

HB 373 xover emergent employees PSSAM FAV.pdf

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Mary Pat Fannon, Executive Director

BILL: House Bill 373
TITLE: Education - Child Abuse and Sexual Misconduct Prevention - Hiring Emergent Employees
DATE: March 25, 2021
POSITION: SUPPORT
COMMITTEE: Senate Education, Health and Environmental Affairs Committee
CONTACT: Mary Pat Fannon, Executive Director, PSSAM

House Bill 373 allows a local board of education or nonpublic school to hire an applicant as an emergent employee for up to 60 days pending a specified review of information and records regarding an individual's employment history. The bill also changes provisions specifying the employment history that schools are required to obtain before hiring an individual who will have direct contact with minors and alters the definition of "direct contact with minors." Lastly, the bill allows a local board to share an employment history record with other local boards.

PSSAM strongly **supports** House Bill 373 and appreciates the sponsor's willingness to work with local boards of education and superintendents to address some of the challenges we encountered during the implementation of the 2019 House Bill 486. That legislation added an additional background check for school system applicants, requiring the districts to contact all of an applicant's previous employers to ensure there was no history of child sexual abuse. This year's legislation will help us more fully and efficiently achieve that goal and hire the necessary staff for our schools in a timely manner.

This bill will allow us to hire an applicant as an "emergent employee" for up to 60 days while we finalize this extensive background check. Based on our discussions with all of the Local Education Agencies (LEAs), we estimate that it took between two and three weeks, or longer, to contact former employers. The 2019 legislation went into effect on July 1, 2019 and was applicable to the 2019-2020 school year so the review of those applicants was crucial as we worked to fill important positions before the start of school in September. Several districts had to start that year with substitutes and speculate that they may have lost some applicants due to the long process. However, we believe this bill's proposal of an emergent employee will alleviate those concerns and still provide the safeguards intended in the original legislation.

One Voice, One Vision for Maryland's Students

We believe this legislation will also alleviate a few of the other operational and budgetary issues we encountered. Many LEAs had to hire or redeploy staff to fulfill the requirements of the bill, for instance:

- Montgomery County reported that it cost approximately \$150,000 and 4,085 work-hours to vet over 1,700 candidates, and to respond to more than 895 requests from other school systems.
- Prince George's County had to hire two part time employees, and Wicomico County absorbed an employee from their Finance Department at the cost of \$40,000.
- Even the smallest county – Somerset - had to hire a part time employee, and Talbot County hired an additional staff person to process their 175 applicants.

Again, we applaud the intent of the legislation and its goals, but we were surprised by the effect it had on all the districts, regardless of their size or budgets. Therefore, the provisions in this bill that will limit the “lookback” period to ten years and allow school systems to share information will be invaluable. Lastly, we are supportive of the House amendment that make this law applicable to contracting agencies, such as bus companies.

Thank you for the opportunity to share our support and we urge a **favorable** report from the committee.

SENATE CROSS MD Catholic Conference_HB 373_FAV.pdf

Uploaded by: O'Day, Garrett

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ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

March 25, 2021

**House Bill 373
Education – Child Abuse and Sexual Misconduct Prevention – Hiring Emergent
Employees**

Senate Education, Health & Environmental Affairs Committee

SUPPORT

The Maryland Catholic Conference offers this testimony in SUPPORT of House Bill 373. We offer this testimony on behalf of the families of approximately 50,000 students served by more than 150 PreK-12 Catholic schools in Maryland. The Conference represents the public policy interests of the three (arch)dioceses serving Maryland, the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

House Bill 373 offers some practical amendments to a law passed two years, which the Conference supported. The law required new background check procedures for hiring in all Maryland schools. The bill established a process for public and nonpublic schools to determine whether prospective employees who have direct contact with minors have ever been disciplined for allegations of child sexual abuse or sexual misconduct. The bill also required additional screening by establishing a process for MSDE to consult a teacher certification database upon a school's request.

Maryland's Catholic schools have long observed stringent child protection measures beyond what was previously required by the State. Upon the passage of the 2019 law, the schools also immediately implemented a system for compliance with the new law. As a matter of course, Catholic schools conduct mandatory criminal background checks on all employees and on volunteers who work with children, provide comprehensive awareness training to educate adults and children on how to recognize predatory behaviors, and promptly report all suspected incidents of child sexual abuse.

The provisions of House Bill 373 would provide classroom continuity through "emergent hires" while background checks under the 2019 law are pending. This is a commonsense provision to allow schools to hire on a temporary basis, pending due diligence regarding employment history. Because the bill incorporates proper safeguards for schools and students while employment history checks are pending, as well as remedial measures upon a negative report or finding, this bill addresses the practical needs of schools and teachers in a way that keeps students protected. It is for these reasons that the Conference respectfully requests a favorable report on House Bill 373.

HB 373.Emergent Hiring Bill to Fix HB 486 - SENATE

Uploaded by: Woolums, John

Position: FAV

BILL: House Bill 373
TITLE: Education - Child Abuse and Sexual Misconduct Prevention -
Hiring Emergent Employees
DATE: March 25, 2021
POSITION: SUPPORT
COMMITTEE: Education, Health, and Environmental Affairs Committee
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports House Bill 373 to improve the operation of the important legislation enacted in 2019 to require employer history reviews of all school employees to protect our students from potential abuse to a greater extent than provided by traditional criminal background checks.

MABE and all local boards place a very high priority on providing a well-rounded public education to students in a healthy learning environment with well-trained, professional educators, administrators, and staff dedicated to ensuring the highest degree of student safety. Based in part on several high profile heinous child sexual abuse cases perpetrated by school employees, there is now heightened awareness regarding the need to revisit longstanding practices and procedures in the hiring and, supervision, discipline and discharge of school employees based on a broad range of misconduct.

In 2019, MABE supported passage of House Bill 486 in order to establish and define the process of determining whether an applicant for employment with a local school system has ever been disciplined for allegations of “child sexual abuse” or “sexual misconduct.” MABE assures the legislature that this process is in place in all 24 local school systems. Today, school systems are complying with the law’s requirements, and urge support for House Bill 1008 to improve the administration of the hiring and placement of teachers and other staff.

One key facet of the Pennsylvania law on which our legislation was based is the allowance for the hiring and placement of an employee, pending completion of the employer history review, as proposed in this bill. This provision of the Pennsylvania law was initially included but amended out of the bill passed in 2019. As school systems have begun to fully implement the new law, the benefits of this provision are very apparent. Without this provision, the employment status of a newly hired employee whose employer history review is incomplete is unclear. During the weeks a school system is waiting on responses from all past employers, a prospective employee is either not fully hired and asked to wait, which may result in their accepting another position elsewhere, or fully hired, and if a negative finding arises from a past employer’s response, the employee may be entitled to a full year’s salary. Neither of these scenarios is ideal.

The employee in the new “emergent employee” category would be able to begin working immediately pending the results of the employer history review, and would have more limited causes of action to dispute their dismissal based on a negative finding based on input from a past employer. Most importantly, House Bill 373 provides additional protections and assurances before placing the “emergent employee,” and limits any such placement to 60 days. In addition, the law does not at this time place any limit on how far back in an employee’s history one must go to retrieve background information from all former employers where an applicant had direct contact with minors. This legislation would clarify a 10 year scope of review of past employers.

Again, MABE believes House Bill 373 is consistent with the significant improvements in recent years to secure the highest possible degree of safety for our more than 900,000 public school students from the misconduct of school employees. For these reasons, MABE requests a favorable report on House Bill 373.

Current Criminal Background Check Requirements

In accordance with the Annotated Code of Maryland, Family Law Article, § 5-551, all employment candidates and persons with unsupervised access to students are required to be fingerprinted for a criminal background check. Prior to employment with a public school system in the state of Maryland, an employment candidate must undergo a criminal background check, as required by the Annotated Code of Maryland, Family Law Article, §§ 5-550 - 5-559.

During the background investigation process, an individual's background will be thoroughly checked and verified from a variety of sources such as the Federal Bureau of Investigation (FBI), Maryland Criminal Justice Information System – Central Repository (CJIS), Department of Social Services (DSS), and Sex Offender Registries. Only upon completion of this background check and subsequent clearance, may an employment candidate begin employment with a public school system.

In accordance with the Annotated Code of Maryland, Family Law Article § 5-553, as part of the application process, a criminal history records check will be completed. All employment candidates will be required to submit a sworn statement or affirmation disclosing the existence of any criminal convictions, probation before judgment dispositions, not criminally responsible dispositions, or pending criminal charges without a final disposition.

Another significant law was passed in 2015 to ensure that local school system and nonpublic school contracts must prohibit contractors or subcontractors from knowingly assigning an employee to work on school premises with direct, unsupervised, and uncontrolled access to children if the employee has been convicted of specified crimes (Senate Bill 508, Ch. 180).

Maryland law requires contractors and subcontractors to require an employee who has direct, unsupervised, and uncontrolled access to children in specific facilities to submit to a criminal history records check. This legislation also expanded the underlying crimes for which prohibitions against the hiring, retaining, or assignment of individuals who have been convicted of specified crimes apply to include fourth-degree sexual offenses and offenses committed in another state that would constitute a third- or fourth-degree sexual offense if committed in this State.

Additional Laws Protecting Students

In 2018, MABE supported passage of House Bill 1072 (Ch. 31) which now requires each local board of education and nonpublic school that receives State funds to require each employee to receive instruction with specified elements annually on the prevention, identification, and reporting of child sexual abuse. In addition, each local board of education must: (1) establish and implement policies that support the prevention of child sexual abuse through ongoing training of staff that include specified elements and; (2) develop employee codes of conduct that address appropriate contact between staff and students.

In 2016, the General Assembly passed Erin's Law to establish a comprehensive sexual abuse and assault awareness and prevention program (House Bill 72, Ch. 609). The law now requires the State Board of Education, local school systems, and nonpublic schools to develop and implement a program of age-appropriate education on the awareness and prevention of sexual abuse and assault. The program must be taught by teachers who are trained to provide instruction on the awareness and prevention of sexual abuse and assault and incorporated into the health curriculum of local boards of education and nonpublic schools.

HB0373 Howard Co BOE Testimony 032521 for EHEA - E

Uploaded by: Howard County, BOE

Position: FWA



**Board of Education of Howard County
Testimony Submitted to the Maryland Senate,
Education, Health and Environmental Affairs Committee
March 25, 2021**

**Board of Education
of Howard County**

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HB0373: FAVORABLE W/AMENDMENTS

Education - Child Abuse and Sexual Misconduct Prevention - Hiring Emergent Employees

The Board of Education of Howard County (the Board) supports **HB0373 Education - Child Abuse and Sexual Misconduct Prevention - Hiring Emergent Employees** for the potential burden it lifts from school systems in the hiring process while still maintaining the integrity of the law.

Following passage of HB0486 in 2019, school systems were required to begin a new background review procedure for all applicants seeking positions involving direct contact with minors. While the bill's intent was the identification of sexual misconduct of school system applicants where cases during previous employment did not rise to the level of a Department of Social Services or police report, procedurally, the bill mandated extensive new administrative processes.

HB0373, introduced by the original sponsor of the 2019 bill, includes various provisions to address the many hurdles school systems have had in implementing HB0486. Specifically, it allows school systems to hire emergent employees for 60 days while awaiting responses from previous employers, during which time the school system can rescind an employment offer or dismiss the employee when the background review is completed. Additionally, HB0373 allows school systems to share employment history reviews to cut down on duplication of work when teachers move between counties, as well as limits how far back review of former employers (outside school systems) must go to 10 years.

As the 2019 legislation also covered contracted employees, an area our Transportation staff would like to see amended is the provision in (F) and (G) on page five allowing county boards and non-public schools to share and use employment reviews completed by another county board or non-public school. Bus drivers often change companies similar to teachers moving between counties – when a review is completed by one company an employee could authorize the transfer of that report to their new employer to cut down on repetitive reviews of the same history. This could ultimately speed up the hiring process for an industry where personnel shortages already exist.

For these reasons, we urge a FAVORABLE report of HB0373 from this Committee to include the amendments from the House.

AACPS HB373 Emergent Employees SWA 3.25.21.pdf

Uploaded by: Ortiz, Jeanette

Position: FWA



HB373 EDUCATION - CHILD ABUSE AND SEXUAL MISCONDUCT PREVENTION - HIRING EMERGENT EMPLOYEES

March 25, 2021

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SUPPORT WITH AMENDMENTS

Jeanette Ortiz, Esq., Legislative & Policy Counsel (410.703.5352)

Anne Arundel County Public Schools (AACPS) supports with amendments **HB373 Education - Child Abuse and Sexual Misconduct Prevention - Hiring Emergent Employees**. This bill authorizes a local board of education or nonpublic school to hire an applicant as an emergent employee for up to 60 days pending a specified review of information and records regarding an individual's employment history, as required under current law for applicants who will have direct contact with minors.

AACPS greatly appreciates this legislation as it addresses several concerns related to the 2019 law that required employers to conduct a much more comprehensive background check of applicants who will have direct contact with students. While AACPS supported the 2019 law, it has resulted in significantly increased workloads and a major hiring backlog for AACPS and school systems across the State. HB373 addresses many of the issues we have encountered.

The employee in the new "emergent employee" category would be able to begin working immediately pending the results of the employer history review, and would have more limited causes of action to dispute their dismissal based on a negative finding based on input from a past employer. The bill also provides additional protections and assurances before placing the "emergent employee," and limits any such placement to 60 days. In addition, the provision in the bill that allows local school systems to use the prior employment history reviews of other local schools in the State will be extremely helpful in speeding up the hiring process and cutting back on our existing hiring backlog. Finally, the 10-year employment history look-back will prove helpful with the amount of time it takes to contact previous employers.

While we appreciate the proposed amendments to the law, AACPS proposes an additional amendment for consideration. We recommend that the bill be further amended to authorize MSDE to maintain a database that local school systems can access to obtain prior employment history reviews.

Accordingly, AACPS respectfully requests a **FAVORABLE** committee report with the proposed amendments on HB373.

HB0373 _MCPS_FWA_032521.pdf

Uploaded by: Susskind, Danielle

Position: FWA



MONTGOMERY COUNTY BOARD OF EDUCATION

Expanding Opportunity and Unleashing Potential

850 Hungerford Drive ♦ Room 123 ♦ Rockville, Maryland 20850

BILL: HB0373
TITLE: Education - Child Abuse and Sexual Misconduct Prevention - Hiring
Emergent Employees
DATE: 3/25/2021
POSITION: SUPPORT WITH AMENDMENT
COMMITTEE: Education, Health, and Environmental Affairs
CONTACT: Danielle M. Susskind, Coordinator, Legislative Affairs
Danielle_M_Susskind@mcpsmd.org

The Montgomery County Board of Education (Board) **supports** HB0373 **with amendments**.

This proposed bill offers a series of amendments to fix some of the challenges that school districts have had in implementing legislation from the 2019 session (HB 486), which required extensive vetting of applicants regarding prior sexual misconduct. While MCPS supported the goals of that legislation, it has required extensive expenditure of resources to ensure compliance and slowed down the hiring process significantly, such that we – along with other school districts – have struggled to staff schools and critical operations in a timely fashion at substantial risk to student safety, well-being, and educational opportunity.

The proposed bill includes the following critical amendments that will decrease administrative burdens without undermining the ultimate goals of ensuring that school districts appropriately vet prospective hires:

- Currently, school districts are required to obtain information from each applicant's current employer, all prior school employers, and all former employers of the applicant in which the applicant was employed in a position involving direct contact with minors. The proposed legislation would limit the prior non-school employers covered to those who employed the applicant within the previous 10 years. This 10-year lookback provision is a reasonable balance between the goals of HB486 and the extensive challenges of tracking down all of an applicant's prior employers if they have a very lengthy career history.
- The proposed legislation also creates procedures whereby school districts may hire employees while their background vetting is pending, if they follow certain protocols. This would provide a route to staff critical positions if there is a delay in tracking down a prior employer notwithstanding due diligence on the part of the school district.
- The proposed legislation also clarifies the definition of "direct contact with minors" which triggers the requirements of the act. The current definition is so broad that it could be read to apply to any applicant who previously worked in a fast food restaurant or retail outlet.

MCPS respectfully requests an amendment to clarify the overly broad definition of contracting agencies. Specifically,



MONTGOMERY COUNTY BOARD OF EDUCATION

Expanding Opportunity and Unleashing Potential

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- MCPS propose the following definition: “Contracting agency” means an entity that contracts with a county board or nonpublic school to provide a service to a school or the students of a school on school premises during school hours in circumstances where the individual or individuals assigned by the contracting agency to work on school premises have direct, unsupervised, and uncontrolled access to children. This change would also mirror existing state laws requiring background checks for certain public school contractors. See § 5-551 of the Family Law Article of the Maryland Code

For these reasons, the Board supports this legislation with amendments and urges a favorable report.