

CHAPTER 268

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 18-1269

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AN ACT

CONCERNING NOTIFICATION TO PARENTS OF CHARGES BROUGHT AGAINST PUBLIC SCHOOL EMPLOYEES FOR ALLEGED FELONY OFFENSES THAT WOULD RESULT IN THE REVOCATION OF AN EDUCATOR LICENSE PURSUANT TO TITLE 22, COLORADO REVISED STATUTES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 22-1-130 as follows:

22-1-130. Notice to parents of alleged criminal conduct by school employees - legislative declaration - definitions. (1) (a) THE GENERAL ASSEMBLY FINDS THAT:

(I) IT IS THE RIGHT AND RESPONSIBILITY OF PARENTS TO GUIDE THE EDUCATION AND UPBRINGING OF THEIR CHILDREN;

(II) AN ESSENTIAL ROLE OF PARENTS IN ENSURING THE SAFETY AND QUALITY OF THEIR CHILDREN'S EDUCATION IS TO REMAIN ACTIVE, ENGAGED, AND FULLY INFORMED ABOUT WHAT IS OCCURRING IN THEIR CHILDREN'S CLASSROOMS AND WITHIN THE SCHOOL ENVIRONMENT;

(III) ENSURING THE SAFETY OF SCHOOL CHILDREN IS ONE OF THE PRIMARY RESPONSIBILITIES OF STATE AND LOCAL GOVERNMENT, LAW ENFORCEMENT, AND SCHOOL COMMUNITIES;

(IV) IN ORDER TO ENSURE A SAFE SCHOOL ENVIRONMENT THAT IS CONDUCIVE TO LEARNING, STUDENTS AND PARENTS MUST BE ASSURED THAT CRIMINAL BEHAVIOR THAT IS HARMFUL TO CHILDREN IS REPORTED AND DEALT WITH APPROPRIATELY AND

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

IN A MANNER THAT IS TRANSPARENT TO PARENTS AND THE SCHOOL COMMUNITY;
AND

(V) PARENTS ARE UNDERSTANDABLY CONCERNED WHEN LAW ENFORCEMENT AGENCIES MAKE ACCUSATIONS ABOUT SCHOOL EMPLOYEES AT THEIR CHILDREN'S SCHOOLS.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS APPROPRIATE TO REQUIRE A PUBLIC SCHOOL TO NOTIFY PARENTS OF SCHOOL CHILDREN WHEN A SCHOOL EMPLOYEE IS CHARGED WITH CERTAIN CRIMES THAT MAY PUT CHILDREN AT RISK.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMPLOYEE" MEANS AN EMPLOYEE OF A LOCAL EDUCATION PROVIDER WHOSE EMPLOYMENT REQUIRES OR REQUIRED THE EMPLOYEE TO BE IN CONTACT WITH STUDENTS OR WHOSE WORK AREA GIVES OR GAVE THE EMPLOYEE ACCESS TO STUDENTS. "EMPLOYEE" INCLUDES A FORMER EMPLOYEE IF THE EMPLOYEE WAS EMPLOYED BY THE LOCAL EDUCATION PROVIDER AT ANY TIME WITHIN TWELVE MONTHS BEFORE AN OFFENSE IS CHARGED. IF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL HAS CONTRACTED WITH A PRIVATE ENTITY TO OPERATE AN ONLINE SCHOOL, THE EMPLOYEE OF THE PRIVATE ENTITY IS DEEMED TO BE AN EMPLOYEE OF THE SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER SCHOOL FOR PURPOSES OF THIS SECTION.

(b) "LOCAL EDUCATION PROVIDER" MEANS A SCHOOL DISTRICT, A BOARD OF COOPERATIVE SERVICES, A CHARTER SCHOOL COLLABORATIVE, A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE 22, AND A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

(c) "PARENT" MEANS THE BIOLOGICAL OR ADOPTIVE PARENT OR THE LEGAL GUARDIAN OR LEGAL CUSTODIAN OF A STUDENT ENROLLED IN A LOCAL EDUCATION PROVIDER AT THE TIME NOTIFICATION IS MADE PURSUANT TO THIS SECTION.

(3) (a) PURSUANT TO SECTION 22-2-119 (4)(b), LOCAL EDUCATION PROVIDERS ROUTINELY RECEIVE REPORTS FROM THE COLORADO BUREAU OF INVESTIGATION RELATING TO EMPLOYEES WHO HAVE PREVIOUSLY BEEN SUBJECT TO A BACKGROUND CHECK. IF A LOCAL EDUCATION PROVIDER RECEIVES A REPORT FROM THE COLORADO BUREAU OF INVESTIGATION THAT INCLUDES INFORMATION THAT AN EMPLOYEE HAS BEEN ARRESTED FOR AN OFFENSE DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION, THE LOCAL EDUCATION PROVIDER SHALL MONITOR THE CRIMINAL PROCEEDINGS TO DETERMINE WHETHER THE EMPLOYEE IS CHARGED WITH AN OFFENSE DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION AND WHETHER A PRELIMINARY HEARING HAS BEEN HELD IF THE CHARGE IS ELIGIBLE FOR A PRELIMINARY HEARING.

(b) THE LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS, AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, IF AN EMPLOYEE IS CHARGED, AS THAT TERM IS DEFINED IN SECTION 16-1-104 (6), WITH:

(I) FELONY CHILD ABUSE, AS SPECIFIED IN SECTION 18-6-401;

(II) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406, NOT INCLUDING ASSAULT IN THE SECOND DEGREE UNLESS THE VICTIM IS A CHILD;

(III) A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9);

(IV) A FELONY, WHERE IT IS ALLEGED THAT THE UNDERLYING FACTUAL BASIS OF WHICH INCLUDES AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3;

(V) FELONY INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302; OR

(VI) A FELONY DRUG OFFENSE DESCRIBED IN PART 4 OF ARTICLE 18 OF TITLE 18, THAT IS A LEVEL 1 OR LEVEL 2 DRUG FELONY.

(4)(a) WITHIN TWO SCHOOL DAYS AFTER THE PRELIMINARY HEARING IS HELD OR IS WAIVED OR DEEMED WAIVED BY THE EMPLOYEE, OR WITHIN TWO SCHOOL DAYS AFTER THE DATE ON WHICH THE EMPLOYEE IS CHARGED, IF THE CHARGED OFFENSE IS NOT ELIGIBLE FOR A PRELIMINARY HEARING, THE LOCAL EDUCATION PROVIDER SHALL PROVIDE NOTICE TO PARENTS PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(b) IF THE LOCAL EDUCATION PROVIDER HAS ALREADY PROVIDED NOTICE TO PARENTS THAT SUBSTANTIALLY CONFORMS WITH THE NOTICE REQUIREMENTS SET FORTH IN SUBSECTION (5) OF THIS SECTION, THE LOCAL EDUCATION PROVIDER NEED NOT PROVIDE ADDITIONAL NOTICE PURSUANT TO THE PROVISIONS OF THIS SECTION.

(c) THE LOCAL EDUCATION PROVIDER MUST PROVIDE NOTICE TO THE PARENTS OF A STUDENT:

(I) ENROLLED IN THE PUBLIC SCHOOL IN WHICH THE EMPLOYEE IS EMPLOYED OR WAS EMPLOYED AT THE TIME OF THE ALLEGED OFFENSE; OR

(II) WITH WHOM THE LOCAL EDUCATION PROVIDER HAS REASON TO BELIEVE THE EMPLOYEE MAY HAVE HAD CONTACT AS PART OF HIS OR HER EMPLOYMENT WITH THE LOCAL EDUCATION PROVIDER.

(d) THE LOCAL EDUCATION PROVIDER SHALL PROVIDE THE REQUIRED NOTICE TO PARENTS IN THE SAME MANNER BY WHICH THE LOCAL EDUCATION PROVIDER NOTIFIES PARENTS OF IMPORTANT SCHOOL BUSINESS, WHICH MAY INCLUDE E-MAIL NOTIFICATION OR OTHER ELECTRONIC COMMUNICATION SENT DIRECTLY TO PARENTS OR BY FIRST-CLASS MAIL. WITHIN TWO SCHOOL DAYS AFTER THE LOCAL EDUCATION PROVIDER CONFIRMS THE DISPOSITION OF THE CHARGE, THE LOCAL EDUCATION PROVIDER SHALL PROVIDE NOTICE TO PARENTS OF THE DISPOSITION OF THE CHARGE USING THE SAME NOTIFICATION METHOD USED IN THE ORIGINAL NOTICE TO PARENTS.

(e) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4)(a) OF THIS SECTION TO THE CONTRARY, IF A DELAY IN PARENT NOTIFICATION IS REQUESTED BY THE APPROPRIATE LAW ENFORCEMENT AGENCY, THE LOCAL EDUCATION PROVIDER SHALL DELAY NOTIFICATION TO PARENTS UNTIL THE REQUEST IS WITHDRAWN.

(f) A LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS PURSUANT TO THIS

SECTION REGARDLESS OF WHETHER THE ACTIONS GIVING RISE TO THE CHARGE OCCURRED WHILE THE EMPLOYEE WAS ON DUTY.

(g) THE BOARD OR GOVERNING BODY OF THE LOCAL EDUCATION PROVIDER SHALL ESTABLISH POLICIES TO COMPLY WITH THE PROVISIONS OF THIS SECTION WHEN SCHOOL IS NOT IN SESSION.

(5) (a) THE LOCAL EDUCATION PROVIDER'S NOTIFICATION TO PARENTS OF A CHARGE BROUGHT AGAINST AN EMPLOYEE MUST INCLUDE THE FOLLOWING:

(I) THE NAME OF THE EMPLOYEE;

(II) THE EMPLOYEE'S POSITION;

(III) WHETHER THE EMPLOYEE CONTINUES TO BE EMPLOYED BY THE LOCAL EDUCATION PROVIDER;

(IV) THE LENGTH OF EMPLOYMENT WITH THE LOCAL EDUCATION PROVIDER;

(V) THE ALLEGED OFFENSE AS SET FORTH IN THE CHARGING DOCUMENT, INCLUDING THE VIOLATION OF STATUTE OR CODE; AND

(VI) A STATEMENT THAT, UNDER STATE AND FEDERAL LAW, A PERSON IS PRESUMED INNOCENT UNTIL PROVEN GUILTY.

(b) A LOCAL EDUCATION PROVIDER MAY PROVIDE ADDITIONAL INFORMATION TO PARENTS REGARDING THE UNDERLYING FACTS OR CIRCUMSTANCES RELATING TO THE CHARGE BUT SHALL NOT DISCLOSE THE IDENTITY OF THE ALLEGED VICTIM.

(6) EACH LOCAL EDUCATION PROVIDER SHALL INCORPORATE THE NOTIFICATION REQUIREMENTS SET FORTH IN THIS SECTION AS PART OF A SAFE SCHOOL PLAN REQUIRED PURSUANT TO SECTION 22-32-109.1, AS APPLICABLE.

SECTION 2. In Colorado Revised Statutes, 22-2-117, **amend** (1)(b)(V) and (1)(b)(VI); and **add** (1)(b)(VII) as follows:

22-2-117. Additional power - state board - waiver of requirements - rules.

(1) (b) The state board shall not waive any of the requirements specified in any of the following statutory provisions:

(V) The "Children's Internet Protection Act", article 87 of this title 22; ~~or~~

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305; OR

(VII) ANY PROVISIONS OF SECTION 22-1-130, RELATING TO NOTIFICATION TO PARENTS OF ALLEGED CRIMINAL CONDUCT BY SCHOOL DISTRICT EMPLOYEES.

SECTION 3. In Colorado Revised Statutes, 22-30.5-104, **amend** (6)(c)(V) and (6)(c)(VI); and **add** (6)(c)(VII) as follows:

22-30.5-104. Charter school - requirements - authority - rules. (6) (c) A school district, on behalf of a charter school, may apply to the state board for a waiver of a state statute or state rule that is not an automatic waiver. Notwithstanding any provision of this subsection (6) to the contrary, the state board may not waive any statute or rule relating to:

(V) The "Children's Internet Protection Act", article 87 of this title 22; ~~or~~

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305; OR

(VII) ANY PROVISIONS OF SECTION 22-1-130, RELATING TO NOTIFICATION TO PARENTS OF ALLEGED CRIMINAL CONDUCT BY CHARTER SCHOOL EMPLOYEES.

SECTION 4. In Colorado Revised Statutes, 22-30.5-507, **amend** (7)(b)(V) and (7)(b)(VI); and **add** (7)(b)(VII) as follows:

22-30.5-507. Institute charter school - requirements - authority - rules. (7) (b) An institute charter school may apply to the state board, through the institute, for a waiver of state statutes and state rules that are not automatic waivers. The state board may waive state statutory requirements or rules promulgated by the state board; except that the state board may not waive any statute or rule relating to:

(V) The "Children's Internet Protection Act", article 87 of this title 22; ~~or~~

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305; OR

(VII) ANY PROVISIONS OF SECTION 22-1-130, RELATING TO NOTIFICATION TO PARENTS OF ALLEGED CRIMINAL CONDUCT BY INSTITUTE CHARTER SCHOOL EMPLOYEES.

SECTION 5. Act subject to petition - effective date. This act takes effect August 15, 2018; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 29, 2018