

114TH CONGRESS
2D SESSION

H. R. 4666

To require State educational agencies that receive funding under the Elementary and Secondary Education Act of 1965 to have in effect policies and procedures on background checks for school employees.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2016

Mrs. BLACKBURN introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To require State educational agencies that receive funding under the Elementary and Secondary Education Act of 1965 to have in effect policies and procedures on 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 as the “Protecting Students
5 from Sexual and Violent Predators Act”.

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

7 (a) BACKGROUND CHECKS.—Not later than 2 years
8 after the date of enactment of this Act, each State edu-

1 cational agency, or local educational agency in the case
2 of a local educational agency designated under State law,
3 that receives funds under the Elementary and Secondary
4 Education Act of 1965 (20 U.S.C. 6301 et seq.) shall have
5 in effect policies and procedures that—

6 (1) require that a criminal background check be
7 conducted for each school employee that includes—

8 (A) a search of the State criminal registry
9 or repository of the State in which the school
10 employee resides;

11 (B) a search of State-based child abuse
12 and neglect registries and databases of the
13 State in which the school employee resides;

14 (C) a Federal Bureau of Investigation fin-
15 gerprint check using the Integrated Automated
16 Fingerprint Identification System; and

17 (D) a search of the National Sex Offender
18 Registry established under section 119 of the
19 Adam Walsh Child Protection and Safety Act of
20 2006 (42 U.S.C. 16919);

21 (2) prohibit the employment of a school em-
22 ployee as a school employee if such employee—

23 (A) refuses to consent to a criminal back-
24 ground check under paragraph (1);

1 (B) makes a false statement in connection
2 with such criminal background check;

3 (C) has been convicted of a felony con-
4 sisting of—

5 (i) murder;

6 (ii) child abuse or neglect;

7 (iii) a crime against children, includ-
8 ing child pornography;

9 (iv) spousal abuse;

10 (v) a crime involving rape or sexual
11 assault;

12 (vi) kidnapping;

13 (vii) arson; or

14 (viii) physical assault, battery, or a
15 drug-related offense, committed on or after
16 the date that is 5 years before the date of
17 such employee's criminal background check
18 under paragraph (1); or

19 (D) has been convicted of any other crime
20 that is a violent or sexual crime against a
21 minor;

22 (3) require that each criminal background
23 check conducted under paragraph (1) be periodically
24 repeated or updated in accordance with State law or

1 the policies of local educational agencies served by
2 the State educational agency;

3 (4) upon request, provide each school employee
4 who has had a criminal background check under
5 paragraph (1) with a copy of the results of the
6 criminal background check;

7 (5) provide for a timely process, by which a
8 school employee may appeal, but which does not per-
9 mit the employee to be employed as a school em-
10 ployee during such appeal, the results of a criminal
11 background check conducted under paragraph (1)
12 which prohibit the employee from being employed as
13 a school employee under paragraph (2) to—

14 (A) challenge the accuracy or completeness
15 of the information produced by such criminal
16 background check; and

17 (B) establish or reestablish eligibility to be
18 hired or reinstated as a school employee by
19 demonstrating that the information is materi-
20 ally inaccurate or incomplete, and has been cor-
21 rected;

22 (6) ensure that such policies and procedures are
23 published on the website of the State educational
24 agency and the website of each local educational
25 agency served by the State educational agency; and

1 (7) allow a local educational agency to share
2 the results of a school employee’s criminal back-
3 ground check recently conducted under paragraph
4 (1) with another local educational agency that is
5 considering such school employee for employment as
6 a school employee.

7 (b) FEES FOR BACKGROUND CHECKS.—

8 (1) CHARGING OF FEES.—The Attorney Gen-
9 eral, attorney general of a State, or other State law
10 enforcement official may charge reasonable fees for
11 conducting a criminal background check under sub-
12 section (a)(1), but such fees shall not exceed the ac-
13 tual costs for the processing and administration of
14 the criminal background check.

15 (2) ADMINISTRATIVE FUNDS.—A local edu-
16 cational agency or State educational agency may use
17 administrative funds received under the Elementary
18 and Secondary Education Act of 1965 (20 U.S.C.
19 6301 et seq.) to pay any reasonable fees charged for
20 conducting such criminal background check.

21 (c) DEFINITIONS.—In this Act:

22 (1) IN GENERAL.—The terms “elementary
23 school”, “secondary school”, “local educational agen-
24 cy”, “State”, and “State educational agency” have
25 the meanings given the terms in section 8101 of the

1 Elementary and Secondary Education Act of 1965
2 (20 U.S.C. 7801).

3 (2) SCHOOL EMPLOYEE.—The term “school em-
4 ployee” means—

5 (A) a person who—

6 (i) is an employee of, or is seeking
7 employment with, a local educational agen-
8 cy, or State educational agency, that re-
9 ceives Federal funds under the Elementary
10 and Secondary Education Act of 1965 (20
11 U.S.C. 6301 et seq.); and

12 (ii) as a result of such employment,
13 has (or will have) a job duty that results
14 in unsupervised access to elementary
15 school or secondary school students; or

16 (B)(i) any person, or an employee of any
17 person, who has a contract or agreement to
18 provide services with an elementary school, sec-
19 ondary school, local educational agency, or
20 State educational agency, that receives Federal
21 funds under the Elementary and Secondary
22 Education Act of 1965 (20 U.S.C. 6301 et
23 seq.); and

24 (ii) such person or employee, as a result of
25 such contract or agreement, has a job duty that

- 1 results in unsupervised access to elementary
- 2 school or secondary school students.

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