

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 160

Introduced by Senators Lara and De León
(Coauthor: Senator Correa)

February 1, 2013

An act to amend Section 44010 of, and to add Section 45304.5 to, the Education Code, relating to classified school employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 160, as amended, Lara. Classified school employees: misconduct against a child: statewide tracking.

Existing law requires the governing board of a school district to place a classified employee on a compulsory leave of absence in specified circumstances, including, among other circumstances, if the employee is charged by complaint, information, or indictment filed in a court of competent jurisdiction with the commission of a sex offense, as defined.

This bill would require a school district or charter school to notify the State Department of Education when a classified employee of the school district or charter school is dismissed, resigns, is suspended, retires, or is terminated from employment as a result of misconduct against a child, as specified, thereby imposing a state-mandated local program. The bill would require the department, upon request by a school district or charter school, to provide that information *only* for purposes of verifying previous employment of a classified-employee *employee, as specified. The bill would require the information to be kept confidential and would require the department to remove from its records a classified employee's information who is subsequently acquitted or found to be wrongfully accused of the alleged misconduct*

against a child. The bill would make a conforming change and nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44010 of the Education Code is amended
2 to read:

3 44010. "Sex offense," as used in Sections 44020, 44237, 44346,
4 44425, 44436, 44836, 45123, and 45304.5, means any of the
5 offenses listed below:

6 (a) An offense defined in Section 220, 261, 261.5, 262, 264.1,
7 266, 266j, 267, 285, 286, 288, 288a, 288.5, 289, 311.1, 311.2,
8 311.3, 311.4, 311.10, 311.11, 313.1, 647b, 647.6, or former Section
9 647a, subdivision (a), (b), (c), or (d) of Section 243.4, or
10 subdivision (a) or (d) of Section 647 of the Penal Code.

11 (b) An offense defined in former subdivision (5) of former
12 Section 647 of the Penal Code repealed by Chapter 560 of the
13 Statutes of 1961, or an offense defined in former subdivision (2)
14 of former Section 311 of the Penal Code repealed by Chapter 2147
15 of the Statutes of 1961, if the offense defined in those sections was
16 committed before September 15, 1961, to the same extent that an
17 offense committed before that date was a sex offense for the
18 purposes of this section before September 15, 1961.

19 (c) An offense defined in Section 314 of the Penal Code
20 committed on or after September 15, 1961.

21 (d) An offense defined in former subdivision (1) of former
22 Section 311 of the Penal Code repealed by Chapter 2147 of the
23 Statutes of 1961 committed on or after September 7, 1955, and
24 before September 15, 1961.

1 (e) An offense involving lewd and lascivious conduct under
2 Section 272 of the Penal Code committed on or after September
3 15, 1961.

4 (f) An offense involving lewd and lascivious conduct under
5 former Section 702 of the Welfare and Institutions Code repealed
6 by Chapter 1616 of the Statutes of 1961, if that offense was
7 committed before September 15, 1961, to the same extent that an
8 offense committed before that date was a sex offense for the
9 purposes of this section before September 15, 1961.

10 (g) An offense defined in Section 286 or 288a of the Penal Code
11 before the effective date of the amendment of either section enacted
12 at the 1975–76 Regular Session of the Legislature committed
13 before the effective date of the amendment.

14 (h) An attempt to commit any of the offenses specified in this
15 section.

16 (i) An offense committed or attempted in another state or against
17 the laws of the United States that, if committed or attempted in
18 this state, would have been punishable as one or more of the
19 offenses specified in this section.

20 (j) A conviction for an offense resulting in the requirement to
21 register as a sex offender pursuant to Section 290 of the Penal
22 Code.

23 (k) Commitment as a mentally disordered sex offender under
24 former Article 1 (commencing with Section 6300) of Chapter 2
25 of Part 2 of the Welfare and Institutions Code, as repealed by
26 Chapter 928 of the Statutes of 1981.

27 SEC. 2. Section 45304.5 is added to the Education Code, to
28 read:

29 45304.5. (a) A school district or charter school, within 30 days
30 of one of the following actions, shall notify the department when
31 a classified employee of the school district or charter school is
32 dismissed, resigns, is suspended, retires, or is terminated from
33 employment as a result of misconduct against a child.

34 (b) (1) The department shall keep the information provided
35 pursuant to subdivision (a) and, upon request by a school district
36 or charter school, provide that information *only* for purposes of
37 verifying previous employment for a classified employee *being*
38 *considered for employment by the requesting school district or*
39 *charter school. The department shall remove from its records a*
40 *classified employee's information who is subsequently acquitted*

1 *or found to be wrongfully accused of alleged misconduct against*
2 *a child that led to his or her dismissal, resignation, suspension,*
3 *retirement, or termination of employment.*

4 (2) *Information collected and requested pursuant to this section*
5 *shall be kept confidential and shall not be made available to the*
6 *public. The department shall ensure that information collected*
7 *pursuant to this section shall only be used for the purposes*
8 *described in this subdivision.*

9 (c) For purposes of this section, “misconduct against a child”
10 means any of the following:

11 (1) A sex offense, as specified in Section 44010.

12 (2) Aiding or abetting the unlawful sale to, use by, or exchange
13 to, minors of a controlled substance included in Schedule I, II, or
14 III, as listed in Section 11054, 11055, or 11056 of the Health and
15 Safety Code, respectively.

16 (3) An offense specified in Sections 11165.2 to 11165.6,
17 inclusive, of the Penal Code.

18 SEC. 3. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.