

House Study Bill 702 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON EDUCATION BILL BY
CHAIRPERSON HITE)

A BILL FOR

1 An Act relating to education, including requirements related
2 to mandatory reporters, the department of education,
3 school districts, and accredited nonpublic schools, and the
4 responsibilities and membership of the board of educational
5 examiners, and including applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.69, subsection 1, unnumbered
2 paragraph 1, Code 2022, is amended to read as follows:

3 The classes of persons enumerated in **this subsection** shall
4 make a report within twenty-four hours and as provided in
5 section 232.70, of cases of child abuse. In addition, the
6 classes of persons enumerated in **this subsection** shall make a
7 report of abuse of a child ~~who is under twelve years of age and~~
8 ~~may make a report of abuse of a child who is twelve years of age~~
9 ~~or older~~, which would be defined as child abuse under section
10 232.68, subsection 2, paragraph "a", subparagraph (3) or (5),
11 except that the abuse resulted from the acts or omissions of
12 a person other than a person responsible for the care of the
13 child.

14 Sec. 2. Section 232.70, subsection 6, Code 2022, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. *Of.* If the person making the report is a
17 licensed school employee who reasonably believes the person
18 responsible for the injury is a licensed school employee, the
19 identity of the licensed school employee the person making the
20 report believes is responsible for the injury.

21 Sec. 3. Section 256.9, Code 2022, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 65. *a.* Develop and implement a process
24 for the reporting and investigation of any incident that
25 arises which may reasonably lead to the conclusion that a
26 licensed practitioner employed by the board of directors of a
27 school district or the authorities in charge of an accredited
28 nonpublic school has violated any law.

29 *b.* The process shall require the board of directors of a
30 school district and the authorities in charge of an accredited
31 nonpublic school to establish a committee to investigate
32 incidents that are reported pursuant to paragraph "a" and any
33 incidents that have not been reported but of which the board of
34 directors of the school district or the authorities in charge
35 of an accredited nonpublic school have knowledge. Half of the

1 members of the committee shall be individuals who reside within
2 the boundaries of the school district, if applicable, and who
3 are not a teacher or the spouse, parent, or child of a teacher;
4 a member of the board of directors of a school district or the
5 spouse, parent, or child of a member of the board of directors
6 of a school district; or a member of the authorities in charge
7 of an accredited nonpublic school or the spouse, parent, or
8 child of a member of the authorities in charge of an accredited
9 nonpublic school. The remaining members shall be selected from
10 among the following groups:

11 (1) Parents or guardians of children enrolled in the school
12 district or the accredited nonpublic school.

13 (2) Teachers.

14 (3) Administrators.

15 (4) Members of the board of directors of a school district
16 or the authorities in charge of an accredited nonpublic school,
17 as applicable.

18 *c.* The process shall require that as soon as practicable,
19 but in no event more than ten business days after an incident
20 is reported or the board of directors of the school district
21 or the authorities in charge of an accredited nonpublic school
22 learn of an incident, the committee shall meet to evaluate the
23 incident and determine whether the licensed practitioner should
24 be placed on administrative leave during the investigation of
25 the incident. If the committee determines that the incident
26 may have occurred, the committee shall notify the board of
27 directors of the school district or the authorities in charge
28 of an accredited nonpublic school and shall investigate the
29 incident to determine what, if any, action the committee will
30 recommend the board of directors of the school district or the
31 authorities in charge of an accredited nonpublic school take
32 with respect to the incident.

33 *d.* The process shall require the board of directors of a
34 school district or the authorities in charge of an accredited
35 nonpublic school to report the existence and nature of an

1 incident to the board of educational examiners and a local law
2 enforcement agency after the committee notifies the board or
3 the authorities in charge of an accredited nonpublic school
4 that the incident may have occurred.

5 e. The process shall prohibit the board of directors of a
6 school district or the authorities in charge of an accredited
7 nonpublic school from entering into any of the following
8 agreements:

9 (1) An agreement that prohibits the board of directors
10 of the school district or the authorities in charge of an
11 accredited nonpublic school, an employee of the school district
12 or the accredited nonpublic school, a contractor of the school
13 district or the accredited nonpublic school, or a member of
14 the committee from discussing an incident, past performance
15 actions, or past allegations of wrongdoing with any government
16 agent, government officer, or any potential employer.

17 (2) An agreement that waives the liability of the licensed
18 practitioner related to or arising from an incident, past
19 performance actions, or past allegations of wrongdoing.

20 f. The board of directors of a school district or the
21 authorities in charge of an accredited nonpublic school,
22 employees of the school district or the accredited nonpublic
23 school, contractors of the school district or the accredited
24 nonpublic school, and the members of the committee shall be
25 immune from any civil liability arising from discussing an
26 incident, past performance actions, or past allegations of
27 wrongdoing with any government agent, government officer, or
28 any potential employer.

29 g. The process shall require the board of directors of a
30 school district or the authorities in charge of an accredited
31 nonpublic school to collect and retain a written record of all
32 incidents that are reported pursuant to paragraph "a" and any
33 incidents that have not been reported but of which the board of
34 directors of the school district or the authorities in charge
35 of an accredited nonpublic school have knowledge.

1 *h.* An incident reported to the board of directors of a
2 school district, and any incident that has not been reported
3 but that the board of directors has knowledge of, and all
4 records related to the incident, including the records and
5 proceedings of the committee, are not subject to chapter 22.

6 *i.* If a court finds that the board of directors of a
7 school district or the authorities in charge of an accredited
8 nonpublic school has failed to follow the process established
9 by this subsection regarding an incident, or the investigation
10 of the incident, the court shall assess a civil penalty against
11 an administrator of the school district or the accredited
12 nonpublic school who failed to ensure compliance with the
13 process of not more than five thousand dollars. Payments of
14 the civil penalty provided in this paragraph shall be remitted
15 to the treasurer of state for deposit in the general fund of
16 the state.

17 *j.* If a court finds that the board of directors of a
18 school district or the authorities in charge of an accredited
19 nonpublic school has intentionally concealed, or attempted to
20 conceal, an incident, or the investigation of the incident, the
21 court shall assess a civil penalty against an administrator
22 of the school district or the accredited nonpublic school who
23 assisted in the concealment, or attempted concealment, of an
24 incident or an investigation of an incident of not more than
25 ten thousand dollars. Payments of the civil penalty provided
26 in this paragraph shall be remitted to the treasurer of state
27 for deposit in the general fund of the state.

28 Sec. 4. Section 272.2, subsection 14, Code 2022, is amended
29 by adding the following new paragraph:

30 NEW PARAGRAPH. *f.* For offenses that are not enumerated in
31 paragraph "b", the board shall suspend the license of a teacher
32 who is convicted of an aggravated misdemeanor or a more serious
33 offense. Rules adopted in accordance with this paragraph shall
34 provide that in determining the duration of the suspension, the
35 board shall consider the nature and seriousness of the founded

1 abuse or offense in relation to the teacher's position and
2 the likelihood that the teacher will commit the same abuse or
3 offense again.

4 Sec. 5. Section 272.2, subsection 15, Code 2022, is amended
5 to read as follows:

6 15. a. Adopt rules that require specificity in written
7 complaints that are filed by individuals who have personal
8 knowledge of an alleged violation and which are accepted by
9 the board, provide that the jurisdictional requirements as set
10 by the board in administrative rule are met on the face of the
11 complaint before initiating an investigation of allegations,
12 provide that any investigation be limited to the allegations
13 contained on the face of the complaint, provide for an adequate
14 interval between the receipt of a complaint and public notice
15 of the complaint, permit parties to a complaint to mutually
16 agree to a resolution of the complaint filed with the board,
17 allow the respondent the right to review any investigative
18 report upon a finding of probable cause for further action by
19 the board, require that the conduct providing the basis for
20 the complaint occurred within three years of discovery of the
21 event by the complainant unless good cause can be shown for
22 an extension of this limitation, and require complaints to be
23 resolved within one hundred eighty days unless good cause can
24 be shown for an extension of this limitation.

25 b. Adopt rules that require the collection and retention of
26 written complaints that are filed. If the board determines a
27 written complaint is not founded, the complaint and all records
28 related to the complaint shall be kept confidential and are not
29 subject to chapter 22.

30 c. Adopt rules that require the board to notify the school
31 that employs, or is seeking to employ, a teacher who is the
32 subject of an investigation initiated under paragraph "a", of
33 the existence and nature of the written complaint filed against
34 the teacher.

35 d. Adopt rules that require the evaluation of complaints

1 that did not result in any discipline or sanction if similar
2 complaints are filed against the same teacher by individuals
3 who have personal knowledge of an alleged violation.

4 e. Adopt rules that provide that if a licensed practitioner
5 is required to take a course designed to prevent future
6 violations, the licensed practitioner shall not be required to
7 complete a course that is offered by a specific person.

8 Sec. 6. Section 272.3, Code 2022, is amended to read as
9 follows:

10 **272.3 Membership.**

11 1. The board of educational examiners consists of twelve
12 members. ~~Two must~~ At least six shall be members of the general
13 public, one ~~must~~ shall be the director of the department of
14 education or the director's designee, and ~~the remaining nine~~
15 ~~members must~~ at least four shall be licensed practitioners.
16 ~~One of the public members shall have served on a school board.~~
17 ~~The public members shall never have held a practitioner's~~
18 ~~license, but shall have a demonstrated interest in education~~
19 shall have a demonstrated interest in education, but shall
20 not have held a practitioner's license, served on a school
21 board, or been employed by a school. The ~~nine~~ licensed
22 practitioners shall be selected from among the following areas
23 and specialties of the teaching profession:

- 24 a. Elementary teachers.
25 b. Secondary teachers.
26 c. Special education or other similar teachers.
27 d. Counselors or other special purpose practitioners.
28 e. Administrators.
29 f. School service personnel.

30 2. A majority of the licensed practitioner members shall
31 be nonadministrative practitioners. ~~Four~~ At least one of
32 the licensed practitioner members shall be ~~administrators~~ an
33 administrator. Membership of the board shall comply with the
34 requirements of [sections 69.16](#) and [69.16A](#). A quorum of the
35 board shall consist of six members. Members shall elect a

1 chairperson of the board. Members, except for the director of
2 the department of education or the director's designee, shall
3 be appointed by the governor subject to confirmation by the
4 senate.

5 Sec. 7. Section 272.4, subsection 1, unnumbered paragraph
6 1, Code 2022, is amended to read as follows:

7 Members, except for the director of the department of
8 education or the director's designee, shall be appointed to
9 serve staggered terms of four years. A member shall not serve
10 more than two consecutive terms, except for the director of the
11 department of education or the director's designee, who shall
12 serve until the director's term of office expires. A member of
13 the board, except for the ~~two~~ public members and the director
14 of the department of education or the director's designee,
15 shall hold a valid practitioner's license during the member's
16 term of office. A vacancy exists when any of the following
17 occur:

18 Sec. 8. Section 279.69, Code 2022, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 1A. Prior to hiring an individual who
21 is subject to a background investigation pursuant to section
22 272.2, subsection 17, or section 279.13, subsection 1, a school
23 district shall contact the board of educational examiners to
24 determine if the individual is the subject of an investigation
25 initiated under section 272.2, subsection 15.

26 Sec. 9. NEW SECTION. 280.32 **Incidents related to licensed**
27 **practitioners — reporting and investigation.**

28 The board of directors of a school district and the
29 authorities in charge of each accredited nonpublic school shall
30 follow the process created by the department of education
31 pursuant to section 256.9, subsection 65, related to the
32 reporting and investigation of an incident where a licensed
33 practitioner may have violated a law.

34 Sec. 10. **APPLICABILITY.** The following apply to
35 appointments to the board of educational examiners made on or

1 after the effective date of this Act:

2 1. The section of this Act amending section 272.3.

3 2. The section of this Act amending section 272.4.

4

EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to education, including requirements
8 related to mandatory reporters, the department of education
9 (DOE), school districts, and accredited nonpublic schools, and
10 the responsibilities and membership of the board of educational
11 examiners (BOEE).

12 Current Code section 232.69 (mandatory and permissive
13 reporters) requires certain persons to report cases of abuse
14 of a child who is under 12 years of age and authorizes those
15 persons to make a report of abuse of a child who is 12 years
16 of age or older. The bill requires the persons governed by
17 Code section 232.69 to make a report of the abuse of a child,
18 regardless of whether the child is 12 years of age or older.
19 The bill also requires that if the person making the report is
20 a licensed school employee who reasonably believes the person
21 responsible for the injury is a licensed school employee, the
22 person making the report shall identify the licensed school
23 employee when making the report.

24 The bill requires the DOE to develop and implement a
25 process for the reporting and investigation of any incident
26 that arises which may reasonably lead to the conclusion that
27 a licensed practitioner employed by the board of directors
28 of a school district or the authorities in charge of an
29 accredited nonpublic school has violated any law. The bill
30 establishes that the process requires the creation of a
31 committee to investigate these incidents. The bill establishes
32 the composition of the membership of the committee. The bill
33 requires the committee to meet to evaluate the incident and
34 determine whether the licensed practitioner should be placed
35 on administrative leave during the investigation. The bill

1 provides for when incidents shall be reported and the persons
2 to whom incidents shall be reported. The bill prohibits the
3 board or the authorities in charge of an accredited nonpublic
4 school from entering into certain specified contracts related
5 to incidents. The bill immunizes the board or the authorities
6 in charge of an accredited nonpublic school, the board's or
7 the accredited nonpublic school's employees and contractors,
8 and the members of the committee against any civil liability
9 arising from discussing a complaint with certain specified
10 persons. The bill provides that the process shall require
11 the board or the authorities in charge of an accredited
12 nonpublic school to collect and retain a written record of
13 incidents. The bill provides that incidents and records
14 related to incidents maintained by the board are not subject
15 to Code chapter 22 (open records). The bill provides for the
16 administrator of a school district or an accredited nonpublic
17 school to be assessed a civil penalty not to exceed \$5,000
18 if the administrator fails to follow the process relating
19 to incidents, and a civil penalty not to exceed \$10,000 if
20 the administrator assists in the concealment, or attempted
21 concealment, of an incident or the investigation of an
22 incident.

23 Current Code section 272.2(14)(b) requires the BOEE to
24 disqualify an applicant for a license or revoke the license
25 of a person for entering a plea of guilty to, or being found
26 guilty of, certain specified offenses. The bill requires the
27 BOEE to suspend the license of a teacher who has been convicted
28 of an aggravated misdemeanor or a more serious offense, unless
29 that offense is covered by Code section 272.2(14)(b).

30 Current law requires the BOEE to adopt rules related to
31 complaints that are filed by individuals who have personal
32 knowledge of an alleged violation and the investigation of
33 those complaints. The bill requires the BOEE to adopt rules
34 that require the collection and retention of those complaints
35 and the evaluation of complaints that did not result in any

1 discipline if similar complaints are filed against the teacher.
2 The bill also provides that if a licensed practitioner
3 is required to take a course designed to prevent future
4 violations, the licensed practitioner shall not be required to
5 complete a course that is offered by a specific person. The
6 bill requires the BOEE to adopt rules that require the BOEE
7 to notify the school that employs, or is seeking to employ, a
8 teacher who is the subject of an investigation of the existence
9 and nature of the complaint filed against the teacher.
10 Additionally, the bill requires a school district to contact
11 the BOEE to determine if certain specified individuals are the
12 subject of an investigation prior to hiring the individual.
13 Current law provides that the BOEE consists of 12 members,
14 including 2 members of the general public, 1 member who is
15 the director of the DOE or the director's designee, and 9
16 members who are licensed practitioners. The bill modifies this
17 provision to require that at least six members of the BOEE be
18 members of the general public and that at least four members
19 be licensed practitioners. The bill provides that the public
20 members shall have a demonstrated interest in education, but
21 shall not have held a practitioner's license, served on a
22 school board, or been employed by a school. The bill provides
23 that these modifications apply to appointments to the BOEE made
24 on or after the effective date of the bill.