

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 55 Session of
2009

INTRODUCED BY PICCOLA, BROWNE, TOMLINSON, EICHELBERGER, PIPPY,
ORIE, RAFFERTY, WAUGH, WONDERLING AND BRUBAKER,
JANUARY 20, 2009

SENATOR PICCOLA, EDUCATION, AS AMENDED, MARCH 24, 2009

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) ~~and~~, (f) AND (H) of the act of ←
11 March 10, 1949 (P.L.30, No.14), known as the Public School Code
12 of 1949, amended December 19, 1990 (P.L.1362, No.211) and
13 December 23, 2003 (P.L.304, No.48), are amended and the section
14 is 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
20 information indicates the applicant has been convicted[, within

1 five (5) years immediately preceding the date of the report,] of
2 any of the following offenses:

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

5 Chapter 25 (relating to criminal homicide).

6 Section 2702 (relating to aggravated assault).

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

8 Section 2709.1 (relating to stalking).

9 Section 2901 (relating to kidnapping).

10 Section 2902 (relating to unlawful restraint).

11 Section 2910 (relating to luring a child into a motor vehicle
12 OR STRUCTURE). ←

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 3124.2 (RELATING TO INSTITUTIONAL SEXUAL ASSAULT). ←

19 Section 3125 (relating to aggravated indecent assault).

20 Section 3126 (relating to indecent assault).

21 Section 3127 (relating to indecent exposure).

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

23 Section 4302 (relating to incest).

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

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

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

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

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

Section ~~6301~~6301(A.1) (relating to corruption of minors). ←

Section 6312 (relating to sexual abuse of children).

Section 6318 (relating to unlawful contact with minor).

SECTION 6319 (RELATING TO SOLICITATION OF MINORS TO TRAFFIC
DRUGS). ←

Section 6320 (relating to sexual exploitation of children).

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

(3) An [out-of-State or Federal] offense similar in nature ←
to those crimes listed in clauses (1) and (2) UNDER THE LAWS OF ←
THE UNITED STATES OR ONE OF ITS TERRITORIES OR POSSESSIONS,
ANOTHER STATE, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF
PUERTO RICO OR A FOREIGN NATION, OR UNDER A FORMER LAW OF THIS
COMMONWEALTH.

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

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

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

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

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

(f.1) ~~Where the report of criminal history record~~ ←
information indicates the applicant has not been convicted of a
felony offense enumerated in subsection (e) but has been

~~convicted of a misdemeanor of the first or second degree, the
applicant shall only be eligible for prospective employment if a
period of ten (10) years has elapsed from the date of expiration
of the sentence for the offense.~~ (1) WHERE 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 IN 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) WHERE 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) WHERE 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

1 INFORMATION REQUIRED HEREIN AS A CONDITION OF CONTINUED
2 EMPLOYMENT.] ANY PERSON WHO HAS ONCE OBTAINED THE INFORMATION
3 REQUIRED UNDER THIS SECTION MAY TRANSFER TO ANOTHER SCHOOL IN
4 THE SAME DISTRICT OR ESTABLISHED AND SUPERVISED BY THE SAME
5 ORGANIZATION AND SHALL NOT BE REQUIRED TO OBTAIN ADDITIONAL
6 REPORTS BEFORE MAKING SUCH TRANSFER.

7 * * *

8 ~~(j) An administrator shall have the authority to require an~~ ←
9 ~~employee to submit a current report of criminal history record~~
10 ~~information pursuant to 18 Pa.C.S. Ch. 91 and Federal criminal~~
11 ~~history record information when the administrator has reason to~~
12 ~~believe the employee has a conviction for a criminal offense.~~

13 ~~(k) School employees shall report convictions for criminal~~
14 ~~offenses occurring in this Commonwealth and in Federal or other~~
15 ~~state jurisdictions immediately to the administrator. An employee~~
16 ~~who wilfully fails to disclose a conviction for an offense~~
17 ~~enumerated in subsection (e) (1) shall be terminated from~~
18 ~~employment. An employee who wilfully fails to disclose a~~
19 ~~conviction for a felony or misdemeanor other than those~~
20 ~~enumerated in subsection (e) (1) commits a violation of this~~
21 ~~section and shall be subject to a civil penalty not to exceed~~
22 ~~two thousand five hundred dollars (\$2,500).~~ (1) EMPLOYES OF A ←

23 ~~PUBLIC AND PRIVATE SCHOOL, INTERMEDIATE UNIT OR AREA VOCATIONAL-~~
24 ~~TECHNICAL SCHOOL SHALL NOTIFY, VERBALLY AND IN WRITING, THE~~
25 ~~CHIEF SCHOOL ADMINISTRATOR OR DESIGNEE OF ANY ARREST OR ANY~~
26 ~~CONVICTION FOR AN OFFENSE ENUMERATED IN SUBSECTION (E). EMPLOYES~~
27 ~~OF A PUBLIC AND PRIVATE SCHOOL, INTERMEDIATE UNIT OR AREA~~
28 ~~VOCATIONAL-TECHNICAL SCHOOL SHALL NOTIFY, VERBALLY AND IN~~
29 ~~WRITING, THE CHIEF SCHOOL ADMINISTRATOR OR DESIGNEE OF ANY~~
30 ~~ARREST OR ANY CONVICTION FOR ANY FELONY OR MISDEMEANOR OFFENSE~~

1 OCCURRING IN THIS COMMONWEALTH, UNDER THE LAWS OF THE UNITED
2 STATES OR ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE,
3 THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A
4 FOREIGN NATION, OR UNDER A FORMER LAW OF THIS COMMONWEALTH,
5 WHERE THE ARREST OR CONVICTION OCCURRED WITHIN TEN YEARS PRIOR
6 TO THE EFFECTIVE DATE OF THIS SUBSECTION. WHERE THE ARREST OR
7 CONVICTION OCCURS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION,
8 THE EMPLOYE SHALL PROVIDE NOTICE NO LATER THAN SEVENTY-TWO (72)
9 HOURS AFTER AN ARREST OR CONVICTION.

10 (2) WHERE A CHIEF SCHOOL ADMINISTRATOR OR DESIGNEE HAS A
11 REASONABLE BELIEF THAT AN EMPLOYE WAS ARRESTED OR HAS A
12 CONVICTION FOR AN OFFENSE REQUIRED TO BE REPORTED UNDER CLAUSE
13 (1) AND THE EMPLOYE HAS NOT NOTIFIED THE CHIEF SCHOOL
14 ADMINISTRATOR OR DESIGNEE AS REQUIRED IN CLAUSE (1), THE CHIEF
15 SCHOOL ADMINISTRATOR OR DESIGNEE SHALL HAVE THE AUTHORITY TO
16 IMMEDIATELY REQUIRE THE EMPLOYE TO SUBMIT TO THE CHIEF SCHOOL
17 ADMINISTRATOR OR DESIGNEE A CURRENT REPORT OF CRIMINAL HISTORY
18 RECORD INFORMATION AS REQUIRED IN SUBSECTIONS (A) (7), (B) AND
19 (C). THE COST OF THE CRIMINAL BACKGROUND CHECK SHALL BE BORNE BY
20 THE EMPLOYING SCHOOL ENTITY.

21 (3) AN EMPLOYE WHO WILLFULLY FAILS TO DISCLOSE A CONVICTION
22 FOR AN OFFENSE ENUMERATED IN SUBSECTION (E) (1) SHALL BE SUBJECT
23 TO DISCIPLINE UP TO AND INCLUDING TERMINATION OR DENIAL OF
24 EMPLOYMENT. AN EMPLOYE WHO WILLFULLY FAILS TO DISCLOSE A
25 CONVICTION OF ANY OTHER OFFENSE REQUIRED TO BE REPORTED BY THIS
26 SECTION MAY BE SUBJECT TO DISCIPLINE.

27 Section 2. This act shall take effect in 6090 days.

