

113TH CONGRESS  
1ST SESSION

# S. 111

To require all public school employees and those employed in connection with a public school to receive FBI background checks prior to being hired, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 3), 2013

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To require all public school employees and those employed in connection with a public school to receive FBI background checks prior to being hired, and for other purposes.

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 as the “Safety for Our School-  
5 children Act of 2013”.

1 **SEC. 2. BACKGROUND CHECKS FOR PUBLIC SCHOOL EM-**  
 2 **PLOYEES.**

3 (a) IN GENERAL.—Title IV of the Elementary and  
 4 Secondary Education Act of 1965 (20 U.S.C. 7101 et  
 5 seq.) is amended by adding at the end the following:

6 **“PART D—BACKGROUND CHECKS FOR PUBLIC**  
 7 **SCHOOL EMPLOYEES**

8 **“SEC. 4401. DEFINITIONS.**

9 “(a) CRIME OF VIOLENCE.—The term ‘crime of vio-  
 10 lence’ has the meaning given the term in section 924(e)(3)  
 11 of title 18, United States Code.

12 “(b) DRUNK DRIVING.—The term ‘drunk driving’  
 13 means driving while intoxicated or driving under the influ-  
 14 ence of alcohol.

15 “(c) FBI BACKGROUND CHECK.—The term ‘FBI  
 16 background check’ means a criminal history background  
 17 check as described in section 231 of the Crime Control  
 18 Act of 1990 (42 U.S.C. 13041).

19 “(d) SCHOOL EMPLOYEE.—The term ‘school em-  
 20 ployee’ means—

21 “(1) an employee of a local educational agency  
 22 or State educational agency who works in a public  
 23 school or has a job duty that results in exposure to  
 24 students, including administrators, teachers, sub-  
 25 stitute teachers, custodians, cafeteria workers, and  
 26 school bus drivers; and

1           “(2) an employee of a company, or a subsidiary  
2 of a company, that has a contract with a local edu-  
3 cational agency or State educational agency who  
4 works in a public school or has a job duty that re-  
5 sults in exposure to students.

6           “(e) **SERIOUS MOVING VIOLATION.**—The term ‘seri-  
7 ous moving violation’ means a driving violation that is a  
8 felony, as determined by State law.

9           “(f) **SEXUAL PREDATOR.**—The term ‘sexual pred-  
10 ator’ means an individual 18 years of age or older who  
11 has been convicted of, or pled guilty to, a sexual offense  
12 against a minor.

13           **“SEC. 4402. BACKGROUND CHECKS FOR PUBLIC SCHOOL**  
14                                 **EMPLOYEES.**

15           “(a) **IN GENERAL.**—A local educational agency or  
16 State educational agency that receives Federal funds shall  
17 obtain an FBI background check on an individual prior  
18 to making an offer of employment as a school employee  
19 with such agency to such individual.

20           “(b) **PROHIBITION AGAINST EMPLOYMENT OF FEL-**  
21 **ONS OR VIOLENT CRIMINALS.**—A local educational agency  
22 or State educational agency that receives Federal funds  
23 may not make an offer of employment to an individual  
24 for a position as a school employee with such agency if

1 such individual has been convicted of a crime of violence  
2 or other felony.

3 “(c) REPORTING SEXUAL PREDATORS.—A local edu-  
4 cational agency or State educational agency that receives  
5 information from an FBI background check that an indi-  
6 vidual who has applied for employment with such agency  
7 as a school employee is a sexual predator shall report to  
8 local law enforcement that such individual has so applied.

9 “(d) TRANSPORTATION.—A local educational agency  
10 or State educational agency that receives Federal funds  
11 may not make an offer of employment to an individual  
12 for a position as a school bus driver if such individual has  
13 been convicted of, or pled guilty to, drunk driving or a  
14 serious moving violation.

15 **“SEC. 4403. LOSS OF FEDERAL FUNDS FOR FAILURE TO**  
16 **COMPLY.**

17 “(a) STATE EDUCATIONAL AGENCIES.—

18 “(1) IN GENERAL.—If a State educational  
19 agency fails to take an action required under this  
20 part or takes an action prohibited under this part  
21 for—

22 “(A) 6 months or less, the Secretary shall  
23 withhold from such agency 50 percent of the  
24 amount of funds such agency has allocated for

1 planning and administrative use under section  
2 2113(d); and

3 “(B) longer than 6 months but not longer  
4 than 12 months, the Secretary shall withhold  
5 from such agency 100 percent of the amount of  
6 funds such agency has allocated for planning  
7 and administrative use under section 2113(d).

8 “(2) LOSS OF TITLE II ADMINISTRATIVE  
9 FUNDS.—If a State educational agency fails to take  
10 an action required under this part or takes an action  
11 prohibited under this part for longer than 12  
12 months, the Secretary shall withhold from such  
13 agency the amount of funds such agency has allo-  
14 cated for planning and administrative use under title  
15 II.

16 “(3) PROHIBITION AGAINST REALLOCATION.—

17 “(A) IN GENERAL.—A State educational  
18 agency that fails to take an action under this  
19 part or takes an action prohibited under this  
20 part as described in paragraph (1) or (2) may  
21 not reallocate Federal funds provided for teach-  
22 er development under title II for planning and  
23 administrative use by the agency.

24 “(B) PENALTY.—The Secretary shall with-  
25 hold all Federal funds under title II to a State

1 educational agency if such agency reallocates  
 2 funds as prohibited under subparagraph (A)  
 3 until such agency restores the funds for teacher  
 4 development.

5 “(b) LOCAL EDUCATIONAL AGENCIES.—If a local  
 6 educational agency fails to take an action required under  
 7 this part or takes an action prohibited under this part,  
 8 the local educational agency shall not be eligible to receive  
 9 a subgrant or any additional funds under section 2121.”.

10 (b) CONFORMING AMENDMENTS.—The table of con-  
 11 tents in section 2 of the Elementary and Secondary Edu-  
 12 cation Act of 1965 is amended by inserting after the item  
 13 relating to section 4304 the following:

“PART D—BACKGROUND CHECKS FOR PUBLIC SCHOOL EMPLOYEES

“Sec. 4401. Definitions.

“Sec. 4402. Background checks for public school employees.

“Sec. 4403. Loss of Federal funds for failure to comply.”.

