

TO PROVIDE FOR CERTAIN ACCESS TO NATIONAL CRIME INFORMATION
DATABASES BY SCHOOLS AND EDUCATIONAL AGENCIES FOR EMPLOY-
MENT PURPOSES, WITH RESPECT TO INDIVIDUALS WHO WORK WITH
CHILDREN

JUNE 12, 2006.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 4894]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4894) to provide for certain access to national crime information databases by schools and educational agencies for employment purposes, with respect to individuals who work with children, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ACCESS TO NATIONAL CRIME INFORMATION DATABASES BY SCHOOLS AND EDUCATIONAL AGENCIES FOR CERTAIN PURPOSES.

(a) **IN GENERAL.**—The Attorney General of the United States shall, upon request of the chief executive officer of a State, conduct fingerprint-based checks of the national crime information databases (as defined in section 534(f)(3)(A) of title 28, United States Code, as redesignated under subsection (e)), pursuant to a request submitted by an entity of the State, or unit of local government, which is designated to conduct background checks on individuals employed by, under consideration for employment by, or volunteering for, a private or public elementary school, private or public secondary school, local educational agency, or State educational agency in that State in a position in which the individual would work with or around children. Where possible, the check shall include a fingerprint-based check of State criminal history databases. The Attorney General and the States may charge any applicable fees for these checks.

(b) **PROTECTION OF INFORMATION.**—An individual having information derived as a result of a check under subsection (a) may release that information only to an appropriate officer of a private elementary school, private secondary school, local educational agency, or State educational agency, or to any person authorized by law to receive that information.

(c) **CRIMINAL PENALTIES.**—An individual who knowingly exceeds the authority in subsection (a), or knowingly releases information in violation of subsection (b), shall

be imprisoned not more than 10 years or fined under title 18, United States Code, or both.

(d) DEFINITIONS.—In this section, the terms “elementary school”, “local educational agency”, “secondary school”, and “State educational agency”, have the meanings given to those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(e) TECHNICAL CORRECTION.—Section 534 of title 28, United States Code, as amended by section 905(a) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. Law 109–162), is further amended by redesignating the second subsection (e) as subsection (f).

PURPOSE AND SUMMARY

H.R. 4894 directs the Attorney General to conduct fingerprint-based background checks using the national crime information databases at the request of schools or educational agencies for employees, prospective employees, and volunteers who interact with children.

BACKGROUND AND NEED FOR THE LEGISLATION

School teachers and staff are entrusted with our nation’s most precious resource, our children. Setting the highest standard for the quality of teachers and staff who interact with our children in our nation’s schools is of the utmost priority. When parents send their children off to school, they want to be confident that the school’s teachers and staff will protect as well as educate them. Parents should be able to trust that schools and school districts are doing everything necessary to ensure the hiring of the highest quality teachers for their children as they are a critical component of a child’s development. Most teachers uphold the highest standards of conduct and deserve the trust they have earned in educating our children. Unfortunately, there have been an alarming number of reports of sexual abuse of students by schoolteachers. A more disturbing trend is that in some instances these teachers have a history of sexual abuse.

Despite improvements in hiring practices of prospective teachers, including widespread use of background checks, people with criminal histories continue to evade these traditional safeguards. Currently, all States require some form of an employment background check for school employees. However, the type of background check varies from State to State or even among school districts. Some States require only a State police check while others require both a State and an FBI check. These disparities also extend to standards pertaining to recurring background checks of teachers and school employees.

The type and number of employees screened varies along with the recurrence of background checks.

In 1998, Congress adopted the National Crime Prevention and Privacy Compact Act establishing an infrastructure by which States can exchange criminal records for non-criminal justice purposes such as background checks of school employees.¹ However, to date, only 25 States and the FBI have ratified the Compact.

The FBI’s Integrated Automated Fingerprint Identification System (IAFIS) is a national fingerprint and criminal history system. The Interstate Identification Index (III) segment of IAFIS is the

¹ Pub. L. No. 105–251.

national system designed to provide automated criminal history information to participating States. Forty States currently participate in the III program.

Two flaws persist with current background check systems. First, not all data contained in State criminal records are available under these systems and second, the current process is cumbersome and does not provide a timely response. Use of the current systems is particularly onerous in fast-growing school districts that are under tremendous pressure to quickly fill additional teaching positions. H.R. 4894 provides States direct access to Federal databases for background checks of current and prospective school employees and volunteers, thereby providing for a more exhaustive and effective search.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 4894.

COMMITTEE CONSIDERATION

On May 25, 2006, the Committee met in open session and ordered favorably reported the bill H.R. 4894 with an amendment by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee's consideration of H.R. 4894.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(I) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(I) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4894, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 12, 2006.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4894, a bill to provide for certain access to national crime information databases by schools and educational agencies for employment purposes, with respect to individuals who work with children.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 4894—A bill to provide for certain access to national crime information databases by schools and educational agencies for employment purposes, with respect to individuals who work with children

CBO estimates that implementing H.R. 4894 would result in no significant net cost to the federal government. The bill could affect direct spending and receipts, but we estimate that any effects would be insignificant. H.R. 4894 contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 4894 would permit states to request that the Attorney General conduct fingerprint-based background checks using national crime databases for individuals employed by, under consideration for employment by, or volunteering for schools or educational agencies. The Federal Bureau of Investigation (FBI) would collect a fee of \$24 to carry out each background check. These fees would be classified as offsetting collections and spent from the FBI's salaries and expenses account, mostly during the year in which they are collected. Thus, the net impact on that agency's spending would not be significant.

H.R. 4894 would establish criminal fines for the improper release of information gathered during background checks conducted under the bill's provisions. CBO estimates that any additional collections of fines would not be significant because of the relatively small number of additional cases likely to be affected. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and subsequently spent without further appropriation.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4894 is intended to improve the safety of our Nation's schools and ensure the hiring

of qualified teachers and staff by providing schools with prompt, accurate criminal background information of current and prospective employees.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in art. I, § 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following discussion describes the bill as reported by the Committee.

Section 1. Access to national crime information databases by schools and educational agencies for certain purposes

This section authorizes the Attorney General to provide fingerprint-based background checks to elementary and secondary schools, local educational agencies, and State educational agencies to conduct background checks for private and public teachers, school employees, prospective employees, and volunteers who work with or around children.

CHANGES IN EXISTING LAW BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 534 OF TITLE 28, UNITED STATES CODE

§ 534. Acquisition, preservation, and exchange of identification records and information; appointment of officials

(a) * * *

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[(e)] *(f)(1)* Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to civil or criminal courts for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit access to such records for any other purpose.

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