



House of Representatives

General Assembly

File No. 605

February Session, 2016

Substitute House Bill No. 5400

House of Representatives, April 14, 2016

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE DISCLOSURE OF CERTAIN EDUCATION PERSONNEL RECORDS.

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

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 Section 10-221d of the general statutes is repealed and the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

3 (a) Each local and regional board of education shall (1) require each
4 applicant for a position in a public school to state whether such
5 [person] applicant has ever been convicted of a crime or whether
6 criminal charges are pending against such [person at the time of such
7 person's application] applicant, (2) [(A) on and after July 1, 2011,]
8 require each applicant [for a position in a public school requiring a
9 certificate, authorization or permit issued pursuant to chapter 166] to
10 submit to a records check of the Department of Children and Families
11 child abuse and neglect registry established pursuant to section 17a-
12 101k, before such applicant may be hired by such board, [and (B) on
13 and after July 1, 2012, require each applicant for a position in a public
14 school that does not require a certificate, authorization or permit

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

50 issuance of an educator certificate pursuant to chapter 166, the local or
51 regional board of education shall send such notice to the State Board of
52 Education. The supervisory agent of a private school may require any
53 applicant for a position in such school or any employee of such school
54 to submit to state and national criminal history records checks in
55 accordance with the procedures described in this subsection.

56 (b) If a local or regional board of education, endowed or
57 incorporated academy approved by the State Board of Education
58 pursuant to section 10-34, or special education facility approved by the
59 State Board of Education pursuant to section 10-76d requests, a
60 regional educational service center shall arrange for the fingerprinting
61 of any person required to submit to state and national criminal history
62 records checks pursuant to this section or for conducting any other
63 method of positive identification required by the State Police Bureau of
64 Identification or the Federal Bureau of Investigation and shall forward
65 such fingerprints or other positive identifying information to the State
66 Police Bureau of Identification which shall conduct criminal history
67 records checks in accordance with section 29-17a. Such regional
68 educational service center shall maintain such fingerprints or other
69 positive identifying information, which may be in an electronic format,
70 for a period of four years, at the end of which such fingerprints and
71 positive identifying information shall be destroyed. Such regional
72 educational service centers shall provide the results of such checks to
73 such local or regional board of education, endowed or incorporated
74 academy or special education facility. Such regional educational
75 service centers shall provide such results to any other local or regional
76 board of education or regional educational service center upon the
77 request of such person.

78 (c) State and national criminal history records checks for substitute
79 teachers completed within one year prior to the date of employment
80 with a local or regional board of education and submitted to the
81 employing board of education shall meet the requirements of
82 subdivision (3) of subsection (a) of this section. A local or regional
83 board of education shall not require substitute teachers to submit to

84 state and national criminal history records checks pursuant to
85 subdivision (3) of subsection (a) of this section if they are continuously
86 employed by such local or regional board of education. For purposes
87 of this section, substitute teachers shall be deemed to be continuously
88 employed by a local or regional board of education if they are
89 employed at least one day of each school year by such local or regional
90 board of education.

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

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

97 (3) The provisions of subsection (a) of this section requiring state
98 and national criminal history records checks shall, at the discretion of a
99 local or regional board of education, apply to a person employed by a
100 local or regional board of education as a teacher for a noncredit adult
101 class or adult education activity, as defined in section 10-67, who is not
102 required to hold a teaching certificate pursuant to section 10-145b for
103 his or her position.

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

115 (f) The State Board of Education shall submit, periodically, a

116 database of all persons who hold certificates, authorizations or permits
117 to the State Police Bureau of Identification. The State Police Bureau of
118 Identification shall conduct a state criminal history records check
119 against such database and shall notify the State Board of Education of
120 any such person who has a criminal conviction. The State Board of
121 Education may revoke the certificate, authorization or permit of such
122 person in accordance with the provisions of subsection (i) of section 10-
123 145b.

124 (g) The State Board of Education shall require each applicant
125 seeking an initial issuance or renewal of a certificate, authorization or
126 permit pursuant to sections 10-144o to 10-149, inclusive, to submit to a
127 records check of the Department of Children and Families child abuse
128 and neglect registry established pursuant to section 17a-101k. If
129 notification is received that the applicant is listed as a perpetrator of
130 abuse or neglect on the Department of Children and Families child
131 abuse and neglect registry, the board shall deny an application for the
132 certificate, authorization or permit in accordance with the provisions of
133 subsection (i) of section 10-145b, or may revoke the certificate,
134 authorization or permit in accordance with the provisions of said
135 subsection (i).

136 (h) Notwithstanding the provisions of subsection (f) of section 31-
137 51i, the Department of Education shall make available to any local or
138 regional board of education requesting information concerning an
139 applicant for a position with such board (1) any information
140 concerning the applicant's eligibility for employment in a position with
141 such board, (2) whether the department has knowledge that the
142 applicant has been disciplined for a finding of abuse or sexual
143 misconduct, as defined in section 10-222c, as amended by this act, and
144 any information concerning such a finding, and (3) whether the
145 department has received notification of criminal charges pending
146 against the applicant and any information concerning such charges.

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

149 (a) No local or regional board of education shall offer employment
150 to an applicant for a position, including any position which is
151 contracted for, if such applicant would have direct student contact,
152 prior to such board:

153 (1) Requiring of such applicant:

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

159 (B) A written authorization that (i) consents to and authorizes
160 disclosure by the employers listed under subparagraph (A) of this
161 subdivision of the information requested under subdivision (2) of this
162 subsection and the release of related records by such employers, and
163 (ii) releases those employers from liability that may arise from such
164 disclosure or release of records pursuant to subdivision (2) of this
165 subsection; and

166 (C) A written statement of whether the applicant (i) has been the
167 subject of an abuse or sexual misconduct investigation by any
168 employer, state agency or municipal police department, unless the
169 investigation resulted in a finding that all allegations were
170 unsubstantiated, (ii) has ever been disciplined or asked to resign from
171 employment or resigned from or otherwise separated from any
172 employment while an allegation of abuse or sexual misconduct was
173 pending or under investigation by the Department of Children and
174 Families, or due to an allegation substantiated by the department of
175 abuse or sexual misconduct or a conviction for abuse or sexual
176 misconduct, or (iii) has ever had a professional or occupational license
177 or certificate suspended or revoked or has ever surrendered such a
178 license or certificate while an allegation of abuse or sexual misconduct
179 was pending or under investigation by the department, or due to an
180 allegation substantiated by the department of abuse or sexual
181 misconduct or a conviction for abuse or sexual misconduct;

182 (2) Conducting a review of the employment history of the applicant
183 by submitting to those employers listed by the applicant under
184 subdivision (1) of this subsection a form developed by the Department
185 of Education in accordance with section 3 of this act that shall request
186 (A) the dates of employment of the applicant, and (B) a statement as to
187 whether the employer has knowledge that the applicant (i) was the
188 subject of an allegation of abuse or sexual misconduct for which there
189 is an investigation pending with the Department of Children and
190 Families or which has been substantiated by the Department of
191 Children and Families; (ii) was disciplined or asked to resign from
192 employment or resigned from or otherwise separated from any
193 employment while an allegation of abuse or sexual misconduct was
194 pending or under investigation, or due to a finding of abuse or sexual
195 misconduct; or (iii) has ever had a professional or occupational license
196 or certificate suspended or revoked or has ever surrendered such a
197 license or certificate while an allegation of abuse or sexual misconduct
198 was pending or under investigation, or due to a finding of abuse or
199 sexual misconduct. Notwithstanding the provisions of subsection (f) of
200 section 31-51i, not later than twenty days after any current employer of
201 the applicant and not later than sixty days after any former employer
202 of the applicant receives a form requesting such information, such
203 employer shall complete and return the form to the local or regional
204 board of education requesting such information. A local or regional
205 board of education may request more information concerning any
206 response made by a current or former employer, and, notwithstanding
207 the provisions of said subsection (f), such employer shall respond not
208 later than sixty days after receiving such request; and

209 (3) Requesting information from the Department of Education
210 concerning (A) the eligibility status for employment of any applicant
211 for the position, (B) whether the department has knowledge that the
212 applicant has been disciplined for a finding of abuse or sexual
213 misconduct and any information concerning such a finding, and (C)
214 whether the department has received notification of criminal charges
215 pending against the applicant and any information concerning such
216 charges.

217 (b) Notwithstanding the provisions of subsection (f) of section 31-
218 51i, any local or regional board of education that receives information
219 that an applicant for a position with or an employee of the board has
220 been disciplined for a finding of abuse or sexual misconduct shall
221 notify the Department of Education of such information.

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

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

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

232 (2) The board has no knowledge of information pertaining to the
233 applicant that would disqualify the applicant from employment with
234 the board; and

235 (3) The applicant affirms that the applicant is not disqualified from
236 employment with such board.

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

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

244 (2) Affects the ability of the local or regional board of education to
245 report suspected abuse or sexual misconduct to appropriate
246 authorities; or

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

252 (f) No local or regional board of education shall offer employment
253 to a person as a substitute teacher, unless such person and the board
254 comply with the provisions of subsection (a) of this section. The board
255 shall determine which such persons are employable as substitute
256 teachers and maintain a list of such persons. No board shall hire any
257 person as a substitute teacher who is not on such list. Such person shall
258 remain on such list as long as such person is continuously employed
259 by the board as a substitute teacher, as described in subsection (c) of
260 section 10-221d, as amended by this act, provided the board does not
261 have any knowledge of a reason that such person should be removed
262 from such list.

263 (g) In the case of an applicant who is a contractor, the contractor
264 shall require any employee with such contractor who would be in a
265 position involving direct student contact to supply to such contractor
266 all information required of an applicant under subparagraphs (A) and
267 (C) of subdivision (1) of subsection (a) of this section and a written
268 authorization under subparagraph (B) of said subdivision. Such
269 contractor shall contact any current or former employer of such
270 employee and request any information concerning whether there was
271 a finding of abuse or sexual misconduct against such employee.
272 Notwithstanding the provisions of subsection (f) of section 31-51i, such
273 employer shall report to the contractor any such finding. If the
274 contractor receives any information indicating such a finding or
275 otherwise has knowledge of such a finding, the contractor shall,
276 notwithstanding the provisions of said subsection (f), immediately
277 forward such information to any local or regional board of education
278 with which the contractor is under contract. Any local or regional
279 board of education that receives such information shall determine
280 whether such employee may work in a position involving direct

281 student contact at any school under the board's jurisdiction. No
282 determination by a local or regional board of education that any such
283 employer shall not work under any such contract in any such position
284 shall constitute a breach of such contract.

285 (h) Any applicant who provides false information or knowingly fails
286 to disclose information required in subdivision (1) of subsection (a) of
287 this section shall be subject to discipline by the employing local or
288 regional board of education that may include (1) denial of
289 employment, or (2) (A) termination of the contract of a certified
290 employee, in accordance with the provisions of section 10-151, or (B)
291 dismissal of a noncertified employee, provided such employee is
292 notified of the reason for such dismissal and is provided the
293 opportunity to appeal such dismissal to the local or regional board of
294 education through the grievance procedure in the collective bargaining
295 agreement covering such employee.

296 (i) Any employer who provides information in accordance with
297 subdivision (2) of subsection (a) of this section or subsection (g) of this
298 section shall be immune from criminal and civil liability, provided the
299 employer did not knowingly supply false information.

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

308 (k) If the State Board of Education determines that a local or
309 regional board of education negligently or knowingly violated any
310 provision of this section, the State Board of Education may require the
311 local or regional board of education to forfeit of the total sum which is
312 paid to such board of education from the State Treasury, an amount to
313 be determined by the State Board of Education, which amount shall be

314 not less than one thousand dollars or more than ten thousand dollars.
315 The amount so forfeited shall be withheld from a grant payment, as
316 determined by the commissioner, during the fiscal year following the
317 fiscal year in which noncompliance is determined pursuant to this
318 subsection.

319 (l) Local and regional boards of education shall report to the State
320 Board of Education any suspected violation by a contractor of the
321 provisions of subsection (a) or (g) of this section. The State Board of
322 Education shall review each such report to determine whether any
323 such provision was knowingly violated. The board shall make
324 available a list with each contractor found to have knowingly violated
325 said subsection (a) or (g) to local and regional boards of education. No
326 local or regional board of education shall contract with any such
327 contractor.

328 (m) For purposes of this section and section 10-221d, as amended by
329 this act, (1) "sexual misconduct" means any verbal, nonverbal, written
330 or electronic communication, or any other act directed toward or with
331 a student that is designed to establish a romantic or sexual relationship
332 with the student, including a sexual or romantic invitation, dating or
333 soliciting a date, engaging in sexual or romantic dialog, making
334 sexually suggestive comments, self-disclosure or physical exposure of
335 a sexual, romantic or erotic nature and any other sexual, indecent,
336 romantic or erotic contact with a student; and (2) "abuse" means a
337 violation of section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a,
338 or as described in section 46b-120.

339 (n) Prior to [hiring any person] offering employment to an
340 applicant, a local or regional board of education shall make a
341 documented good faith effort to contact [previous employers] each
342 former employer of the [person] applicant in order to obtain
343 information and recommendations which may be relevant to the
344 [person's] applicant's fitness for employment.

345 (o) No local or regional board of education shall offer employment
346 to any applicant who had any previous employment contract

347 terminated by a board or who resigned from such employment, if such
348 person has been convicted of a violation of section 17a-101a, regardless
349 of whether an allegation of abuse or neglect or sexual assault has been
350 substantiated.

351 Sec. 3. (*Effective from passage*) Not later than June 30, 2016, the
352 Department of Education shall make available to local and regional
353 boards of education a standardized form directing an employer to
354 provide information pursuant to subdivision (2) of subsection (a) of
355 section 10-222c of the general statutes, as amended by this act, to a
356 local or regional board of education requesting such information.

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

360 (a) No teacher, supervisor, administrator, special service staff
361 member or school superintendent, except as provided for in section 10-
362 157, shall be employed in any of the schools of any local or regional
363 board of education unless such person possesses an appropriate state
364 certificate, nor shall any such person be entitled to any salary unless
365 such person can produce such certificate dated prior to or on the first
366 day of employment, except as provided for in section 10-157; provided
367 nothing in this subsection shall be construed to prevent the board of
368 education from prescribing qualifications additional to those
369 prescribed by the regulations of the State Board of Education and
370 provided nothing in this subsection shall be construed to prevent any
371 local or regional board of education from contracting with a licensed
372 drivers' school approved by the Commissioner of Motor Vehicles for
373 the behind-the-wheel instruction of a driver instruction course, to be
374 given by driving instructors licensed by the Department of Motor
375 Vehicles. No person shall be employed in any of the schools of any
376 local or regional board of education as a substitute teacher unless such
377 person (1) holds a bachelor's degree, provided the Commissioner of
378 Education may waive such requirement for good cause upon the
379 request of a superintendent of schools, and (2) is on a list maintained

380 by the local or regional board of education pursuant to subsection (f) of
381 section 10-222c, as amended by this act.

382 Sec. 5. Section 10-221w of the 2016 supplement to the general
383 statutes is repealed. (*Effective July 1, 2016*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	10-221d
Sec. 2	<i>July 1, 2016</i>	10-222c
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>July 1, 2016</i>	10-145(a)
Sec. 5	<i>July 1, 2016</i>	Repealer section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Education, Dept.	GF - Cost	160,578	160,578
State Comptroller - Fringe Benefits ¹	GF - Cost	64,135	64,135

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 17 \$	FY 18 \$
Various Local and Regional School Districts	Revenue Loss	None	1,000-10,000
Local and Regional School Districts	STATE MANDATE - Cost	Potential	Potential

Explanation

The bill requires local and regional boards of education and the State Department of Education (SDE) to participate in additional investigative measures to determine, prior to employment, whether an applicant has a history of sexual misconduct or abuse involving a child. It is anticipated that the additional requirements contained in the bill will result in additional personnel costs to SDE of \$160,578, and corresponding fringe benefits of \$64,135, annually.

Approximately 4,000 new teachers are hired throughout the state, annually. It is anticipated the additional measures regarding prior employment and investigations of a new employee, along with the

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 39.94% of payroll in FY 17 and FY 18.

responsibility of responding to inquiries from local and regional boards of education will result in the need for SDE to hire one additional Education Service Specialist, with an annual salary of approximately \$76,374 and corresponding fringe benefits.

Additionally, the bill imposes an investigation and enforcement duty on SDE. SDE may take action against a local or regional school district that is not in compliance with the new requirements contained in the bill and may forfeit between \$1,000 and \$10,000 of a state grant, the local and regional school board would have otherwise received. This results in a potential minimal revenue loss to local and regional school districts not in compliance. Additionally, SDE would require one additional Staff Attorney with an average salary of \$84,204, and corresponding fringe benefits, to complete the additional enforcement duties under the bill.

The additional investigative and enforcement measures in the bill could also result in additional human resource costs to various local and regional boards of education, which would vary, based on the number of additional new hires, annually. The larger the district, and corresponding new hires, the larger the additional costs could be.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, except for the potential revenue loss to districts, which is dependent on compliance.

OLR Bill Analysis**sHB 5400*****AN ACT CONCERNING THE DISCLOSURE OF CERTAIN EDUCATION PERSONNEL RECORDS.*****SUMMARY:**

This bill adds new requirements to the hiring processes of local and regional boards of education for positions that would place applicants in direct contact with students. Specifically, it requires applicants for such positions, boards of education, and the State Department of Education (SDE) to participate in additional investigative measures to determine, prior to employment, whether an applicant has a history of sexual misconduct or abuse involving children.

The bill requires applicants to make disclosures to boards of education containing (1) current and past employers' contact information; (2) authorization allowing contact with such employers; and (3) statements about any past misconduct, discipline, or licensure penalties as a result of sexual misconduct or abuse allegations.

It also requires boards of education, before hiring such applicants, to (1) ensure that applicants complete the above three requirements; (2) review applicants' employment history after making a documented, good faith effort to contact previous employers for information; and (3) request any available information about applicants from SDE.

The bill requires SDE to (1) share with requesting boards any available information about past discipline or criminal charges relating to an applicant and (2) design a standardized form for past employers of such applicants to complete. The department must design the form and make it available to boards of education by June 30, 2016.

The bill also does the following:

1. prohibits boards of education from offering employment to any applicant who was previously terminated or resigned from employment under a board after he or she was convicted of failure to report the abuse, neglect, or injury of a child or imminent risk of serious harm to a child, regardless of whether the reported allegation of abuse, neglect, or sexual assault has been substantiated;
2. establishes guidelines for investigating substitute teachers and employees of contractors prior to hire;
3. requires boards of education to communicate with SDE and other boards when learning of an applicant's or current employee's disciplinary history;
4. prohibits boards from entering into agreements that contain certain provisions contradicting investigatory efforts;
5. allows temporary hires by boards under certain conditions; and
6. establishes punitive measures for (a) applicants who provide false information about their history and (b) boards of education that fail to follow the bill's investigatory requirements for hiring.

The bill also makes several technical and conforming changes.

EFFECTIVE DATE: July 1, 2016, except the provision establishing a date by which SDE must make the standardized employment form available takes effect upon passage.

DEFINITIONS

Sexual Misconduct

The bill defines "sexual misconduct" as any verbal, nonverbal, written or electronic communication, or any act directed toward or with a student that is designed to establish a romantic or sexual relationship with the student, including (1) a sexual or romantic invitation; (2) dating or soliciting a date; (3) engaging in sexual or romantic dialogue; (4) making sexually suggestive comments; (5) self-

disclosure or physical exposure of a sexual, romantic, or erotic nature; and (6) any other sexual indecent, romantic, or erotic contact with a student.

Abuse

The bill defines “abuse” to be any of the following crimes:

1. 1st degree sexual assault, class B or A felony (CGS § 53a-70);
2. 1st degree aggravated sexual assault, class B or A felony (CGS § 53a-70a);
3. 2nd degree sexual assault, class C or B felony (CGS § 53a-71);
4. 3rd degree sexual assault, class D or C felony (CGS § 53a-72a);
5. 3rd degree sexual assault with a firearm, class C or B felony (CGS § 53a-72b); or
6. 4th degree sexual assault, class A misdemeanor or class D felony (CGS § 53a-73a).

The bill’s definition of abuse also includes abuse of a child or youth by (1) inflicting physical injury or non-accidental injuries; (2) inflicting injuries that do not match the story associated with their origin; or (3) maltreatment, including malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment (CGS § 46b-120).

NEW REQUIREMENTS FOR APPLICANTS

The bill requires anyone who applies to a board of education for a position involving direct student contact to make three disclosures.

First, an applicant must provide the board with contact information of current and former employers if they were a board of education or if the employment otherwise involved contact with children. The contact information must include each employer’s name, address, and telephone number.

Second, the applicant must provide a written authorization that consents to and authorizes such former employers to disclose information and related records about him or her that is requested on the SDE-designed standardized form that interviewing boards send. The authorization also must release such employers from any liability that may arise from such disclosure or release of records.

Third, the applicant must give a written statement about whether he or she

1. was the subject of an abuse or sexual misconduct investigation by any employer, state agency, or municipal police department, unless the investigation found that all allegations were unsubstantiated;
2. was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or sexual misconduct was pending or being investigated by the Department of Children and Families (DCF), or due to an allegation of abuse or sexual misconduct substantiated by DCF or a conviction for abuse or sexual misconduct; or
3. had a professional or occupational license or certificate suspended or revoked or ever surrendered one while an allegation of abuse or sexual misconduct was pending or being investigated by DCF, or due to an allegation substantiated by DCF of abuse or sexual misconduct or a conviction for abuse or sexual misconduct.

NEW REQUIREMENTS FOR BOARDS OF EDUCATION

The bill prohibits boards of education from offering employment for any position involving direct student contact until the following has occurred:

1. the applicant has complied with the above disclosure requirements;

2. the board has reviewed the applicant's employment history on the standardized form filled out by current and past employers, which current employers must complete and return within 20 days of receipt and former employers within 60 days; and
3. the board has requested information from SDE about the applicant's eligibility status, previous disciplinary action for a finding of abuse or sexual misconduct, and notice of pending criminal charges against the applicant.

The bill also allows boards to request additional information from an applicant's current or former employers relating to any response the applicant listed on the standardized form, to which the employers must respond within 60 days of receipt. It provides immunity from criminal and civil liability to any employer who provides such information, as long as the information supplied is not knowingly false.

NEW REQUIREMENTS FOR SDE

The bill requires SDE to make the following information available to any board of education requesting it about an applicant:

1. any information about the applicant's eligibility for employment in a position with such board;
2. whether SDE has knowledge of any discipline of the applicant for a finding of abuse or sexual misconduct, and any information related to the finding; and
3. whether SDE has been notified of pending criminal charges against the applicant and any information about such charges.

Additionally, SDE must design, by June 30, 2016, a standardized form for past employers of such applicants to complete. Interviewing boards of education are responsible for sending this form to past employers of applicants. The form must request the applicant's dates of former employment and a statement as to whether the employer

knows the following about the applicant:

1. whether he or she was the subject of an abuse or sexual misconduct allegation for which there is a pending investigation by DCF or which has been substantiated by DCF;
2. whether he or she was disciplined, asked to resign, or resigned from any employment while such an allegation was pending or under investigation, or due to a finding of abuse or sexual misconduct; or
3. whether he or she ever had a professional or occupational license or certificate suspended or revoked, or has ever surrendered one while such an allegation was pending or under investigation or due to a finding of abuse or sexual misconduct.

HIRING PRACTICES FOR OTHER POSITIONS

Substitute Teachers

The bill requires boards of education to only hire applicants for substitute teaching positions who fulfill the disclosure requirements and after requesting information from the applicant's prior employers and SDE (in the same manner the bill requires for other applicants).

Also, the bill requires boards to maintain a list of individuals who are suitable to work as substitute teachers. An individual remains on the list as long as (1) he or she is continuously employed by the board as a substitute teacher and (2) the board does not have any knowledge that would cause the person to be removed from the list. The bill requires boards to hire only listed individuals as substitute teachers.

Contractors and Their Employees

Regarding contractors that apply for positions involving direct student contact, the bill requires them to perform the checks on their employees who would fill such positions. These checks are similar to the ones boards of education must perform on their applicants under the bill.

Under the bill, a contractor's employee must fulfill the three disclosure requirements that a regular, direct applicant for such a position must fulfill. Additionally, the contractor must contact any current or former employers and request any information about whether there was a finding of abuse or sexual misconduct against the employee, and which the employer must report if there is one.

A contractor who receives any information indicating such a finding or otherwise has knowledge of one must immediately forward the information to any board of education with which he or she is under contract. The board must then determine whether the employee may work in a position involving direct student contact at any school under the board's jurisdiction. It is not considered a breach of contract under the bill for the board to determine that the employer (presumably the contractor) is forbidden to work under any such contract in such a position.

The bill requires boards of education to report to the State Board of Education (SBE) any suspected violation by a contractor of the provisions relating to the above required employee checks. SBE must review each report to determine if the violation occurred knowingly. SBE must also make available to boards of education a list of each contractor found to have knowingly violated these provisions. The bill prohibits boards from contracting with any such contractor.

COMMUNICATION

The bill requires communication between boards of education, and also between a board and SDE, about findings of abuse or sexual misconduct by applicants or employees.

Specifically, it requires boards to notify SDE when they receive information that applicants or employees have been disciplined for a finding of abuse or sexual misconduct. Additionally, it requires boards to provide upon request, to any other board of education or to the education commissioner, information they may have about a finding of abuse or sexual misconduct by someone being vetted for

hire as a direct employee of a board of education or a contractor's employee.

AGREEMENTS

The bill bars boards of education from entering into any collective bargaining agreement, employment contract, resignation or termination agreement, severance agreement, or any other agreement or take any action that results in any of the following outcomes:

1. has the effect of suppressing information about an investigation of a report of suspected abuse or sexual misconduct by a current or former employee;
2. affects the board's ability to report suspected abuse or sexual misconduct to appropriate authorities; or
3. requires the board to expunge information about an allegation or finding of suspected abuse or misconduct from any documents they maintain, unless after investigation the allegation is dismissed or found to be false.

TEMPORARY HIRES

The bill allows boards of education to employ or contract with an applicant for up to 90 days while awaiting the complete review of the application information, as long as the following has occurred:

1. the applicant has submitted its three disclosures required under the bill to the board,
2. the board has no information about the applicant that would disqualify such person from employment, and
3. the applicant affirms that he or she is not disqualified from employment with the board.

PUNITIVE MEASURES

Against Applicants

The bill subjects applicants to discipline by the employing board for

providing false information or knowingly failing to disclose information required under this bill. Such discipline may include (1) denial of employment or (2) (a) termination of a certified employee's contract or (b) dismissal of a non-certified employee, as long as such employee is notified of the reason for the dismissal and is given an opportunity to appeal it to the board through the collective bargaining agreement grievance procedure.

Against Boards

The bill allows SBE to fine a board of education between \$1,000 and \$10,000 for negligently or knowingly violating any of its provisions. The amount must be withheld from a grant payment that the SDE commissioner determines in the fiscal year following the fiscal year when the violation occurred.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 0 (03/28/2016)