

SECOND REGULAR SESSION

HOUSE BILL NO. 1786

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLY (45).

5296L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 162.068, RSMo, and to enact in lieu thereof one new section relating to child abuse and neglect.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 162.068, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 162.068, to read as follows:

162.068. 1. By July 1, 2012, every school district shall adopt a written policy on information that the district provides about former employees, both certificated and noncertificated, to other public schools. By July 1, 2014, every charter school shall adopt a written policy on information that the charter school provides about former employees, both certificated and noncertificated, to other public schools. The policy shall include who is permitted to respond to requests for information from potential employers and the information the district or charter school would provide when responding to such a request. The policy shall require that notice of this provision be provided to all current employees and to all potential employers who contact the school district or charter school regarding the possible employment of an employee.

2. Any school district or charter school that employs a person about whom the children's division conducts an investigation involving allegations of sexual [misconduct with a student] **abuse** and reaches a finding of substantiated shall immediately suspend the employment of such person, notwithstanding any other provision of law, but the district or charter school may return the person to his or her employment if the child abuse and neglect review board's finding that the allegation is substantiated is reversed by a court on appeal and becomes final. Nothing shall preclude a school district or charter school from otherwise lawfully terminating the employment

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 of any employee about whom there has been a finding of unsubstantiated resulting from an
19 investigation by the children's division involving allegations of sexual [misconduct with a
20 student] **abuse**.

21 3. Any employee who is permitted to respond to requests for information regarding
22 former employees under a policy adopted by his or her school district or charter school under
23 subsection 2 of this section and who communicates only the information which such policy
24 directs, and who acts in good faith and without malice shall be immune against any civil action
25 for damages brought by the former employee arising out of the communication of such
26 information. If any such action is brought, the employee may, at his or her option, request the
27 attorney general to defend him or her in such suit and the attorney general shall provide such
28 defense, except that if the attorney general represents the school district or the department of
29 elementary and secondary education in a pending licensing matter under section 168.071, the
30 attorney general shall not represent the school district employee.

31 4. Notwithstanding the provisions of subsection 2 of this section, if a district or charter
32 school that has employed any employee whose job involves contact with children receives
33 allegations of sexual [misconduct] **abuse** concerning the employee and as a result of such
34 allegations or as a result of such allegations being substantiated by the child abuse and neglect
35 review board dismisses the employee or allows the employee to resign in lieu of being fired and
36 fails to disclose the allegations of sexual [misconduct] **abuse** when furnishing a reference for the
37 former employee or responding to a potential employer's request for information regarding such
38 employee, the district or charter school shall be directly liable for damages to any student of a
39 subsequent employing district or charter school who is found by a court of competent jurisdiction
40 to be a victim of the former employee's sexual [misconduct] **abuse**, and the district or charter
41 school shall bear third-party liability to the employing district or charter school for any legal
42 liability, legal fees, costs, and expenses incurred by the employing district or charter school
43 caused by the failure to disclose such information to the employing district or charter school.

44 5. If a school district or charter school has previously employed a person about whom
45 the children's division has conducted an investigation involving allegations of sexual
46 [misconduct] **abuse** with a student and has reached a finding of substantiated and another public
47 school contacts the district or charter school for a reference for the former employee, the district
48 or charter school shall disclose the results of the children's division's investigation to the public
49 school.

50 6. Any school district or charter school employee, acting in good faith, who reports
51 alleged sexual [misconduct] **abuse** on the part of a teacher or other school employee shall not
52 be discharged or otherwise discriminated against in any fashion because of such reporting.

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