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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3386

02/17/2020 Authored by Urdahl
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; establishing an ombudsman for school safety; amending
1.3 Minnesota Statutes 2018, section 13.321, by adding a subdivision; proposing
1.4 coding for new law in Minnesota Statutes, chapter 127A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2018, section 13.321, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 12. Ombudsman for school safety. Access to educational data that is required
1.9 to fulfill the ombudsman's duties is governed by section 127A.92.

1.10 Sec. 2. [127A.90] OFFICE OF THE OMBUDSMAN FOR SCHOOL SAFETY.

1.11 The ombudsman for school safety serves in the classified service under section 256.01,
1.12 subdivision 7, in an office within the Department of Education. The office is a distinct entity,
1.13 separately identifiable from other state agencies, and must neither be an agency engaged in
1.14 the provision of educational services either directly or by contract nor have responsibility
1.15 for coordinating, funding, or administering educational services to students.

1.16 Sec. 3. [127A.91] DUTIES AND POWERS OF THE OFFICE.

1.17 Subdivision 1. Duties. The Office of the Ombudsman for School Safety must:

1.18 (1) gather information about and evaluate any act, practice, policy, procedure, or
1.19 administrative action of a school district employee or student that may adversely affect the
1.20 health or safety of a school district employee or student;

2.1 (2) mediate disputes regarding the safety of school district employees or students in
 2.2 accordance with subdivision 2;

2.3 (3) monitor the development and implementation of federal, state, or local laws, rules,
 2.4 regulations, and policies affecting the safety of school district employees or students;

2.5 (4) comment on and recommend to public agencies regarding laws, rules, regulations,
 2.6 and policies affecting the safety of school district employees or students;

2.7 (5) inform school districts about school safety concerns and provide training in accordance
 2.8 with subdivision 8;

2.9 (6) provide for the training of volunteers and promote the development of citizen
 2.10 participation in the work of the office;

2.11 (7) conduct public forums to obtain information about and publicize issues affecting the
 2.12 safety of school district employees or students;

2.13 (8) provide public education regarding the health and safety of school district employees
 2.14 or students; and

2.15 (9) collect and analyze data relating to complaints and conditions.

2.16 Subd. 2. **Mediation.** The Office of the Ombudsman for School Safety must employ
 2.17 trained mediators who must not engage in advocacy or other activities that may compromise
 2.18 the impartiality of the mediator. Mediation under this section must be conducted in
 2.19 accordance with sections 572.31 to 572.40.

2.20 Subd. 3. **Representatives of the office.** (a) In designating a representative of the office
 2.21 to perform duties under this section, the ombudsman must determine that the individual is
 2.22 qualified to perform the duties required by this section.

2.23 (b) A representative of the office designated as a regional ombudsman must successfully
 2.24 complete an orientation training conducted under the direction of the ombudsman or approved
 2.25 by the ombudsman, including training in investigation, dispute resolution, confidentiality
 2.26 and data privacy, and applicable student discipline laws and rules.

2.27 (c) The ombudsman must develop and implement a continuing education program for
 2.28 representatives of the office designated as regional ombudsmen under this section who must
 2.29 complete annual training.

2.30 (d) A representative of the office designated as a certified ombudsman volunteer under
 2.31 this section must successfully complete an approved orientation training course with a

3.1 minimum curriculum including federal and state laws, regulations, and rules relating to
 3.2 student discipline, data privacy, and teachers' rights.

3.3 (e) The ombudsman must develop and implement a continuing education program for
 3.4 certified ombudsman volunteers.

3.5 (f) The ombudsman may withdraw a representative's designation if the representative
 3.6 fails to perform duties of this section or meet continuing education requirements.

3.7 Subd. 4. **Immunity from liability.** The ombudsman and representatives of the office
 3.8 are immune from civil liability that otherwise might result from the person's actions or
 3.9 omissions if the person's actions are in good faith, are within the scope of the person's
 3.10 responsibilities as an ombudsman or designee, and do not constitute willful or reckless
 3.11 misconduct.

3.12 Subd. 5. **Posting.** A school district must post in a conspicuous place the address and
 3.13 telephone number of the office. The posting or notice is subject to approval by the
 3.14 ombudsman.

3.15 Subd. 6. **Access to school facilities and data.** (a) The ombudsman or designee may:

3.16 (1) enter a school district or school site without notice during regular school hours;

3.17 (2) enter a school district or school site to interview a school district employee as part
 3.18 of an investigation of a matter that is within the scope of the ombudsman's authority, but
 3.19 only if the ombudsman's presence does not interfere with educational services provided to
 3.20 students at the school site;

3.21 (3) communicate privately and without restriction with any school district employee;

3.22 (4) inspect personnel data maintained by the school district that pertain to a matter within
 3.23 the scope of the ombudsman's authority; and

3.24 (5) with the consent of a student or student's parent or guardian, the ombudsman or
 3.25 designated staff may review educational data of a student maintained by a school district.

3.26 (b) A person who denies access to the ombudsman or designee in violation of this
 3.27 subdivision or aids, abets, invites, compels, or coerces another to do so is guilty of a
 3.28 misdemeanor.

3.29 Subd. 7. **Prohibition against discrimination or retaliation.** (a) No entity may take
 3.30 discriminatory, disciplinary, or retaliatory action against the ombudsman, a representative
 3.31 of the office, or any person who files in good faith a complaint with or provides information

4.1 to the ombudsman or a representative of the office. A person who violates this subdivision
 4.2 or who aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.

4.3 (b) There is a rebuttable presumption that an adverse employment action against a school
 4.4 district employee within 90 days of the employee making a report to the ombudsman is
 4.5 retaliatory.

4.6 Subd. 8. **Training.** The ombudsman must provide the following training:

4.7 (1) training for school safety and human resources staff on dangers to teachers;

4.8 (2) training for teachers on legal issues affecting teacher safety;

4.9 (3) training for teachers and other school employees, parents, and students on discipline,
 4.10 discrimination, harassment, and violence in schools; and

4.11 (4) continuing education credits that teachers may use to fulfill a license renewal
 4.12 requirement in accordance with renewal requirements under section 122A.187 and rules
 4.13 adopted by the Professional Educator Licensing and Standards Board.

4.14 Sec. 4. **[127A.92] OFFICE DATA.**

4.15 Subdivision 1. **Classification.** Except as provided in this section, data maintained by
 4.16 the Office of the Ombudsman for School Safety under sections 127A.90 to 127A.92 are
 4.17 private data on individuals or nonpublic data as defined in section 13.02, subdivision 9 or
 4.18 12.

4.19 Subd. 2. **Release.** Data maintained by the office that does not relate to the identity of a
 4.20 complainant, student, or school district or charter school employee may be released at the
 4.21 discretion of the ombudsman responsible for maintaining the data. Data relating to the
 4.22 identity of a complainant, student, or school district or charter school employee may be
 4.23 released only with the consent of the complainant, student or parent or guardian of the
 4.24 student, or employee, or by court order.