

HB1269_L.008

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB18-1269 be amended as follows:

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

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

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

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

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

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

17 (IV) IN ORDER TO ENSURE A SAFE SCHOOL ENVIRONMENT THAT IS
18 CONDUCIVE TO LEARNING, STUDENTS AND PARENTS MUST BE ASSURED
19 THAT CRIMINAL BEHAVIOR THAT IS HARMFUL TO CHILDREN IS REPORTED
20 AND DEALT WITH APPROPRIATELY AND IN A MANNER THAT IS
21 TRANSPARENT TO PARENTS AND THE SCHOOL COMMUNITY; AND

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

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

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

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

1 SCHOOL, OR INSTITUTE CHARTER SCHOOL FOR PURPOSES OF THIS SECTION.

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

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

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

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

26 (I) MISDEMEANOR SEXUAL ASSAULT AS DESCRIBED IN SECTION
27 18-3-402;

28 (II) MISDEMEANOR UNLAWFUL SEXUAL CONTACT AS DESCRIBED
29 IN SECTION 18-3-404, WHEN THE VICTIM IS A CHILD;

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

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

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

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

39 (VII) INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302;
40 OR

41 (VIII) A FELONY DRUG OFFENSE DESCRIBED IN PART 4 OF ARTICLE
42 18 OF TITLE 18, THAT IS A LEVEL 1 OR LEVEL 2 DRUG FELONY.

43 (4) (a) WITHIN TWO SCHOOL DAYS AFTER THE PRELIMINARY

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

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

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

13 (I) ENROLLED IN THE PUBLIC SCHOOL IN WHICH THE EMPLOYEE IS
14 EMPLOYED OR WAS EMPLOYED AT THE TIME OF THE ALLEGED OFFENSE; OR
15 (II) WITH WHOM THE LOCAL EDUCATION PROVIDER HAS REASON
16 TO BELIEVE THE EMPLOYEE MAY HAVE HAD CONTACT AS PART OF HIS OR
17 HER EMPLOYMENT WITH THE LOCAL EDUCATION PROVIDER.

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

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

33 (f) A LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS
34 PURSUANT TO THIS SECTION REGARDLESS OF WHETHER THE ACTIONS
35 GIVING RISE TO THE CHARGE OCCURRED WHILE THE EMPLOYEE WAS ON
36 DUTY.

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

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

43 (I) THE NAME OF THE EMPLOYEE;

- 1 (II) THE EMPLOYEE'S POSITION;
- 2 (III) WHETHER THE EMPLOYEE CONTINUES TO BE EMPLOYED BY
- 3 THE LOCAL EDUCATION PROVIDER;
- 4 (IV) THE LENGTH OF EMPLOYMENT WITH THE LOCAL EDUCATION
- 5 PROVIDER;
- 6 (V) THE ALLEGED OFFENSE AS SET FORTH IN THE CHARGING
- 7 DOCUMENT, INCLUDING THE VIOLATION OF STATUTE OR CODE; AND
- 8 (VI) A STATEMENT THAT, UNDER STATE AND FEDERAL LAW, A
- 9 PERSON IS PRESUMED INNOCENT UNTIL PROVEN GUILTY.

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

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

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

20 **22-2-117. Additional power - state board - waiver of**
21 **requirements - rules.** (1) (b) The state board shall not waive any of the
22 requirements specified in any of the following statutory provisions:

23 (V) The "Children's Internet Protection Act", article 87 of this title
24 22; or

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

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

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

32 **22-30.5-104. Charter school - requirements - authority - rules.**

33 (6) (c) A school district, on behalf of a charter school, may apply to the
34 state board for a waiver of a state statute or state rule that is not an
35 automatic waiver. Notwithstanding any provision of this subsection (6)
36 to the contrary, the state board may not waive any statute or rule relating
37 to:

38 (V) The "Children's Internet Protection Act", article 87 of this title
39 22; or

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

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

1 SCHOOL EMPLOYEES.

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

4 **22-30.5-507. Institute charter school - requirements -**
5 **authority - rules.** (7) (b) An institute charter school may apply to the
6 state board, through the institute, for a waiver of state statutes and state
7 rules that are not automatic waivers. The state board may waive state
8 statutory requirements or rules promulgated by the state board; except that
9 the state board may not waive any statute or rule relating to:

10 (V) The "Children's Internet Protection Act", article 87 of this title
11 22; or

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

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

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

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