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)

113TH CONGRESS
1ST SESSION

H. R. 2083

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

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

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 from Sexual and Violent Predators Act”.

F:\VHLC\102213\102213.138.xml (56092015)
October 22, 2013 (4:29 p.m.)
SEC. 2. BACKGROUND CHECKS.

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

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

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

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

(C) a Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System; and

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

(2) prohibit the employment of a school employee as a school employee if such employee—

(A) refuses to consent to a criminal background check under paragraph (1);
(B) makes a false statement in connection with such criminal background check;

(C) has been convicted of a felony consisting of—

(i) homicide;

(ii) child abuse or neglect;

(iii) a crime against children, including child pornography;

(iv) spousal abuse;

(v) a crime involving rape or sexual assault;

(vi) kidnapping;

(vii) arson; or

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

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

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

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

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

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

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

(6) ensure that such policies and procedures are
published on the website of the State educational
agency and the website of each local educational
agency served by the State educational agency; and
(7) allow a local educational agency to share the results of a school employee’s criminal background check recently conducted under paragraph (1) with another local educational agency that is considering such school employee for employment as a school employee.

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

(c) FEES FOR BACKGROUND CHECKS.—

(1) CHARGING OF FEES.—The Attorney General, State Attorney General, or other State law enforcement official may charge reasonable fees for conducting a criminal background check under subsection (a)(1).

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

(d) DEFINITIONS.—In this Act:

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

(2) SCHOOL EMPLOYEE.—The term “school employee” means—

(A) an employee of, or a person seeking employment with, a local educational agency or State educational agency, and who, as a result of such employment, has (or will have) a job duty that results in unsupervised access to elementary school or secondary school students; or

(B) any person, or an employee of any person, who has a contract or agreement to provide services with an elementary school or secondary school, local educational agency, or State educational agency, and such person or employee, as a result of such contract or agreement, has a job duty that results in unsupervised access
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.”.