April  
25 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,  
26 Drug, Device and Cosmetic Act."  
27          (3) An out-of-State or Federal offense similar in nature to  
28 those crimes listed in clauses (1) and (2).  
29          (f) The requirements of this section shall not apply to  
30 employees of public and private schools, intermediate units and

1 area vocational-technical schools who meet all the following  
2 requirements:

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

4 (2) They are employed for periods of ninety (90) days or  
5 less.

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

8 Once employment of a person who meets these conditions extends  
9 beyond ninety (90) days, all requirements of this section shall  
10 take effect.

11 [(g) An administrator, or other person responsible for  
12 employment decisions in a school or other institution under this  
13 section who wilfully fails to comply with the provisions of this  
14 section commits a violation of this act and shall be subject to  
15 civil penalty as provided in this section.

16 (1) The department shall have jurisdiction to determine  
17 violators of this section and may, following a hearing, assess a  
18 civil penalty not to exceed two thousand five hundred dollars  
19 (\$2,500).

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

21 (g.1) An administrator or other person responsible for  
22 employment decisions in a public or private school, intermediate  
23 unit or area vocational-technical school who is required to and  
24 wilfully fails to comply with the provisions of this section  
25 commits a violation of this act and shall be guilty of a  
26 misdemeanor, and on conviction thereof, shall be sentenced to  
27 pay a fine of not more than two thousand five hundred dollars  
28 (\$2,500), or be sentenced to the county jail not less than  
29 thirty (30) days or more than one year, or both, at the  
30 discretion of the court. Any person so convicted shall

1 thereafter be ineligible to be engaged as a teacher or to hold  
2 any office or appointment provided for by the provisions of this  
3 act.

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

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

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

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

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

29 (4) if the information obtained pursuant to subsection [(b)  
30 or] (c) reveals that the applicant is disqualified from

1 employment pursuant to subsection (e), the applicant shall be  
2 suspended and subject to termination proceedings as provided for  
3 by law; and

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

7 (j) Within one year of the effective date of this  
8 subsection, administrators of public and private schools,  
9 intermediate units and area vocational-technical schools shall  
10 require current employees to submit a set of fingerprints which  
11 may be submitted to the Federal Bureau of Investigation for  
12 Federal criminal history record information pursuant to the  
13 Federal Bureau of Investigation appropriation of Title II of  
14 Public Law 92-544, 86 Stat. 1115. Administrators shall forward  
15 the set of fingerprints for the Federal criminal history record  
16 to the Department of Education. The Department of Education  
17 shall be the intermediary for the purposes of this section. The  
18 Department of Education shall return the Federal criminal  
19 history record to the administrator. Administrators shall  
20 maintain the required information.

21 (k) For the purposes of this section, "current employees"  
22 means employees of public and private schools, intermediate units  
23 and area vocational-technical schools, including independent  
24 contractors and their employees, on the effective date of this  
25 subsection. The term shall not include employees and independent  
26 contractors and their employees who have no direct contact with  
27 children.

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