

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 256

BY SENATORS TRUMP, BOSO, CLINE, GAUNCH AND

WOELFEL

[Introduced February 10, 2017; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §18A-4-22, relating to prohibiting aiding and abetting of sexual abuse by
3 school personnel; prohibiting individuals from assisting school employees, contractors or
4 agents in obtaining a new job if the individual knows, or has probable cause to believe,
5 that the person engaged in sexual misconduct with a minor or student; providing
6 exceptions to this requirement; and clarifying the relationship between this prohibition and
7 other statutes, regulations or policies.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §18A-4-22, to read as follows:

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-22. Prohibition on aiding and abetting sexual abuse.

1 (a) No school personnel, contractor or agent, or any employee of any state, regional or
2 local educational agency may assist an individual employed as school personnel, a contractor or
3 an agent in obtaining a new job if the individual or agency knows, or has probable cause to
4 believe, that such school employee, contractor or agent engaged in sexual misconduct regarding
5 a minor or student in violation of the law: *Provided*, That nothing in this section shall be construed
6 to prohibit the routine transmission of administrative and personnel files.

7 (b) The requirements of subsection (a) of this section shall not apply if:

8 (1) The information giving rise to probable cause has been properly reported to a law-
9 enforcement agency with jurisdiction over the alleged misconduct and reported to any other
10 authorities as required by federal, state or local law; and

11 (2) One of the following has happened:

12 (A) The matter has been officially closed, or the prosecutor or police with jurisdiction over
13 the alleged misconduct has investigated the allegations and notified school officials that there is

14 insufficient information to establish probable cause that the school personnel, contractor or agent
15 engaged in sexual misconduct regarding a minor or student in violation of the law;

16 (B) The school personnel, contractor or agent has been charged with and acquitted or
17 otherwise exonerated of the alleged misconduct; or

18 (C) The case or investigation remains open and there have been no charges filed against,
19 or indictment of, the school personnel, contractor or agent within four years of the date on which
20 the information was reported to a law-enforcement agency.

21 (c) Nothing in this section shall be construed to override a statute, regulation or policy that
22 provides greater or additional protections to prohibit any individual who is school personnel,
23 contractor or agent, or any state, regional or local educational agency from assisting a school
24 employee who engaged in sexual misconduct regarding a minor or student in violation of the law
25 in obtaining a new job.

NOTE: The purpose of this bill is to enact a state statute required by the federal government to be in compliance with the Every Student Succeeds Act and the requirements in 20 U.S.C. § 7926. More specifically, the bill's purpose is to prohibit school personnel who have engaged in sexual misconduct with students or minors from being assisted to find new employment without having that misconduct reported to the appropriate authorities and investigated.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

JUDICIARY COMMITTEE AMENDMENT

Eng. Senate Bill 256—A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-22, relating to prohibiting aiding and abetting of sexual abuse by school personnel; prohibiting school personnel, contractors, agents or employees of any state, regional or local education agency from assisting school employees, contractors or agents in obtaining a new job with knowledge, or with probable cause to believe, that the person engaged in sexual misconduct with a minor or student; clarifying that routine transmission of administrative and personnel files is permissible; providing exceptions to prohibition on aiding those individuals from obtaining new jobs; and clarifying the relationship between prohibition and other statutes, regulations or policies.