

BILL: House Bill 1571
TITLE: Education – Child Sexual Abuse Prevention – Employment Process
DATE: March 28, 2018
POSITION: SUPPORT WITH AMENDMENTS
COMMITTEE: Education, Health, and Environmental Affairs Committee
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) generally supports House Bill 1571 as amended in the House, with additional amendments. MABE greatly appreciates the intent of this bill to further define the process of process of determining whether an applicant for employment with a local school system has ever been disciplined for allegations of “child sexual abuse” or “sexual misconduct.”

MABE requests an amendment to restore, in part, the provision which appears twice on page 4, which the House removed. MABE supports requiring prospective employees to inform us of whether they have ever been “THE SUBJECT OF A CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT INVESTIGATION BY ANY EMPLOYER, STATE LICENSING AGENCY, LAW ENFORCEMENT AGENCY, OR CHILD PROTECTIVE SERVICES AGENCY.”

In addition, MABE strongly supports restoring the deleted language on page 8 of the bill which would provide clear civil and criminal immunity for “A PERSON WHO IN GOOD FAITH PROVIDES INFORMATION OR RECORDS, INCLUDING PERSONNEL RECORDS ABOUT A CURRENT OR FORMER EMPLOYEE’S JOB PERFORMANCE AND PROFESSIONAL CONDUCT TO A PROSPECTIVE SCHOOL EMPLOYER.”

In 2016, the General Assembly passed Erin’s Law (HB 72) to establish a comprehensive sexual abuse and assault awareness and prevention program. The law now requires the State Board of Education, local school systems, and nonpublic schools to develop and implement a program of age-appropriate education on the awareness and prevention of sexual abuse and assault. The program must be taught by teachers who are trained to provide instruction on the awareness and prevention of sexual abuse and assault and incorporated into the health curriculum of local boards of education and nonpublic schools.

In 2015, new law (HB 642) was enacted to ensure that local school system and nonpublic school contracts must prohibit contractors or subcontractors from knowingly assigning an employee to work on school premises with direct, unsupervised, and uncontrolled access to children if the employee has been convicted of specified crimes. The law now requires contractors and subcontractors to require an employee who has direct, unsupervised, and uncontrolled access to children in specific facilities to submit to a criminal history records check. This legislation also expanded the underlying crimes for which prohibitions against the hiring, retaining, or assignment of individuals who have been convicted of specified crimes apply to include fourth-degree sexual offenses and offenses committed in another state that would constitute a third- or fourth-degree sexual offense if committed in this State.

In 2018, MABE is also supporting Senate Bill 132, to make it a misdemeanor for a school employer, among others, to knowingly fail to provide a required notice or make a required report of suspected child abuse or neglect if the worker has actual knowledge of the abuse or neglect. In addition, MABE is supporting House Bill 600, currently pending the Judicial Proceedings Committee, because local boards believe it would promote adherence to the law already requiring the reporting of suspected child abuse and neglect, by requiring that employees are trained on the mandatory reporting statute and process.

MABE and all local boards place a very high priority on providing a well-rounded public education to students in a healthy learning environment with well-trained, professional educators, administrators, and staff dedicated to ensuring the highest degree of student safety. Maryland law has long required that health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity, and who have reason to believe that a child has been subjected to abuse or neglect, must notify the local department of social services or the appropriate law enforcement agency. An “educator”, in the public school setting, may technically refer to certificated employees including teachers, principals, psychologists, therapists, and counselors. However, school systems train non-educators as well, including bus drivers, food service staff, custodial staff, and many others.

In addition, the law places a high priority on responding to the failure to report by revoking an educator’s teaching certificate. In Maryland a certificated educator who fails to report even suspected child abuse under the “mandatory reporter” statute will lose their teaching certificate. State regulations, under COMAR 13A.12.05.02C(2), provide that a certificate “shall be suspended or revoked” if the certificate holder “willfully and knowingly” makes a material misrepresentation or concealment of information on the application for a certificate, files a false report or record about a material matter in the certificate application, commits a violation of test security and data reporting policy and procedures, fraudulently or deceptively obtains a certificate, *knowingly fails to report suspected child abuse*, is dismissed or resigns after notice of allegations of misconduct involving a student in any school system or any other minor, is dismissed or resigns after notice of allegations of misconduct involving any cause for suspension or revocation of a certificate, or has had a certificate suspended, revoked, or surrendered in another state for a reason that would be grounds for suspension or revocation of a Maryland certificate.”

For these reasons, MABE requests a favorable report on House Bill 1571, with the amendments described above.