

SECOND REGULAR SESSION

# HOUSE BILL NO. 3222

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PROUDIE.

6929H.011

JOSEPH ENGLER, Chief Clerk

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## AN ACT

To repeal section 162.068, RSMo, and to enact in lieu thereof one new section relating to investigations involving allegations of sexual misconduct by a school employee.

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*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Section A. Section 162.068, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 162.068, to read as follows: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. (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) The policy described under this subsection shall require the district or charter school to disclose, to any public school that contacts such district or charter school about a former employee, information regarding any violation of the published regulations of the board of education of the district or the governing body of the charter school by the former employee if such violation related to sexual misconduct with a student and was determined to be an actual violation by the board of the district or the governing body of the charter school after a contested case due process hearing conducted pursuant to board policy.

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           2. **(1)** Any school district or charter school that employs a person about whom the  
19 children's division conducts an investigation involving allegations of sexual misconduct with  
20 a student and reaches a finding of substantiated shall immediately suspend the employment of  
21 such person, notwithstanding any other provision of law, but the district or charter school may  
22 return the person to his or her employment if the child abuse and neglect review board's  
23 finding that the allegation is substantiated is reversed by a court on appeal and becomes final.  
24 Nothing shall preclude a school district or charter school from otherwise lawfully terminating  
25 the employment of any employee about whom there has been a finding of unsubstantiated  
26 resulting from an investigation by the children's division involving allegations of sexual  
27 misconduct with a student.

28           **(2) If at any time during an investigation involving allegations of sexual**  
29 **misconduct by an employee of a school district or charter school the employee attempts**  
30 **to resign from employment, the school district or charter school shall immediately**  
31 **terminate the employee's employment. If the investigation is ongoing, termination of**  
32 **employment shall not end such investigation. Any substantiated findings of sexual**  
33 **misconduct shall be reported as provided by law.**

34           3. Any employee who is permitted to respond to requests for information regarding  
35 former employees under a policy adopted by his or her school district or charter school under  
36 this section and who communicates only the information which such policy directs, and who  
37 acts in good faith and without malice shall be immune against any civil action for damages  
38 brought by the former employee arising out of the communication of such information. If any  
39 such action is brought, the employee may, at his or her option, request the attorney general to  
40 defend him or her in such suit and the attorney general shall provide such defense, except that  
41 if the attorney general represents the school district or the department of elementary and  
42 secondary education in a pending licensing matter under section 168.071, the attorney general  
43 shall not represent the school district employee.

44           4. Notwithstanding the provisions of subsection 2 of this section, if a district or  
45 charter school that has employed any employee whose job involves contact with children  
46 receives allegations of sexual misconduct, as provided in section 566.083, concerning the  
47 employee and, as a result of such allegations or as a result of such allegations being  
48 substantiated by the child abuse and neglect review board, dismisses the employee [~~or allows~~  
49 ~~the employee to resign in lieu of being fired]~~ and fails to disclose the allegations of sexual  
50 misconduct when furnishing a reference for the former employee or responding to a potential  
51 employer's request for information regarding such employee, the district or charter school  
52 shall be directly liable for damages to any student of a subsequent employing district or  
53 charter school who is found by a court of competent jurisdiction to be a victim of the former  
54 employee's sexual misconduct, and the district or charter school shall bear third-party liability

55 to the employing district or charter school for any legal liability, legal fees, costs, and  
56 expenses incurred by the employing district or charter school caused by the failure to disclose  
57 such information to the employing district or charter school.

58         5. If a school district or charter school has previously employed a person about whom  
59 the children's division has conducted an investigation involving allegations of sexual  
60 misconduct with a student and has reached a finding of substantiated and another public  
61 school contacts the district or charter school for a reference for the former employee, the  
62 district or charter school shall disclose the results of the children's division's investigation to  
63 the public school.

64         6. Any school district or charter school employee, acting in good faith, who reports  
65 alleged sexual misconduct on the part of a teacher or other school employee shall not be  
66 discharged or otherwise discriminated against in any fashion because of such reporting.

67         7. Any school district or charter school shall, before offering employment to any  
68 teacher who was employed by a Missouri school district or charter school, contact the  
69 department of elementary and secondary education to determine the school district or charter  
70 school that previously employed such employee. School districts and charter schools  
71 contacting the department under this subsection shall request, from the most recent,  
72 information as outlined in this section regarding the former employee.

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