

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 565

Introduced by Senator Knight

February 22, 2013

An act to amend Sections 35021 and 35021.1 of the Education Code, relating to public school volunteers, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 565, as amended, Knight. Public school volunteers.

Existing law authorizes the governing board of any school district to permit any person, except a person required to register as a sex offender, to serve as a nonteaching volunteer aide under the immediate supervision and direction of certificated personnel of the school district to perform noninstructional work that serves to assist the certificated personnel of the school district in their teaching and administrative responsibilities. Existing law authorizes a school district or county office of education to request that a local law enforcement agency conduct an automated records check of a prospective nonteaching volunteer aide in order to ascertain whether the prospective nonteaching volunteer aide has been convicted of a sex offense.

This bill would also prohibit a person who has been convicted of a serious ~~or violent~~ felony, as defined, or who is on postrelease community supervision or parole from serving as a volunteer aide, *with exceptions for a parent of a child at the school, as provided.* The bill would make conforming and other nonsubstantive changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

1 SECTION 1. Section 35021 of the Education Code is amended
 2 to read:
 3 35021. (a) (1) Notwithstanding any other law, any person,
 4 except a person identified in paragraph (2), may be permitted by
 5 the governing board of a school district to perform the duties
 6 specified in Section 44814 or 44815, or to serve as a nonteaching
 7 volunteer aide under the immediate supervision and direction of
 8 the certificated personnel of the district to perform noninstructional
 9 work which serves to assist the certificated personnel in
 10 performance of teaching and administrative responsibilities. With
 11 respect to this noninstructional work, the nonteaching volunteer
 12 aide shall serve without compensation of any type or other benefits
 13 accorded to employees of the district, except as provided in Section
 14 3364.5 of the Labor Code.
 15 (2) The following persons shall not be permitted to serve as a
 16 volunteer:
 17 (A) A person required to register as a sex offender pursuant to
 18 Section 290 of the Penal Code.
 19 (B) A person who has been convicted of a ~~violent or serious~~
 20 felony, as defined in ~~Section 45122.1~~ *subdivision (c) of Section*
 21 *1192.7 of the Penal Code.*
 22 (C) A person who is on postrelease community supervision.
 23 (D) A person who is on parole.
 24 (b) No district may abolish any of its classified positions and
 25 utilize volunteer aides, as authorized herein, in lieu of classified
 26 employees who are laid off as a result of the abolition of a position.
 27 A district shall not refuse to employ a person in a vacant classified
 28 position and use volunteer aides in lieu of filling the classified
 29 position.
 30 (c) *The governing board of a school district may waive the*
 31 *prohibition pursuant to subparagraph (B), (C), or (D) of paragraph*
 32 *(2) of subdivision (a) for a parent of a child, currently enrolled in*
 33 *the school, if, after reviewing the circumstances on a case-by-case*
 34 *basis in a closed session, the governing board of the school district*

1 *determines that the parent is not a threat to pupils and staff at the*
2 *school.*

3 *(d) The governing board of a school district may waive the*
4 *prohibition pursuant to subparagraph (C) or (D) of paragraph*
5 *(2) of subdivision (a) for a parent of a child, currently enrolled in*
6 *the school, if a judge or the probation officer assigned to the parent*
7 *certifies that the parent does not pose a threat to pupils and staff*
8 *at the school.*

9 (e)

10 (e) It is the intent of the Legislature to permit school districts
11 to use volunteer aides to enhance its educational program but not
12 to permit displacement of classified employees nor to allow
13 districts to utilize volunteers in lieu of normal employee
14 requirements.

15 SEC. 2. Section 35021.1 of the Education Code is amended to
16 read:

17 35021.1. (a) A school district or county office of education
18 may request that a local law enforcement agency conduct an
19 automated records check of a prospective nonteaching volunteer
20 aide in order to ascertain whether the prospective nonteaching
21 volunteer aide has been convicted of a sex offense, as defined in
22 Section 44010, has been convicted of a violent or serious felony,
23 as defined in ~~Section 45122.1~~ *subdivision (c) of Section 1192.7 of*
24 *the Penal Code*, or is on postrelease community supervision or
25 parole.

26 (b) A plea or verdict of guilty, a finding of guilt by a court in a
27 trial without jury, or a conviction following a plea of nolo
28 contendere shall be deemed to be a conviction within the meaning
29 of this section. If the local law enforcement agency agrees to
30 provide that automated records check, the results shall be returned
31 to the requesting district or county office of education within 72
32 hours of the written request. A local law enforcement agency may
33 charge a fee to the requesting agency not to exceed the actual
34 expense to the law enforcement agency.

35 SEC. 3. *This act is an urgency statute necessary for the*
36 *immediate preservation of the public peace, health, or safety within*
37 *the meaning of Article IV of the Constitution and shall go into*
38 *immediate effect. The facts constituting the necessity are:*

- 1 *In order to protect the state's school children, imminent school*
- 2 *safety concerns require immediate preventative measures, and it*
- 3 *is therefore necessary that this act take effect immediately.*