

114TH CONGRESS
1ST SESSION

S. 474

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 SENATE OF THE UNITED STATES

FEBRUARY 12, 2015

Mr. TOOMEY (for himself, Mr. MANCHIN, and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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 that receives funds under the Elementary
 2 and Secondary Education Act of 1965 (20 U.S.C. 6301
 3 et seq.) shall have in effect policies and procedures that—

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

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

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

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

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

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

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

23 (B) makes a false statement in connection
 24 with such criminal background check;

1 (C) has been convicted of a felony con-
2 sisting of—

3 (i) homicide;

4 (ii) child abuse or neglect;

5 (iii) a crime against children, includ-
6 ing child pornography;

7 (iv) spousal abuse;

8 (v) a crime involving rape or sexual
9 assault;

10 (vi) kidnapping;

11 (vii) arson; or

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

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

20 (3) require that each criminal background
21 check conducted under paragraph (1) be periodically
22 repeated or updated in accordance with State law or
23 the policies of local educational agencies served by
24 the State educational agency;

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

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

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

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

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

24 (7) allow a local educational agency to share
25 the results of a school employee's criminal back-

1 ground check recently conducted under paragraph
2 (1) with another local educational agency that is
3 considering such school employee for employment as
4 a school employee.

5 (b) TRANSFER PROHIBITION.—A local educational
6 agency or State educational agency that receives funds
7 under the Elementary and Secondary Education Act of
8 1965 (20 U.S.C. 6301 et seq.) may not knowingly transfer
9 or facilitate the transfer of any school employee if the
10 agency knows, or has substantive reason to believe, that
11 such employee engaged in sexual misconduct with an ele-
12 mentary school or secondary school student.

13 (c) FEES FOR BACKGROUND CHECKS.—

14 (1) CHARGING OF FEES.—The Attorney Gen-
15 eral, attorney general of a State, or other State law
16 enforcement official may charge reasonable fees for
17 conducting a criminal background check under sub-
18 section (a)(1).

19 (2) ADMINISTRATIVE FUNDS.—A local edu-
20 cational agency or State educational agency may use
21 administrative funds received under the Elementary
22 and Secondary Education Act of 1965 (20 U.S.C.
23 6301 et seq.) to pay any reasonable fees charged for
24 conducting such criminal background check.

25 (d) DEFINITIONS.—In this Act:

1 (1) IN GENERAL.—The terms “elementary
2 school”, “secondary school”, “local educational agen-
3 cy”, “State”, and “State educational agency” have
4 the meanings given the terms in section 9101 of the
5 Elementary and Secondary Education Act of 1965
6 (20 U.S.C. 7801).

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

9 (A) a person who—

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

16 (ii) as a result of such employment,
17 has (or will have) a job duty that results
18 in unsupervised access to elementary
19 school or secondary school students; or

20 (B)(i) any person, or an employee of any
21 person, who has a contract or agreement to
22 provide services with an elementary school, sec-
23 ondary school, local educational agency, or
24 State educational agency, that receives Federal
25 funds under the Elementary and Secondary

1 Education Act of 1965 (20 U.S.C. 6301 et
2 seq.); and

3 (ii) such person or employee, as a result of
4 such contract or agreement, has a job duty that
5 results in unsupervised access to elementary
6 school or secondary school students.

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