

FIRST REGULAR SESSION

HOUSE BILL NO. 139

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RICHEY.

0096H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 162.068, RSMo, and to enact in lieu thereof two new sections relating to statewide athletic associations.

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

Section A. Section 162.068, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 162.068 and 168.631, to read as follows:

162.068. 1. (1) **As used in this section, "screened volunteer" means any individual who assists a school by providing uncompensated service, who may periodically be left alone with students, who has successfully completed a criminal background check before being left alone with a student, and who is allowed to access student education records only when necessary to assist the district and while supervised by staff members. "Screened volunteer" includes, but is not limited to, individuals who regularly assist in the office or library, mentor or tutor students, coach or supervise a school-sponsored activity before or after school, or chaperone students on an overnight trip.**

(2) 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. **Beginning January 1, 2024, such written policy and the information provided under such policy shall include information about screened volunteers.**

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.

17 **(3)** The policy **described under this subsection** shall include who is permitted to
18 respond to requests for information from potential employers and the information the district
19 or charter school would provide when responding to such a request. The policy shall require
20 that notice of this provision be provided to all current employees **and screened volunteers**
21 and to all potential employers who contact the school district or charter school regarding the
22 possible employment of an employee **or the possible service of an individual as a screened**
23 **volunteer**.

24 ~~[(2)]~~ **(4)** The policy described under this subsection shall require the district or charter
25 school to disclose, to any public school that contacts such district or charter school about a
26 former employee **or screened volunteer**, information regarding any violation of the
27 published regulations of the board of education of the district or the governing body of the
28 charter school by the former employee **or screened volunteer** if such violation related to
29 sexual misconduct with a student and was determined to be an actual violation by the board of
30 the district or the governing body of the charter school after a contested case due process
31 hearing conducted pursuant to board policy.

32 2. Any school district or charter school that employs **or allows service as a screened**
33 **volunteer by** a person about whom the children's division conducts an investigation
34 involving allegations of sexual misconduct with a student and reaches a finding of
35 substantiated shall immediately suspend the employment **or volunteer service** of such
36 person, notwithstanding any other provision of law, but the district or charter school may
37 return the person to ~~[his or her]~~ **such person's** employment **or service as a screened**
38 **volunteer** if the child abuse and neglect review board's finding that the allegation is
39 substantiated is reversed by a court on appeal and becomes final. Nothing shall preclude a
40 school district or charter school from otherwise lawfully terminating the employment of any
41 employee **or volunteer service of a screened volunteer** about whom there has been a finding
42 of unsubstantiated resulting from an investigation by the children's division involving
43 allegations of sexual misconduct with a student.

44 3. Any employee who is permitted to respond to requests for information regarding
45 former employees **or screened volunteers** under a policy adopted by ~~[his or her]~~ **such**
46 **employee's** school district or charter school under this section and who communicates only
47 the information which such policy directs, and who acts in good faith and without malice
48 shall be immune against any civil action for damages brought by the former employee **or**
49 **screened volunteer** arising out of the communication of such information. If any such action
50 is brought, the employee may, at ~~[his or her]~~ **such employee's** option, request the attorney
51 general to defend ~~[him or her]~~ **such employee** in such suit and the attorney general shall
52 provide such defense, except that if the attorney general represents the school district or the

53 department of elementary and secondary education in a pending licensing matter under
54 section 168.071 the attorney general shall not represent the school district employee.

55 4. Notwithstanding the provisions of subsection 2 of this section, if a district or
56 charter school that has employed any employee **or allowed an individual to serve as a**
57 **screened volunteer** whose job **or volunteer service** involves contact with children receives
58 allegations of sexual misconduct, as provided in section 566.083, concerning the employee **or**
59 **screened volunteer** and, as a result of such allegations or as a result of such allegations being
60 substantiated by the child abuse and neglect review board, dismisses the employee **or**
61 **screened volunteer** or allows the employee to resign in lieu of being fired **or allows the**
62 **screened volunteer to discontinue volunteer service on such volunteer's own volition** and
63 fails to disclose the allegations of sexual misconduct when furnishing a reference for the
64 former employee **or screened volunteer** or responding to a potential employer's request for
65 information regarding such employee **or screened volunteer**, the district or charter school
66 shall be directly liable for damages to any student of a subsequent employing district or
67 charter school who is found by a court of competent jurisdiction to be a victim of the former
68 employee's **or screened volunteer's** sexual misconduct, and the district or charter school
69 shall bear third-party liability to the employing district or charter school for any legal liability,
70 legal fees, costs, and expenses incurred by the employing district or charter school caused by
71 the failure to disclose such information to the employing district or charter school.

72 5. If a school district or charter school has previously employed a person **or allowed**
73 **an individual to serve as a screened volunteer** about whom the children's division has
74 conducted an investigation involving allegations of sexual misconduct with a student and has
75 reached a finding of substantiated and another public school contacts the district or charter
76 school for a reference for the former employee **or screened volunteer**, the district or charter
77 school shall disclose the results of the children's division's investigation to the public school.

78 6. Any school district or charter school employee **or screened volunteer**, acting in
79 good faith, who reports alleged sexual misconduct on the part of a teacher or other school
80 employee **or screened volunteer** shall not be discharged or otherwise discriminated against
81 in any fashion because of such reporting.

82 7. Any school district or charter school shall, before offering employment **or**
83 **allowing service as a screened volunteer** to any teacher **or individual** who was employed
84 by **or served as a screened volunteer in** a Missouri school district or charter school, contact
85 the department of elementary and secondary education to determine the school district or
86 charter school that previously employed such employee **or allowed such individual to serve**
87 **as a screened volunteer**. School districts and charter schools contacting the department
88 under this subsection shall request, from the most recent, information as outlined in this
89 section regarding the former employee **or screened volunteer**.

90 **8. Each school district and charter school shall report the information**
91 **maintained by such school district and charter school under this section to the**
92 **department of elementary and secondary education.**

168.631. 1. This section shall be known and may be cited as "Emilyn's Law".

2 **2. As used in this section, the following terms mean:**

3 **(1) "Association", a statewide athletic association or organization that receives**
4 **any public moneys and that has at least one public school district as a member;**

5 **(2) "Employee", any staff employed by an association;**

6 **(3) "Mandated reporter", an individual with a legal obligation under sections**
7 **210.109 to 210.183 to report to the appropriate state department or local law**
8 **enforcement agency any suspicion of abuse or neglect or any belief that an act that is**
9 **prohibited under state law when committed on school property has been committed;**

10 **(4) "Screened volunteer", the same definition as in section 162.068.**

11 **3. An individual who is an employee of an association shall be a mandated**
12 **reporter as required under this section.**

13 **4. (1) The department of elementary and secondary education shall maintain a**
14 **database listing each individual who:**

15 **(a) Is employed as a coach or a member of a coaching staff by a school district or**
16 **a charter school that is an association member; or**

17 **(b) Serves as a screened volunteer in a school district or charter school that is an**
18 **association member.**

19 **(2) The department's database shall contain at least the same information on**
20 **such individuals as collected and maintained under sections 162.068 and 168.133.**

21 **(3) Before an association member hires an individual as a coach or a member of**
22 **a coaching staff or allows such individual to serve as a screened volunteer, such**
23 **association member shall consult the department's database to determine whether there**
24 **have been any allegations of misconduct or reports of crimes against such individual.**

25 **(4) The department shall disclose to such association member such information**
26 **collected and maintained under sections 162.068 and 168.133 about such individuals**
27 **formerly employed by or volunteering for such school district, as required under**
28 **sections 162.068 and 168.133.**

29 **5. The department of elementary and secondary education may promulgate all**
30 **necessary rules and regulations for the administration of this section and may consult**
31 **with any association regulated under this section to determine such necessary rules and**
32 **regulations. Any rule or portion of a rule, as that term is defined in section 536.010, that**
33 **is created under the authority delegated in this section shall become effective only if it**
34 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**

35 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
36 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
37 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
38 **then the grant of rulemaking authority and any rule proposed or adopted after August**
39 **28, 2023, shall be invalid and void.**

✓