

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB21-017 be amended as follows:

1 Amend reengrossed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 22-30.5-110.5,
4 **amend** (2)(a)(II) and (7)(a); and **add** (7)(c) and (10) as follows:

5 **22-30.5-110.5. Background investigation - charter school**
6 **employees - information provided to department - definitions.** (2) The
7 background investigation of an applicant, at a minimum, must include:

8 (a) An inquiry by the charter school to the department to
9 determine whether the applicant:

10 (II) Has been dismissed by, or has resigned from, a school district
11 as a result of any allegation, including but not limited to unlawful sexual
12 behavior OR AN ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT
13 WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE
14 STUDENT CONSENTED TO THE SEXUAL ACT, that was supported by a
15 preponderance of the evidence according to information provided to the
16 department pursuant to section 22-32-109.7 (3) or subsection (7) of this
17 section and confirmed by the department pursuant to section 22-2-119
18 (1)(b);

19 (7) (a) If an employee of a charter school is dismissed or resigns
20 as a result of an allegation of unlawful behavior involving a child,
21 including unlawful sexual behavior, that is supported by a preponderance
22 of the evidence, the governing board of the charter school shall notify the
23 department and provide any information requested by the department
24 concerning the circumstances of the dismissal or resignation. The charter
25 school shall also notify the employee that information concerning the
26 employee's dismissal or resignation is being forwarded to the department.
27 ~~unless the notice would conflict with the confidentiality requirements of~~
28 ~~the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S.~~

29 (c) IF AN EMPLOYEE OF A CHARTER SCHOOL IS DISMISSED OR
30 RESIGNS AS A RESULT OF AN ALLEGATION OF A SEXUAL ACT INVOLVING A
31 STUDENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF
32 WHETHER THE STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS
33 SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE, THE GOVERNING
34 BOARD OF THE CHARTER SCHOOL SHALL NOTIFY THE DEPARTMENT AND
35 PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
36 CONCERNING THE CIRCUMSTANCES OF THE DISMISSAL OR RESIGNATION.
37 THE CHARTER SCHOOL SHALL ALSO NOTIFY THE EMPLOYEE THAT
38 INFORMATION CONCERNING THE EMPLOYEE'S DISMISSAL OR RESIGNATION
39 IS BEING FORWARDED TO THE DEPARTMENT. A CHARTER SCHOOL SHALL
40 NOT ENTER INTO A SETTLEMENT AGREEMENT THAT WOULD RESTRICT THE

1 CHARTER SCHOOL FROM SHARING ANY RELEVANT INFORMATION RELATED
2 TO AN ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT WHO IS
3 EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE
4 STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS SUPPORTED BY A
5 PREPONDERANCE OF THE EVIDENCE PERTAINING TO THE EMPLOYEE WITH
6 THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR CHARTER SCHOOL
7 PERTAINING TO THE INCIDENT UPON WHICH THE DISMISSAL OR
8 RESIGNATION IS BASED. THIS SUBSECTION (7)(c) DOES NOT AUTHORIZE A
9 CHARTER SCHOOL TO ENTER INTO A SETTLEMENT AGREEMENT THAT
10 WOULD PROHIBIT THE CHARTER SCHOOL FROM SHARING ANY OTHER
11 INFORMATION REQUIRED BY LAW TO BE AVAILABLE TO THE DEPARTMENT,
12 ANOTHER SCHOOL DISTRICT, OR A CHARTER SCHOOL.

13 (10) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
14 OTHERWISE REQUIRES:

15 (a) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
16 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
17 18-3-401.

18 (b) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
19 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
20 STUDENT.

21 **SECTION 2.** In Colorado Revised Statutes, 22-32-109.7, **amend**
22 (1)(b) and (3); and **add** (5) as follows:

23 **22-32-109.7. Board of education - specific duties - employment**
24 **of personnel - definitions.** (1) Prior to the employment of any person by
25 a school district, the board of education shall make an inquiry concerning
26 such person to the department of education for the purpose of
27 determining:

28 (b) Whether such person has been dismissed by, or has resigned
29 from, a school district as a result of an allegation of unlawful behavior
30 involving a child, including unlawful sexual behavior OR AN ALLEGATION
31 OF A SEXUAL ACT INVOLVING A STUDENT WHO IS EIGHTEEN YEARS OF AGE
32 OR OLDER, REGARDLESS OF WHETHER THE STUDENT CONSENTED TO THE
33 SEXUAL ACT, which was supported by a preponderance of the evidence
34 according to information provided to the department by a school district
35 pursuant to subsection (3) of this section and confirmed by the department
36 pursuant to the provisions of section 22-2-119 (1)(b);

37 (3) (a) If an employee of a school district is dismissed or resigns
38 as a result of an allegation of unlawful behavior involving a child,
39 including unlawful sexual behavior, which is supported by a
40 preponderance of the evidence, within ten business days after the
41 dismissal or resignation, the board of education of the school district shall
42 notify the department of education and provide any information requested
43 by the department concerning the circumstances of the dismissal or

1 resignation. The district shall also notify the employee that information
2 concerning the employee's dismissal or resignation is being forwarded to
3 the department of education. ~~unless the notice would conflict with the~~
4 ~~confidentiality requirements of the "Child Protection Act of 1987", part~~
5 ~~3 of article 3 of title 19, C.R.S.~~ A public school district or charter school
6 shall not enter into a settlement agreement that would restrict the school
7 district or charter school from sharing any relevant information related to
8 a conviction for child abuse or a sexual offense against a child as defined
9 by section 13-80-103.9 (1)(c) ~~C.R.S.~~, pertaining to the employee with the
10 department, another school district, or charter school pertaining to the
11 incident upon which the dismissal or resignation is based. THIS
12 SUBSECTION (3)(a) DOES NOT AUTHORIZE A PUBLIC SCHOOL DISTRICT OR
13 CHARTER SCHOOL TO ENTER INTO A SETTLEMENT AGREEMENT THAT
14 WOULD PROHIBIT THE PUBLIC SCHOOL DISTRICT OR CHARTER SCHOOL
15 FROM SHARING ANY OTHER INFORMATION REQUIRED BY LAW TO BE
16 AVAILABLE TO THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR A
17 CHARTER SCHOOL.

18 (b) IF AN EMPLOYEE OF A SCHOOL DISTRICT IS DISMISSED OR
19 RESIGNS AS A RESULT OF AN ALLEGATION OF A SEXUAL ACT INVOLVING A
20 STUDENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF
21 WHETHER THE STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS
22 SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE, THE SCHOOL
23 DISTRICT SHALL NOTIFY THE DEPARTMENT AND PROVIDE ANY
24 INFORMATION REQUESTED BY THE DEPARTMENT CONCERNING THE
25 CIRCUMSTANCES OF THE DISMISSAL OR RESIGNATION. THE SCHOOL
26 DISTRICT SHALL ALSO NOTIFY THE EMPLOYEE THAT INFORMATION
27 CONCERNING THE EMPLOYEE'S DISMISSAL OR RESIGNATION IS BEING
28 FORWARDED TO THE DEPARTMENT. A SCHOOL DISTRICT SHALL NOT ENTER
29 INTO A SETTLEMENT AGREEMENT THAT WOULD RESTRICT THE SCHOOL
30 DISTRICT FROM SHARING ANY RELEVANT INFORMATION RELATED TO AN
31 ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT WHO IS EIGHTEEN
32 YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE STUDENT
33 CONSENTED TO THE SEXUAL ACT, THAT IS SUPPORTED BY A
34 PREPONDERANCE OF THE EVIDENCE PERTAINING TO THE EMPLOYEE WITH
35 THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR CHARTER SCHOOL
36 PERTAINING TO THE INCIDENT UPON WHICH THE DISMISSAL OR
37 RESIGNATION IS BASED. THIS SUBSECTION (3)(b)(I) DOES NOT AUTHORIZE
38 A SCHOOL DISTRICT TO ENTER INTO A SETTLEMENT AGREEMENT THAT
39 WOULD PROHIBIT THE SCHOOL DISTRICT FROM SHARING ANY OTHER
40 INFORMATION REQUIRED BY LAW TO BE AVAILABLE TO THE DEPARTMENT,
41 ANOTHER SCHOOL DISTRICT, OR A CHARTER SCHOOL.

42 (5) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
43 OTHERWISE REQUIRES:

1 (a) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
2 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
3 18-3-401.

4 (b) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
5 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
6 STUDENT.

7 **SECTION 3.** In Colorado Revised Statutes, 22-60.50-107,
8 **amend** (4) and (8) as follows:

9 **22-60.5-107. Grounds for denying, annulling, suspending, or**
10 **revoking license, certificate, endorsement, or authorization -**
11 **definitions.** (4) (a) The department of education may deny, annul,
12 suspend, or revoke any license, certificate, endorsement, or authorization
13 if the state board finds and determines that the applicant or holder thereof
14 is professionally incompetent or guilty of unethical behavior.

15 (b) THE STATE BOARD OF EDUCATION SHALL PROMULGATE
16 APPROPRIATE RULES DEFINING THE STANDARDS OF UNETHICAL BEHAVIOR
17 AND PROFESSIONAL INCOMPETENCY. UNETHICAL BEHAVIOR MUST INCLUDE
18 CONDUCT INVOLVING A SEXUAL ACT BETWEEN AN APPLICANT OR HOLDER
19 AND A STUDENT, INCLUDING A STUDENT WHO IS EIGHTEEN YEARS OF AGE
20 OR OLDER, REGARDLESS OF WHETHER THE STUDENT CONSENTED TO THE
21 SEXUAL ACT.

22 (c) FOR PURPOSES OF THIS SUBSECTION (4), UNLESS THE CONTEXT
23 OTHERWISE REQUIRES:

24 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
25 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
26 18-3-401.

27 (II) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
28 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
29 STUDENT.

30 (8) When an applicant's or holder's license is denied, annulled,
31 suspended, or revoked pursuant to ~~the provisions of subsection (2.5), or~~
32 ~~(2.6), OR (4)~~ of this section, the department of education shall post the
33 name of the person and basis for the denial, annulment, suspension, or
34 revocation on its website.

35 **SECTION 4. Act subject to petition - effective date -**
36 **applicability.** (1) This act takes effect September 15, 2021; except that,
37 if a referendum petition is filed pursuant to section 1 (3) of article V of
38 the state constitution against this act or an item, section, or part of this act
39 within the ninety-day period after final adjournment of the general
40 assembly, then the act, item, section, or part will not take effect unless
41 approved by the people at the general election to be held in November
42 2022 and, in such case, will take effect on the date of the official
43 declaration of the vote thereon by the governor.

1 (2) This act applies to offenses committed on or after the
2 applicable effective date of this act."

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