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Date: (Filing No. S-)

EDUCATION AND CULTURAL AFFAIRS

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**STATE OF MAINE
SENATE
132ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 893, L.D. 2192, “An Act to Protect Students by Ensuring Schools Have Complete Information About School Employees and Applicants for Employment”

Amend the bill by striking out the title and substituting the following:

'An Act Regarding School Employee Investigations'

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation directs the Department of Education to convene a working group to further examine the issue of investigations into the conduct of school employees and determine whether additional procedures are necessary; and

Whereas, the working group must begin its work before the 90-day period expires in order that the work may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, schools will benefit from timely receipt of information related to procedures for employee investigations; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 20-A MRSA §13025, sub-§1, ¶D is enacted to read:

D. "Student" includes a student who has attained at least 18 years of age.

Sec. 2. 20-A MRSA §13025, sub-§2-A is enacted to read:

COMMITTEE AMENDMENT

1 **2-A. Duties of superintendents.** Upon receipt of a complaint related to alleged
2 misconduct by a credential holder, a superintendent of a school entity shall conduct a
3 preliminary investigation to determine whether a covered investigation is necessary. The
4 superintendent shall notify the department immediately upon initiating a preliminary
5 investigation and if a covered investigation is determined to not be necessary.

6 **Sec. 3. 20-A MRSA §13025, sub-§3,** as amended by PL 2019, c. 403, §1, is further
7 amended to read:

8 **3. Duties of school entities.** A school entity shall immediately place on paid leave a
9 credential holder who is the subject of a covered investigation. A school entity shall notify
10 the department immediately if a credential holder who is the subject of a covered
11 investigation leaves the school entity's employment for any reason prior to the conclusion
12 of the covered investigation. A school entity shall complete a covered investigation,
13 including, but not limited to, if the subject of the covered investigation resigns from, is
14 terminated from or otherwise leaves employment with the school entity prior to the
15 conclusion of the covered investigation. A school entity shall notify the department
16 immediately of the findings and final outcome of any covered investigation, including, but
17 not limited to, if the school entity determines that the allegations of misconduct were false
18 or unsubstantiated or if a credential holder is disciplined, suspended or terminated as a
19 result of a covered investigation in which the school entity determined that a student's
20 health, safety or welfare was endangered. The school entity shall provide to the department
21 any final report produced in support of the school entity's decision to discipline, suspend
22 or terminate the credential holder. The credential holder who is the subject of the report
23 may submit to the department a written rebuttal to the report. The written rebuttal must be
24 placed in the department's investigative file.

25 **Sec. 4. 20-A MRSA §13025, sub-§8** is enacted to read:

26 **8. Nondisclosure and resignation agreements prohibited.** A school entity may not
27 enter into a nondisclosure agreement or a resignation agreement with a credential holder
28 that prohibits disclosure of information related to a covered investigation if the covered
29 investigation determined that the credential holder engaged in conduct that involves
30 alcohol, illegal drugs, physical abuse, emotional abuse, inappropriate contact between the
31 credential holder and a student, stalking or similar behavior that endangers the health,
32 safety or welfare of a student.

33 **Sec. 5. Department of Education to convene working group; report.** The
34 Department of Education shall convene a working group to review the procedures for
35 investigations of credential holders in schools in accordance with this section.

36 1. The working group shall review how the investigation procedures established in the
37 Maine Revised Statutes, Title 20-A, section 13025 are being used in approved private
38 schools, school administrative units, public charter schools, education service centers,
39 schools in the unorganized territory and schools operated by the State. The working group
40 shall make recommendations to improve reporting requirements and the process by which
41 investigations are conducted.

42 2. The working group must include, but is not limited to, the following members:

43 A. A member representing the Maine School Management Association;

44 B. A member representing the Maine Education Association;

1 C. A member who is a licensed attorney in the State and has expertise in employment
2 law;

3 D. A member representing the Maine Children's Alliance;

4 E. A member representing the Maine Coalition Against Sexual Assault; and

5 F. Any other stakeholders the department considers appropriate.

6 3. The department shall submit a report to the joint standing committee of the
7 Legislature having jurisdiction over education matters by January 15, 2027. The report
8 must include the number of investigations reported to the department, the outcomes of those
9 investigations, the number of preliminary and covered investigations, a summary of how
10 mandated reporting requirements impact covered investigations, whether consequences for
11 not reporting should be established, a summary of how the department identifies
12 individuals during the employment process who have been subjects of covered
13 investigations, a summary and recommendations on training for school employees to
14 conduct investigations, a summary of findings related to current practices for investigations
15 of credential holders and recommendations of the working group, including any suggested
16 legislation, to improve those practices. The joint standing committee may report out a bill
17 related to the report to the 133rd Legislature in 2027.'

18 Amend the bill by adding before the summary the following:

19 '**Emergency clause.** In view of the emergency cited in the preamble, this legislation
20 takes effect when approved.'

21 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
22 number to read consecutively.

23 SUMMARY

24 This amendment replaces the bill and changes the title. The amendment clarifies that
25 a covered investigation includes conduct that endangers the health, safety or welfare of a
26 student, including a student who has attained 18 years of age.

27 The amendment provides that, upon learning of allegations of misconduct by a
28 credential holder, a superintendent must conduct a preliminary investigation to determine
29 whether a covered investigation is necessary and requires a superintendent to notify the
30 Department of Education immediately upon initiating a covered investigation. The
31 amendment requires a school entity to immediately place the subject of a covered
32 investigation on paid leave and complete any covered investigation, regardless of whether
33 the subject resigns, is terminated or otherwise leaves employment with the school entity.
34 The amendment requires a school entity to report the findings of any covered investigation
35 to the department and prohibits a school entity from entering into a nondisclosure
36 agreement with a credential holder that prohibits the disclosure of information related to a
37 covered investigation if the covered investigation determined that the credential holder
38 engaged in conduct that involves alcohol, illegal drugs, physical abuse, emotional abuse,
39 inappropriate contact between a credential holder and a student, stalking or similar behavior
40 that endangers the health, safety or welfare of a student, including a student who has
41 attained 18 years of age.

