

SENATE BILL 541

F1, E4
HB 1571/18 – W&M

9lr1290
CF HB 486

By: **Senators Lam and Nathan–Pulliam**

Introduced and read first time: February 4, 2019

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Personnel Matters – Child Sexual Abuse and Sexual Misconduct**
3 **Prevention**

4 FOR the purpose of requiring county boards of education, nonpublic schools, and certain
5 contracting agencies to require an applicant for a position involving direct contact
6 with minors to provide certain information; requiring the county board, nonpublic
7 school, or contracting agency to conduct a certain review of the employment history
8 of a certain applicant; requiring the county board, nonpublic school, or contracting
9 agency to check certain eligibility of a certain applicant; requiring certain employers
10 to disclose certain information within a certain time period; requiring certain
11 employers to disclose certain supplemental information within a certain time period;
12 authorizing a county board, nonpublic school, or contracting agency to hire an
13 applicant on a certain provisional basis under certain circumstances; requiring the
14 county board, nonpublic school, or contracting agency to conduct a certain review of
15 the employment history of a certain applicant for a substitute position; requiring a
16 certain contracting agency to perform a certain review before making a certain
17 assignment; requiring a certain contracting agency to maintain certain records;
18 requiring a certain contracting agency to inform the county board or nonpublic school
19 of certain information; prohibiting a certain contracting agency from assigning a
20 certain employee to perform certain work under certain circumstances; providing
21 that certain information received is not subject to the Maryland Public Information
22 Act; authorizing a county board, nonpublic school, or contracting agency to use
23 certain information and records received in a certain manner and to report certain
24 information to certain entities under certain circumstances; prohibiting a county
25 board, nonpublic school, or contracting agency from entering into a certain
26 agreement under certain circumstances; providing that a certain agreement is void
27 and unenforceable under certain circumstances; requiring the State Department of
28 Education to notify certain entities within a certain time period if there is a lapse or
29 suspension in the use of certain screening systems; providing that a certain applicant
30 shall be subject to certain discipline under certain circumstances; providing for a
31 certain immunity from criminal and civil liability; providing for the construction of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 this Act; authorizing the Department to initiate certain disciplinary action under
2 certain circumstances and to adopt certain regulations; defining certain terms; and
3 generally relating to hiring school employees.

4 BY adding to

5 Article – Education

6 Section 6–113.2

7 Annotated Code of Maryland

8 (2018 Replacement Volume and 2018 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That the Laws of Maryland read as follows:

11 **Article – Education**

12 **6–113.2.**

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (2) “CHILD SEXUAL ABUSE” MEANS AN ACT BY AN ADULT INVOLVING
16 A MINOR OR A STUDENT THAT CONSTITUTES A SEXUAL OFFENSE UNDER THE LAWS
17 OF THE STATE, OR ANY SEXUAL CONTACT BETWEEN AN ADULT AND A MINOR.

18 (3) “CONTRACTING AGENCY” MEANS AN ENTITY THAT CONTRACTS
19 WITH A COUNTY BOARD OR NONPUBLIC SCHOOL TO PROVIDE A SERVICE TO A
20 SCHOOL OR THE STUDENTS OF A SCHOOL.

21 (4) “DIRECT CONTACT WITH MINORS” MEANS THE POSSIBILITY OF
22 CARE, SUPERVISION, GUIDANCE, OR CONTROL OF A MINOR OR ROUTINE
23 INTERACTION WITH A MINOR.

24 (5) “JOB PERFORMANCE” INCLUDES ABILITIES, ATTENDANCE,
25 ATTITUDE, AWARDS, DEMOTIONS, DISCIPLINARY ACTIONS, DUTIES, EFFORT,
26 KNOWLEDGE, PROMOTIONS, SKILLS, AND, IN THE CASE OF A FORMER SCHOOL
27 EMPLOYEE, THE REASONS FOR SEPARATION.

28 (6) “SCHOOL” MEANS A PUBLIC OR NONPUBLIC SCHOOL.

29 (7) “SEXUAL MISCONDUCT” MEANS AN ACT BY AN ADULT, INCLUDING
30 AN ORAL, NONVERBAL, WRITTEN, OR ELECTRONIC COMMUNICATION, OR A
31 PHYSICAL ACTIVITY DIRECTED TOWARD OR WITH A MINOR THAT IS DESIGNED TO
32 PROMOTE A ROMANTIC OR SEXUAL RELATIONSHIP WITH THE MINOR, INCLUDING:

- 1 **(I) SEXUAL OR ROMANTIC INVITATION;**
- 2 **(II) DATING OR SOLICITING DATES;**
- 3 **(III) ENGAGING IN SEXUALIZED OR ROMANTIC DIALOGUE;**
- 4 **(IV) MAKING SEXUALLY SUGGESTIVE COMMENTS;**
- 5 **(V) GROOMING BEHAVIORS;**
- 6 **(VI) SELF-DISCLOSURE OR PHYSICAL EXPOSURE OF A SEXUAL,**
7 **ROMANTIC, OR EROTIC NATURE; AND**
- 8 **(VII) A SEXUAL, INDECENT, ROMANTIC, OR EROTIC CONTACT**
9 **WITH THE MINOR.**

10 **(B) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY**
11 **SHALL REQUIRE AN APPLICANT FOR A POSITION INVOLVING DIRECT CONTACT WITH**
12 **MINORS TO SUBMIT:**

- 13 **(1) THE CONTACT INFORMATION OF THE FOLLOWING EMPLOYERS:**
- 14 **(I) THE CURRENT EMPLOYER;**
- 15 **(II) ALL FORMER SCHOOL EMPLOYERS; AND**
- 16 **(III) ALL FORMER EMPLOYERS OF THE APPLICANT IN WHICH**
17 **THE APPLICANT WAS EMPLOYED IN A POSITION INVOLVING DIRECT CONTACT WITH**
18 **MINORS;**
- 19 **(2) A WRITTEN CONSENT FORM, SIGNED BY THE APPLICANT,**
20 **AUTHORIZING AN EMPLOYER LISTED UNDER ITEM (1) OF THIS SUBSECTION TO**
21 **RELEASE ALL RECORDS RELATING TO THE APPLICANT’S JOB PERFORMANCE; AND**
- 22 **(3) A WRITTEN STATEMENT OF WHETHER THE APPLICANT:**
- 23 **(I) HAS BEEN THE SUBJECT OF A CHILD SEXUAL ABUSE OR**
24 **SEXUAL MISCONDUCT INVESTIGATION BY ANY EMPLOYER, STATE LICENSING**
25 **AGENCY, LAW ENFORCEMENT AGENCY, OR CHILD PROTECTIVE SERVICES AGENCY,**
26 **UNLESS THE INVESTIGATION RESULTED IN A FINDING THAT THE ALLEGATIONS**
27 **WERE FALSE;**
- 28 **(II) HAS EVER BEEN DISCIPLINED, DISCHARGED,**

1 NONRENEWED, OR ASKED TO RESIGN FROM EMPLOYMENT, OR HAS EVER RESIGNED
2 FROM OR OTHERWISE SEPARATED FROM ANY EMPLOYMENT WHILE ALLEGATIONS
3 OF CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT WERE PENDING OR WERE UNDER
4 INVESTIGATION, OR DUE TO AN ADJUDICATION OR FINDINGS OF CHILD SEXUAL
5 ABUSE OR SEXUAL MISCONDUCT; OR

6 (III) HAS EVER HAD A LICENSE, PROFESSIONAL LICENSE, OR
7 CERTIFICATE SUSPENDED, SURRENDERED, OR REVOKED WHILE ALLEGATIONS OF
8 CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT WERE PENDING OR UNDER
9 INVESTIGATION, OR DUE TO AN ADJUDICATION OR FINDINGS OF CHILD SEXUAL
10 ABUSE OR SEXUAL MISCONDUCT.

11 (C) BEFORE HIRING AN APPLICANT FOR A POSITION INVOLVING DIRECT
12 CONTACT WITH MINORS, THE COUNTY BOARD, NONPUBLIC SCHOOL, OR
13 CONTRACTING AGENCY SHALL:

14 (1) REVIEW AN APPLICANT'S EMPLOYMENT HISTORY BY CONTACTING
15 THE EMPLOYERS LISTED BY THE APPLICANT UNDER SUBSECTION (B)(1) OF THIS
16 SECTION AND REQUESTING THE FOLLOWING INFORMATION:

17 (I) THE DATES OF EMPLOYMENT OF THE APPLICANT; AND

18 (II) ANSWERS TO THE QUESTIONS REGARDING CHILD SEXUAL
19 ABUSE OR SEXUAL MISCONDUCT REQUIRED UNDER SUBSECTION (B)(3) OF THIS
20 SECTION; AND

21 (2) REQUEST A REPORT FROM THE DEPARTMENT REGARDING THE
22 APPLICANT'S ELIGIBILITY FOR EMPLOYMENT OR CERTIFICATION STATUS TO
23 DETERMINE WHETHER THE APPLICANT:

24 (I) HOLDS A VALID AND ACTIVE CERTIFICATION APPROPRIATE
25 FOR THE POSITION AND IS OTHERWISE ELIGIBLE FOR EMPLOYMENT; AND

26 (II) HAS BEEN THE SUBJECT OF PROFESSIONAL DISCIPLINE.

27 (D) (1) NOT LATER THAN 20 DAYS AFTER RECEIVING A REQUEST FOR
28 INFORMATION UNDER SUBSECTION (C) OF THIS SECTION, AN EMPLOYER SHALL
29 SEND TO THE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY THE
30 INFORMATION REQUESTED ON THE FORM PRESCRIBED BY THE DEPARTMENT.

31 (2) IF THE INFORMATION FROM AN EMPLOYER INCLUDES AN
32 AFFIRMATIVE RESPONSE TO THE CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT
33 QUESTIONS UNDER SUBSECTION (B)(3) OF THIS SECTION, AND THE COUNTY BOARD,

1 NONPUBLIC SCHOOL, OR CONTRACTING AGENCY MAKES A DETERMINATION TO
2 FURTHER CONSIDER THE APPLICANT FOR EMPLOYMENT, THE COUNTY BOARD,
3 NONPUBLIC SCHOOL, OR CONTRACTING AGENCY SHALL REQUEST THAT THE
4 FORMER EMPLOYER PROVIDE ADDITIONAL INFORMATION ABOUT THE
5 INFORMATION PROVIDED, INCLUDING ALL RELATED RECORDS.

6 (3) AN EMPLOYER THAT RECEIVES A REQUEST FOR ADDITIONAL
7 INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE THE
8 ADDITIONAL INFORMATION WITHIN 60 DAYS OF THE DATE OF THE PROSPECTIVE
9 EMPLOYER'S REQUEST.

10 (E) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY MAY
11 HIRE AN APPLICANT ON A PROVISIONAL BASIS FOR A PERIOD NOT TO EXCEED 90
12 DAYS PENDING THE REVIEW OF INFORMATION AND RECORDS RECEIVED UNDER
13 SUBSECTION (D) OF THIS SECTION, IF THE FOLLOWING CRITERIA ARE SATISFIED:

14 (1) THE APPLICANT HAS PROVIDED ALL THE INFORMATION AND
15 SUPPORTING DOCUMENTATION REQUIRED;

16 (2) THE SCHOOL ADMINISTRATOR HAS NO KNOWLEDGE OF
17 INFORMATION REGARDING THE APPLICANT THAT WOULD DISQUALIFY THE
18 APPLICANT FROM EMPLOYMENT;

19 (3) THE APPLICANT SWEARS OR AFFIRMS THAT THE APPLICANT IS
20 NOT DISQUALIFIED FROM EMPLOYMENT; AND

21 (4) THE APPLICANT IS NOT AUTHORIZED TO WORK ALONE WITH
22 MINORS AND WORKS IN THE IMMEDIATE VICINITY OF A PERMANENT EMPLOYEE.

23 (F) (1) (I) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING
24 AGENCY SHALL CONDUCT AN EMPLOYMENT HISTORY REVIEW OF AN APPLICANT FOR
25 A SUBSTITUTE POSITION INVOLVING DIRECT CONTACT WITH MINORS AS REQUIRED
26 UNDER SUBSECTION (C) OF THIS SECTION BEFORE THE INITIAL HIRING OF THE
27 SUBSTITUTE EMPLOYEE OR PLACEMENT ON THE SCHOOL'S APPROVED SUBSTITUTE
28 EMPLOYEE LIST.

29 (II) AN EMPLOYMENT HISTORY REVIEW OF A SUBSTITUTE
30 EMPLOYEE SHALL REMAIN VALID AS LONG AS THE SUBSTITUTE EMPLOYEE
31 CONTINUES TO BE EMPLOYED BY THE SAME SCHOOL OR REMAINS ON THE SCHOOL'S
32 APPROVED SUBSTITUTE EMPLOYEE LIST.

33 (2) IF A SUBSTITUTE EMPLOYEE IS SEEKING TO BE ADDED TO
34 ANOTHER SCHOOL'S SUBSTITUTE EMPLOYEE LIST, A NEW EMPLOYMENT HISTORY

1 REVIEW IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IS REQUIRED.

2 (3) THE APPEARANCE OF A SUBSTITUTE EMPLOYEE ON ONE
3 SCHOOL'S SUBSTITUTE EMPLOYEE LIST DOES NOT RELIEVE ANOTHER SCHOOL OF
4 THE DUTY OF COMPLIANCE WITH THIS SECTION.

5 (4) AN EMPLOYMENT HISTORY REVIEW CONDUCTED ON THE INITIAL
6 HIRING OF A SUBSTITUTE EMPLOYEE BY A CONTRACTING AGENCY, AN
7 INTERMEDIATE UNIT, OR ANY OTHER ENTITY THAT PROVIDES SUBSTITUTE
8 STAFFING SERVICES TO SCHOOLS SHALL SATISFY THE REQUIREMENTS OF THIS
9 SECTION FOR ALL SCHOOLS USING THE SERVICES OF THAT CONTRACTING AGENCY,
10 INTERMEDIATE UNIT, OR OTHER ENTITY.

11 (5) A CONTRACTING AGENCY, AN INTERMEDIATE UNIT, OR ANY
12 OTHER ENTITY PROVIDING SUBSTITUTE STAFFING SERVICES TO SCHOOLS SHALL
13 COMPLY WITH THE PROVISIONS OF THIS SECTION.

14 (G) (1) (I) A CONTRACTING AGENCY SHALL CONDUCT AN
15 EMPLOYMENT HISTORY REVIEW OF AN APPLICANT FOR EMPLOYMENT WITH THE
16 CONTRACTING AGENCY AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION:

17 1. AT THE TIME OF THE INITIAL HIRING OF THE
18 EMPLOYEE; OR

19 2. BEFORE THE EMPLOYEE IS ASSIGNED TO WORK FOR A
20 SCHOOL IN A POSITION INVOLVING DIRECT CONTACT WITH MINORS.

21 (II) THE EMPLOYMENT HISTORY REVIEW UNDER
22 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL REMAIN VALID AS LONG AS THE
23 EMPLOYEE CONTINUES TO BE EMPLOYED BY THE HIRING CONTRACTING AGENCY.

24 (III) A CONTRACTING AGENCY SHALL:

25 1. MAINTAIN A RECORD OF EACH EMPLOYEE'S
26 EMPLOYMENT HISTORY REVIEW REQUIRED UNDER THIS SUBSECTION; AND

27 2. ON REQUEST OF THE SCHOOL ENTITY TO WHICH AN
28 EMPLOYEE IS ASSIGNED, PROVIDE ACCESS TO THE CONTRACTING AGENCY'S
29 RECORDS OF THAT EMPLOYEE.

30 (2) (I) BEFORE ASSIGNING AN EMPLOYEE TO PERFORM WORK FOR
31 A SCHOOL ENTITY IN A POSITION INVOLVING DIRECT CONTACT WITH MINORS, A
32 CONTRACTING AGENCY SHALL PROVIDE NOTICE TO THE SCHOOL ENTITY OF ANY

1 AFFIRMATIVE RESPONSES TO THE CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT
2 QUESTIONS REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION.

3 (II) A CONTRACTING AGENCY MAY NOT ASSIGN AN EMPLOYEE
4 TO PERFORM WORK FOR A SCHOOL ENTITY IN A POSITION INVOLVING DIRECT
5 CONTACT WITH MINORS IF THE SCHOOL ENTITY OBJECTS TO THE ASSIGNMENT
6 AFTER RECEIVING THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
7 PARAGRAPH.

8 (H) (1) INFORMATION AND RECORDS ABOUT AN APPLICANT RECEIVED BY
9 A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY UNDER THIS
10 SECTION ARE NOT A PUBLIC RECORD FOR THE PURPOSES OF THE MARYLAND
11 PUBLIC INFORMATION ACT.

12 (2) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING
13 AGENCY THAT RECEIVES INFORMATION AND RECORDS FROM AN EMPLOYER ABOUT
14 AN APPLICANT UNDER THIS SECTION MAY:

15 (I) USE THE INFORMATION AND RECORDS FOR THE PURPOSE
16 OF EVALUATING THE APPLICANT'S FITNESS TO BE HIRED OR FOR CONTINUED
17 EMPLOYMENT; AND

18 (II) REPORT THE INFORMATION TO THE DEPARTMENT, A STATE
19 LICENSING AGENCY, A LAW ENFORCEMENT AGENCY, A CHILD PROTECTIVE
20 SERVICES AGENCY, ANOTHER SCHOOL ENTITY, OR ANY OTHER PROSPECTIVE
21 EMPLOYER, AS APPROPRIATE.

22 (I) (1) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING
23 AGENCY MAY NOT ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, AN
24 EMPLOYMENT CONTRACT, AN AGREEMENT FOR RESIGNATION OR TERMINATION, A
25 SEVERANCE AGREEMENT, OR ANY OTHER CONTRACT OR AGREEMENT THAT:

26 (I) HAS THE EFFECT OF SUPPRESSING INFORMATION
27 RELATING TO AN INVESTIGATION OF A REPORT OF SUSPECTED CHILD SEXUAL
28 ABUSE OR SEXUAL MISCONDUCT BY A CURRENT OR FORMER EMPLOYEE;

29 (II) AFFECTS THE ABILITY OF THE COUNTY BOARD, NONPUBLIC
30 SCHOOL, OR CONTRACTING AGENCY TO REPORT SUSPECTED CHILD SEXUAL ABUSE
31 OR SEXUAL MISCONDUCT TO THE APPROPRIATE AUTHORITIES; OR

32 (III) REQUIRES THE COUNTY BOARD, NONPUBLIC SCHOOL, OR
33 CONTRACTING AGENCY TO EXPUNGE INFORMATION ABOUT ALLEGATIONS OR
34 FINDINGS OF SUSPECTED CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT FROM ANY

1 DOCUMENT MAINTAINED BY THE EMPLOYER UNLESS AFTER INVESTIGATION THE
2 ALLEGATIONS ARE FOUND TO BE FALSE.

3 (2) A PROVISION OF AN EMPLOYMENT CONTRACT, AN AGREEMENT
4 FOR RESIGNATION OR TERMINATION, OR A SEVERANCE AGREEMENT THAT IS
5 EXECUTED, AMENDED, OR ENTERED INTO ON OR AFTER JULY 1, 2019, AND THAT IS
6 CONTRARY TO THIS SECTION IS VOID AND UNENFORCEABLE.

7 (J) IF THERE IS A LAPSE IN THE OPERATION OF OR THE DEPARTMENT
8 SUSPENDS THE USE OF A SYSTEM OR DATABASE THAT THE DEPARTMENT USES TO
9 CHECK AN APPLICANT'S ELIGIBILITY FOR EMPLOYMENT OR CERTIFICATION
10 STATUS, THE DEPARTMENT SHALL NOTIFY THE COUNTY BOARDS, NONPUBLIC
11 SCHOOLS, AND ANY CONTRACTING AGENCIES WITHIN 48 HOURS OF THE LAPSE OR
12 THE SUSPENSION OF THE USE OF THE SYSTEM OR DATABASE.

13 (K) (1) A PERSON ACTING IN GOOD FAITH MAY NOT BE HELD LIABLE FOR
14 DISCLOSING ANY INFORMATION OR RECORDS, INCLUDING PERSONNEL RECORDS,
15 ABOUT A CURRENT OR FORMER EMPLOYEE'S JOB PERFORMANCE, PROFESSIONAL
16 CONDUCT, OR REASON FOR TERMINATION OF EMPLOYMENT TO A COUNTY BOARD, A
17 NONPUBLIC SCHOOL, A CONTRACTING AGENCY, THE DEPARTMENT, OR ANY OTHER
18 POTENTIAL EMPLOYER IN ACCORDANCE WITH THIS SECTION UNLESS THE PERSON:

19 (I) ACTED WITH ACTUAL MALICE TOWARD THE EMPLOYEE OR
20 FORMER EMPLOYEE; OR

21 (II) INTENTIONALLY OR RECKLESSLY DISCLOSED FALSE
22 INFORMATION ABOUT THE EMPLOYEE OR FORMER EMPLOYEE.

23 (2) THE IMMUNITY FROM LIABILITY UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION SHALL BE IN ADDITION TO, AND NOT A LIMITATION OF, ANY OTHER
25 IMMUNITY PROVIDED BY LAW OR ANY ABSOLUTE OR CONDITIONAL PRIVILEGE
26 APPLICABLE TO THE DISCLOSURE OF INFORMATION OR RECORDS OR THE
27 APPLICANT'S CONSENT TO THE DISCLOSURE.

28 (L) (1) AN APPLICANT WHO PROVIDES FALSE INFORMATION OR
29 WILLFULLY FAILS TO DISCLOSE MATERIAL INFORMATION REQUIRED UNDER THIS
30 SECTION SHALL BE SUBJECT TO PROFESSIONAL DISCIPLINE, INCLUDING
31 TERMINATION OR DENIAL OF EMPLOYMENT, AND MAY BE SUBJECT TO
32 PROFESSIONAL DISCIPLINE IN ACCORDANCE WITH THE REGULATIONS OF THE
33 DEPARTMENT.

34 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE
35 WILLFUL FAILURE OF AN EMPLOYER OR FORMER EMPLOYER TO RESPOND TO OR

1 PROVIDE THE INFORMATION AND RECORDS REQUESTED BY A COUNTY BOARD,
2 NONPUBLIC SCHOOL, OR CONTRACTING AGENCY UNDER THIS SECTION MAY RESULT
3 IN CIVIL PENALTIES OR PROFESSIONAL DISCIPLINE, IF APPROPRIATE.

4 (II) AN EMPLOYER OR A FORMER EMPLOYER MAY NOT BE HELD
5 LIABLE FOR FAILURE TO RESPOND TO A REQUEST FOR INFORMATION ABOUT AN
6 APPLICANT UNDER THIS SECTION IF:

7 1. THE LAWS OF THE STATE IN WHICH THE EMPLOYER
8 OR FORMER EMPLOYER IS LOCATED PROHIBIT THE RELEASE OF THE INFORMATION
9 OR RECORDS REQUESTED; OR

10 2. THE DISCLOSURE OF THE INFORMATION AND
11 RECORDS REQUESTED IS RESTRICTED BY THE TERMS OF A CONTRACT ENTERED
12 INTO ON OR BEFORE JUNE 30, 2019.

13 (3) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
14 DEPARTMENT MAY INITIATE DISCIPLINARY ACTION BEFORE A HEARING OFFICER IN
15 ACCORDANCE WITH THE DEPARTMENT'S REGULATIONS AGAINST AN APPLICANT, AN
16 EMPLOYEE, A CONTRACTING AGENCY, OR A SCHOOL ADMINISTRATOR FOR WILLFUL
17 VIOLATIONS OF THIS SECTION.

18 (II) THE DEPARTMENT MAY ADOPT REGULATIONS
19 ESTABLISHING PROCEDURES FOR DISCIPLINARY PROCEEDINGS AND THE
20 ASSESSMENT OF PENALTIES IN ACCORDANCE WITH THIS SECTION.

21 (M) NOTHING IN THIS SECTION SHALL BE CONSTRUED:

22 (1) TO PREVENT A COUNTY BOARD, NONPUBLIC SCHOOL, OR
23 CONTRACTING AGENCY FROM:

24 (I) CONDUCTING FURTHER INVESTIGATIONS OF PROSPECTIVE
25 EMPLOYEES;

26 (II) REQUIRING APPLICANTS TO PROVIDE ADDITIONAL
27 BACKGROUND INFORMATION OR AUTHORIZATIONS BEYOND THE INFORMATION OR
28 AUTHORIZATIONS REQUIRED UNDER THIS SECTION; OR

29 (III) REQUESTING THAT AN EMPLOYER OR A FORMER EMPLOYER
30 PROVIDE MORE INFORMATION THAN IS REQUIRED UNDER THIS SECTION;

31 (2) TO RELIEVE A COUNTY BOARD, A NONPUBLIC SCHOOL, A
32 CONTRACTING AGENCY, OR ANY OTHER MANDATED REPORTER OF THE LEGAL

1 **RESPONSIBILITY TO REPORT SUSPECTED INCIDENTS OF CHILD SEXUAL ABUSE OR**
2 **SEXUAL MISCONDUCT IN ACCORDANCE WITH STATE LAW OR THE REPORTING**
3 **REQUIREMENTS OF THE DEPARTMENT; OR**

4 **(3) TO PROHIBIT THE RIGHT OF AN EXCLUSIVE REPRESENTATIVE**
5 **UNDER A COLLECTIVE BARGAINING AGREEMENT TO GRIEVE AND ARBITRATE THE**
6 **VALIDITY OF AN EMPLOYEE'S TERMINATION OR DISCIPLINE FOR JUST CAUSE OR**
7 **FOR THE CAUSES SET FORTH IN THIS SECTION.**

8 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
9 **1, 2019.**