

No. 1990-211

AN ACT

HB 1810

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," requiring instruction relating to the cause and prevention of alcohol, chemical and tobacco abuse; providing for in-service training programs; requiring in-service training for teachers in the field of substance abuse; further providing for background checks of prospective employees; providing for termination of the employment of employees convicted of certain offenses and for compliance with certain Department of Public Welfare standards for child day-care centers; further providing for the continuation, operation and administration of the school for indigent orphans known as The Thaddeus Stevens State School of Technology in Lancaster, Pennsylvania, in which shall be offered two-year postsecondary vocational-technical education programs; providing for certain equipment grants; and making a repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 111 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, added July 1, 1985 (P.L.129, No.34), is amended to read:

Section 111. Background Checks of Prospective Employees; *Conviction of Employes of Certain Offenses*.—(a) This section shall apply to all prospective employes of public and private schools, intermediate units and area vocational-technical schools, including independent contractors and their employes, except those employes and independent contractors and their employes who have no direct contact with children.

(b) Administrators of public and private schools, intermediate units and area vocational-technical schools shall require prospective employes to submit with their employment application, pursuant to 18 Pa.C.S. Ch.91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. Such criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations) and shall be no more than one (1) year old. An applicant may submit a copy of the required information with the application for employment. Administrators shall maintain a copy of the required information and shall require each applicant to produce the original document prior to employment. Administrators shall require contractors to produce the original document for each prospective employe of such contractor prior to employment.

(c) Where the applicant is not a resident of the Commonwealth, administrators shall require the applicant to submit with the application for employ-

ment a report of Federal criminal history record information pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544, 86 Stat. 1115, and the department shall be the intermediary for the purposes of this section.

(d) The State Board of Education shall, in the manner provided by law, promulgate the regulations necessary to carry out this section. The regulations shall provide for the confidentiality of criminal history record information obtained pursuant to this act.

(e) No person subject to this act shall be employed in a public or private school, intermediate unit or area vocational-technical school where the report of criminal history record information indicates the applicant has been convicted, within five (5) years immediately preceding the date of the report, of **[one or more] any** of the following offenses **[under]**:

(1) *An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:*

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122 (relating to statutory rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4303 (relating to concealing death of child born out of wedlock).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

(2) *An offense designated as a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."*

(3) *An out-of-State or Federal offense similar in nature to those crimes listed in clauses (1) and (2).*

(f) The requirements of this section shall not apply to employes of public and private schools, intermediate units and area vocational-technical schools who meet all the following requirements:

(1) The employes are under twenty-one (21) years of age.

(2) They are employed for periods of ninety (90) days or less.

(3) They are a part of a job development and/or job training program funded in whole or in part by public or private sources.

Once employment of a person who meets these conditions extends beyond ninety (90) days, all requirements of this section shall take effect.

(g) An administrator, or other person responsible for employment decisions in a school or other institution under this section who wilfully fails to comply with the provisions of this section commits a violation of this act and shall be subject to civil penalty as provided in this section.

(1) The department shall have jurisdiction to determine violators of this section and may, following a hearing, assess a civil penalty not to exceed two thousand five hundred dollars (\$2,500).

(2) The civil penalty shall be payable to the Commonwealth.

(h) No person employed in a public or private school on the effective date of this section shall be required to obtain the information required herein as a condition of continued employment. Any person who has once obtained the information required under this section may transfer to another school in the same district or established and supervised by the same organization and shall not be required to obtain additional reports before making such transfer.

(i) Notwithstanding subsections (b) and (c), administrators may employ applicants on a provisional basis for a single period not to exceed thirty (30) days or, for out-of-State applicants, a period of ninety (90) days, except during a lawful strike proceeding under the provisions of the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employee Relations Act," provided that all of the following conditions are met:

(1) the applicant has applied for the information required under subsection (b) and, where applicable, under subsection (c) and the applicant provides a copy of the appropriate completed request forms to the administrator;

(2) the administrator has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (e);

(3) the applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (e);

(4) if the information obtained pursuant to subsection (b) or (c) reveals that the applicant is disqualified from employment pursuant to subsection (e), the applicant shall be suspended and subject to termination proceedings as provided for by law; and

(5) the administrator requires that the applicant not be permitted to work alone with children and that the applicant work in the immediate vicinity of a permanent employee.

Section 2. Section 527 of the act, added December 21, 1988 (P.L.1907, No.191), is amended to read:

Section 527. Drug Law Convictions.—(a) Any employe, professional or otherwise, of a school district, intermediate unit or area vocational-technical school who is convicted of delivery of a controlled substance or convicted of possession of a controlled substance with the intent to deliver, as prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," shall be terminated from his or her employment with the school entity. The governing body of the school entity shall enforce this section.

(b) Notwithstanding any other provisions of this act, any person subject to this section who, while employed in a public or private school, intermediate unit or area vocational-technical school, is convicted of any of the offenses enumerated in subsection (e) of section 111 of this act shall be immediately terminated from such employment.

Section 3. The act is amended by adding a section to read:

Section 776.1. Child Day-Care Centers in School Buildings.—For purposes of the issuance or renewal of any license, or for inspections, under section 1007 of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," child day-care centers operated for school-age children in public and private school buildings, buildings utilized by intermediate units or area vocational-technical school buildings which meet the physical site requirements provided for by the department shall be deemed to comply with any Department of Public Welfare child day-care service requirements or regulation concerning physical site requirements.

Section 4. Section 1547 of the act, added July 10, 1986 (P.L.1270, No.117), is amended to read:

Section 1547. Alcohol [and], Chemical and Tobacco Abuse Program.—

(a) Beginning with school year [1987-1988] 1991-1992 and each year thereafter, each public school student shall receive mandatory instruction in alcohol [and], chemical and tobacco abuse in every year in every grade from kindergarten through grade twelve. The instruction shall be integrated within the health course of study required in accordance with the State Board of Education regulations. In grades where health is offered, instruction may also be integrated into other appropriate courses of study. In grades where health is not offered, instruction shall be integrated into an appropriate curriculum requirement as listed in 22 Pa. Code § 5.4(b).

(1) This instruction:

(i) Shall be age appropriate.

(ii) Shall be sequential in method of study.

(iii) Shall discourage the use of alcohol, tobacco and controlled substances.

(iv) Shall communicate that the use of illicit drugs and the improper use of legally obtained drugs is wrong.

(2) School districts may utilize any appropriate public or private materials, personnel and other resources in developing and implementing this program of instruction. The Department of Health, Office of Drug and Alcohol Programs, shall make available information about appropriate curriculum materials upon request of a school district. In developing its alcohol [and], chemical and tobacco abuse instructional program, each school district shall consult with the single county authority designated by the Department of Health to provide drug and alcohol services in the school district's area.

(b) Each school district is hereby authorized to develop and offer programs relating to alcohol [and], chemical and tobacco abuse for parents of students enrolled in the public schools. If a school district does develop such programs, they shall be developed in consultation with the single county

authority designated by the Department of Health to provide drug and alcohol services in the school district's area. Such programs shall be offered at no cost to parents.

(c) The Secretary of Education, in consultation with the Secretary of Health, shall develop curriculum guidelines for instruction on alcohol, chemical and tobacco abuse and the laws governing their use and misuse. These guidelines shall encourage the inclusion of the following elements where appropriate in the instruction:

- (1) Detailed factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse.*
- (2) Detailed information regarding the availability of help and assistance for students and their families with alcohol, chemical and tobacco dependency problems.*
- (3) The goals of quality education as set forth in 22 Pa. Code § 5.13(f).*
- (4) Skills needed to evaluate advertisements for and media portrayals of alcohol, chemical and tobacco products.*
- (5) Detailed instruction on the need for and the role of lawful authority and law-abiding behavior, including interaction with members of the legal and justice community.*

(d) Beginning with the 1991-1992 school year and each year thereafter, the Secretary of Education, in consultation with the Secretary of Health, shall make available, to all school districts and intermediate units, in-service training programs based upon the instruction requirements established in subsection (a) and the curriculum guidelines established in subsection (c). The programs shall provide preparation for the teaching of mandated instruction in alcohol, chemical and tobacco abuse. The in-service programs may utilize the single county authorities designated by the Department of Health or such other institutions, agencies or persons as the Secretary of Education deems appropriate.

(e) Beginning with the 1991-1992 school year, each school district shall provide, as part of its in-service training, programs on alcohol, drugs, tobacco and dangerous controlled substances for all instructors whose teaching responsibilities include courses of study in which mandated instruction concerning alcohol, chemical and tobacco abuse is integrated. To comply with this requirement, a school district may utilize the programs made available by the Department of Education or use other alternative programs.

(f) The governing board of each intermediate unit in which a nonpublic school is located shall have the authority and the duty to loan to all students attending nonpublic schools within the intermediate unit all educational materials developed by either the Department of Education or the Department of Health, pursuant to this act for the instruction of public school students on the nature and effects of drugs, alcohol, tobacco and dangerous controlled substances. Local school boards need not expend funds which are not provided by either the Federal or State Government for drug education programs for the use or loan of these materials. A nonpublic school may utilize the in-service training programs made available by the Department of Education through the intermediate unit.

(g) *On or before June 1, 1991, the Secretary of Education shall recommend to the General Assembly a plan to require and assist each school district to establish and maintain a program to provide appropriate counseling and support services to students who experience problems related to the use of drugs, alcohol and dangerous controlled substances.*

(h) *On or before June 1, 1992, the Secretary of Education shall report to the General Assembly concerning the 1991-1992 school year activities of the Department of Education pertaining to the provisions of this section and concerning proposed 1992-1993 school year activities of the Department of Education pertaining to this section.*

(i) *The State Board of Education shall adopt rules and regulations necessary for the implementation of this section.*

Section 5. The act is amended by adding articles to read:

ARTICLE XIX-B.

THADDEUS STEVENS STATE SCHOOL OF TECHNOLOGY.

Section 1901-B. Short Title.—This article shall be known and may be cited as the “Thaddeus Stevens State School of Technology Act.”

Section 1902-B. Legislative Intent.—It is the intent of the General Assembly to provide for the continued existence, operation and administration of the Thaddeus Stevens State School of Technology.

Section 1903-B. Authorization to Continue School Operations.—The institution known as the Thaddeus Stevens State School of Technology, established and operated pursuant to the repealed provisions of the act of May 11, 1905 (P.L. 518, No. 429), is hereby authorized to continue operations and to receive any State funds or aid to which it may be entitled. All lawful actions and expenditures made by said institution between October 4, 1978, and the effective date of this act are hereby ratified and approved by the General Assembly.

Section 1904-B. School Purposes.—(a) The Thaddeus Stevens State School of Technology, located in Lancaster, Pennsylvania, shall continue to provide for the postsecondary education and training of indigent orphans.

(b) If a sufficient number of indigent orphans qualified for admission pursuant to school standards fail to apply, then the board of trustees of this corporation may admit first other deserving persons and, thereafter, orphans who may not be indigent, as the trustees in their best judgment may think proper.

(c) Those shall be deemed orphans who have lost either parent.

Section 1905-B. School Buildings.—The buildings shall be separated and shall embrace one or more schoolhouses, and one or more workshops, and an isolating hospital, all on such scale as will create an institution accommodating not less than two hundred persons, planned and located for easy and natural additions, as the needs of the institution may demand.

Section 1906-B. Board of Trustees.—The board of trustees shall consist of nine members, who shall serve without compensation and be appointed by the Governor by and with the advice and consent of the Senate. Said trustees shall be a body politic or corporate of the name of the Thaddeus Stevens

State School of Technology. They shall, under section 1311 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," have general direction and control of the property and management of the institution, develop broad institutional policy and make all necessary bylaws and regulations, not inconsistent with either the provisions of the Constitution, laws of the Commonwealth or rules and regulations of the State Board of Education. Of the trustees first appointed, three shall serve for one year, three for two years and three for three years, and, at the expiration of the respective periods, the vacancies shall be filled by the Governor, by appointment, for three years, as hereinbefore provided; and, should any vacancy occur by death or resignation or otherwise of any trustee, such vacancy shall be filled, by appointment as aforesaid, for the unexpired term of said trustee. The Secretary of Education shall be ex officio member of the board of trustees.

Section 1907-B. President of School.—The chief administrator and academic officer of the Thaddeus Stevens State School of Technology shall be the president whose duties shall be defined by the board of trustees and approved by the Secretary of Education.

Section 1908-B. Individuals Eligible for Admission.—(a) The board of trustees shall provide a program of education hereinafter defined for those persons admitted to the institution pursuant to section 1904-B. In considering such admission, no preference shall be shown on account of race, color, sex, marital status, ethnic group or religion.

(b) The course of instruction shall be the equivalent level of a two-year postsecondary institution which shall include vocational-technical education of no more than two years leading to the awarding of certificates or associate degrees, when approved by the Secretary of Education in accordance with rules and regulations established by the State Board for this level of education, for the purpose of fitting pupils to pursue effectively a recognized profitable employment.

Section 1909-B. Tuition Students.—In addition to State-supported resident students as defined in section 1904-B, the board of trustees may admit for study at the school part-time or full-time tuition students and shall fix and charge tuition rates as approved by the Secretary of Education for such students. All money collected as tuition by the institution shall be paid into the General Fund and credited to the appropriations made to the institution.

Section 1910-B. Rights of Faculty and Staff.—Except as otherwise provided by law, faculty employed in the Thaddeus Stevens State School of Technology shall continue to enjoy the same rights and privileges as provided on June 30, 1990. Nothing contained herein shall supersede or preempt any provisions of a collective bargaining agreement negotiated between the Commonwealth and an exclusive representative of the employes in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employee Relations Act." In no event shall the faculty be considered to be in the classified service, as defined by the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."

Section 1911-B. Visitation Privileges.—The Governor, Secretary of Education, judges of the several courts of the Commonwealth and Senators and Representatives of the General Assembly shall be *ex officio* visitors of said institution, and it shall be subject to inspection by the Department of Education, and an annual report of the conduct and management of the school shall be made by the President of the Thaddeus Stevens State School of Technology to the General Assembly and the Secretary of Education.

Section 1912-B. Prior References.—Whenever, in any law, reference is made to the Thaddeus Stevens Industrial and Reform School of Pennsylvania or the Thaddeus Stevens Trade School, it shall be deemed to refer to and include the Thaddeus Stevens State School of Technology.

Section 1913-B. Acquisition and Disposition of Property.—The trustees of Thaddeus Stevens State School of Technology shall have the authority to acquire and retain any property, real, personal or mixed, tangible or intangible, necessary or desirable for carrying out the purposes of the school, and to sell, transfer and dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein at any time acquired by it and to take, demand, receive and possess all moneys, real property and goods which shall be appropriated, given or granted to and for the use of the school and to apply the same according to the will of the donors; and, by gift, purchase or devise, to receive, possess, enjoy and retain forever any and all real and personal estate and funds, of whatsoever kind, nature or quality the same may be, in special trust and confidence that the same, and the profits thereof, shall be applied to and for the use and purpose of endowing the school, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the school or according to the terms of donation.

ARTICLE XXVI-E EQUIPMENT GRANTS.

Section 2601-E. Definitions.—When used in this article, the following words and phrases shall have the following meanings:

“Community colleges” shall mean institutions now or hereafter created pursuant to the act of August 24, 1963 (P.L.1132, No.484), known as the “Community College Act of 1963,” or Article XIX-A of this act.

“Department” shall mean the Department of Education of the Commonwealth.

“Educational equipment” shall mean tangible property used by institutions of higher education in support of instruction. The term shall not include equipment used in support of sectarian and denominational instruction or for any other sectarian and denominational purpose or activity.

“Eligible institution” shall mean an independent institution of higher education which is approved by the department for equipment grants pursuant to the provisions of this article. The term does not include an institution which is determined by the department to be a community college, a theological seminary or school of theology or a sectarian and denominational institution, nor does it include a State-owned or State-related institution.

“Equipment grant” shall mean an amount determined by dividing the funds appropriated pursuant to this article, less reasonable administrative expenses, by the total of all certified full-time equivalent students from all eligible institutions applying for grants.

“Full-time equivalent students” shall mean the enrollment in programs at eligible institutions expressed in terms of full-time students as determined by the Department of Education.

“Independent institution of higher education” shall mean an institution of higher education which is operated not-for-profit, located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in section 211 of the act of May 5, 1933 (P.L.289, No.105), known as the “Nonprofit Corporation Law,” and entitled to apply to itself the designation “college” or “university” as provided for by standards and qualifications prescribed by the State Board of Education pursuant to the act of May 7, 1937 (P.L.585, No.150), entitled, as amended, “An act prohibiting the use of the designation of ‘college’ by any institution not conforming to the standards of a college prescribed by the State Board of Education; and providing for injunctions, and penalties.”

“Pennsylvania based” shall mean educational equipment manufactured or assembled within this Commonwealth, or sold, leased or otherwise provided to an eligible institution by a vendor which has a place of business in this Commonwealth.

“State-owned institution” shall mean a member institution of the State System of Higher Education.

“State-related institutions” shall mean The Pennsylvania State University, the University of Pittsburgh, Temple University and Lincoln University and their branch campuses.

Section 2602-E. Certification of Recipients.—From the information it receives from colleges and universities the department shall certify the number of full-time equivalent students attending each eligible institution during the most recent year for which data is available.

Section 2603-E. Institutional Equipment Grants.—For the academic year beginning on or about September 1, 1990, the department shall allot a one-time equipment grant on behalf of each full-time equivalent student attending the eligible institution as certified pursuant to section 2602-E. The allotment shall be made to each eligible institution from the funds appropriated to the department pursuant to this article. Following an initial allocation and allotment, if any funds appropriated have not been and cannot be allocated to one or more institutions otherwise eligible for funds, the department shall reallocate these funds to the remaining eligible institutions so that all funds appropriated under this article have been allotted.

Section 2604-E. Use of Moneys.—The moneys appropriated shall be used only for, or in connection with, expenses incurred by the eligible institution to purchase, lease or otherwise acquire educational equipment which is Pennsylvania based. If the eligible institution purchases, leases or otherwise acquires educational equipment which is not Pennsylvania based, it must file with the department a statement of justification as to why Pennsylvania-based educational equipment was not obtained.

Section 2605-E. Forfeiture.—*Any eligible institution which refuses to submit such information for audit as required by this article or knowingly submits misrepresentations or false statements with the intention of fraudulently obtaining moneys from the department shall be denied status as an eligible institution under the provisions of this article.*

Section 2606-E. Satisfaction of Expenditure Requirements.—*The provisions of this article shall satisfy the requirements for expenditure of equipment grant funds contained in section 212 of the act of July 1, 1990 (P.L.1591, No.7A), known as the "General Appropriation Act of 1990."*

Section 2607-E. Expiration.—*This article shall expire on June 30, 1991.*

Section 6. The act of April 6, 1980 (P.L.82, No.28), known as The Thaddeus Stevens State School of Technology Act, is repealed.

Section 7. This act shall take effect as follows:

(1) The amendments to sections 111 and 527 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

APPROVED—The 19th day of December, A. D. 1990.

ROBERT P. CASEY