

FIRST REGULAR SESSION

HOUSE BILL NO. 739

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MILLER.

1332H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 162.068, 162.203, and 610.021, RSMo, and to enact in lieu thereof four new sections relating to elementary and secondary education.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 162.068, 162.203, and 610.021, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 162.068, 162.203, 170.045, and
3 610.021, to read as follows:

162.068. 1. **(1)** By July 1, 2012, every school district shall adopt a written policy on
2 information that the district provides about former employees, both certificated and
3 noncertificated, to other public schools. By July 1, 2014, every charter school shall adopt a
4 written policy on information that the charter school provides about former employees, both
5 certificated and noncertificated, to other public schools. The policy shall include who is
6 permitted to respond to requests for information from potential employers and the information
7 the district or charter school would provide when responding to such a request. The policy shall
8 require that notice of this provision be provided to all current employees and to all potential
9 employers who contact the school district or charter school regarding the possible employment
10 of an employee.

11 **(2) The policy described under this subsection shall require the district or charter**
12 **school to disclose, to any public school that contacts such district or charter school about**
13 **a former employee, information regarding any violation of the published regulations of the**
14 **board of education of the district or the governing body of the charter school by the former**
15 **employee if such violation related to abusive behavior toward a student and was**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **determined to be an actual violation by the board of the district or the governing body of**
17 **the charter school.**

18 2. Any school district or charter school that employs a person about whom the children's
19 division conducts an investigation involving allegations of sexual misconduct with a student and
20 reaches a finding of substantiated shall immediately suspend the employment of such person,
21 notwithstanding any other provision of law, but the district or charter school may return the
22 person to his or her employment if the child abuse and neglect review board's finding that the
23 allegation is substantiated is reversed by a court on appeal and becomes final. Nothing shall
24 preclude a school district or charter school from otherwise lawfully terminating the employment
25 of any employee about whom there has been a finding of unsubstantiated resulting from an
26 investigation by the children's division involving allegations of sexual misconduct with a student.

27 3. Any employee who is permitted to respond to requests for information regarding
28 former employees under a policy adopted by his or her school district or charter school under
29 ~~[subsection 2 of]~~ this section and who communicates only the information which such policy
30 directs, and who acts in good faith and without malice shall be immune against any civil action
31 for damages brought by the former employee arising out of the communication of such
32 information. If any such action is brought, the employee may, at his or her option, request the
33 attorney general to defend him or her in such suit and the attorney general shall provide such
34 defense, except that if the attorney general represents the school district or the department of
35 elementary and secondary education in a pending licensing matter under section 168.071 the
36 attorney general shall not represent the school district employee.

37 4. Notwithstanding the provisions of subsection 2 of this section, if a district or charter
38 school that has employed any employee whose job involves contact with children receives
39 allegations of sexual misconduct concerning the employee and as a result of such allegations or
40 as a result of such allegations being substantiated by the child abuse and neglect review board
41 dismisses the employee or allows the employee to resign in lieu of being fired and fails to
42 disclose the allegations of sexual misconduct when furnishing a reference for the former
43 employee or responding to a potential employer's request for information regarding such
44 employee, the district or charter school shall be directly liable for damages to any student of a
45 subsequent employing district or charter school who is found by a court of competent jurisdiction
46 to be a victim of the former employee's sexual misconduct, and the district or charter school shall
47 bear third-party liability to the employing district or charter school for any legal liability, legal
48 fees, costs, and expenses incurred by the employing district or charter school caused by the
49 failure to disclose such information to the employing district or charter school.

50 5. If a school district or charter school has previously employed a person about whom
51 the children's division has conducted an investigation involving allegations of sexual misconduct

52 with a student and has reached a finding of substantiated and another public school contacts the
53 district or charter school for a reference for the former employee, the district or charter school
54 shall disclose the results of the children's division's investigation to the public school.

55 6. Any school district or charter school employee, acting in good faith, who reports
56 alleged sexual misconduct on the part of a teacher or other school employee shall not be
57 discharged or otherwise discriminated against in any fashion because of such reporting.

58 **7. Any school district or charter school shall, before offering employment to any**
59 **former employee of a school district or charter school, contact the district or charter school**
60 **that previously employed such employee and request information regarding the former**
61 **employee.**

162.203. 1. Board members initially elected or appointed under section 162.291,
2 162.459, 162.471, or 162.581 after August 28, 1993, in addition to the qualifications prescribed
3 in those sections, shall successfully complete orientation and training requirements within one
4 year of the date of the election or appointment. The orientation and training shall consist of at
5 least [~~sixteen~~] **eighteen hours and thirty minutes** with the cost of such training to be paid by
6 the district.

7 2. **The orientation and training required under subsection 1 of this section shall**
8 **include two hours and thirty minutes of effective and comprehensive sexual harassment**
9 **training. If, before August 28, 2019, a board member completed the orientation and**
10 **training requirements of this section as they existed before August 28, 2019, the board**
11 **member shall not be required to complete any additional training other than the refresher**
12 **training described in subsection 3 of this section.**

13 3. **Any school board member serving a term as of August 28, 2019, or elected or**
14 **appointed after August 28, 2019, shall complete at least one hour of refresher training each**
15 **year of any term in office; except that, the refresher training shall not be required in the**
16 **year in which the member completes the initial orientation and training under subsection**
17 **1 of this section. The refresher training shall address concepts covered in the initial**
18 **training including, but not limited to, the prevention of sexual harassment.**

19 4. All programs providing the orientation and training required under the provisions of
20 this section shall be offered by a statewide association organized for the benefit of members of
21 boards of education or be approved by the state board of education.

170.045. 1. For purposes of this section, "sexual harassment" means uninvited and
2 **unwelcome verbal or physical behavior of a sexual nature.**

3 **2. In school year 2020-21 and in each school year thereafter, each school district**
4 **shall provide age-appropriate sexual harassment training to students in all grades not**
5 **lower than the sixth grade. To the extent appropriate, the annual sexual harassment**

6 **training shall cover the provisions of any policies related to sexual harassment that appear**
7 **in the district's handbook.**

8 **3. The department of elementary and secondary education shall develop training**
9 **materials that school districts may use to comply with the provisions of this section.**

10 **4. The department of elementary and secondary education may promulgate rules**
11 **to implement the provisions of this section. Any rule or portion of a rule, as that term is**
12 **defined in section 536.010, that is created under the authority delegated in this section shall**
13 **become effective only if it complies with and is subject to all of the provisions of chapter**
14 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and**
15 **if any of the powers vested with the general assembly pursuant to chapter 536 to review,**
16 **to delay the effective date, or to disapprove and annul a rule are subsequently held**
17 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
18 **after August 28, 2019, shall be invalid and void.**

610.021. Except to the extent disclosure is otherwise required by law, a public
2 governmental body is authorized to close meetings, records and votes, to the extent they relate
3 to the following:

4 (1) Legal actions, causes of action or litigation involving a public governmental body
5 and any confidential or privileged communications between a public governmental body or its
6 representatives and its attorneys. However, any minutes, vote or settlement agreement relating
7 to legal actions, causes of action or litigation involving a public governmental body or any agent
8 or entity representing its interests or acting on its behalf or with its authority, including any
9 insurance company acting on behalf of a public government body as its insured, shall be made
10 public upon final disposition of the matter voted upon or upon the signing by the parties of the
11 settlement agreement, unless, prior to final disposition, the settlement agreement is ordered
12 closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the
13 action clearly outweighs the public policy considerations of section 610.011, however, the
14 amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed;
15 provided, however, in matters involving the exercise of the power of eminent domain, the vote
16 shall be announced or become public immediately following the action on the motion to
17 authorize institution of such a legal action. Legal work product shall be considered a closed
18 record;

19 (2) Leasing, purchase or sale of real estate by a public governmental body where public
20 knowledge of the transaction might adversely affect the legal consideration therefor. However,
21 any minutes, vote or public record approving a contract relating to the leasing, purchase or sale
22 of real estate by a public governmental body shall be made public upon execution of the lease,
23 purchase or sale of the real estate;

24 (3) Hiring, firing, disciplining or promoting of particular employees by a public
25 governmental body when personal information about the employee is discussed or recorded.
26 However, any vote on a final decision, when taken by a public governmental body, to hire, fire,
27 promote or discipline an employee of a public governmental body shall be made available with
28 a record of how each member voted to the public within seventy-two hours of the close of the
29 meeting where such action occurs; provided, however, that any employee so affected shall be
30 entitled to prompt notice of such decision during the seventy-two-hour period before such
31 decision is made available to the public. As used in this subdivision, the term "personal
32 information" means information relating to the performance or merit of individual employees.
33 **This exemption shall not apply to a school district's or charter school's records relating to**
34 **a violation of the published regulations of the board of education of the district or the**
35 **governing body of the charter school by an employee of such district or charter school if**
36 **such violation related to the employee's abusive behavior toward a student and was**
37 **determined to be an actual violation by the board of the district or the governing body of**
38 **the charter school; except that, any information that individually identifies such student**
39 **shall be considered a closed record;**

40 (4) The state militia or national guard or any part thereof;

41 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,
42 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or
43 treatment;

44 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including
45 records of individual test or examination scores; however, personally identifiable student records
46 maintained by public educational institutions shall be open for inspection by the parents,
47 guardian or other custodian of students under the age of eighteen years and by the parents,
48 guardian or other custodian and the student if the student is over the age of eighteen years;

49 (7) Testing and examination materials, before the test or examination is given or, if it
50 is to be given again, before so given again;

51 (8) Welfare cases of identifiable individuals;

52 (9) Preparation, including any discussions or work product, on behalf of a public
53 governmental body or its representatives for negotiations with employee groups;

54 (10) Software codes for electronic data processing and documentation thereof;

55 (11) Specifications for competitive bidding, until either the specifications are officially
56 approved by the public governmental body or the specifications are published for bid;

57 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals
58 and related documents or any documents related to a negotiated contract until a contract is
59 executed, or all proposals are rejected;

60 (13) Individually identifiable personnel records, performance ratings or records
61 pertaining to employees or applicants for employment, except that this exemption shall not apply
62 to the names, positions, salaries and lengths of service of officers and employees of public
63 agencies once they are employed as such, and the names of private sources donating or
64 contributing money to the salary of a chancellor or president at all public colleges and
65 universities in the state of Missouri and the amount of money contributed by the source. **This
66 exemption shall not apply to a school district's or charter school's records relating to a
67 violation of the published regulations of the board of education of the district or the
68 governing body of the charter school by an employee of such district or charter school if
69 such violation related to the employee's abusive behavior toward a student and was
70 determined to be an actual violation by the board of the district or the governing body of
71 the charter school; except that, any information that individually identifies such student
72 shall be considered a closed record;**

73 (14) Records which are protected from disclosure by law;

74 (15) Meetings and public records relating to scientific and technological innovations in
75 which the owner has a proprietary interest;

76 (16) Records relating to municipal hotlines established for the reporting of abuse and
77 wrongdoing;

78 (17) Confidential or privileged communications between a public governmental body
79 and its auditor, including all auditor work product; however, all final audit reports issued by the
80 auditor are to be considered open records pursuant to this chapter;

81 (18) Operational guidelines, policies and specific response plans developed, adopted, or
82 maintained by any public agency responsible for law enforcement, public safety, first response,
83 or public health for use in responding to or preventing any critical incident which is or appears
84 to be terrorist in nature and which has the potential to endanger individual or public safety or
85 health. Financial records related to the procurement of or expenditures relating to operational
86 guidelines, policies or plans purchased with public funds shall be open. When seeking to close
87 information pursuant to this exception, the public governmental body shall affirmatively state
88 in writing that disclosure would impair the public governmental body's ability to protect the
89 security or safety of persons or real property, and shall in the same writing state that the public
90 interest in nondisclosure outweighs the public interest in disclosure of the records;

91 (19) Existing or proposed security systems and structural plans of real property owned
92 or leased by a public governmental body, and information that is voluntarily submitted by a
93 nonpublic entity owning or operating an infrastructure to any public governmental body for use
94 by that body to devise plans for protection of that infrastructure, the public disclosure of which
95 would threaten public safety;

96 (a) Records related to the procurement of or expenditures relating to security systems
97 purchased with public funds shall be open;

98 (b) When seeking to close information pursuant to this exception, the public
99 governmental body shall affirmatively state in writing that disclosure would impair the public
100 governmental body's ability to protect the security or safety of persons or real property, and shall
101 in the same writing state that the public interest in nondisclosure outweighs the public interest
102 in disclosure of the records;

103 (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the
104 receiving agency within ninety days of submission to determine if retention of the document is
105 necessary in furtherance of a state security interest. If retention is not necessary, the documents
106 shall be returned to the nonpublic governmental body or destroyed;

107 (20) The portion of a record that identifies security systems or access codes or
108 authorization codes for security systems of real property;

109 (21) Records that identify the configuration of components or the operation of a
110 computer, computer system, computer network, or telecommunications network, and would
111 allow unauthorized access to or unlawful disruption of a computer, computer system, computer
112 network, or telecommunications network of a public governmental body. This exception shall
113 not be used to limit or deny access to otherwise public records in a file, document, data file or
114 database containing public records. Records related to the procurement of or expenditures
115 relating to such computer, computer system, computer network, or telecommunications network,
116 including the amount of moneys paid by, or on behalf of, a public governmental body for such
117 computer, computer system, computer network, or telecommunications network shall be open;

118 (22) Credit card numbers, personal identification numbers, digital certificates, physical
119 and virtual keys, access codes or authorization codes that are used to protect the security of
120 electronic transactions between a public governmental body and a person or entity doing business
121 with a public governmental body. Nothing in this section shall be deemed to close the record
122 of a person or entity using a credit card held in the name of a public governmental body or any
123 record of a transaction made by a person using a credit card or other method of payment for
124 which reimbursement is made by a public governmental body;

125 (23) Records submitted by an individual, corporation, or other business entity to a public
126 institution of higher education in connection with a proposal to license intellectual property or
127 perform sponsored research and which contains sales projections or other business plan
128 information the disclosure of which may endanger the competitiveness of a business; and

129 (24) Records relating to foster home or kinship placements of children in foster care
130 under section 210.498.

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