

# SENATE BILL NO. 417

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ARTHUR.

1586S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 162.068, RSMo, and to enact in lieu thereof two new sections relating to screening of certain school personnel.

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

Section A. Section 162.068, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 162.068 and 168.631, to read as follows:

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

(2) By July 1, 2012, every school district shall adopt a written policy on information that the district provides about former employees, both certificated and noncertificated, to other public schools. By July 1, 2014, every charter school shall adopt a written policy on information that the charter school provides about former

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 employees, both certificated and noncertificated, to other  
20 public schools. **Beginning January 1, 2024, such written**  
21 **policy and the information provided under such policy shall**  
22 **include information about screened volunteers.**

23 (3) The policy **described under this subsection** shall  
24 include who is permitted to respond to requests for  
25 information from potential employers and the information the  
26 district or charter school would provide when responding to  
27 such a request. The policy shall require that notice of  
28 this provision be provided to all current employees **and**  
29 **screened volunteers** and to all potential employers who  
30 contact the school district or charter school regarding the  
31 possible employment of an employee **or the possible service**  
32 **of an individual as a screened volunteer.**

33 [(2)] (4) The policy described under this subsection  
34 shall require the district or charter school to disclose, to  
35 any public school that contacts such district or charter  
36 school about a former employee **or screened volunteer,**  
37 information regarding any violation of the published  
38 regulations of the board of education of the district or the  
39 governing body of the charter school by the former employee  
40 **or screened volunteer** if such violation related to sexual  
41 misconduct with a student and was determined to be an actual  
42 violation by the board of the district or the governing body  
43 of the charter school after a contested case due process  
44 hearing conducted pursuant to board policy.

45 2. Any school district or charter school that employs  
46 **or allows service as a screened volunteer by** a person about  
47 whom the children's division conducts an investigation  
48 involving allegations of sexual misconduct with a student  
49 and reaches a finding of substantiated shall immediately  
50 suspend the employment **or volunteer service** of such person,

51 notwithstanding any other provision of law, but the district  
52 or charter school may return the person to [his or her] **such**  
53 **person's** employment **or service as a screened volunteer** if  
54 the child abuse and neglect review board's finding that the  
55 allegation is substantiated is reversed by a court on appeal  
56 and becomes final. Nothing shall preclude a school district  
57 or charter school from otherwise lawfully terminating the  
58 employment of any employee **or volunteer service of a**  
59 **screened volunteer** about whom there has been a finding of  
60 unsubstantiated resulting from an investigation by the  
61 children's division involving allegations of sexual  
62 misconduct with a student.

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

80 4. Notwithstanding the provisions of subsection 2 of  
81 this section, if a district or charter school that has  
82 employed any employee **or allowed an individual to serve as a**

83 **screened volunteer** whose job **or volunteer service** involves  
84 contact with children receives allegations of sexual  
85 misconduct, as provided in section 566.083, concerning the  
86 employee **or screened volunteer** and, as a result of such  
87 allegations or as a result of such allegations being  
88 substantiated by the child abuse and neglect review board,  
89 dismisses the employee **or screened volunteer** or allows the  
90 employee to resign in lieu of being fired **or allows the**  
91 **screened volunteer to discontinue volunteer service on such**  
92 **volunteer's own volition** and fails to disclose the  
93 allegations of sexual misconduct when furnishing a reference  
94 for the former employee **or screened volunteer** or responding  
95 to a potential employer's request for information regarding  
96 such employee **or screened volunteer**, the district or charter  
97 school shall be directly liable for damages to any student  
98 of a subsequent employing district or charter school who is  
99 found by a court of competent jurisdiction to be a victim of  
100 the former employee's **or screened volunteer's** sexual  
101 misconduct, and the district or charter school shall bear  
102 third-party liability to the employing district or charter  
103 school for any legal liability, legal fees, costs, and  
104 expenses incurred by the employing district or charter  
105 school caused by the failure to disclose such information to  
106 the employing district or charter school.

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

115 charter school shall disclose the results of the children's  
116 division's investigation to the public school.

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

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

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

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

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

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

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

8           (3) "Mandated reporter", an individual with a legal  
9 obligation under sections 210.109 to 210.183 to report to  
10 the appropriate state department or local law enforcement  
11 agency any suspicion of abuse or neglect or any belief that  
12 an act that is prohibited under state law when committed on  
13 school property has been committed;

14           (4) "Screened volunteer", the same definition as in  
15 section 162.068.

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

18           4. (1) The department of elementary and secondary  
19 education shall maintain a database listing each individual  
20 who:

21           (a) Is employed as a coach or a member of a coaching  
22 staff by a school district or a charter school that is an  
23 association member; or

24           (b) Serves as a screened volunteer in a school  
25 district or charter school that is an association member.

26           (2) The department's database shall contain at least  
27 the same information on such individuals as collected and  
28 maintained under sections 162.068 and 168.133.

29           (3) Before an association member hires an individual  
30 as a coach or a member of a coaching staff or allows such  
31 individual to serve as a screened volunteer, such  
32 association member shall consult the department's database  
33 to determine whether there have been any allegations of  
34 misconduct or reports of crimes against such individual.

35           (4) The department shall disclose to such association  
36 member such information collected and maintained under  
37 sections 162.068 and 168.133 about such individuals formerly  
38 employed by or volunteering for such school district, as  
39 required under sections 162.068 and 168.133.

40           5. The department of elementary and secondary  
41 education may promulgate all necessary rules and regulations  
42 for the administration of this section and may consult with  
43 any association regulated under this section to determine  
44 such necessary rules and regulations. Any rule or portion  
45 of a rule, as that term is defined in section 536.010, that  
46 is created under the authority delegated in this section  
47 shall become effective only if it complies with and is  
48 subject to all of the provisions of chapter 536 and, if  
49 applicable, section 536.028. This section and chapter 536  
50 are nonseverable and if any of the powers vested with the  
51 general assembly pursuant to chapter 536 to review, to delay  
52 the effective date, or to disapprove and annul a rule are  
53 subsequently held unconstitutional, then the grant of  
54 rulemaking authority and any rule proposed or adopted after  
55 August 28, 2023, shall be invalid and void.

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