



Substitute House Bill No. 5400

Public Act No. 16-67

AN ACT CONCERNING THE DISCLOSURE OF CERTAIN EDUCATION PERSONNEL RECORDS, CRIMINAL PENALTIES FOR THREATENING IN EDUCATIONAL SETTINGS AND THE EXCLUSION OF A MINOR'S NAME FROM SUMMARY PROCESS COMPLAINTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 10-221d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) Each local and regional board of education, each governing council of a state or local charter school and each interdistrict magnet school operator shall (1) require each applicant for a position in a public school with such board, council or operator to state whether such [person] applicant has ever been convicted of a crime or whether criminal charges are pending against such [person at the time of such person's application] applicant, (2) [(A) on and after July 1, 2011,] require each applicant [for a position in a public school requiring a certificate, authorization or permit issued pursuant to chapter 166] to submit to a records check of the Department of Children and Families child abuse and neglect registry established pursuant to section 17a-101k, before such applicant may be hired by such board, [and (B) on and after July 1, 2012, require each applicant for a position in a public school that does not require a certificate, authorization or permit

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issued pursuant to chapter 166 to submit to a records check of the Department of Children and Families child abuse and neglect registry established pursuant to section 17a-101k, before such applicant may be hired by such board, (3)] council or operator, (3) on and after July 1, 2016, require, subject to the provisions of subsection (d) of this section, each [person hired by the board after July 1, 1994,] applicant for a position to submit to state and national criminal history records checks within thirty days from the date of employment and may require, subject to the provisions of subsection (d) of this section, any person hired prior to said date to submit to state and national criminal history records checks, and (4) require each worker (A) placed within a school under a public assistance employment program, (B) employed by a provider of supplemental services pursuant to the No Child Left Behind Act, P.L. 107-110, or (C) [on and after July 1, 2010,] in a nonpaid, noncertified position completing preparation requirements for the issuance of an educator certificate pursuant to chapter 166, who performs a service involving direct student contact to submit to state and national criminal history records checks within thirty days from the date such worker begins to perform such service. The criminal history records checks required by this subsection shall be conducted in accordance with section 29-17a. If the local or regional board of education receives notice of a conviction of a crime which has not previously been disclosed by such person to the board, the board may (i) terminate the contract of a certified employee, in accordance with the provisions of section 10-151, and (ii) dismiss a noncertified employee, provided such employee is notified of the reason for such dismissal. [is provided the opportunity to file with the board, in writing, any proper answer to such criminal conviction and a copy of the notice of such criminal conviction, the answer and the dismissal order are made a part of the records of the board.] In addition, if the local or regional board of education receives notice of a conviction of a crime by a person (I) holding a certificate, authorization or permit issued by the State Board of Education, (II) employed by a provider of

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supplemental services, or (III) [on and after July 1, 2010,] in a nonpaid, noncertified position completing preparation requirements for the issuance of an educator certificate pursuant to chapter 166, the local or regional board of education shall send such notice to the State Board of Education. The supervisory agent of a private school may require any applicant for a position in such school or any employee of such school to submit to state and national criminal history records checks in accordance with the procedures described in this subsection.

(b) If a local or regional board of education, governing council of a state or local charter school, operator of an interdistrict magnet school, endowed or incorporated academy approved by the State Board of Education pursuant to section 10-34, or special education facility approved by the State Board of Education pursuant to section 10-76d requests, a regional educational service center shall arrange for the fingerprinting of any person required to submit to state and national criminal history records checks pursuant to this section or for conducting any other method of positive identification required by the State Police Bureau of Identification or the Federal Bureau of Investigation and shall forward such fingerprints or other positive identifying information to the State Police Bureau of Identification which shall conduct criminal history records checks in accordance with section 29-17a. Such regional educational service center shall maintain such fingerprints or other positive identifying information, which may be in an electronic format, for a period of four years, at the end of which such fingerprints and positive identifying information shall be destroyed. Such regional educational service centers shall provide the results of such checks to such local or regional board of education, governing council of a state or local charter school, operator of an interdistrict magnet school, endowed or incorporated academy or special education facility and to a contractor, in the case of any employee of an applicant contractor subject to such records checks. Such regional educational service centers shall provide such results to

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any other local or regional board of education or regional educational service center upon the request of such person. No regional educational service center shall charge a fee for services under this subsection that exceeds any fee that the center may charge any applicant for a position with such center.

(c) State and national criminal history records checks for substitute teachers completed within one year prior to the date of employment with a local or regional board of education, council or operator and submitted to the employing board of education, council or operator shall meet the requirements of subdivision (3) of subsection (a) of this section. A local or regional board of education, council or operator shall not require substitute teachers to submit to state and national criminal history records checks pursuant to subdivision (3) of subsection (a) of this section if they are continuously employed by such local or regional board of education, council or operator, provided a substitute teacher is subjected to such checks at least once every five years. For purposes of this section, substitute teachers shall be deemed to be continuously employed by a local or regional board of education, council or operator if they are employed at least one day of each school year by such local or regional board of education, council or operator.

[(d) (1) The provisions of this section shall not apply to a person required to submit to a criminal history records check pursuant to the provisions of subsection (e) of section 14-44.]

[(2)] (d) The provisions of this section shall not apply to a student employed by the local or regional school district in which the student attends school.

[(3) The provisions of subsection (a) of this section requiring state and national criminal history records checks shall, at the discretion of a local or regional board of education, apply to a person employed by a

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local or regional board of education as a teacher for a noncredit adult class or adult education activity, as defined in section 10-67, who is not required to hold a teaching certificate pursuant to section 10-145b for his or her position.]

(e) The State Board of Education shall submit, periodically, a database of applicants for an initial issuance of certificate, authorization or permit pursuant to sections 10-144o to 10-149, inclusive, to the State Police Bureau of Identification. The State Police Bureau of Identification shall conduct a state criminal history records check against such database and notify the State Board of Education of any such applicant who has a criminal conviction. The State Board of Education shall not issue a certificate, authorization or permit until it receives and evaluates the results of such check and may deny an application in accordance with the provisions of subsection (i) of section 10-145b.

(f) The State Board of Education shall submit, periodically, a database of all persons who hold certificates, authorizations or permits to the State Police Bureau of Identification. The State Police Bureau of Identification shall conduct a state criminal history records check against such database and shall notify the State Board of Education of any such person who has a criminal conviction. The State Board of Education may revoke the certificate, authorization or permit of such person in accordance with the provisions of subsection (i) of section 10-145b.

(g) The State Board of Education shall require each applicant seeking an initial issuance or renewal of a certificate, authorization or permit pursuant to sections 10-144o to 10-149, inclusive, to submit to a records check of the Department of Children and Families child abuse and neglect registry established pursuant to section 17a-101k. If notification is received that the applicant is listed as a perpetrator of abuse or neglect on the Department of Children and Families child

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abuse and neglect registry, the board shall deny an application for the certificate, authorization or permit in accordance with the provisions of subsection (i) of section 10-145b, or may revoke the certificate, authorization or permit in accordance with the provisions of said subsection (i).

(h) Notwithstanding the provisions of subsection (f) of section 31-51i, the Department of Education shall, upon request of a local or regional board of education, governing council of a state or local charter school or an interdistrict magnet school operator, make available to such local or regional board of education, governing council or interdistrict magnet school operator requesting information concerning an applicant for a position with such board, council or operator (1) any information concerning the applicant's eligibility for employment in a position with such board, council or operator requiring a certificate, authorization or permit issued pursuant to chapter 166, (2) whether the department has knowledge that the applicant has been disciplined for a finding of abuse or neglect or sexual misconduct, as defined in section 10-222c, as amended by this act, and any information concerning such a finding, and (3) whether the department has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges. The provisions of this subsection shall not be construed to cause the department to investigate any such request.

Sec. 2. Section 10-222c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) No local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator shall offer employment to an applicant for a position, including any position which is contracted for, if such applicant would have direct student contact, prior to such board, council or operator:

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(1) Requiring of such applicant:

(A) To list the name, address and telephone number of each current or former employer of the applicant, if such current or former employer was a local or regional board of education, council or operator or if such employment otherwise caused the applicant to have contact with children;

(B) A written authorization that (i) consents to and authorizes disclosure by the employers listed under subparagraph (A) of this subdivision of the information requested under subdivision (2) of this subsection and the release of related records by such employers, (ii) consents to and authorizes disclosure by the Department of Education of the information requested under subdivision (3) of this subsection and the release of related records by the department, and (iii) releases those employers and the department from liability that may arise from such disclosure or release of records pursuant to subdivision (2) or (3) of this subsection; and

(C) A written statement of whether the applicant (i) has been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated, (ii) has ever been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families, or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to section 17a-101g of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct, or (iii) has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by the department or an

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investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by the department of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct;

(2) Conducting a review of the employment history of the applicant by contacting those employers listed by the applicant under subdivision (1) of this subsection. Such review shall be conducted using a form developed by the Department of Education in accordance with section 3 of this act that shall request (A) the dates of employment of the applicant, and (B) a statement as to whether the employer has knowledge that the applicant (i) was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated; (ii) was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or (iii) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct. Such review may be conducted telephonically or through written communication. Notwithstanding the provisions of subsection (f) of section 31-51i, not later than five business days after any such current or former employer of the applicant receives a request for such information, such employer shall respond with such information. A local or regional board of education, council or operator may request more information concerning any response made by a current or former employer, and, notwithstanding the provisions of said subsection (f), such employer shall respond not later than five business

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days after receiving such request; and

(3) Requesting information from the Department of Education concerning (A) the eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit issued pursuant to chapter 166, (B) whether the department has knowledge that a finding has been substantiated by the Department of Children and Families pursuant to section 17a-101g of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding, and (C) whether the department has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

(b) Notwithstanding the provisions of subsection (f) of section 31-51i, any local or regional board of education or council or operator that receives information that an applicant for a position with or an employee of the board has been disciplined for a finding of abuse or neglect or sexual misconduct shall notify the Department of Education of such information.

(c) No local or regional board of education or council or operator shall employ an applicant for a position involving direct student contact who does not comply with the provisions of subdivision (1) of subsection (a) of this section.

(d) A local or regional board of education or council or operator may employ or contract with an applicant on a temporary basis for a period not to exceed ninety days, pending such board's review of information received under this section, provided:

(1) The applicant complied with subdivision (1) of subsection (a) of this section;

(2) The board, council or operator has no knowledge of information

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pertaining to the applicant that would disqualify the applicant from employment with the board, council or operator; and

(3) The applicant affirms that the applicant is not disqualified from employment with such board, council or operator.

(e) No local or regional board of education, council or operator shall enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any other contract or agreement or take any action that:

(1) Has the effect of suppressing information relating to an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;

(2) Affects the ability of the local or regional board of education, council or operator to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or

(3) Requires the local or regional board of education, council or operator to expunge information about an allegation or a finding of suspected abuse or neglect or sexual misconduct from any documents maintained by the board, unless after investigation such allegation is dismissed or found to be false.

(f) No local or regional board of education, council or operator shall offer employment to a person as a substitute teacher, unless such person and the board comply with the provisions of subsection (a) of this section. The board shall determine which such persons are employable as substitute teachers and maintain a list of such persons. No board, council or operator shall hire any person as a substitute teacher who is not on such list. Such person shall remain on such list as long as such person is continuously employed by the board, council or operator as a substitute teacher, as described in subsection (c) of section 10-221d, as amended by this act, provided the board, council or

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operator does not have any knowledge of a reason that such person should be removed from such list.

(g) In the case of an applicant who is a contractor, the contractor shall require any employee with such contractor who would be in a position involving direct student contact to supply to such contractor all information required of an applicant under subparagraphs (A) and (C) of subdivision (1) of subsection (a) of this section and a written authorization under subparagraph (B) of said subdivision. Such contractor shall contact any current or former employer of such employee that was a local or regional board of education, council or operator or if such employment caused the employee to have contact with children, and request, either telephonically or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee. Notwithstanding the provisions of subsection (f) of section 31-51i, such employer shall report to the contractor any such finding, either telephonically or through written communication. If the contractor receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, notwithstanding the provisions of said subsection (f), immediately forward such information to any local or regional board of education with which the contractor is under contract, either telephonically or through written communication. Any local or regional board of education, council or operator that receives such information shall determine whether such employee may work in a position involving direct student contact at any school under the board's jurisdiction. No determination by a local or regional board of education that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.

(h) Any applicant who knowingly provides false information or knowingly fails to disclose information required in subdivision (1) of

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subsection (a) of this section shall be subject to discipline by the employing local or regional board of education, council or operator that may include (1) denial of employment, or (2) termination of the contract of a certified employee, in accordance with the provisions of section 10-151.

(i) Any employer who provides information in accordance with subdivision (2) of subsection (a) of this section or subsection (g) of this section and the Department of Education for the provision of information requested in accordance with subdivision (3) of said subsection (a) shall be immune from criminal and civil liability, provided the employer or department did not knowingly supply false information.

(j) Notwithstanding the provisions of section 10-151c and subsection (f) of section 31-51i, a local or regional board of education, council or operator shall provide upon request by any other local or regional board of education, council or operator for the purposes of an inquiry pursuant to subdivision (2) of subsection (a) of this section or subsection (g) of this section or to the Commissioner of Education pursuant to subsection (b) of this section any information that the board, council or operator has concerning a finding of abuse or neglect or sexual misconduct by a subject of any such inquiry.

(k) For purposes of this section and section 10-221d, as amended by this act, (1) "sexual misconduct" means any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student; and (2) "abuse or neglect" means abuse or neglect as described in section 46b-120, and includes any violation of section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-

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72b or 53a-73a.

(l) Prior to [hiring any person] offering employment to an applicant, a local or regional board of education, council or operator shall make a documented good faith effort to contact [previous employers] each current and any former employer that was a local or regional board of education, council or operator or if such employment otherwise caused the applicant to have contact with children of the [person] applicant in order to obtain information and recommendations which may be relevant to the [person's] applicant's fitness for employment, provided such effort shall not be construed to require more than three telephonic requests made on three separate days.

(m) No local or regional board of education shall offer employment to any applicant who had any previous employment contract terminated by a board, council or operator or who resigned from such employment, if such person has been convicted of a violation of section 17a-101a, when an allegation of abuse or neglect or sexual assault has been substantiated.

Sec. 3. (*Effective from passage*) Not later than June 30, 2016, the Department of Education shall make available to local and regional boards of education, councils and operators a standardized form of questions to be directed to an employer to provide information pursuant to subdivision (2) of subsection (a) of section 10-222c of the general statutes, as amended by this act, or subsection (g) of said section to a local or regional board of education, council or operator requesting such information.

Sec. 4. Subsection (a) of section 10-145 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) No teacher, supervisor, administrator, special service staff

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member or school superintendent, except as provided for in section 10-157, shall be employed in any of the schools of any local or regional board of education unless such person possesses an appropriate state certificate, nor shall any such person be entitled to any salary unless such person can produce such certificate dated prior to or on the first day of employment, except as provided for in section 10-157; provided nothing in this subsection shall be construed to prevent the board of education from prescribing qualifications additional to those prescribed by the regulations of the State Board of Education and provided nothing in this subsection shall be construed to prevent any local or regional board of education from contracting with a licensed drivers' school approved by the Commissioner of Motor Vehicles for the behind-the-wheel instruction of a driver instruction course, to be given by driving instructors licensed by the Department of Motor Vehicles. No person shall be employed in any of the schools of any local or regional board of education as a substitute teacher unless such person (1) holds a bachelor's degree, provided the Commissioner of Education may waive such requirement for good cause upon the request of a superintendent of schools, and (2) is on a list maintained by the local or regional board of education pursuant to subsection (f) of section 10-222c, as amended by this act.

Sec. 5. Section 10-66rr of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a)] On and after July 1, 2015, the State Board of Education shall require members of the governing council of a state or local charter school and members of a charter management organization to submit to a records check of the Department of Children and Families child abuse and neglect registry, established pursuant to section 17a-101k, and to state and national criminal history records checks before the state board grants initial certificates of approval for charters pursuant

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to section 10-66bb, or before such members may be hired by the governing council of a state or local charter school or charter management organization. The criminal history records checks required under this subsection shall be conducted in accordance with section 29-17a.

[(b) On and after July 1, 2015, the] The governing council of a state or local charter school shall require each [applicant for a position in a state or local charter school and each] contractor doing business with a state or local charter school, who performs a service involving direct student contact, to submit to a records check of the Department of Children and Families child abuse and neglect registry, established pursuant to section 17a-101k, and to state and national criminal history records checks before such applicant may be hired or such contractor begins to perform such service. The criminal history records checks required under this subsection shall be conducted in accordance with section 29-17a.

Sec. 6. Section 53a-61aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) A person is guilty of threatening in the first degree when such person (1) (A) threatens to commit any crime involving the use of a hazardous substance with the intent to terrorize another person, to cause evacuation of a building, place of assembly or facility of public transportation or otherwise to cause serious public inconvenience, or (B) threatens to commit such crime in reckless disregard of the risk of causing such terror, evacuation or inconvenience; (2) (A) threatens to commit any crime of violence with the intent to cause evacuation of a building, place of assembly or facility of public transportation or otherwise to cause serious public inconvenience, or (B) threatens to commit such crime in reckless disregard of the risk of causing such evacuation or inconvenience; [or] (3) commits threatening in the second degree as provided in section 53a-62, as amended by this act,

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and in the commission of such offense [he] such person uses or is armed with and threatens the use of or displays or represents by [his] such person's words or conduct that [he] such person possesses a pistol, revolver, shotgun, rifle, machine gun or other firearm; or (4) violates subdivision (1) or (2) of this subsection with the intent to cause an evacuation of a building or the grounds of a public or nonpublic preschool, school or institution of higher education during preschool, school or instructional hours or when a building or the grounds of such preschool, school or institution are being used for preschool, school or institution-sponsored activities. No person shall be found guilty of threatening in the first degree under subdivision (3) of this subsection and threatening in the second degree upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.

(b) For the purposes of this section, "hazardous substance" means any physical, chemical, biological or radiological substance or matter which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health.

(c) Threatening in the first degree is a class D felony, except that a violation of subdivision (4) of subsection (a) of this section is a class C felony.

Sec. 7. Section 53a-62 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) A person is guilty of threatening in the second degree when: (1) By physical threat, such person intentionally places or attempts to place another person in fear of imminent serious physical injury, (2) (A) such person threatens to commit any crime of violence with the

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intent to terrorize another person, or [(3)] (B) such person threatens to commit such crime of violence in reckless disregard of the risk of causing such terror, or (3) violates subdivision (1) or (2) of this subsection and the person threatened is in a building or on the grounds of a public or nonpublic preschool, school or institution of higher education during preschool, school or instructional hours or when a building or the grounds of such preschool, school or institution are being used for preschool, school or institution-sponsored activities.

(b) Threatening in the second degree is a class A misdemeanor, except that a violation of subdivision (3) of subsection (a) of this section is a class D felony.

Sec. 8. (NEW) (*Effective October 1, 2016*) The Board of Pardons and Paroles shall grant an absolute pardon to any person who applies for such pardon with respect to a conviction of a violation of subdivision (4) of subsection (a) of section 53a-61aa of the general statutes, as amended by this act, or subdivision (3) of subsection (a) of section 53a-62 of the general statutes, as amended by this act, if (1) such person committed such offense prior to attaining the age of eighteen years, (2) at least three years have elapsed from the date of such conviction or such person's discharge from the supervision of the court or the care of any institution or agency to which such person has been committed by the court, whichever is later, (3) such person has no subsequent juvenile proceeding or adult criminal proceeding that is pending, (4) such person has attained the age of eighteen years, and (5) such person has not been convicted as an adult of a felony or misdemeanor during the three-year period specified in subdivision (2) of this section.

Sec. 9. (NEW) (*Effective October 1, 2016*) Any individual who reports an act of threatening described in subdivision (4) of subsection (a) of section 53a-61aa of the general statutes, as amended by this act, shall have an absolute defense to any civil action brought as a result of having made such report, provided such individual exercised due care

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when making such report and at all times acted in good faith while making such report.

Sec. 10. Subsection (a) of section 47a-26h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) A summary process judgment shall bind (1) the named defendants and any minors holding under them; (2) any occupant who first commenced occupancy of the premises after service of the notice to quit upon which the summary process action was based, unless such occupancy was commenced or continued with the consent of the plaintiff or under a right to occupy equal or superior to the rights of the plaintiff; (3) if the plaintiff has properly named and served each occupant whose presence is known with a notice to quit and a writ, summons and complaint in accordance with the provisions of sections 47a-23 and 47a-23a, any occupant who first commenced occupancy of the premises prior to service of the notice to quit and (A) who the plaintiff and his agents did not know was in occupancy of the premises, or (B) of whose presence the plaintiff or his agent knew but whose name they did not know. If a minor, who is or will be bound by a summary process judgment under subdivision (1) of this subsection, is named in a summary process complaint, the court, upon motion of any party or upon its own motion, may order the name of such minor to be stricken from the record of the action and the clerk shall remove or arrange for the removal of such minor's name from the record of the case maintained on the Internet web site of the Judicial Branch.

Sec. 11. Section 10-221w of the 2016 supplement to the general statutes is repealed. (*Effective July 1, 2016*)

Approved June 2, 2016