

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0378.02 Brita Darling x2241

HOUSE BILL 18-1269

HOUSE SPONSORSHIP

Lundeen and Pettersen,

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A BILL FOR AN ACT

101 CONCERNING NOTIFICATION TO PARENTS OF CHARGES BROUGHT
102 AGAINST PUBLIC SCHOOL EMPLOYEES FOR ALLEGED CRIMINAL
103 CONDUCT THAT COULD RESULT IN THE REVOCATION OF AN
104 EDUCATOR LICENSE PURSUANT TO TITLE 22, COLORADO
105 REVISED STATUTES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires school districts, district charter schools, institute charter schools, and boards of cooperative services (local education

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

providers) to notify parents of students enrolled in a local education provider of charges brought against an employee or former employee, who has or had contact with students, if the charges are for one of the offenses that requires the denial, suspension, or revocation of a teacher license if the employee were a teacher.

A local education provider may provide notice to parents of charges brought against an employee for one of the offenses that could result in the denial, suspension, or revocation of a teacher license if the employee were a teacher.

The bill specifies the students whose parents must receive notification and the information that a local education provider shall include in the parent notification. The local education provider shall notify parents by mail or electronic means within 2 business days after learning of the charge unless the charging criminal justice agency requests a delay in notification. If notice is sent to parents, the local education provider shall also send notice within 2 business days to the same parents in the same manner regarding the disposition of the charges.

Each local education provider and the judicial districts in which the local education provider is located shall enter into a written agreement concerning the dissemination of information to a local education provider regarding charges brought against employees.

The bill requires a local education provider to use best efforts to comply with the notification requirements and exempts the local education provider from liability for damages that may arise from its failure to comply with the notification provisions included in the bill.

The bill prohibits the state board of education from waiving the requirements of the bill relating to parent notification for school districts or for charter schools authorized by a school district or by the state charter school institute.

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

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

4 **22-1-130. Notice to parents of alleged criminal conduct by**
5 **school employees - legislative declaration - definitions.** (1) (a) THE
6 GENERAL ASSEMBLY FINDS THAT:

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

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

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

8 (IV) IN ORDER TO ENSURE A SAFE SCHOOL ENVIRONMENT THAT IS
9 CONDUCIVE TO LEARNING, STUDENTS AND PARENTS MUST BE ASSURED
10 THAT CRIMINAL BEHAVIOR THAT IS HARMFUL TO CHILDREN IS REPORTED
11 AND DEALT WITH APPROPRIATELY AND IN A MANNER THAT IS
12 TRANSPARENT TO PARENTS AND THE SCHOOL COMMUNITY; AND

13 (V) PARENTS HAVE A RIGHT TO KNOW ABOUT ACCUSATIONS THAT
14 CRIMINAL JUSTICE AGENCIES HAVE MADE ABOUT SCHOOL EMPLOYEES AT
15 THEIR CHILDREN'S SCHOOLS.

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

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

22 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
23 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115.

24 (b) "EMPLOYEE" MEANS AN EMPLOYEE OF A LOCAL EDUCATION
25 PROVIDER WHOSE EMPLOYMENT REQUIRES OR REQUIRED THE EMPLOYEE
26 TO BE IN CONTACT WITH STUDENTS OR WHOSE WORK AREA GIVES OR GAVE
27 THE EMPLOYEE ACCESS TO STUDENTS. "EMPLOYEE" INCLUDES A FORMER

1 EMPLOYEE IF THE EMPLOYEE RESIGNED OR WAS TERMINATED FROM
2 EMPLOYMENT WITHIN THE FOUR YEARS PRECEDING THE FILING OF
3 CHARGES.

4 (c) "LOCAL EDUCATION PROVIDER" MEANS A SCHOOL DISTRICT, A
5 BOARD OF COOPERATIVE SERVICES, A CHARTER SCHOOL AUTHORIZED BY
6 A SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE
7 22, AND A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL
8 INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

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

13 (3)(a) AFTER CONSULTING WITH THE CHARGING CRIMINAL JUSTICE
14 AGENCY, A LOCAL EDUCATION PROVIDER:

15 (I) SHALL NOTIFY PARENTS, AS PROVIDED IN SUBSECTION (5) OF
16 THIS SECTION, IF AN EMPLOYEE IS CHARGED, AS THAT TERM IS DEFINED IN
17 SECTION 16-1-104 (6), WITH AN OFFENSE DESCRIBED IN SECTION
18 22-60.5-107 (2.5)(a)(I), (2.5)(a)(II), OR (2.6)(a); AND

19 (II) MAY NOTIFY PARENTS, AS PROVIDED IN SUBSECTION (5) OF
20 THIS SECTION, IF AN EMPLOYEE IS CHARGED, AS THAT TERM IS DEFINED IN
21 SECTION 16-1-104 (6), WITH AN OFFENSE DESCRIBED IN SECTION
22 22-60.5-107 (2)(b).

23 (b) A LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS ONLY
24 IF THE CHARGE IS INCLUDED IN A PUBLIC RECORD OF AN OFFICIAL ACTION
25 OF A CRIMINAL JUSTICE AGENCY.

26 (4)(a) IF AN EMPLOYEE IS CHARGED WITH AN OFFENSE DESCRIBED
27 IN SUBSECTION (3)(a)(I) OF THIS SECTION, PURSUANT TO THE LOCAL

1 EDUCATION PROVIDER'S ADMINISTRATIVE LEAVE POLICY, THE LOCAL
2 EDUCATION PROVIDER IS ENCOURAGED TO REMOVE THE EMPLOYEE FROM
3 ANY POSITION IN WHICH THE EMPLOYEE HAS CONTACT WITH STUDENTS
4 UNTIL THE DISPOSITION OF THE CHARGE.

5 (b) NOTHING IN THIS SUBSECTION (4) LIMITS THE RIGHTS THAT A
6 LOCAL EDUCATION PROVIDER MAY OTHERWISE HAVE TO TAKE ACTION
7 AGAINST THE EMPLOYEE RELATING TO THE CHARGE OR TO ANY OTHER
8 MATTER.

9 (5) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5)(d) OF
10 THIS SECTION, A LOCAL EDUCATION PROVIDER SHALL PROVIDE THE NOTICE
11 SPECIFIED IN SUBSECTION (6) OF THIS SECTION WITHIN TWO BUSINESS DAYS
12 AFTER BECOMING AWARE OF OR BEING NOTIFIED BY A CRIMINAL JUSTICE
13 AGENCY OR THE DEPARTMENT OF EDUCATION PURSUANT TO SECTION
14 22-2-119 (4)(b), WHICHEVER OCCURS EARLIER, OF A CHARGE BROUGHT
15 AGAINST AN EMPLOYEE THAT IS DESCRIBED IN SUBSECTION (3)(a)(I) OF
16 THIS SECTION. THE LOCAL EDUCATION PROVIDER SHALL PROVIDE THE
17 NOTIFICATION TO THE PARENTS OF A STUDENT:

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

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

23 (III) WHO, IN THE DETERMINATION OF THE CHARGING CRIMINAL
24 JUSTICE AGENCY, SHOULD APPROPRIATELY RECEIVE NOTICE.

25 (b) THE LOCAL EDUCATION PROVIDER SHALL PROVIDE THE
26 REQUIRED NOTIFICATION TO PARENTS IN THE SAME MANNER BY WHICH THE
27 LOCAL EDUCATION PROVIDER NOTIFIES PARENTS OF IMPORTANT SCHOOL

1 BUSINESS, WHICH MAY INCLUDE E-MAIL NOTIFICATION OR OTHER
2 ELECTRONIC COMMUNICATION SENT DIRECTLY TO PARENTS OR BY
3 FIRST-CLASS MAIL. THE LOCAL EDUCATION PROVIDER SHALL NOTIFY
4 PARENTS OF THE DISPOSITION OF THE CHARGE AS PROVIDED IN SUBSECTION
5 (7) OF THIS SECTION.

6 (c) A LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS
7 PURSUANT TO THIS SECTION REGARDLESS OF WHETHER THE ACTIONS
8 GIVING RISE TO THE CHARGE WERE UNDERTAKEN WHILE THE EMPLOYEE
9 WAS ACTING WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT.

10 (d) IF THE CHARGING CRIMINAL JUSTICE AGENCY REQUESTS A
11 DELAY IN NOTIFICATION, THE LOCAL EDUCATION PROVIDER SHALL ISSUE
12 THE NOTIFICATION TO PARENTS WITHIN TWO BUSINESS DAYS AFTER THE
13 CHARGING CRIMINAL JUSTICE AGENCY GIVES THE LOCAL EDUCATION
14 PROVIDER PERMISSION TO RELEASE THE NOTIFICATION.

15 (e) A LOCAL EDUCATION PROVIDER THAT CHOOSES TO NOTIFY
16 PARENTS OF A CHARGE BROUGHT AGAINST AN EMPLOYEE THAT IS
17 DESCRIBED IN SUBSECTION (3)(a)(II) OF THIS SECTION MAY DO SO WITHIN
18 ANY TIME FRAME AND IN ANY MANNER SELECTED BY THE LOCAL
19 EDUCATION PROVIDER. HOWEVER, IF NOTIFICATION IS SENT TO PARENTS,
20 THE LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS OF THE
21 DISPOSITION OF THE CHARGE AS PROVIDED IN SUBSECTION (7) OF THIS
22 SECTION.

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

- 26 (I) THE NAME OF THE EMPLOYEE;
- 27 (II) THE EMPLOYEE'S POSITION;

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

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

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

7 (VI) A STATEMENT THAT, UNDER STATE AND FEDERAL LAW, A
8 PERSON IS INNOCENT UNTIL PROVEN GUILTY; AND

9 (VII) ANY INFORMATION REQUESTED BY THE CHARGING CRIMINAL
10 JUSTICE AGENCY.

11 (b) EXCEPT AS PROVIDED IN SUBSECTION (6)(a)(VII) OF THIS
12 SECTION, A LOCAL EDUCATION PROVIDER'S NOTIFICATION TO PARENTS
13 MUST NOT DISCLOSE THE IDENTITY OF THE ALLEGED VICTIM OR DISCLOSE
14 UNDERLYING FACTS THAT REVEAL THE IDENTITY OF THE ALLEGED VICTIM.
15 A LOCAL EDUCATION PROVIDER MAY PROVIDE ADDITIONAL INFORMATION
16 TO PARENTS REGARDING THE UNDERLYING FACTS OR CIRCUMSTANCES
17 RELATING TO THE CHARGE.

18 (7) WITHIN TWO BUSINESS DAYS AFTER THE DISPOSITION OF A
19 CHARGE FOR WHICH PARENT NOTIFICATION WAS MADE PURSUANT TO THIS
20 SECTION, THE LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS OF
21 THE DISPOSITION OF THE CHARGE USING THE SAME NOTIFICATION METHOD
22 USED IN THE ORIGINAL NOTIFICATION TO PARENTS.

23 (8) A LOCAL EDUCATION PROVIDER AND THE JUDICIAL DISTRICTS
24 IN WHICH THE LOCAL EDUCATION PROVIDER IS LOCATED SHALL ENTER
25 INTO A MEMORANDUM OF UNDERSTANDING OR OTHER WRITTEN
26 AGREEMENT CONCERNING THE DISSEMINATION OF INFORMATION TO THE
27 LOCAL EDUCATION PROVIDER CONCERNING CHARGES BROUGHT AGAINST

1 AN EMPLOYEE OF THE LOCAL EDUCATION PROVIDER AND THE DISPOSITION
2 OF THE CHARGES. THE MEMORANDUM OF UNDERSTANDING OR OTHER
3 WRITTEN AGREEMENT MAY COVER MULTIPLE LOCAL EDUCATION
4 PROVIDERS AND MULTIPLE JUDICIAL DISTRICTS. A STATEWIDE ENTITY
5 REPRESENTING DISTRICT ATTORNEYS AND AN ASSOCIATION REPRESENTING
6 LOCAL SCHOOL BOARDS MAY DEVELOP A STATEWIDE DATA-SHARING
7 AGREEMENT THAT A LOCAL EDUCATION PROVIDER MAY ENTER INTO IN
8 LIEU OF AGREEMENTS WITH INDIVIDUAL JUDICIAL DISTRICTS. ON OR
9 BEFORE DECEMBER 15, 2018, EACH JUDICIAL DISTRICT SHALL SUBMIT A
10 REPORT TO THE JOINT EDUCATION COMMITTEE OF THE HOUSE OF
11 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEE,
12 LISTING THE LOCAL EDUCATION PROVIDERS WITH WHOM THEY HAVE
13 ENTERED INTO A MEMORANDUM OF UNDERSTANDING OR OTHER WRITTEN
14 AGREEMENT PURSUANT TO THIS SUBSECTION (8) AND DESCRIBING THE
15 CONTENTS OF THOSE MEMORANDA OR OTHER WRITTEN AGREEMENTS.

16 (9) A LOCAL EDUCATION PROVIDER SHALL USE BEST EFFORTS TO
17 COMPLY WITH THE PROVISIONS OF THIS SECTION AND IS NOT LIABLE FOR
18 DAMAGES THAT MAY ARISE FROM FAILURE TO COMPLY WITH THE
19 PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO THE
20 FAILURE TO IDENTIFY FORMER EMPLOYEES DUE TO COMPLIANCE WITH
21 STATE OR FEDERAL LAW RELATING TO THE RETENTION OF EMPLOYEE OR
22 STUDENT RECORDS.

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

27 **SECTION 2.** In Colorado Revised Statutes, 22-2-117, **amend**

1 (1)(b)(V) and (1)(b)(VI); and **add** (1)(b)(VII) as follows:

2 **22-2-117. Additional power - state board - waiver of**
3 **requirements - rules.** (1) (b) The state board shall not waive any of the
4 requirements specified in any of the following statutory provisions:

5 (V) The "Children's Internet Protection Act", article 87 of this title
6 22; ~~or~~

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

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

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

14 **22-30.5-104. Charter school - requirements - authority - rules.**

15 (6) (c) A school district, on behalf of a charter school, may apply to the
16 state board for a waiver of a state statute or state rule that is not an
17 automatic waiver. Notwithstanding any provision of this subsection (6)
18 to the contrary, the state board may not waive any statute or rule relating
19 to:

20 (V) The "Children's Internet Protection Act", article 87 of this title
21 22; ~~or~~

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

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

27 **SECTION 4.** In Colorado Revised Statutes, 22-30.5-507, **amend**

1 (7)(b)(V) and (7)(b)(VI); and **add** (7)(b)(VII) as follows:

2 **22-30.5-507. Institute charter school - requirements -**

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

8 (V) The "Children's Internet Protection Act", article 87 of this title
9 22; ~~or~~

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

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

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