

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 40, Page 13, Section 43.540, Line 193,

2 by inserting after all of said line the following:

3 "162.068. 1. (1) As used in this section, "screened
4 volunteer" means any individual who assists a school by
5 providing uncompensated service, who may periodically be
6 left alone with students, who has successfully completed a
7 criminal background check before being left alone with a
8 student, and who is allowed to access student education
9 records only when necessary to assist the district and while
10 supervised by staff members. "Screened volunteer" includes,
11 but is not limited to, individuals who regularly assist in
12 the office or library, mentor or tutor students, coach or
13 supervise a school-sponsored activity before or after
14 school, or chaperone students on an overnight trip.

15 (2) By July 1, 2012, every school district shall adopt
16 a written policy on information that the district provides
17 about former employees, both certificated and
18 noncertificated, to other public schools. By July 1, 2014,
19 every charter school shall adopt a written policy on
20 information that the charter school provides about former
21 employees, both certificated and noncertificated, to other
22 public schools. Beginning January 1, 2024, such written
23 policy and the information provided under such policy shall
24 include information about screened volunteers.

25 (3) The policy described under this subsection shall
26 include who is permitted to respond to requests for

27 information from potential employers and the information the
28 district or charter school would provide when responding to
29 such a request. The policy shall require that notice of
30 this provision be provided to all current employees and
31 screened volunteers and to all potential employers who
32 contact the school district or charter school regarding the
33 possible employment of an employee or the possible service
34 of an individual as a screened volunteer.

35 [(2)] (4) The policy described under this subsection
36 shall require the district or charter school to disclose, to
37 any public school that contacts such district or charter
38 school about a former employee or screened volunteer,
39 information regarding any violation of the published
40 regulations of the board of education of the district or the
41 governing body of the charter school by the former employee
42 or screened volunteer if such violation related to sexual
43 misconduct with a student and was determined to be an actual
44 violation by the board of the district or the governing body
45 of the charter school after a contested case due process
46 hearing conducted pursuant to board policy.

47 2. Any school district or charter school that employs
48 or allows service as a screened volunteer by a person about
49 whom the children's division conducts an investigation
50 involving allegations of sexual misconduct with a student
51 and reaches a finding of substantiated shall immediately
52 suspend the employment or volunteer service of such person,
53 notwithstanding any other provision of law, but the district
54 or charter school may return the person to [his or her] such
55 person's employment or service as a screened volunteer if
56 the child abuse and neglect review board's finding that the
57 allegation is substantiated is reversed by a court on appeal
58 and becomes final. Nothing shall preclude a school district
59 or charter school from otherwise lawfully terminating the

60 employment of any employee or volunteer service of a
61 screened volunteer about whom there has been a finding of
62 unsubstantiated resulting from an investigation by the
63 children's division involving allegations of sexual
64 misconduct with a student.

65 3. Any employee who is permitted to respond to
66 requests for information regarding former employees or
67 screened volunteers under a policy adopted by [his or her]
68 such employee's school district or charter school under this
69 section and who communicates only the information which such
70 policy directs, and who acts in good faith and without
71 malice shall be immune against any civil action for damages
72 brought by the former employee or screened volunteer arising
73 out of the communication of such information. If any such
74 action is brought, the employee may, at [his or her] such
75 employee's option, request the attorney general to defend
76 [him or her] such employee in such suit and the attorney
77 general shall provide such defense, except that if the
78 attorney general represents the school district or the
79 department of elementary and secondary education in a
80 pending licensing matter under section 168.071 the attorney
81 general shall not represent the school district employee.

82 4. Notwithstanding the provisions of subsection 2 of
83 this section, if a district or charter school that has
84 employed any employee or allowed an individual to serve as a
85 screened volunteer whose job or volunteer service involves
86 contact with children receives allegations of sexual
87 misconduct, as provided in section 566.083, concerning the
88 employee or screened volunteer and, as a result of such
89 allegations or as a result of such allegations being
90 substantiated by the child abuse and neglect review board,
91 dismisses the employee or screened volunteer or allows the
92 employee to resign in lieu of being fired or allows the

93 screened volunteer to discontinue volunteer service on such
94 volunteer's own volition and fails to disclose the
95 allegations of sexual misconduct when furnishing a reference
96 for the former employee or screened volunteer or responding
97 to a potential employer's request for information regarding
98 such employee or screened volunteer, the district or charter
99 school shall be directly liable for damages to any student
100 of a subsequent employing district or charter school who is
101 found by a court of competent jurisdiction to be a victim of
102 the former employee's or screened volunteer's sexual
103 misconduct, and the district or charter school shall bear
104 third-party liability to the employing district or charter
105 school for any legal liability, legal fees, costs, and
106 expenses incurred by the employing district or charter
107 school caused by the failure to disclose such information to
108 the employing district or charter school.

109 5. If a school district or charter school has
110 previously employed a person or allowed an individual to
111 serve as a screened volunteer about whom the children's
112 division has conducted an investigation involving
113 allegations of sexual misconduct with a student and has
114 reached a finding of substantiated and another public school
115 contacts the district or charter school for a reference for
116 the former employee or screened volunteer, the district or
117 charter school shall disclose the results of the children's
118 division's investigation to the public school.

119 6. Any school district or charter school employee or
120 screened volunteer, acting in good faith, who reports
121 alleged sexual misconduct on the part of a teacher or other
122 school employee or screened volunteer shall not be
123 discharged or otherwise discriminated against in any fashion
124 because of such reporting.

125 7. Any school district or charter school shall, before
126 offering employment or allowing service as a screened
127 volunteer to any teacher or individual who was employed by
128 or served as a screened volunteer in a Missouri school
129 district or charter school, contact the department of
130 elementary and secondary education to determine the school
131 district or charter school that previously employed such
132 employee or allowed such individual to serve as a screened
133 volunteer. School districts and charter schools contacting
134 the department under this subsection shall request, from the
135 most recent, information as outlined in this section
136 regarding the former employee or screened volunteer.

137 8. Each school district and charter school shall
138 report the information maintained by such school district
139 and charter school under this section to the department of
140 elementary and secondary education.

141 168.631. 1. This section shall be known and may be
142 cited as "Emilyn's Law".

143 2. As used in this section, the following terms mean:

144 (1) "Association", a statewide athletic association or
145 organization that receives any public moneys and that has at
146 least one public school district as a member;

147 (2) "Employee", any staff employed by an association;

148 (3) "Mandated reporter", an individual with a legal
149 obligation under sections 210.109 to 210.183 to report to
150 the appropriate state department or local law enforcement
151 agency any suspicion of abuse or neglect or any belief that
152 an act that is prohibited under state law when committed on
153 school property has been committed;

154 (4) "Screened volunteer", the same definition as in
155 section 162.068.

156 3. An individual who is an employee of an association
157 shall be a mandated reporter as required under this section.

158 4. An association shall ensure that a criminal
159 background check is conducted on any screened volunteer or
160 person employed as a coach or a member of coaching staff
161 after January 1, 2024, before hiring such individual as a
162 coach or a member of a coaching staff or allowing such
163 individual to serve as a screened volunteer.

164 5. In order to facilitate the criminal history
165 background check described in subsection 4 of this section,
166 the applicant shall submit a set of fingerprints collected
167 pursuant to standards determined by the Missouri state
168 highway patrol. The fingerprints shall be used by the state
169 highway patrol to search the criminal history repository and
170 shall be forwarded to the Federal Bureau of Investigation
171 for searching the federal criminal history files.

172 6. The applicant shall pay the fee for the state
173 criminal history record information pursuant to section
174 43.530 and sections 210.900 to 210.936 and pay the
175 appropriate fee determined by the Federal Bureau of
176 Investigation for the federal criminal history record when
177 he or she applies for a position as a coach, a member of a
178 coaching staff, or a screened volunteer. The association
179 shall distribute the fees collected for the state and
180 federal criminal histories to the Missouri state highway
181 patrol.

182 7. An association shall facilitate an annual check of
183 persons employed as a coach or a member of coaching staff or
184 any screened volunteers against criminal history records in
185 the central repository under section 43.530, the sexual
186 offender registry under sections 589.400 to 589.426, and
187 child abuse central registry under sections 210.109 to
188 210.183.

189 8. An association may adopt a policy to provide for
190 reimbursement of expenses incurred by an employee for state

191 and federal criminal history information pursuant to section
192 43.530.

193 9. An association shall not employ a person as a coach
194 or a member of coaching staff or allow a person to serve as
195 a screened volunteer if, as a result of the criminal history
196 background check mandated by this section, it is determined
197 that such person has pled guilty or nolo contendere to, or
198 been found guilty of a crime or offense listed in section
199 168.071, a crime involving moral turpitude, or a similar
200 crime or offense committed in another state, the United
201 States, or any other country, regardless of imposition of
202 sentence.

203 10. If, as a result of the criminal history background
204 check mandated by this section, it is determined that a
205 coach, a member of coaching staff, or a screened volunteer
206 at an association has pled guilty or nolo contendere to, or
207 been found guilty of a crime or offense listed in section
208 168.071, a crime involving moral turpitude, or a similar
209 crime or offense committed in another state, the United
210 States, or any other country, regardless of imposition of
211 sentence, such crimes shall be grounds for dismissal of such
212 person from their position at the association.

213 11. Any person making a report to an association in
214 conformity with this section shall not be subject to civil
215 liability for such action.

216 12. A criminal background check and fingerprint
217 collection conducted under subsection 4 of this section
218 shall be valid for at least a period of one year.

219 13. If an association that has employed an individual
220 as a coach or a member of coaching staff or allowed an
221 individual to serve as a screened volunteer receives
222 allegations of sexual misconduct, as provided in section
223 566.083, concerning the employee or screened volunteer, and,

224 as a result of such allegations or as a result of such
225 allegations being substantiated by the child abuse and
226 neglect review board, dismisses the employee or screened
227 volunteer or allows the employee to resign in lieu of being
228 fired or allows the screened volunteer to discontinue
229 volunteer service on such volunteer's own volition and fails
230 to disclose the allegations of sexual misconduct when
231 furnishing a reference for the former employee or screened
232 volunteer or responding to a potential employer's request
233 for information regarding such employee or screened
234 volunteer, the association shall be directly liable for
235 damages to any student who is subsequently found by a court
236 of competent jurisdiction to be a victim of the former
237 employee's or screened volunteer's sexual misconduct, and
238 the association shall bear third-party liability to the
239 employer of the employee or screened volunteer for any legal
240 liability, legal fees, costs, and expenses incurred by the
241 employer caused by the failure to disclose such information
242 to the employer.

243 14. If an association has previously employed a coach
244 or a member of coaching staff or allowed an individual to
245 serve as a screened volunteer about whom the children's
246 division has conducted an investigation involving
247 allegations of sexual misconduct with a student and has
248 reached a finding of substantiated and a potential employer
249 of the former employee contacts the association for a
250 reference for the former employee or screened volunteer, the
251 association shall disclose the results of the children's
252 division's investigation to the potential employer.

253 15. Any employee or screened volunteer of an
254 association, acting in good faith, who reports alleged
255 sexual misconduct on the part of a coach, member of coaching
256 staff, or screened volunteer shall not be discharged or

257 otherwise discriminated against in any fashion because of
258 such reporting."; and
259 Further amend the title and enacting clause accordingly.