HOUSE FILE 2487
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 568)

(As Amended and Passed by the House March 11, 2024)

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

*[An Act relating to education, including by modifying provisions related to mandatory reporting to the board of educational examiners of certain specified school employees, complaints against school employees and the investigation of complaints against school employees, and the responsibilities of the department of education and the board of educational examiners.]

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

BOARD OF EDUCATIONAL EXAMINERS — MANDATORY REPORTING

Section 1. Section 256.160, subsection 1, paragraph a, subparagraph (1), subparagraph division (a), Code 2024, is amended by striking the subparagraph division and inserting in lieu thereof the following:

(a) Soliciting, encouraging, or consummating any of the following:

(i) A romantic or physical relationship with a student.

(ii) Grooming behavior toward a student.

(iii) An otherwise inappropriate relationship with a student.

Sec. 2. Section 256.160, subsection 1, paragraph a, subparagraph (1), Code 2024, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (e) Abusing a student.

Sec. 3. Section 256.160, subsection 1, paragraph a, subparagraph (2), Code 2024, is amended to read as follows:

(2) The board of directors of a school district or area education agency, the superintendent of a school district, the chief administrator of an area education agency, and the authorities in charge of an accredited nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under sections 279.12, 279.13, 279.15, 279.16, 279.18 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of the rules adopted by the board to implement section 256.146, subsection 13, paragraph "b", subparagraph (1); soliciting, encouraging, or consummating a romantic or physical relationship with a student, grooming behavior toward a student, or an otherwise inappropriate relationship with a student; falsifying student grades, test scores, or other

official information or material; ~~or~~ converting public property or funds to the personal use of the school employee; or abusing a student, when the board or reporting official has a good faith belief that the incident occurred or the allegation is true. The board may deny a license or revoke the license of an administrator if the board finds by a preponderance of the evidence that the administrator failed to report the termination or resignation of a school employee holding a license, certificate, statement of professional recognition, or coaching authorization, for reasons of alleged or actual misconduct, as defined by this section.

Sec. 4. Section 256.160, subsection 1, paragraph c, Code 2024, is amended by striking the paragraph.

Sec. 5. Section 256.160, Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 5. For purposes of this section:

a. "Grooming behavior" means any attempt to seduce, solicit, lure, or entice a student, or a person believed to be a student, to participate in a sex act, as defined in section 702.17, or to engage in any unlawful sexual conduct.

b. "Inappropriate relationship" means a dating relationship, a sexual relationship, or any relationship in which sexual harassment or any form of physical or sexual abuse occurs.

c. "Misconduct" means an action disqualifying an applicant for a license or causing the license of a person to be revoked or suspended in accordance with the rules adopted by the board to implement section 256.146, subsection 13, paragraph *"b"*, subparagraph (1).

DIVISION II

BOARD OF EDUCATIONAL EXAMINERS — PROCESS FOR INVESTIGATING COMPLAINTS

Sec. 6. Section 256.9, subsection 67, Code 2024, is amended by striking the subsection.

Sec. 7. Section 256.146, Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 25. *a.* (1) Develop and implement a process for the reporting and investigation of any incident that arises that may reasonably lead to the conclusion that any individual who is employed by the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school, including an individual with a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, has committed a felony or, in the case of an individual with a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, has engaged in conduct described in section 256.160, subsection 1, paragraph "*a*", subparagraph (1).

(2) The process must require the board of educational examiners to assign a unique identifier to each incident that is reported. The board of educational examiners shall provide the unique identifier to the person who reported the incident and to the employee who is the subject of the incident, and the unique identifier must be able to be used to search the board of educational examiners' internet site to determine the current status of the investigation of the incident, including the date of the most recently taken action. The board of educational examiners shall ensure that the portion of the internet site displaying such information is only accessible by the person who reported the incident, the employee who is the subject of the incident, and the board of educational examiners and its employees and agents.

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

(1) A written or oral agreement that prohibits the board of directors of the school district, the authorities in charge of an accredited nonpublic school, the governing board of

a charter school, an employee of the school district, the accredited nonpublic school, or the charter school, or a contractor of the school district, the accredited nonpublic school, or the charter school from discussing an incident, past performance or actions, past allegations leading to discipline or adverse employment action, or employee resignation with any governmental agent, governmental officer, or any potential employer.

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

c. (1) The process shall require the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school to provide all documentation and information related to the incident to the board of educational examiners for investigation if the employee who is the subject of the incident and who has a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners resigns or the employee's contract is terminated during the school district's, accredited nonpublic school's, or charter school's investigation of the incident.

(2) The process shall require the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school to finalize the investigation of the incident even if the employee who is the subject of the incident and who does not have a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners resigns or the employee's contract is terminated during the school district's, accredited nonpublic school's, or charter school's investigation of the incident.

d. The process shall require that, prior to hiring an applicant for any position, the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school must conduct a review of the applicant's employment history, including by contacting the applicant's previous employers listed on the application for employment and by viewing the board of educational examiners' public license information to determine if the applicant has a case pending with a finding of probable cause or any licensure sanction.

e. The process shall require the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school to maintain on forms prescribed by the board of educational examiners reference information related to all employees of the school district, accredited nonpublic school, or charter school, and respond to any request for such information from a potential employer. This paragraph shall not be construed to require the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school to disclose unfounded, closed investigations. The board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school shall be immune from any criminal or civil liability arising from the disclosure of reference information under this paragraph if the school district, accredited nonpublic school, or charter school does not knowingly disclose false information.

f. The board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school, and contractors of the school district, the accredited nonpublic school, or the charter school shall be immune from any civil liability arising from discussing an incident, past performance or actions, past allegations leading to discipline or adverse employment

action, or employee resignation with any governmental agent, governmental officer, or any potential employer.

g. If, after investigation, the board of educational examiners determines that the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school has intentionally failed to follow the process established by this subsection regarding an incident, or the reporting requirements established pursuant to section 256.160, related to an employee who holds a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, any administrator of the school district, the accredited nonpublic school, or the charter school who intentionally failed to ensure compliance with the process shall be subject to a hearing conducted by the board of educational examiners.

h. If, after investigation, the board of educational examiners determines that the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school has intentionally failed to follow the process established by this subsection regarding an incident related to an employee who does not hold a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, any administrator of the school district, the accredited nonpublic school, or the charter school who intentionally failed to ensure compliance with the process shall be subject to a hearing conducted by the board of educational examiners.

i. If, after investigation, the board of educational examiners determines that the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school has intentionally concealed, or attempted to conceal from any governmental agent, governmental officer, or potential employer

a founded incident, or any conduct required to be reported pursuant to section 256.160, related to an employee who holds a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, any administrator of the school district, the accredited nonpublic school, or the charter school who intentionally assisted in the concealment, or attempted concealment, of an incident, or any conduct required to be reported pursuant to section 256.160, shall be subject to a hearing conducted by the board of educational examiners.

j. If, after investigation, the board of educational examiners finds that the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school has intentionally concealed, or attempted to conceal from any governmental agent, governmental officer, or potential employer a founded incident related to an employee who does not hold a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, any administrator of the school district, the accredited nonpublic school, or the charter school who intentionally assisted in the concealment, or attempted concealment, of an incident shall be subject to a hearing conducted by the board of educational examiners.

k. (1) Annually, on or before June 30 of each year, the board of educational examiners shall submit to the general assembly a report that contains information related to all of the following:

(a) The number and types of disciplinary hearings before the board of educational examiners.

(b) Any trends in the number or types of disciplinary hearings before the board of educational examiners.

(c) The number of board of educational examiners investigations of the employees of school districts, accredited nonpublic schools, or charter schools who do not hold a

license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, that the board of educational examiners referred to a law enforcement agency.

(d) Any other information deemed relevant by the board of educational examiners in order to inform the general assembly of the status of the enforcement of the board of educational examiners' rules.

(2) The report shall not include any personally identifiable information related to investigations referred to a law enforcement agency.

Sec. 8. Section 280.34, Code 2024, is amended to read as follows:

280.34 Incidents related to licensed practitioners — reporting and investigation.

The board of directors of a school district and the authorities in charge of each accredited nonpublic school shall follow the process created by the ~~department of education~~ board of educational examiners pursuant to section ~~256.9, subsection 67~~ 256.146, subsection 25, related to the reporting and investigation of an incident involving the possible commission of a felony by any employee of the board of directors of the school district or the authorities in charge of the accredited nonpublic school.

Sec. 9. REPEAL. Section 256.158A, Code 2024, is repealed.

DIVISION III

BOARD OF EDUCATIONAL EXAMINERS — REPORTING REQUIREMENTS

Sec. 10. Section 256.158, subsection 3, Code 2024, is amended to read as follows:

3. *a.* ~~All~~ Subject to paragraph "*b*", all complaint files, investigation files, other investigation reports, and other investigative information in the possession of the board or its employees or agents, which relate to licensee discipline or the investigation of nonlicensed school employees, are privileged and confidential, and are not subject to discovery,

subpoena, or other means of legal compulsion for their release to a person other than the respondent and the board and its employees and agents involved in licensee discipline or the investigation of nonlicensed school employees, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. A complaint, any amendment to a complaint, and any supporting documents shall be provided to the respondent immediately upon the board's determination that jurisdictional requirements have been met and prior to the commencement of the board's investigation of a licensee. Investigative information in the possession of the board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. A final written decision and finding of fact of the board in a disciplinary proceeding is a public record.

b. Notwithstanding paragraph "*a*", if the investigative information in the possession of the board or its employees or agents indicates that a crime has been committed by either a licensee or a nonlicensed school employee, the board shall report the investigative information to the proper law enforcement agency.

DIVISION IV

BOARD OF EDUCATIONAL EXAMINERS — TIME IN WHICH COMPLAINTS CAN BE INVESTIGATED

Sec. 11. Section 256.146, subsection 14, paragraph a, Code 2024, is amended to read as follows:

a. Adopt rules that require specificity in written complaints that are filed by individuals who have personal knowledge of an alleged violation and which are accepted by the board, provide that the jurisdictional requirements as set by the board in administrative rule are met on the face of the

complaint before initiating an investigation of allegations, provide that any investigation be limited to the allegations contained on the face of the complaint, provide for an adequate interval between the receipt of a complaint and public notice of the complaint, permit parties to a complaint to mutually agree to a resolution of the complaint filed with the board, allow the respondent the right to review any investigative report upon a finding of probable cause for further action by the board, require that the conduct providing the basis for the complaint occurred within three years of discovery of the event by the complainant unless good cause can be shown for an extension of this limitation or unless the conduct constitutes conduct described in section 256.160, subsection 1, paragraph "a", subparagraph (1), subparagraph division (a), require complaints to be resolved within one hundred eighty days unless good cause can be shown for an extension of this limitation, and require the board to finalize the investigation of the written complaint even if the licensed practitioner resigns or surrenders the licensed practitioner's license, certificate, authorization, or statement of recognition during the investigation.]