

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 17, 2018
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB18-1269 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

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

1 AT THEIR CHILDREN'S SCHOOLS.

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

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

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

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

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

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

41 (b) THE LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS, AS

1 PROVIDED IN SUBSECTION (4) OF THIS SECTION, IF AN EMPLOYEE IS
2 CHARGED, AS THAT TERM IS DEFINED IN SECTION 16-1-104 (6), WITH:
3 (I) FELONY CHILD ABUSE, AS SPECIFIED IN SECTION 18-6-401;
4 (II) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406,
5 NOT INCLUDING ASSAULT IN THE SECOND DEGREE UNLESS THE VICTIM IS
6 A CHILD;
7 (III) A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL
8 BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9);
9 (IV) A FELONY, WHERE IT IS ALLEGED THAT THE UNDERLYING
10 FACTUAL BASIS OF WHICH INCLUDES AN ACT OF DOMESTIC VIOLENCE, AS
11 DEFINED IN SECTION 18-6-800.3;
12 (V) FELONY INDECENT EXPOSURE, AS DESCRIBED IN SECTION
13 18-7-302; OR
14 (VI) A FELONY DRUG OFFENSE DESCRIBED IN PART 4 OF ARTICLE
15 18 OF TITLE 18, THAT IS A LEVEL 1 OR LEVEL 2 DRUG FELONY.
16 (4) (a) WITHIN TWO SCHOOL DAYS AFTER THE PRELIMINARY
17 HEARING IS HELD OR IS WAIVED OR DEEMED WAIVED BY THE EMPLOYEE,
18 OR WITHIN TWO SCHOOL DAYS AFTER THE DATE ON WHICH THE EMPLOYEE
19 IS CHARGED, IF THE CHARGED OFFENSE IS NOT ELIGIBLE FOR A
20 PRELIMINARY HEARING, THE LOCAL EDUCATION PROVIDER SHALL PROVIDE
21 NOTICE TO PARENTS PURSUANT TO SUBSECTION (5) OF THIS SECTION.
22 (b) IF THE LOCAL EDUCATION PROVIDER HAS ALREADY PROVIDED
23 NOTICE TO PARENTS THAT SUBSTANTIALLY CONFORMS WITH THE NOTICE
24 REQUIREMENTS SET FORTH IN SUBSECTION (5) OF THIS SECTION, THE LOCAL
25 EDUCATION PROVIDER NEED NOT PROVIDE ADDITIONAL NOTICE PURSUANT
26 TO THE PROVISIONS OF THIS SECTION.
27 (c) THE LOCAL EDUCATION PROVIDER MUST PROVIDE NOTICE TO
28 THE PARENTS OF A STUDENT:
29 (I) ENROLLED IN THE PUBLIC SCHOOL IN WHICH THE EMPLOYEE IS
30 EMPLOYED OR WAS EMPLOYED AT THE TIME OF THE ALLEGED OFFENSE; OR
31 (II) WITH WHOM THE LOCAL EDUCATION PROVIDER HAS REASON
32 TO BELIEVE THE EMPLOYEE MAY HAVE HAD CONTACT AS PART OF HIS OR
33 HER EMPLOYMENT WITH THE LOCAL EDUCATION PROVIDER.
34 (d) THE LOCAL EDUCATION PROVIDER SHALL PROVIDE THE
35 REQUIRED NOTICE TO PARENTS IN THE SAME MANNER BY WHICH THE
36 LOCAL EDUCATION PROVIDER NOTIFIES PARENTS OF IMPORTANT SCHOOL
37 BUSINESS, WHICH MAY INCLUDE E-MAIL NOTIFICATION OR OTHER
38 ELECTRONIC COMMUNICATION SENT DIRECTLY TO PARENTS OR BY
39 FIRST-CLASS MAIL. WITHIN TWO SCHOOL DAYS AFTER THE LOCAL
40 EDUCATION PROVIDER CONFIRMS THE DISPOSITION OF THE CHARGE, THE
41 LOCAL EDUCATION PROVIDER SHALL PROVIDE NOTICE TO PARENTS OF THE

1 DISPOSITION OF THE CHARGE USING THE SAME NOTIFICATION METHOD
2 USED IN THE ORIGINAL NOTICE TO PARENTS.

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

8 (f) A LOCAL EDUCATION PROVIDER SHALL NOTIFY PARENTS
9 PURSUANT TO THIS SECTION REGARDLESS OF WHETHER THE ACTIONS
10 GIVING RISE TO THE CHARGE OCCURRED WHILE THE EMPLOYEE WAS ON
11 DUTY.

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

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

18 (I) THE NAME OF THE EMPLOYEE;

19 (II) THE EMPLOYEE'S POSITION;

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

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

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

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

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

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

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

38 **22-2-117. Additional power - state board - waiver of**
39 **requirements - rules.** (1) (b) The state board shall not waive any of the
40 requirements specified in any of the following statutory provisions:

41 (V) The "Children's Internet Protection Act", article 87 of this title

1 22; or
2 (VI) The requirement to post on the internet the statutes for which
3 waivers are granted as provided in section 22-44-305; OR
4 (VII) ANY PROVISIONS OF SECTION 22-1-130 RELATING TO
5 NOTIFICATION TO PARENTS OF ALLEGED CRIMINAL CONDUCT BY SCHOOL
6 DISTRICT EMPLOYEES.
7 **SECTION 3.** In Colorado Revised Statutes, 22-30.5-104, **amend**
8 (6)(c)(V) and (6)(c)(VI); and **add** (6)(c)(VII) as follows:
9 **22-30.5-104. Charter school - requirements - authority - rules.**
10 (6) (c) A school district, on behalf of a charter school, may apply to the
11 state board for a waiver of a state statute or state rule that is not an
12 automatic waiver. Notwithstanding any provision of this subsection (6)
13 to the contrary, the state board may not waive any statute or rule relating
14 to:
15 (V) The "Children's Internet Protection Act", article 87 of this title
16 22; or
17 (VI) The requirement to post on the internet the statutes for which
18 waivers are granted as provided in section 22-44-305; OR
19 (VII) ANY PROVISIONS OF SECTION 22-1-130, RELATING TO
20 NOTIFICATION TO PARENTS OF ALLEGED CRIMINAL CONDUCT BY CHARTER
21 SCHOOL EMPLOYEES.
22 **SECTION 4.** In Colorado Revised Statutes, 22-30.5-507, **amend**
23 (7)(b)(V) and (7)(b)(VI); and **add** (7)(b)(VII) as follows:
24 **22-30.5-507. Institute charter school - requirements -**
25 **authority - rules.** (7) (b) An institute charter school may apply to the
26 state board, through the institute, for a waiver of state statutes and state
27 rules that are not automatic waivers. The state board may waive state
28 statutory requirements or rules promulgated by the state board; except that
29 the state board may not waive any statute or rule relating to:
30 (V) The "Children's Internet Protection Act", article 87 of this title
31 22; or
32 (VI) The requirement to post on the internet the statutes for which
33 waivers are granted as provided in section 22-44-305; OR
34 (VII) ANY PROVISIONS OF SECTION 22-1-130, RELATING TO
35 NOTIFICATION TO PARENTS OF ALLEGED CRIMINAL CONDUCT BY INSTITUTE
36 CHARTER SCHOOL EMPLOYEES.
37 **SECTION 5. Act subject to petition - effective date.** This act
38 takes effect August 15, 2018; except that, if a referendum petition is filed
39 pursuant to section 1 (3) of article V of the state constitution against this
40 act or an item, section, or part of this act within the ninety-day period
41 after final adjournment of the general assembly, then the act, item,

1 section, or part will not take effect unless approved by the people at the
2 general election to be held in November 2018 and, in such case, will take
3 effect on the date of the official declaration of the vote thereon by the
4 governor.

5 Page 1, lines 102 and 103, strike "**CRIMINAL CONDUCT THAT COULD**" and
6 substitute "**FELONY OFFENSES THAT WOULD**".

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