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Testimony of Susan Ceglowski, Director of Legal and Policy Services,
Vermont School Boards Association
House Education Committee – April 25, 2018

H.27 - Draft 2.1 (An act relating to eliminating the statute of limitations on prosecutions for sexual assault)

1. Section 2 - The VSBA supports the concept that there should be immunity for good faith disclosures of conduct jeopardizing the safety of a vulnerable adult or minor. However, we do not support the two-pronged standard as proposed in H.27 which provides immunity only where school officials are (1) acting in good faith **and** (2) reasonably believed at the time of disclosure that the information disclosed was correct. Under this two-pronged standard, even if the official making a disclosure was acting in good faith, he or she could still be subject to a civil lawsuit focusing on whether he or she failed to act reasonably to determine if information was accurate.

Additionally the two-pronged standard is problematic in the long term due to the turnover of administrative personnel in school districts and supervisory unions. How does a new administrator conclude that information gathered by a predecessor(s) regarding a former employee is **factually correct at the time of disclosure**? For this reason, we request that the committee remove the second prong, thereby applying a good faith standard when granting immunity. This is the same standard applied to mandated reporters of child abuse and neglect under 33 V.S.A. § 4913(f).

If the committee is not inclined to remove the second prong, we request that the committee schedule testimony from school attorneys who can provide analysis of the legal issues raised by the two-pronged standard.

2. Section 3 calls for the establishment of a committee to (1) develop a model policy on electronic communications between school employees and students and (2) recommend whether “grooming behaviors” should be unlawful in Vermont. A committee may not be the best approach to accomplishing these tasks.

For development of a model policy, an alternative would be for the Agency of Education and the Vermont School Boards Association to confer with experts and collaborate in developing a model policy on electronic communications between school employees and students.

On the topic of “grooming behaviors” an alternative would be for the Agency of Education and other state entities (possibly Department for Children and Families; Department of State’s Attorneys; the Defender General, Department of Public Safety) to confer with appropriate experts, obtain research based information and respond to the questions set forth in the bill.

3. Finally, we are concerned that the proliferation of new initiatives and requirements in proposed bills is diminishing schools’ ability to focus on the core mission of public education - ensuring high quality instruction and supports for every student.

Here is the list of proposed bills containing new initiatives (it may not be complete):

- H.27 Protect students from sexual exploitation
- H.911 Overhaul of the education funding system
- H.897 Historic modifications to the special education funding and delivery system
- H.923 School safety and security
- H.675 Restorative justice policies and practices
- H.910 Changes to the open meeting and public records laws
- S. 261 Mitigating childhood trauma and toxic stress
- S.229 Special education funding and practice for independent schools accepting public dollars
- H.919 Expansion of obligations for career and technical education centers and public schools
- H.922 CLA changes for unified districts
- S.257 Miscellaneous Ed. Bill
 - Modifications to PreK funding, delivery and administration
 - Radon mitigation
 - Afterschool programs
 - Ethnic studies standards and policies
 - Licensing of teachers

* ADDITIONALLY, the potential exists for statewide school employee health insurance legislation emerging in the final weeks of the session.

Please keep in mind that while all these new requirements on public schools are being contemplated, we do not have a Secretary of Education, fiscal pressures are mounting, and we are headed into the final phase of Act 46 implementation, which is likely to require significant work at the local level to respond to governance changes required by the state.

Thank you.

04/25/2018