

HCS HB 1314 -- PROTECTIONS FOR SCHOOL CHILDREN FROM SEXUAL OFFENDERS

SPONSOR: Cunningham (86)

COMMITTEE ACTION: Voted "do pass" by the Committee on Elementary and Secondary Education by a vote of 9 to 3.

This substitute establishes the Amy Hestir Davis Student Protection Act. Currently, when a school employee is reported as a possible child abuser, the school board receives a report from the juvenile officer and a report from its own investigator on which it bases its findings of unsubstantiated, substantiated, or unresolved, which are then forwarded to the Children's Division within the Department of Social Services. The substitute requires the school superintendent to refer any allegation of sexual misconduct to the division within 24 hours of receiving it and requires the school to report unsubstantiated and unresolved findings to the Child Abuse Registry for its internal records. Beginning July 1, 2009, certain potential employees will be asked to sign a waiver to permit employers access to the closed records, although the employee is not required to sign the waiver.

The Office of the Child Advocate is established to offer mediation services when requested by either party when child abuse allegations arise in a school setting. No student or parent will be required to enter into mediation, but a school district is required to participate in mediation if a parent requests it. Procedures for mediation are established in the substitute.

School districts are required to adopt written policies on information that may be provided about former employees. Current district employees who report on or discuss job performance when making employment decisions that affect student safety are exempt from civil liability if they act in good faith and in accordance with district policy. A school district that has allowed an employee to resign because of allegations of sexual misconduct must disclose the allegations or be directly liable to the victim and have third-party liability to the hiring district if the employee is charged with sexual misconduct in the new district.

By January 1, 2009, school districts must establish policies on teacher-student and employee-student communication, to cover oral and nonverbal communication and appropriate use of electronic media, with a policy covering use of social networking sites to prohibit teachers from maintaining a work-related Internet site unless it is publicly available on at least one open-access network and to prohibit a nonwork-related Internet site which

allows exclusive access to current or former students. By July 1, 2009, districts must establish a policy to provide teacher and employee training on identifying signs of sexual abuse and danger signals of potentially abusive relationships between children and adults, with an emphasis on mandatory reporting.

Sexual misconduct in the second and third degree and sexual contact with a student on school property are added to the list of offenses for which a teacher's license may be denied or revoked. The substitute clarifies that beginning January 1, 2009, a criminal background check includes registering with the Family Safety Care Registry. The departments involved in the checking process are required to develop procedures to allow an annual record check of holders of active teacher certificates, and the Department of Elementary and Secondary Education is required to facilitate development of procedures for school districts to undergo annual rechecks of their noncertificated employees who are required under Section 168.133, RSMo, to undergo a background check prior to employment.

Third-party reporters of child abuse who report an alleged incident to school administrators are immune from liability under certain circumstances. The current 20-year statute of limitation for the prosecution of unlawful sexual offenses involving a person 18 years of age or younger is repealed.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$295,799 to \$307,799 in FY 2009, \$178,425 in FY 2010, and \$183,687 in FY 2011. Estimated Income on Other State Funds of \$1,080,000 in FY 2009, FY 2010, and FY 2011.

PROPOSERS: Supporters say that it is too easy for teachers who prey on students to move from district to district without the new district being aware of past problems. Fear of litigation if the former district reveals its concerns and relief at being able to quietly get rid of a bad teacher sometimes influence a district into not acting on its suspicions. Some teachers against whom there have been repeated allegations in several districts are still teaching.

Testifying for the bill were Representative Cunningham (86); Amy Hestir Davis; Marilyn Hestir; Michael Hestir; Andrea Barnes; Dr. Melissa West; and Gary Weigert.

OPPOSERS: Those who oppose the bill say that the bill poses serious privacy concerns.

Testifying against the bill was American Civil Liberties Union.

OTHERS: Others testifying on the bill say the State Auditor's report from the fall of 2007 highlighted some loopholes in the statutes, including the fact that the Department of Elementary and Secondary Education was not authorized to share information from the Family Care Safety Registry.

Testifying on the bill were Missouri Republican Attorneys for Civil Justice; Office of the State Auditor; and Missouri National Education Association.