

112TH CONGRESS  
1ST SESSION

# H. R. 3766

To amend title 18, United States Code, to provide penalties with respect to employers' conduct relating to persons engaging in sexual conduct with children, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 23, 2011

Mr. FITZPATRICK (for himself, Mr. MEEHAN, and Mr. MCKINLEY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 18, United States Code, to provide penalties with respect to employers' conduct relating to persons engaging in sexual conduct with children, and for other purposes.

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 “Jeremy Bell Act of  
5 2011”.

1 **SEC. 2. OFFENSE.**

2 (a) IN GENERAL.—Chapter 98 of title 18, United  
3 States Code, is amended by adding at the end the fol-  
4 lowing:

5 **“§ 1822. Transfers for employment of individuals en-**  
6 **gaging in child sex acts**

7 “(a) PROHIBITION ON THE INTERSTATE TRANSFER  
8 OF CHILD SEX OFFENDERS.—Whoever, being an em-  
9 ployer, directs, causes, persuades, induces, or entices the  
10 travel in interstate commerce of an employee in one State  
11 with the purpose or effect of facilitating the employment  
12 of such employee in another State, if the employer knows  
13 that such employee engaged in a sexual conduct with an  
14 individual who has not attained the age of 18 years, shall  
15 be fined under this title or imprisoned not more than 5  
16 years, or both.

17 “(b) DEFINITIONS.—As used in this section—

18 “(1) the term ‘sexual conduct’ means any sex-  
19 ual conduct, unless the employee was convicted of a  
20 crime for that conduct and has satisfied the terms  
21 and conditions imposed as a result of that convic-  
22 tion, if the conduct—

23 “(A) is a sexual act or sexual contact as  
24 those terms are defined in section 2246;

25 “(B) occurred during the course of employ-  
26 ment; and

1           “(C) would constitute a felony violation of  
2           the criminal law applicable where it took place;  
3           and

4           “(2) the term ‘State’ includes the District of  
5           Columbia and any other territory or possession of  
6           the United States.”.

7           (b) CLERICAL AMENDMENT.—The table of contents  
8           for chapter 98 of title 18, United States Code, is amended  
9           by adding after the item relating to section 1821 the fol-  
10          lowing new item:

          “1822. Transfers for employment of individuals engaging in child sex acts.”.

11       **SEC. 3. SCHOOLS REQUIRED TO CARRY OUT BACKGROUND**  
12                               **CHECKS ON ALL EMPLOYEES.**

13           The Elementary and Secondary Education Act of  
14           1965 is amended as follows:

15           (1) AMENDMENT TO ESEA.—Subpart 2 of part  
16           E of title IX is amended by adding at the end the  
17           following:

18       **“SEC. 9537. BACKGROUND CHECKS ON ALL EMPLOYEES.**

19           “A private or public elementary school, a private or  
20           public secondary school, a local educational agency, or  
21           State educational agency may receive funds under this Act  
22           for a fiscal year only if the school or agency has in effect  
23           a policy that ensures that every individual employed by  
24           the school or agency has undergone a fingerprint-based  
25           check of the national crime information databases (as de-

1 scribed in subsection (b) of section 153 of the Adam Walsh  
2 Child Protection and Safety Act of 2006 (42 U.S.C.  
3 16962)) and, where possible, a fingerprint-based check of  
4 State criminal history databases (as described in sub-  
5 section (c) of such section).”.

6 (2) TABLE OF CONTENTS.—The table of con-  
7 tents at the beginning of such Act is amended by  
8 adding after the item relating to section 9536 the  
9 following new item:

“9537. Background checks on all employees.”.

10 **SEC. 4. STATE LAW.**

11 (a) AMENDMENT TO ESEA.—The Elementary and  
12 Secondary Education Act of 1965 is amended by inserting  
13 after section 9537 (as added by section 3), the following:

14 **“SEC. 9538. STATE LAW.**

15 “(a) STATE LAW ON REPORTING INCIDENTS OF SEX-  
16 UAL CONDUCT INVOLVING A MINOR.—As a condition of  
17 receiving funds under this Act, a State shall have in effect  
18 and be enforcing a State law and State policy that, as  
19 determined by the Secretary, ensures the following:

20 “(1) Individuals employed at a school located in  
21 the State report to law enforcement officials any  
22 known or suspected incidents of sexual conduct in-  
23 volving a minor and an individual employed at the  
24 school or any other school in the State.

1           “(2) The State ensures that any individual who  
2 violates paragraph (1) by failing to report to law en-  
3 forcement officials any such incidents is fined or  
4 otherwise penalized.

5           “(3) The State makes available in an interstate  
6 clearinghouse to schools, local educational agencies,  
7 and State educational agencies, the identity of any  
8 individual—

9                   “(A) who was reported under paragraph  
10 (1) as being involved in an incident of sexual  
11 conduct with a minor; and

12                   “(B) whose employment at a school in the  
13 State was terminated as a result of the inci-  
14 dent.

15           “(4) The State creates safeguards to ensure  
16 that the information described in paragraph (3) is  
17 only made available to schools, local educational  
18 agencies, and State educational agencies, and not  
19 the general public.

20           “(b) REGULATIONS.—The Secretary shall prescribe  
21 regulations on—

22                   “(1) how a State shall carry out the require-  
23 ments of subsection (a); and

24                   “(2) how a State shall report to the schools in  
25 the State, the termination of the employment at a

1 school of an individual described in subsection  
2 (a)(3).

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) MINOR.—The term ‘minor’ means an indi-  
5 vidual who is under 18 years of age.

6 “(2) SCHOOL.—The term ‘school’ means an en-  
7 tity that—

8 “(A) is a public or private—

9 “(i) day or residential elementary  
10 school or secondary school; or

11 “(ii) early childhood, elementary  
12 school, or secondary school program that is  
13 under the jurisdiction of a school, local  
14 educational agency, educational service  
15 agency, or other educational institution or  
16 program; and

17 “(B) receives, or serves students who re-  
18 ceive, support in any form from any program  
19 supported, in whole or in part, with funds ap-  
20 propriated to the Department of Education.

21 “(3) SEXUAL CONDUCT.—The term ‘sexual con-  
22 duct’ has the meaning given the term in section  
23 1822 of title 18, United States Code.”.

1 (b) TABLE OF CONTENTS.—The table of contents at  
2 the beginning of such Act is amended by adding after the  
3 item relating to section 9537 the following new item:

“9538. State law.”.

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