

No. 2016-4

AN ACT

HB 158

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," in preliminary provisions, further providing for criminal history of employees and prospective employees and conviction of certain offenses; and, in terms and courses of study, providing for secretary declaration of emergencies.

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

Section 1. Section 111(b) and (c.1) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended or added July 9, 2008 (P.L.846, No.61), are amended and the section is amended by adding subsections to read:

Section 111. Criminal History of Employes and Prospective Employes; Conviction of Certain Offenses.—

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(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 report of criminal history record information shall be no more than **[one (1) year] five (5) years** 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. Administrators shall require contractors to produce a report of criminal history record information for each prospective employe of such contractor prior to employment. A copy of the report of criminal history record information from the Pennsylvania State Police shall be made available to the applicant in a manner prescribed by the Department of Education.

(c.1) Beginning April 1, 2007, administrators shall maintain on file with the application for employment a copy of the Federal criminal history record in a manner prescribed by the Department of Education. At a minimum, the Department of Education shall prescribe a method for applicants to submit a set of fingerprints to be transmitted to the Federal Bureau of Investigation for Federal criminal history record information pursuant to the applicable Federal law. The Federal criminal history record information report shall be no more than **[one (1) year] five (5) years** old. Administrators shall maintain a copy of the required information and shall require each applicant to secure a Federal criminal history record information report that may not be more than **[one (1) year] five (5) years** old at the time of employment. A copy of the Federal criminal history record information report shall be made

available to the applicant in a manner prescribed by the Department of Education.

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(c.3) In accordance with 23 Pa.C.S. § 6344.4 (relating to recertification), administrators shall require the persons subject to this section to obtain the reports described in subsections (b) and (c.1) and under 23 Pa.C.S. § 6344(b)(2) (relating to employees having contact with children; adoptive and foster parents) on a renewed basis every sixty (60) months. Any person subject to this section who has previously not been required to obtain the reports required by subsections (b) and (c.1) and under 23 Pa.C.S. § 6344(b)(2) on account of service prior to April 1, 2007, shall be required to obtain such reports no later than December 31, 2015. The administrator shall review the reports and determine if the reports disclose information that may require further action. The administrator shall maintain a copy of the required reports.

(c.4) To the extent permitted by 23 Pa.C.S. § 6344.3(f)(relating to continued employment or participation in program, activity or service), an administrator may accept the reports identified in 23 Pa.C.S. § 6344(b)(1) and (3) obtained for employment requirements pursuant to 23 Pa.C.S. § 6344 in satisfaction of the requirements of subsections (b) and (c.1), provided that the reports are not more than sixty (60) months old and the applicant provides the administrator with the report described in subsection (j)(1) indicating that the individual has not been disqualified from employment pursuant to subsection (e) or (f.1). The applicant shall also provide an attestation that the applicant has not been disqualified for employment under 23 Pa.C.S. § 6344(c)(1). The administrator shall review the reports and determine if the reports disclose information that may require further action and shall maintain a copy of the required reports.

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Section 2. The act is amended by adding a section to read:

Section 1505. Secretary Declaration of Emergencies.—(a) Beginning in the 2015-2016 school year and in each school year thereafter, the Secretary of Education may issue a weather-related, safety-related or health-related emergency declaration on a school entity, charter school entity, county or Statewide basis under which:

(1) A school entity may satisfy the one hundred eighty (180) instructional day per school year requirement in section 1501 by one or more of the following options:

(i) Approving, by majority vote of the governing board of the school entity, a school year with a minimum of nine hundred (900) hours of instruction at the elementary level and nine hundred ninety (990) hours of instruction at the secondary level in lieu of one hundred eighty (180) instructional days.

(ii) Approving, by majority vote of the governing board of the school entity, the scheduling of additional instructional days on Saturdays to complete one hundred eighty (180) instructional days or nine hundred (900) hours of instruction at the elementary level and nine hundred ninety (990) hours of instruction at the secondary level: Provided, however, that a school entity shall not schedule more than one Saturday per month as an

instructional day and shall not schedule tests or other examinations on a Saturday. Where a school entity chooses to schedule an instructional day on Saturday under the provisions of this subparagraph, the following shall apply:

(A) The school entity may schedule a regular instructional day on the following Monday.

(B) The school entity shall, upon the written request of a parent or guardian, excuse a student from school attendance if the student has the opportunity to receive a program of advanced instruction, to participate in academic or skills competition or to engage in leadership development activities. The request shall identify and describe the instruction, competition or leadership development activities and the dates and hours for which the absence is requested. The parent or guardian shall, following each such absence, furnish in writing to the school entity a statement attesting to the student's participation, including the dates and hours of such participation.

(C) The school entity shall, upon the written notification of a parent or guardian, excuse a student from school attendance to observe or participate in a religious activity or function. A student's absence from school pursuant to this clause shall be considered an instructional day and shall not be recorded as an absence on the student's attendance record or on the record of any group or class of which the student is a member. There shall be no penalty attached for any such absences pursuant to this clause.

(2) A charter school entity may satisfy the one hundred eighty (180) instructional day per school year requirement or nine hundred (900) hours of instruction at the elementary level or nine hundred ninety (990) hours of instruction at the secondary level per school year requirement in section 1715-A through compliance with paragraph (1)(ii); Provided, That for purposes of this paragraph, the term "school entity" as used in paragraph (1)(ii) shall include a charter school entity.

(b) A school entity or charter school entity shall notify the department, on a form to be developed by the department, of any decision to use the options provided for under subsection (a).

(c) No school entity or charter school entity shall receive less subsidy payments or reimbursements than it would otherwise be entitled to receive by the decision to use the options provided under subsection (a).

(d) Nothing in this section shall be construed to supersede or preempt any provisions of a collective bargaining agreement negotiated by a school entity or charter school entity 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 Employe Relations Act."

(e) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Charter school entity" shall mean a charter school, regional charter school or cyber charter school.

"Department" shall mean the Department of Education of the Commonwealth.

"School entity" shall mean a school district, area vocational-technical school or intermediate unit.

Section 3. The amendment or addition of section 111(b), (c.1), (c.3) and (c.4) of the act shall be retroactive to December 31, 2015.

Section 4. This act shall take effect as follows:

(1) The addition of section 1505 of the act shall take effect in 60 days.

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

APPROVED—The 16th day of February, A.D. 2016

TOM WOLF