

No. 1985-34

## AN ACT

HB 1139

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 certain prospective employees of public and private schools, intermediate units and area vocational-technical schools to submit certain records with employment applications.

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

Section 1. The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding a section to read:

**Section 111. Background Checks of Prospective Employes.**—(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 employment 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 of the following offenses under 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).*

*(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.*

Section 2. This act shall take effect January 1, 1986.

APPROVED—The 1st day of July, A. D. 1985.

DICK THORNBURGH