

House File 10 - Introduced

HOUSE FILE 10

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A BILL FOR

1 An Act relating to education, including requirements related to
2 mandatory reporters, a process for investigating complaints
3 against licensed practitioners, and the responsibilities
4 of the department of education, school districts, charter
5 schools, accredited nonpublic schools, and the board of
6 educational examiners.

7 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 2023, 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 232.69, subsection 1, paragraph b,
15 subparagraph (4), Code 2023, is amended to read as follows:

16 (4) A licensed school employee, certified para-educator,
17 holder of a coaching authorization issued under **section 272.31**,
18 full-time school employee who is eighteen years of age or
19 older, or an instructor employed by a community college.

20 Sec. 3. Section 232.70, subsection 5, Code 2023, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. *Of.* If the person making the report is a
23 licensed school employee who reasonably believes the person
24 responsible for the injury is also a licensed school employee,
25 the identity of the licensed school employee the person making
26 the report believes is responsible for the injury.

27 Sec. 4. Section 256.9, Code 2023, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 66. *a.* Develop and implement a process
30 for the reporting and investigation of any incident that arises
31 that may reasonably lead to the conclusion that an individual
32 with a license, endorsement, certification, authorization, or
33 statement of recognition issued by the board of educational
34 examiners who is employed by the board of directors of a
35 school district, the authorities in charge of an accredited

1 nonpublic school, or the governing board of a charter school
2 has committed a felony or has engaged in conduct described in
3 section 272.15, subsection 1, paragraph "a", subparagraph (1),
4 subparagraph divisions (a) through (d).

5 *b.* The process shall prohibit the boards of directors of
6 a school district, the authorities in charge of an accredited
7 nonpublic school, and the governing board of a charter school
8 from entering into any of the following:

9 (1) A written or oral agreement that prohibits the board
10 of directors of the school district, the authorities in charge
11 of an accredited nonpublic school, the governing board of
12 a charter school, an employee of the school district, the
13 accredited nonpublic school, or the charter school, or a
14 contractor of the school district, the accredited nonpublic
15 school, or the charter school from discussing an incident, past
16 performance or actions, past allegations leading to discipline
17 or adverse employment action, or employee resignation with any
18 governmental agent, governmental officer, or any potential
19 employer.

20 (2) A written or oral agreement that waives the liability
21 of an individual with a license, endorsement, certification,
22 authorization, or statement of recognition issued by the
23 board of educational examiners related to or arising from an
24 incident, past performance or action, or past allegations of
25 wrongdoing.

26 *c.* The board of directors of a school district, the
27 authorities in charge of an accredited nonpublic school, or
28 the governing board of a charter school, and contractors of
29 the school district, the accredited nonpublic school, or the
30 charter school shall be immune from any civil liability arising
31 from discussing an incident, past performance or actions,
32 past allegations leading to discipline or adverse employment
33 action, or employee resignation with any governmental agent,
34 governmental officer, or any potential employer.

35 *d.* If the board of educational examiners finds that the

1 board of directors of a school district, the authorities in
2 charge of an accredited nonpublic school, or the governing
3 board of a charter school has intentionally failed to follow
4 the process established by this subsection regarding an
5 incident, or the reporting requirements established pursuant
6 to section 272.15, the board of educational examiners shall
7 assess a fine against an administrator of the school district,
8 the accredited nonpublic school, or the charter school who
9 failed to ensure compliance with the process of not less than
10 five hundred dollars and not more than five thousand dollars.
11 Payments of the fine provided in this paragraph shall be
12 remitted to the treasurer of the state for deposit in the
13 general fund of the state.

14 e. If the board of educational examiners finds that the
15 board of directors of a school district, the authorities in
16 charge of an accredited nonpublic school, or the governing
17 board of a charter school has intentionally concealed, or
18 attempted to conceal from any governmental agent, governmental
19 officer, or potential employer a founded incident, or any
20 conduct required to be reported pursuant to section 272.15, the
21 board of educational examiners shall assess a fine against an
22 administrator of the school district, the accredited nonpublic
23 school, or the charter school who assisted in the concealment,
24 or attempted concealment, of an incident, or any conduct
25 required to be reported pursuant to section 272.15, of not more
26 than ten thousand dollars. Payments of the fine provided in
27 this paragraph shall be remitted to the treasurer of the state
28 for deposit in the general fund of the state.

29 Sec. 5. Section 256E.7, subsection 2, Code 2023, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. *oi.* Be subject to and comply with the
32 requirements of section 280.33 in the same manner as a school
33 district.

34 Sec. 6. Section 272.2, subsection 14, paragraph b,
35 subparagraph (1), unnumbered paragraph 1, Code 2023, is amended

1 to read as follows:

2 The person entered a plea of guilty to, ~~or~~ has been found
3 guilty of, or the board has found by a preponderance of the
4 evidence that the person committed, any of the following
5 offenses, whether or not a sentence is imposed:

6 Sec. 7. Section 272.2, subsection 15, Code 2023, is amended
7 to read as follows:

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

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

32 c. Adopt rules that require the board to notify the school
33 that employs, or is seeking to employ, a licensed practitioner
34 who is the subject of an ongoing investigation initiated under
35 paragraph "a", of the existence and nature of the written

1 complaint filed against the licensed practitioner. This
2 paragraph shall not be construed to require the board to
3 disclose unfounded, closed investigations initiated under
4 paragraph "a".

5 d. Adopt rules that require the evaluation of complaints
6 that did not result in any discipline or sanction if similar
7 complaints are filed against the same licensed practitioner.

8 e. Adopt rules that require the board to investigate an
9 administrator who is employed by the school that employs a
10 licensed practitioner who is the subject of an investigation
11 initiated under paragraph "a". The rules shall require
12 the board to investigate whether the administrator filed a
13 written complaint pursuant to this subsection and whether the
14 administrator was required to report to the board pursuant to
15 section 272.15.

16 Sec. 8. Section 279.69, Code 2023, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 1A. Prior to hiring an individual who
19 has been issued a license, endorsement, certification,
20 authorization, or statement of recognition by the board of
21 educational examiners, a school district shall contact the
22 board of educational examiners to determine if the individual
23 is the subject of an ongoing investigation initiated pursuant
24 to section 272.2, subsection 15, if a complaint has been filed
25 against the individual pursuant to section 272.2, subsection
26 15, if a report has been filed against the individual pursuant
27 to section 272.15, or if the individual surrendered a license,
28 endorsement, certification, authorization, or statement of
29 recognition prior to the final disposition of an investigation.
30 Information provided pursuant to this subsection shall be
31 kept confidential, is not subject to chapter 22, and may only
32 be shared with individuals directly involved in the hiring
33 process. This subsection shall not be construed to require the
34 board of educational examiners to disclose unfounded, closed
35 investigations.

1 implement a process for the reporting and investigation of
2 any incident that arises which may reasonably lead to the
3 conclusion that an individual with a license, endorsement,
4 certification, authorization, or statement of recognition
5 issued by the BOEE, and who is employed by the board of
6 directors of a school district, the authorities in charge
7 of an accredited nonpublic school, or a charter school, has
8 committed certain specified felonies or engaged in certain
9 specified conduct. The bill requires the boards of directors
10 of school districts, the authorities in charge of accredited
11 nonpublic schools, and charter schools to follow this process.
12 The bill prohibits the board, the authorities in charge of an
13 accredited nonpublic school, and charter schools from entering
14 into certain specified agreements related to certain incidents.
15 The bill immunizes the board, the authorities in charge of
16 an accredited nonpublic school, and charter schools, and the
17 board's, the accredited nonpublic school's, or the charter
18 school's contractors against any civil liability arising from
19 discussing an incident, past performance or actions, past
20 allegations leading to discipline, or resignation with certain
21 specified persons. The bill requires the BOEE to assess a
22 civil penalty of not less than \$500 and not more than \$5,000
23 against the administrator of a school district, an accredited
24 nonpublic school, or a charter school if the administrator
25 fails to follow the process relating to incidents, and a civil
26 penalty not to exceed \$10,000 if the administrator assists in
27 the concealment, or attempted concealment, of an incident or
28 certain conduct that is required to be reported.

29 Current law requires the BOEE to adopt rules that require
30 the disqualification of an applicant for licensure, or the
31 revocation of a license, if the person entered a plea of
32 guilty to, or has been found guilty of, certain specified
33 offenses. The bill modifies this provision to also require
34 the disqualification of an applicant for licensure, or
35 the revocation of a license, if the BOEE has found by a

1 preponderance of the evidence that the person committed certain
2 specified offenses.

3 Current law requires the BOEE to adopt rules related to
4 complaints that are filed by individuals who have personal
5 knowledge of an alleged violation and the investigation of
6 those complaints. The bill requires the BOEE to adopt rules
7 that require the collection and retention of those complaints
8 and the evaluation of complaints that did not result in
9 any discipline if similar complaints are filed against the
10 licensed practitioner. The bill requires the BOEE to adopt
11 rules that require the BOEE to notify the school that employs,
12 or is seeking to employ, a licensed practitioner who is
13 the subject of an investigation of the existence and nature
14 of the complaint filed against the licensed practitioner.
15 Additionally, the bill requires the BOEE to investigate an
16 administrator employed by a school that employs a licensed
17 practitioner who is the subject of an investigation to
18 determine whether the administrator filed a written complaint
19 against the licensed practitioner and to determine whether the
20 administrator was required to report the licensed practitioner
21 to the BOEE.

22 The bill requires school districts, prior to hiring an
23 individual with a license, endorsement, certification,
24 authorization, or statement of recognition issued by the
25 BOEE, to contact the BOEE to determine if the individual
26 is the subject of an ongoing investigation, if a complaint
27 or report has been filed against the individual, or if the
28 individual surrendered a license, endorsement, certification,
29 authorization, or statement of recognition prior to final
30 disposition of an investigation.