

**Suspend the Rules and Pass the Bill, H.R. 2083, With Amendments**

**(The amendments strike all after the enacting clause and insert a new text and a new title)**

113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2083

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2013

Mr. GEORGE MILLER of California (for himself, Ms. WILSON of Florida, Mr. RANGEL, Ms. SLAUGHTER, and Mrs. MCCARTHY of New York) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## 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 as the “Protecting Students  
5 from Sexual and Violent Predators Act”.

1 **SEC. 2. BACKGROUND CHECKS.**

2 (a) BACKGROUND CHECKS.—Not later than 2 years  
3 after the date of enactment of this Act, each State edu-  
4 cational agency that receives funds under the Elementary  
5 and Secondary Education Act of 1965 (20 U.S.C. 6301  
6 et seq.) shall have in effect policies and procedures that—

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

9 (A) a search of the State criminal registry  
10 or repository of—

11 (i) the State in which the school em-  
12 ployee resides; and

13 (ii) each State in which the school em-  
14 ployee previously resided;

15 (B) a search of State-based child abuse  
16 and neglect registries and databases of—

17 (i) the State in which the school em-  
18 ployee resides; and

19 (ii) each State in which the school em-  
20 ployee previously resided;

21 (C) a Federal Bureau of Investigation fin-  
22 gerprint check using the Integrated Automated  
23 Fingerprint Identification System; and

24 (D) a search of the National Sex Offender  
25 Registry established under section 19 of the

1 Adam Walsh Child Protection and Safety Act of  
2 2006 (42 U.S.C. 16919);

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

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

7 (B) makes a false statement in connection  
8 with such criminal background check;

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

11 (i) homicide;

12 (ii) child abuse or neglect;

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

15 (iv) spousal abuse;

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

18 (vi) kidnapping;

19 (vii) arson; or

20 (viii) physical assault, battery, or a  
21 drug-related offense, committed on or after  
22 the date that is 5 years before the date of  
23 such employee's criminal background check  
24 under paragraph (1); or

1 (D) has been convicted of any other crime  
2 that is a violent or sexual crime against a  
3 minor;

4 (3) require that each criminal background  
5 check conducted under paragraph (1) be periodically  
6 repeated or updated in accordance with State law or  
7 the policies of local educational agencies served by  
8 the State educational agency;

9 (4) require that each school employee who has  
10 had a criminal background check under paragraph  
11 (1) be provided with a copy of the results of the  
12 criminal background check;

13 (5) provide for a timely process by which a  
14 school employee may appeal, but which does not per-  
15 mit the employee to be employed as a school em-  
16 ployee during such appeal, the results of a criminal  
17 background check conducted under paragraph (1)  
18 which prohibit the employee from being employed as  
19 a school employee under paragraph (2) to—

20 (A) challenge the accuracy or completeness  
21 of the information produced by such criminal  
22 background check; and

23 (B) establish or reestablish eligibility to be  
24 hired or reinstated as a school employee by  
25 demonstrating that the information is materi-

1           ally inaccurate or incomplete, and has been cor-  
2           rected;

3           (6) ensure that such policies and procedures are  
4           published on the website of the State educational  
5           agency and the website of each local educational  
6           agency served by the State educational agency; and

7           (7) allow a local educational agency to share  
8           the results of a school employee's criminal back-  
9           ground check recently conducted under paragraph  
10          (1) with another local educational agency that is  
11          considering such school employee for employment as  
12          a school employee.

13          (b) **TRANSFER PROHIBITION.**—A local educational  
14          agency or State educational agency that receives funds  
15          under the Elementary and Secondary Education Act of  
16          1965 (20 U.S.C. 6301 et seq.) may not knowingly transfer  
17          or facilitate the transfer of any school employee if the  
18          agency knows, or has probable cause to believe, that such  
19          employee engaged in sexual misconduct with an elemen-  
20          tary school or secondary school student.

21          (c) **FEES FOR BACKGROUND CHECKS.**—

22                  (1) **CHARGING OF FEES.**—The Attorney Gen-  
23                  eral, State Attorney General, or other State law en-  
24                  forcement official may charge reasonable fees for

1       conducting a criminal background check under sub-  
2       section (a)(1).

3           (2) ADMINISTRATIVE FUNDS.—A local edu-  
4       cational agency or State educational agency may use  
5       administrative funds received under the Elementary  
6       and Secondary Education Act of 1965 (20 U.S.C.  
7       6301 et seq.) to pay any reasonable fees charged for  
8       conducting such criminal background check.

9       (d) DEFINITIONS.—In this Act:

10           (1) IN GENERAL.—The terms “elementary  
11       school”, “secondary school”, “local educational agen-  
12       cy”, “State”, and “State educational agency” have  
13       the meanings given the terms in section 9101 of the  
14       Elementary and Secondary Education Act of 1965  
15       (20 U.S.C. 7801).

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

18           (A) an employee of, or a person seeking  
19       employment with, a local educational agency or  
20       State educational agency, and who, as a result  
21       of such employment, has (or will have) a job  
22       duty that results in unsupervised access to ele-  
23       mentary school or secondary school students; or

24           (B) any person, or an employee of any per-  
25       son, who has a contract or agreement to provide

1 services with an elementary school or secondary  
2 school, local educational agency, or State edu-  
3 cational agency, and such person or employee,  
4 as a result of such contract or agreement, has  
5 a job duty that results in unsupervised access  
6 to elementary school or secondary school stu-  
7 dents.

Amend the title so as to read: “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.”.