

111TH CONGRESS
2D SESSION

H. R. 6547

To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2010

Mr. GEORGE MILLER of California (for himself and Mrs. McCARTHY of New York) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited at the “Protecting Students
5 from Sexual and Violent Predators Act”.

6 **SEC. 2. BACKGROUND CHECKS.**

7 Subpart 2 of part E of title IX of the Elementary
8 and Secondary Education Act of 1965 (20 U.S.C. 7901
9 et seq.) is amended by adding at the end the following:

1 **“SEC. 9537. BACKGROUND CHECKS.**

2 “(a) BACKGROUND CHECKS.—Each State that re-
3 ceives funds under this Act shall have in effect policies
4 and procedures that—

5 “(1) require that criminal background checks
6 be conducted for school employees that include—

7 “(A) a search of the State criminal reg-
8 istry or repository in the State in which the
9 school employee resides and each State in which
10 such school employee previously resided;

11 “(B) a search of State-based child abuse
12 and neglect registries and databases in the
13 State in which the school employee resides and
14 each State in which such school employee pre-
15 viously resided;

16 “(C) a search of the National Crime Infor-
17 mation Center of the Department of Justice;

18 “(D) a Federal Bureau of Investigation
19 fingerprint check using the Integrated Auto-
20 mated Fingerprint Identification System; and

21 “(E) a search of the National Sex Of-
22 fender Registry established under section 19 of
23 the Adam Walsh Child Protection and Safety
24 Act of 2006 (42 U.S.C. 16919);

1 “(2) prohibit the employment of school employ-
2 ees for a position as a school employee if such indi-
3 vidual—

4 “(A) refuses to consent to the criminal
5 background check described in paragraph (1);

6 “(B) makes a false statement in connec-
7 tion with such criminal background check;

8 “(C) has been convicted of a felony con-
9 sisting of—

10 “(i) homicide;

11 “(ii) child abuse or neglect;

12 “(iii) a crime against children, includ-
13 ing child pornography;

14 “(iv) spousal abuse;

15 “(v) a crime involving rape or sexual
16 assault;

17 “(vi) kidnapping;

18 “(vii) arson; or

19 “(viii) physical assault, battery, or a
20 drug-related offense, committed within the
21 past 5 years; or

22 “(D) has been convicted of any other crime
23 that is a violent or sexual crime against a
24 minor;

1 “(3) require that a local educational agency or
2 State educational agency that receives information
3 from a criminal background check conducted under
4 this section that an individual who has applied for
5 employment with such agency as a school employee
6 is a sexual predator report to local law enforcement
7 that such individual has so applied;

8 “(4) require that the criminal background
9 checks described in paragraph (1) be periodically re-
10 peated; and

11 “(5) provide for a timely process by which a
12 school employee may appeal the results of a criminal
13 background check conducted under this section to
14 challenge the accuracy or completeness of the infor-
15 mation produced by such background check and seek
16 appropriate relief for any final employment decision
17 based on materially inaccurate or incomplete infor-
18 mation produced by such background check, but
19 that does not permit the school employee to be em-
20 ployed as a school employee during such process.

21 “(b) DEFINITIONS.—In this section:

22 “(1) SCHOOL EMPLOYEE.—The term ‘school
23 employee’ means—

24 “(A) an employee of, or a person seeking
25 employment with, a local educational agency or

1 State educational agency, and who has a job
2 duty that results in exposure to students; or

3 “(B) an employee of, or a person seeking
4 employment with, a for-profit or nonprofit enti-
5 ty, or local public agency, that has a contract
6 or agreement to provide services with a school,
7 local educational agency, or State educational
8 agency, and whose job duty—

9 “(i) is to provide such services; and

10 “(ii) results in exposure to students.

11 “(2) SEXUAL PREDATOR.—The term ‘sexual
12 predator’ means a person 18 years of age or older
13 who has been convicted of, or pled guilty to, a sexual
14 offense against a minor.”.

15 **SEC. 3. CONFORMING AMENDMENT.**

16 Section 2 of the Elementary and Secondary Edu-
17 cation Act of 1965 is amended by adding after the item
18 relating to section 9536 the following:

“Sec. 9537. Background checks.”.

